

AW793797 [loose-leaf version]

AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

AUSTRALIAN INDUSTRIAL REGISTRY LOOSE-LEAF CONSOLIDATION

PAJINGO GOLD MINE AWARD 2000

This award as varied to 30 March 2005 (variation PR956882) comprises pages:

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AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

Workplace Relations Act 1996
Review of awards pursuant to Item 51 of Part 2 Schedule 5 of the
Workplace Relations and Other Legislation Amendment Act 1996

**THE AUSTRALIAN WORKERS' UNION - PAJINGO GOLD MINE
AGREEMENT 1987**
(ODN C No. 04273 of 1987)
[Print G9790 [A0400]]
(C No.01211 of 1998)

Various employees

Mining industry

COMMISSIONER HOFFMAN

BRISBANE, 15 MARCH 2000

Award simplification

CONSENT AWARD

A. The above award is varied as follows:

By deleting all clauses, schedules and appendices and inserting the following:

PART 1 – APPLICATION AND OPERATION OF AWARD

1. TITLE

This award shall be referred to as the Pajingo Gold Mine Award 2000.

2. APPLICATION OF AWARD

- 2.1** This award shall be binding on The Australian Workers' Union and Normandy Pajingo Pty Ltd (as Manager for the Pajingo Joint Venture) and Mining Leases 1575 and 10215 or subsequent identification in the mining district of Charters Towers.
- 2.2** This award shall govern the wages and conditions of employment of all employees employed in the mining, smelting, reducing, refining, including all workers engaged in dredging or sluicing work, in or in connection with gold mining.

3. ARRANGEMENT

Part 1 – Application and operation of award

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4. OPERATION AND DURATION

This award shall take effect from 11 February 2000 and shall remain in force for a period of two years.

5. ANTI-DISCRIMINATION

5.1 It is the intention of the respondents to this award to achieve the principle object in s.3(j) of the *Workplace Relations Act 1996* (the Act) by helping to prevent and eliminate discrimination on the basis of race, colour, sex, sex preference, age, physical or mental disability, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin.

5.2 Accordingly, in fulfilling their obligations under the grievance and dispute settlement clause, the respondents must make every endeavour to ensure that neither the award provisions nor their operation are directly or indirectly discriminatory in their effects.

5.3 Nothing in this clause is to be taken to affect:

5.3.1 any different treatment (or treatment having different effects) which is specifically exempted under the Commonwealth anti-discrimination legislation;

5.3.2 junior rates of pay, until 22 June 2000 or later date determined by the Commission in accordance with s.143(IE) of the Act;

5.3.3 an employee, employer or registered organisation, pursuing matters of discrimination in any State or Federal jurisdiction, including by applications to the Human Rights and Equal Opportunity Commission;

5.3.4 the exemptions in ss.170CK(3) and (4) of the Act.

6. AWARD POSTING

A copy of the award and all variations shall be exhibited or made available by the employer in every work place.

7. DEFINITIONS

7.1 For the purposes of this award the following terms shall have the meanings as outlined below:

7.1.1 **Mine** - when used as a verb, includes:

7.1.1(a) to disturb, remove, cart, carry, wash, shift, crush, concentrate, smelt, refine or otherwise deal with any metal, mineral, ore, rock, stone, clay, sand or soil by any mode or method or mineral; and

7.1.1(b) to carry on any operation with a view to, or for the purpose of:

7.1.1(b)(i) obtaining metal or mineral from a place where it occurs naturally;

7.1.1(b)(ii) obtaining metal or mineral from its natural state or from a state in which it is mixed with other matter;

7.1.1(b)(iii) disposing of any metal or mineral in connection with such obtaining;

7.1.1(b)(iv) disposing of waste substances or by-products resulting from such obtaining; or rehabilitating or restoring the surface of the land disturbed by such obtaining of metal or mineral or waste disposal including the dismantling and removal of buildings, structures, machinery and equipment carried out in connection with such rehabilitation or restoration.

7.1.2 **Mine** – when used as a noun, includes:

7.1.2(a) a place where mining within the meaning of 7.1.1 of this definition is carried on;

7.1.2(b) a place used for storage of any substance or thing as an associated activity of mining within the meaning of 7.1.1 of this definition;

7.1.2(c) any place or premises (including those under construction, except where they are construction work to which a Construction Safety Act applies) being maintained or intended for use as a place where mining within the meaning of 7.1.1 of this definition is to be carried on, or for storage of any substance or thing as an associated activity of mining within the meaning of that subclause; and

7.1.2(d) any disused or abandoned part of a place that is a mine within the meaning of provision 7.1.2(a) or 7.1.2(b) of this subclause, whether or not the use of that part was discontinued or abandoned by the person who, or corporation that is working the mine at the material time.

- 7.1.3** **Continuous shift work** shall mean work that is continuous for 24 hours per day for an unbroken period of one lunar month, or 28 days, except in the case of floods, fire, breakdowns, accidents, strikes, shutting down for holidays or other stoppage of work due to something beyond the control of the employer. Provided that provision may be made for rotation of shifts.
- 7.1.4** **Non-continuous shift work** shall mean a two or three shift system worked over five days of a week (Monday to Friday inclusive) where the ordinary hours do not exceed eight hours in any one shift or 40 hours in any one week.
- 7.1.5** **Junior** shall mean any employee under 19 years of age who does not receive the rate of wages fixed by this award for adults.
- 7.1.6** **Control Room Operator** shall mean an employee competent and available to perform all or any of the duties associated with the gold room and be capable of running all sections of the CIP process from feed systems to gold room and tailings disposal.
- 7.1.7** **Process Operator** shall mean an employee engaged and available to perform all work associated with the CIP process excluding gold room.

PART 2 – AWARD FLEXIBILITY

8. ENTERPRISE FLEXIBILITY PROVISION

- 8.1** Where the employer wishes to pursue an agreement at the enterprise or workplace about how the award should be varied so as to make the enterprise or workplace operate more efficiently according to its particular needs, the following process shall apply;
- 8.1.1** A consultative mechanism and procedures appropriate to the size, structure and needs of the enterprise or workplace shall be established.
- 8.1.2** For the purpose of the consultative process the employees may nominate the Union or another representative to represent them.
- 8.1.3** Where agreement is reached, an application shall be made to the Commission.

PART 3 – COMMUNICATION CONSULTATION AND DISPUTE RESOLUTION

9. GRIEVANCE AND DISPUTE SETTLEMENT PROCEDURES

- 9.1** In the event of a dispute arising in the workplace the procedure to be followed to resolve the matter will be as follows:
- 9.1.1** The employee and the supervisor will meet and discuss the matter; and
- 9.1.2** If the matter is not resolved at such a meeting, the parties shall arrange for further discussions between the employee and his or her nominated representative (if any) and more senior levels of management.

- 9.1.3** If the matter is still not resolved a discussion shall be held between the employer and/or its nominated representative, and the Union or other employee representative.
- 9.1.4** If the matter cannot be resolved it may be referred to the Australian Industrial Relations Commission.
- 9.1.5** While the parties attempt to resolve the matter, work will continue as normal unless the employee has a reasonable concern about an imminent risk to his or her health and safety.
- 9.2** Discussions at any stage of the procedure shall not be unreasonably delayed by any party subject to acceptance that some matters may be of such complexity or importance that it may take a reasonable period of time for the appropriate response to be made. If genuine discussions are unreasonably delayed or hindered, it shall be open to any party to give notification of the dispute to the Australian Industrial Relations Commission.

PART 4 – CONTRACT OF EMPLOYMENT

10. CONTRACT OF EMPLOYMENT

10.1 Types of employment

10.2 Employees under this award will be employed in one of the following categories:

full-time employee;

regular part-time employee;

casual employee;

probationary employee; or

fixed term employee.

10.3 At the time of engagement, the employer will inform each employee of the terms of their engagement and, in particular, whether they are to be full-time, part-time, casual or fixed term.

10.4 An employee shall perform such work as the employer shall, from time to time require on the days and during the hours usually worked by the employee. It shall be a condition of employment that any employee shall learn any other job or skill as directed and provide instruction to another employee in this regard as requested. In addition, employees shall transfer from day to shift work or vice versa if required.

10.5 Any such direction issued by the employer shall be consistent with the employer's responsibility to provide a safe and healthy working environment.

11. FULL-TIME EMPLOYMENT

Except for casuals and employees engaged for a specific period of time or for a specific task or tasks, employment shall be by the week.

12. CASUAL EMPLOYMENT

12.1 Casual employees shall be employed for a minimum of four hours on each engagement and shall work for no more than eight hours per day or 40 hours per week without payment of overtime unless otherwise agreed when engaged in conjunction with a cyclic roster.

[12.2 varied by PR937027 ppc 27Aug03]

12.2 A casual employee shall receive 1/40th of the appropriate weekly rate for the class of work performed plus a loading of 23%.

13. PART-TIME EMPLOYMENT

13.1 An employee may be employed on a part-time basis in any classification in this award.

13.2 The ordinary hours of work of a part-time employee shall be greater than four hours per week and less than 32 hours per week.

13.3 A part-time employee shall be paid per hour at the rate of 1/40th of the weekly rate prescribed for the class of work performed.

13.4 A part-time employee shall receive on a pro rata basis the award provisions in respect of annual leave, sick leave, and public holidays.

14. PROBATIONARY EMPLOYMENT

14.1 An employee may be engaged on a probationary basis for a maximum period of twelve weeks. The probationary period shall permit an employee to be inducted, undergo initial company training and for the company to assess the employee's performance.

14.2 Employees will be advised on the result of the assessment where performance is unsatisfactory.

14.3 During the probationary period, either party may terminate employment by the giving of one day's notice.

14.4 During the probationary period, the employee's service will count for the purposes of accruing leave entitlements, but shall not be entitled to any paid leave other than sick leave or bereavement leave during this period.

15. FIXED TERM EMPLOYEE

15.1 A fixed term employee is one who is engaged for a fixed term, and may also be engaged on a part-time basis.

- 15.2 Fixed term employees will accrue all annual accruals in the same proportion as their fixed term bears to the calendar year.
- 15.3 Fixed term employees will not become eligible for termination, change or redundancy payments at the end of their fixed term engagement.

16. STAND DOWN

16.1 An employer has the right to stand down an employee and may deduct payment for all or part of a day on which an employee cannot be usefully employed for the following reasons:

- 16.1.1 A strike or stop work meeting;
- 16.1.2 Refusal of duty or misconduct; or
- 16.1.3 Any cause for which the company is not reasonably responsible.

17. TERMINATION OF EMPLOYMENT

17.1 In order to terminate the employment of a full-time or part-time employee, the employer shall give to the employee the following notice:

| Employee's period of continuous service with the employer | Period of notice |
|--|-------------------------|
| Less than 1 year | At least 1 week |
| More than 1 year but less than 3 years | At least 2 weeks |
| More than 3 years but less than 5 years | At least 3 weeks |
| More than 5 years | At least 4 weeks |

- 17.2 Where an employee is over the age of 45 years and has had at least two years continuous service with the employer, the employee shall be entitled to an additional week's notice.
- 17.3 Payment in lieu of notice will be made if the appropriate notice period is not required to be worked. Compensation in lieu of notice must be calculated as if the employee had continued in normal employment for that period.

17.4 Notice of termination by employee

- 17.4.1 The notice of termination required to be given by an employee shall be the same as that required of an employer, except that there shall be no additional notice based on the age of the employee concerned.
- 17.4.2 If an employee fails to give notice the employer shall have the right to withhold moneys due to the employee with a maximum amount equal to the ordinary time rate of pay for the period of notice.

17.5 Time off during notice period

Where the employer has given notice of termination to an employee, the employee shall be allowed up to one day's time off without loss of pay for the purpose of seeking other employment. The time off shall be at times that are convenient to the employee after consultation with the employer.

18. REDUNDANCY

18.1 Severance pay

18.1.1 In addition to the period of notice prescribed for ordinary termination, an employee whose employment is terminated as a result of a redundancy situation shall be entitled to the following amount of severance pay in respect of a continuous period of service:

| Period of continuous service | Severance pay |
|---|----------------------|
| Less than 1 year | Nil |
| More than 1 year but less than 2 years | 4 weeks pay |
| More than 2 years but less than 3 years | 6 weeks pay |
| More than 3 years but less than 4 years | 7 weeks pay |
| 4 years and over | 8 weeks pay |

18.1.2 **Weeks pay** means the ordinary time rate of pay for the employee concerned.

18.1.3 Provided that 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.

18.2 Transfer to lower paid duties

Where an employee is transferred to lower paid duties as a result of a redundancy, the employee shall be entitled to the same period of notice of transfer as he or she would have been entitled to if his or her employment had been terminated and the employer may at the employer's option make payment in lieu of an amount equal to the difference between the former ordinary time rate of pay and the new lower ordinary time rates for the number of weeks of notice still owing.

18.3 Employee leaving during notice period

Where an employee's employment is terminated as a result of a redundancy, the employee may terminate his/her employment during the period of notice and, shall be entitled to the same benefits and payments under this clause had he or she remained with the employer until the expiry of such notice. In such circumstances the employee shall not be entitled to payment in lieu of notice.

18.4 Alternative employment

An employer in a particular redundancy case may make application to the Australian Industrial Relations Commission to have the general severance pay prescription varied if the employer obtains acceptable alternative employment for an employee.

18.5 Time off during notice period

18.5.1 During the period of termination given by the employer, an employee shall be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment.

18.5.2 If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee shall, at the request of the employer, be required to produce proof of attendance at an interview or he/she shall not receive payment for the time absent. For this purpose, a statutory declaration will be sufficient.

18.6 Superannuation benefits

18.6.1 Where an employee who is terminated receives a benefit from a superannuation scheme, he or she shall only receive a severance payment which is equivalent to the difference between the prescribed severance payment and the amount of superannuation benefit received which is attributable to employer contributions only.

18.6.2 If this superannuation benefit is greater than the amount of severance payment due, the employee shall receive no payment under that subclause.

18.7 Casuals and employees with less than one year's service

This clause will not apply to casuals or employees with less than one year's continuous service and the general obligation on employers should be no more than to give relevant employees an indication of the impending redundancy at the first reasonable opportunity, and to take such steps as may be reasonable to facilitate the employees obtaining suitable alternative employment.

18.8 Employees exempted

This clause shall not apply where employment is terminated as a consequence of conduct that justifies instant dismissal, including malingering, inefficiency or neglect of duty, or in the case of casual employees, or employees engaged for a specific period of time or for a specified task or tasks.

18.9 Incapacity to pay

An employer in a particular redundancy case may make application to the Australian Industrial Relations Commission to have the general severance pay prescription varied on the basis of the employer's incapacity to pay.

PART 5 – WAGES AND RELATED MATTERS

19. WAGE RATES

[19.1 substituted by PR903613 PR916708 PR929186; corrected by PR944923; substituted by PR944924; PR956882 ppc 30Mar05]

19.1 The minimum rates of wages for the classes of employees specified in this clause shall be as follows:

| Classification | Per week \$ |
|---|------------------------|
| Processing | |
| Group 1 The following classes of employees shall fall within Group 1: Control Room Operator Operator of Front End Loader (6 Metres cubed and over) | 572.30 |
| Group 2 The following classes of employees shall fall within Group 2: Front End Loader Operator up to six metres cubed. | 565.40 |
| Group 3 The following classes of employees shall fall within Group 3: Process Operators Crusher Operator | 560.30 |
| Group 4 The following classes of employees shall fall within Group 4: Trainee - Operator All other process plant employees not included in Groups 1, 2 and 3 | 530.10 |
| Mining and haulage | |
| Group 1 The following classes of employees shall fall within Group 1: Blast Hole Drill Operators Grader Operators Loader Operators (6 metres cubed and over) Operator of Off Highway Dump Units Wheel/Tracked Dozer Operator (343kw and above) | 568.30 |

Group 2 565.40

The following classes of employees shall fall within Group 2:
Front End Loader Operator (up to 6 metres cubed)
Excavator (in excess of 1.9 metres cubed)
Shot firers
All other operators of heavy mining equipment not included in Group 1 engaged in open cut mining, other than operators of Excavator under 1.9 cubic metres

Group 3 533.10

The following classes of employees shall fall within Group 3:
Drivers of Motor Vehicles on Highway
Pipe Layers/Fitters
All other employees engaged in operating Bulldozers, Excavators, Forklifts, and the like
Servicemen/Tyre Fitter
Powder Monkey

Group 4 530.10

The following classes of employees shall fall within Group 4:
Labourers not elsewhere classified
Utility Servicemen

19.2 Safety net review

[19.2 substituted by PR903613 PR916708 PR929186 PR944924; PR956882 ppc 30Mar05]

The rates of pay in this award include the arbitrated safety net adjustment payable under the Safety Net Review Wages decision- May 2004 [PR002004]. This arbitrated safety net adjustment may be offset against any equivalent amount in rates of pay received by employees whose wages and conditions of employment are regulated by this award which are above the wage rates prescribed in the award. Such above award payments include wages payable pursuant to certified agreements, currently operating enterprise flexibility agreements, Australian workplace agreements, award variations to give effect to enterprise agreements and overaward arrangements. Absorption which is contrary to the terms of an agreement is not required.

Increases made under previous National Wage Case principles or under the current Statement of Principles, excepting those resulting from enterprise agreements, are not to be used to offset arbitrated safety net adjustments.

20. JUNIORS

| Juniors | Percentage of minimum adult rate |
|-----------------------|---|
| Under 17 years | 55% |
| 17 years and under 18 | 65% |
| 18 years and under 19 | 75% |
| 19 years and over | 100% |

20.1 Junior rates shall be calculated in multiples of ten cents with any result of five cents or more being taken to the next highest ten cent multiple.

20.2 Juniors doing ordinary adults work shall be paid in full rates for the particular class of work on which they are engaged.

21. ALLOWANCES

21.1 Off highway vehicles

For employees engaged in driving off highway vehicles for each complete 1.01 tonnes over 50 tonnes an extra 91 cents per week. Such amount shall move in accordance with State Wage Case decisions.

21.2 Meal allowance

[21.2.1 varied by PR903613 PR916708 PR929186 PR944924; PR956882 ppc 30Mar05]

Where an employee is called upon to work overtime for more than one hour after the ordinary ceasing time or in the case of an employee working to an agreed roster, after the usual ceasing time, the employee shall be paid an allowance of \$6.88 or provided with a meal in lieu thereof.

21.2.2 Meal breaks shall be taken so as not to interfere with continuity of work where continuity is required.

21.3 First aid

[21.3 varied by PR903613 PR916708 PR929186 PR944924; PR956882 ppc 30Mar05]

Where an employee holds a current first aid certificate and is recognised as a first aid person by the employer, the employee shall be paid an allowance of \$9.75 per week.

21.4 Disability payment

[21.4 varied by PR903613 PR916708 PR929186 PR944924; PR956882 ppc 30Mar05]

All employees shall receive a payment of \$22.72 per week for disabilities associated with mining and isolation. Such payment shall be considered for all purposes of this award.

21.5 Travel time payment

For the purpose of travel time, all employees shall be entitled to payment of one hour at ordinary rates for each shift or part of shift worked where payment of two or more hours in made.

22. PAYMENT OF WAGES

22.1 All wages shall be paid fortnightly by electronic funds transfer directly into the employee's account in any financial institution nominated which has that facility available or where such facility is not available, by cheque.

22.2 Where an employee has been terminated or resigns, that person shall be paid all wages and holiday pay due to him/her within 24 hours of such discharge or resignation except where a Saturday, Sunday or holiday intervenes, when the period of 24 hours shall be increased accordingly. If the employee is not so paid, for such time that elapses between the termination and the time of payment, the employee shall be paid at the ordinary rate of wages.

23. MIXED FUNCTIONS

Any employee put on to do the work of a higher grade shall receive the wages of such grade while so employed, but in the event of a higher grade employee being put on to do the work of a lesser grade, the employee shall not suffer a reduction of wages by reason of being temporarily out of his/her grade. For the purposes of this clause each day is to stand by itself.

PART 6 – HOURS OF WORK, SHIFT WORK, OVERTIME AND BREAKS

24. HOURS OF WORK

24.1 Subject to 24.4, the ordinary hours of work of employees engaged as day workers shall total 160 each four weeks to be worked over continuous periods not exceeding ten hours duty except for meal breaks within the daily limits of 6.00 a.m. to 6.00 p.m.

24.2 Open cut and surface mining day work employees not engaged in shift work shall work as described in 24.1 above, with the exception that a 30 minute crib break shall be included within the ordinary paid hours.

24.3 Notwithstanding the provisions of 24.1 and 24.2 of this clause and subject to the agreement of the employer, the ordinary starting time of day workers may commence prior to 6.00 a.m. where the majority of employees engaged in a section so request. This variation of hours is to be correctly registered.

24.4 By arrangement between the employer and the majority of employees in the plant or work section or sections concerned, ordinary hours (not exceeding twelve on any day) may be worked subject to the following:

24.4.1 The employer and the employees concerned being guided by relevant Occupational Health and Safety provisions;

24.4.2 Proper health monitoring procedures being introduced;

24.4.3 Suitable roster arrangements being made; and

24.4.4 Proper supervision being provided.

24.5 When day workers are rostered to work on weekends the following penalties will apply:

24.5.1 Ordinary hours worked on Saturdays – time and a half; and

24.5.2 Ordinary hours worked on Sundays – double time.

25. SHIFT WORK

25.1 For the purpose of this clause the following definitions apply:

25.1.1 **Day shift** means a shift which commences at 6.00 a.m. or later but finishes at or before 6.00 p.m.

25.1.2 **Afternoon shift** means any shift commencing between 12 noon and 6.00 p.m.

25.1.3 **Night shift** means any shift commencing between 6.00 p.m. and midnight.

25.1.4 **Rostered overtime shift** means a shift that is worked as overtime to complete a shift roster.

25.2 This subclause shall apply to shift workers. The ordinary hours of shift workers shall not exceed:

25.2.1 160 hours in four roster weeks;

25.2.2 320 hours in eight week roster weeks.

25.3 Subject to the following conditions, shift workers shall work at such times as the employer may require.

25.4 A meal break of not less than thirty minutes duration shall be allowed and shall be counted as time worked.

25.5 By arrangement between the employer and the majority of employees in the plant or work section or sections concerned, ordinary hours (not exceeding twelve on any day) may be worked subject to the following:

25.5.1 The employer and the employees concerned being guided by relevant Occupational Health and Safety provisions;

25.5.2 Proper health monitoring procedures being introduced;

25.5.3 Suitable roster arrangements being made; and

25.5.4 Proper supervision being provided.

25.6 Shift work rosters shall be agreed between the employer and the majority of employees required to work the shifts. Such agreement shall outline the pattern of working and non working days and be confirmed in writing. The roster shall specify the commencing and finishing times of ordinary working hours of the respective shifts and shall be posted to give at least seven days notice of any change.

25.7 Where any shift worker is required to change his/her roster he/she shall be given at least 48 hours notice of the change, or, in the absence of such notice, be paid for those shifts worked during this period at the rate of double time.

25.8 Rostered overtime shifts are to be treated in the following manner:

25.8.1 They are part of the normal roster cycle;

25.8.2 When calculating annual leave entitlements one rostered overtime shift payment is to be taken into account regardless of the fall of the leave on the roster.

25.8.3 All employees shall be at the workplace and be fully briefed on all operating requirements prior to the employee being relieved or leaving the workplace. This practice will not attract overtime penalties.

26. SHIFT ALLOWANCES

26.1 All shift workers shall be paid as follows:

26.1.1 All shifts worked on a Saturday – time and one half.

26.1.2 All shifts worked on a Sunday – double time.

26.1.3 All shifts worked on a public holiday as defined in this award – double time and one half.

26.2 Shift workers working on afternoon and/or night shift, shall, for the time worked on such shifts of eight hours Monday to Friday, be paid 15% of the ordinary eight hour rate for an Operator Group 3 – Mine and Haulage.

26.3 Shift workers working in excess of four hours overtime, on any afternoon or night shift shall in respect of such overtime receive an additional allowance equivalent to 10% of the ordinary hourly rate for an Operator Group 3 – Mine and Haulage.

26.4 All time worked in excess of or outside the ordinary working hours prescribed by this clause or on a shift other than a rostered shift shall be paid at the rate of double time except when the time worked is by arrangement between the employees themselves.

26.5 Shift workers who work on any afternoon or night shift which does not continue for at least five consecutive afternoons or nights shall be paid at the rate of time and a half.

26.6 A shift worker who:

26.6.1 during a period of engagement on shift work, works night shift only; and

26.6.2 remains on night shift for a longer period than four consecutive weeks; and

26.6.3 works on a night shift which does not rotate or alternate with another shift or with day so as to give at least one third of the working time off night shift in each roster cycle;

shall be paid at the rate of single time plus 30% of the ordinary hourly rate for an Operator Group 3 – Mine and Haulage, for all time worked during ordinary working hours on such night shifts.

27. ROSTERS

27.1 A roster showing the shifts to be worked by all classes of shift workers shall be posted for observance by employees.

27.2 It shall be acceptable for cross mates working shift work to mutually arrange to change shifts temporarily subject to the approval of the foreman or the shift boss as the case may be. The shifts so changed shall be worked at the rate of ordinary time.

28. OVERTIME

28.1 Day workers

28.1.1 All time worked outside or in excess of the ordinary working hours prescribed in clause 24 - Hours of work, of this award shall be paid for at the rate of time and a half for the first two hours and double time thereafter.

28.1.2 Provided that if employees are called upon to work overtime commencing on a Saturday, they shall be paid at the rate of time and a half for the first two hours and double time thereafter, with a minimum of four hours work or payment in lieu.

28.1.3 All work done on Sundays shall be paid for at the rate of double time, with a minimum of four hours work or payment in lieu.

28.2 Shift workers

All time worked in excess of or outside the ordinary working hours as prescribed by this clause or on a shift other than rostered ordinary time shift shall be paid at the rate of double time.

28.3 Overtime on holidays

All time worked on the statutory holidays set out in clause 31 - Public holidays of this award outside the ordinary working hours shall be paid for at double time.

28.4 Meal breaks

28.4.1 Where an employee is called upon to work overtime for more than one hour after the ordinary ceasing time the employee shall be allowed a meal break of 30 minutes to be taken as soon as practicable after the ordinary ceasing time, which shall be paid at overtime rates.

28.4.2 An employee working overtime shall be allowed a meal break of 30 minutes without deduction of pay after each further four hours of overtime worked if the employee continues work after such meal time.

28.5 Recalls

[28.5.1 varied by PR903613 PR929186; PR956882 ppc 30Mar05]

- 28.5.1** Any employee recalled to work overtime after the ordinary ceasing time shall be paid a minimum of four hours at the prevailing overtime rate, such time shall be calculated from the time of the employee leaving home to the time of return to home. The mileage from the employees place of abode to work and return shall be at the rate of 49 cents per kilometre when the employee provides his/her own transport at the request of the company.
- 28.5.2** This subclause shall not apply in cases where it is customary for an employee to return to the employer's premises to perform a specific job outside the ordinary working hours, or where the overtime is continuous with the completion or commencement of ordinary working time.
- 28.5.3** Overtime worked in the circumstances specified in this subclause shall not be regarded as overtime for the purposes of 28.6, where the actual time worked is less than two hours on such recall or on each of such recalls.

28.6 Ten hour break

- 28.6.1** Where an employee works so much overtime between the termination of ordinary work and the commencement of ordinary work on the next day so that the employee has not had at least ten consecutive hours off duty, subject to this subclause, the employee shall be released after completion of such overtime until he/she has had ten consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.
- 28.6.2** Provided that an employee who works so much overtime that he/she has not had at least ten consecutive hours off duty during the 24 hours immediately preceding the ordinary commencing time on a Monday, shall be released after the completion of such overtime until the employee has had ten consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.
- 28.6.3** If on the instructions of the employer an employee resumes or continues work without having had such ten consecutive hours off duty, the employee shall be paid at double time until he/she is released from duty for such period and shall then be entitled to be absent until he/she has had ten consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.
- 28.6.4** The provisions of this subclause shall apply in the case of shift workers who rotate from one shift to another as if eight hours were substituted for ten hours when overtime is worked:
- 28.6.4(a)** for the purpose of changing shift rosters; or
 - 28.6.4(b)** where a shift worker does not report for duty; or
 - 28.6.4(c)** where a shift is worked by arrangement between the employees themselves.

28.7 Cancellation of overtime

- 28.7.1** If, on the instructions of the employer, an employee presents for overtime work which is not continuous with his/her ordinary hours and such overtime is cancelled by the employer without prior notice to the employee, the employee shall be found other work or paid two hours at overtime rates, provided that this subclause shall not apply where the overtime is cancelled for reasons beyond the control of the employer.
- 28.7.2** Where day workers are required to report for overtime work between midnight and 6.00 a.m., they shall be paid at the rate of double time for all time so worked up to the ordinary starting time Monday to Friday and up to 7.00 a.m. on Saturday.

28.8 Requirements to work reasonable overtime

[28.8 inserted by PR929186 ppc 30Mar03]

- 28.8(a)** Subject to clause 28.8(b) an employer may require an employee to work reasonable overtime at overtime rates.
- 28.8(b)** An employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working hours which are unreasonable having regard to:
- 28.8(b)(i)** any risk to employee health and safety;
 - 28.8(b)(ii)** the employee's personal circumstances including any family responsibilities;
 - 28.7(b)(iii)** the needs of the workplace or enterprise;
 - 28.8(b)(iv)** the notice (if any) given by the employer of the overtime and by the employee of his or her intention to refuse it; and
 - 28.8(b)(v)** any other relevant matter.

29. REST BREAK

Every employee covered by this award shall be entitled to a rest break of ten minutes duration in the employer's time in the first and second half of daily work. Such rest breaks shall be taken at such times as will not interfere with continuity of work where continuity is necessary.

PART 7 – LEAVE OF ABSENCE AND PUBLIC HOLIDAYS

30. SICK LEAVE

- 30.1** An employee shall become entitled to not less than eight days sick leave for each completed year of employment with an employer.
- 30.2** With regards to any completed period of employment of less than one year with an employer, an employee shall become entitled to one day's sick leave for each six weeks of such period.
- 30.3** Every employee absent from work through illness, on the production of a certificate from a duly qualified medical practitioner specifying the nature of the illness of the employee and the period during which the employee will be unable to work, or of other evidence of illness to the satisfaction of the employer and subject to the employee having promptly notified (within eight hours of the commencement of the normal shift start time) the employer of the illness and of the approximate period of such illness, shall be entitled to payment in full for all time he/she is so absent from work.
- 30.4** Provided that it shall not be necessary for an employee to produce such a certificate if the absence from work on account of illness does not exceed two days.
- 30.5** Sick leave shall be cumulative, but unless the employer and employee otherwise agree, no employee shall be entitled to receive, and no employer shall be bound to make, payment for more than thirteen weeks absence from work through illness in any one year.

30.6 The continuity of employment of an employee with an employer for sick leave accumulation purposes shall be deemed to be not broken by any of the following:

30.6.1 absence from work on leave granted by the employer;

30.6.2 the employee having been dismissed or stood down by the employer, or the employee having terminated his/her employment with the employer for any period not exceeding three months, provided that employee shall have been re-employed by that employer.

30.7 The period during which the employment of the employee with the employer shall have been interrupted or determined in any of the circumstances mentioned in 30.6 shall not be taken into account in calculating the period of employment of the employee with the employer.

31. PUBLIC HOLIDAYS

31.1 All work done by any employee on Good Friday, Christmas Day, the 25th day of April (Anzac Day), the first day of January, the twenty sixth day of January, Easter Saturday (the day after Good Friday), Easter Monday, the Birthday of the Sovereign and Boxing Day, or any day appointed under the *The Holidays Act 1983 (Qld)*, to be kept in place of any such holiday, shall be paid for at the rate of double time and a half with a minimum of four hours.

31.2 All employees covered by this award shall be entitled to be paid a full day's wage for Labour Day (the first Monday in May or other day appointed under the *The Holidays Act 1983 (Qld)*, to be kept in place of that holiday) irrespective of the fact that no work may be performed on such day. If an employee actually works on Labour Day, such employee shall be paid a full day's wage for that day and in addition, a payment for the time actually worked at one and a half times the ordinary rate prescribed for such work with a minimum of four hours.

31.3 All work done by employees in a district specified from time to time by the Minister by notification published in the Gazette on the day appointed under the *The Holidays Act 1983 (Qld)*, to be kept an a holiday in relation to the annual agricultural, horticultural or industrial show held at the principal city or town, as specified in such notification of such district shall be paid for at the rate of double time and a half with a minimum of four hours.

31.4 For the purposes of this clause where the rate of wages is a weekly rate, double time and a half shall mean one and one half day's wages in addition to the prescribed weekly rate or pro rata if there is more or less than a day.

31.5 If a statutory holiday falls on a day that a continuous worker or shift worker is rostered off, the employee shall have an extra day added to his/her annual leave.

- 31.6** Any employee who has been dismissed or stood down by the employer during the month of December in any year, and who is re-employed by that employer at any time before the end of the month of January in the next succeeding year, shall, if that employee had been employed by that employer for a continuous period of two weeks or longer immediately prior to being so dismissed or stood down, be entitled to be paid at the ordinary rate payable to that employee when so dismissed or stood down for any one or more of the following holidays, namely Christmas Day, Boxing Day, and the first day of January occurring during the period on and from the date of the dismissal or standing down to and including the date of the re-employment.
- 31.7** All employees covered by this award shall be entitled to be paid a full day's wage for the above mentioned holidays (but not for Easter Saturday unless that day forms part of the employee's ordinary working week), irrespective of the fact that no work may be performed on any of such days. Provided that where an employee is absent from work on the last working day before or the first working day after any such holiday (other than Labour Day) without reasonable excuse or without the consent of the employer, the employee shall not be entitled to payment for such holiday.
- 31.8** Any employee who is required by the employer to work on any of the above mentioned holidays and who fails to do so shall not be entitled to payment for such holiday unless he/she furnishes the employer with a satisfactory excuse for his/her failure to carry out the request of the employer.

32. ANNUAL LEAVE

- 32.1** Every employee (other than a casual employee) covered by this award shall at the end of each year of employment be entitled to annual leave on full pay as follows:
- 32.1.1** not less than five weeks if employment on continuous shift work is worked over a period of seven days per week;
- 32.1.2** not less than four weeks in any other case;
- 32.1.3** where an employee during the year of service is employed upon work carrying entitlement to five weeks holiday, as well as upon work carrying entitlement to four weeks holiday, then the entitlement at the end of a year's employment shall be pro rata thereto.
- 32.2** Provided that a period of three months or less during which the employee is on leave of absence without pay shall be taken into account in calculating the year of employment for the purpose of this clause.
- 32.3** Such annual holiday shall be exclusive of any statutory holiday which may occur during the period of that annual holiday and shall be paid for by the employer in advance:
- 32.3.1** in the case of any employee in receipt immediately prior to that holiday of ordinary pay at a rate in excess of the ordinary rate payable under this award, at that excess rate; and

32.3.2 in every other case, at the ordinary rate payable to the employee concerned immediately prior to that holiday under this award.

32.4 If the employment of any employee is terminated at the expiration of a full year of employment, the employee shall be paid, in addition to all other amounts due, his/her ordinary pay for four or five weeks as the case may be, and also ordinary pay for any statutory holiday occurring during such period of four or five weeks.

32.5 If the employment of any employee is terminated before the expiration of a full year of employment, such employee shall be paid in addition to all other amounts due, an amount equal to one-ninth of the ordinary pay for the period of employment if he/she is an employee to whom 32.1.1 above applies, and one-twelfth of the ordinary pay for the period of employment if he/she is an employee to whom 32.1.2 above applies, calculated in accordance with 32.6.

32.6 Calculation of annual holiday pay

Except where elsewhere provided annual holiday pay (including any proportionate payments) shall be calculated as follows.

32.7 Shift workers

Subject to 32.9, the rate of wage to be paid to a shift worker shall be the rate payable for work in ordinary time according to the employee's roster or projected roster, including Saturday, Sunday or holiday shifts.

32.8 Leading hands

Subject to 32.9, leading hand allowances and amounts of a like nature otherwise payable for ordinary time worked shall be included in the wages to be paid to employees during annual holidays.

32.9 All employees

32.9.1 Subject to the provisions of 32.10, in no case shall the payment by an employer to an employee be less than the sum of the following amounts:

32.9.1(a) the employee's ordinary wage rate as prescribed by the award for the period of the annual holiday (excluding shift premiums and weekend penalty rate);

32.9.1(b) leading hand allowance or amounts of a like nature;

32.9.1(c) a further amount calculated at the rate of 17.5% of the amounts referred to in 32.10.1 and 32.10.2 as follows.

32.10 The provisions of 32.9 shall not apply to the following:

Any period or periods of annual holidays exceeding:

32.10.1 five weeks in the case of employees employed in a calling where three shifts per day are worked over a period of seven days per week; or

32.10.2 four weeks in any other case.

32.11 Reasonable notice of the commencement of annual leave shall be given to the employee.

32.12 Except as previously provided, it shall not be lawful for the employer to give, or for any employee to receive payment in lieu of annual leave.

33. LONG SERVICE LEAVE

33.1 All employees shall be entitled to long service leave on full pay in accordance with the provisions of the *Industrial Relations Act 1999 (Qld)*.

33.2 Except that all employees will, accrue long service leave on the basis of thirteen weeks after completion of ten years' continuous service with pro rata leave paid on termination after seven years' continuous service.

34. BEREAVEMENT LEAVE

A weekly hired employee shall on the death of a wife, husband, father, mother, brother, sister, child or stepchild, be entitled on notice to leave up to and including the day of the funeral of such relation and such leave shall be without deduction of pay for a period not exceeding the number of hours worked by the employee in two ordinary days of work. Proof of such death shall be furnished by the employee to the satisfaction of the employer.

35. FAMILY LEAVE

Family leave shall reflect the provisions of the Family Leave Award (Qld) except for the access to paid sick leave credits for special responsibility leave, which shall be limited to five days per annum.

36. PARENTAL LEAVE

All employees shall be entitled to paternity, maternity and adoption leave in keeping with the Family Leave Award (Qld).

PART 8 – MISCELLANEOUS

37. CLOTHING

37.1 Employees are required to wear work clothes, safety boots and wet weather gear as specified by the employer. The employer will reimburse the cost of these articles to the employee or supply such articles to the employee at no cost to the employee.

37.2 The reimbursement or supply will be based on the following:

37.2.1 3 sets of work clothes;

37.2.2 1 pair of suitable safety footwear.

37.3 Should the employee terminate or have his/her employment terminated within six months of receiving such clothing and footwear, then the employee shall pay to the company an amount proportionate of the initial value of such clothing/footwear for the period not worked within the six months. This subclause shall not apply to employees who are terminated due to reasons of health.

37.4 The employer shall replace any item of clothing or footwear on a fair wear and tear basis.

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