MISCELLANEOUS AWARD 2010

PART 1 – APPLICATION AND OPERATION

1.1 Coverage

Subject to clauses 4.2 – 4.6, this award covers employers throughout Australia and their employees in the classifications listed in clause 14, who are not covered by any other modern award.

1.2 Access to the award and the National Employment Standards

The employer must ensure that copies of this award and the National Employment Standards (NES) are available to all employees to whom they apply.

1.3 The National Employments Standards (NES) and this award

The NES and this award contain the minimum conditions of employment for employees covered by this award.

1.4 Award Flexibility

Parties may agree to vary certain terms of the employment, as set out in clause 7.1 of the award, to meet their genuine individual needs.

Any variation must comply with certain administrative requirements which are set out in clause 7 of the award and must result in the employee being better off overall.

PART 2 – CONSULTATION AND DISPUTE RESOLUTION

2.1 Consultation

Major workplace change

Where an employer has made a definite decision to introduce major changes likely to have significant effects on employees, an employer must notify the affected employees and their representatives. Notifying affected employees and their representatives involves a number of procedural requirements which are set out in clauses 8.1(b) of the award.

Significant effects include, but are not limited to:

- termination of employment
- major changes in the composition, operation or size of the employer’s workforce or in the skills required
- the elimination or diminution of job opportunities, promotion opportunities or job tenure
- the alteration of hours of work
- the need for retraining or transfer of employees to other work or locations; and
- the restructuring of jobs.

Changes to rosters or hours of work

Where an employee proposes to change an employee’s regular roster or ordinary hours of work, the employer must follow particular procedures prescribed in clause 8.3 of the award.
2.2 Dispute Resolution

Where there is a dispute about a matter under the award or in relation to the NES, the parties must follow the procedures prescribed by clause 9 of the award.

PART 3 – TYPES OF EMPLOYMENT AND TERMINATION OF EMPLOYMENT

3.1 Types of employment

Employees will be employed on either a full-time, part-time or casual basis. At the time of engagement, the employer will inform each employee the basis of their employment.

Please refer to clause 10 of the award for definitions of full-time, part-time and casual employment.

3.2 Termination of employment

Notice of termination is provided for in the NES.

3.3 Redundancy

Redundancy pay is provided for in the NES.

Redundancy pay is not payable where an employee has less than 12 months service or the employer is a small business employer (less than 15 employees).

Transfer to lower paid duties

Where an employee is transferred to lower paid duties by reason of redundancy, the employer must give the same period of notice the employee would have been entitled to if the employment had been terminated and may instead of notice make a payment in lieu of notice for the number of weeks still owing.

Employee leaving during the notice period

An employee may terminate their employment during the period of notice and is entitled to receive the benefits and payments they would have received had they remained in employment until the expiry of the notice, but is not entitled to payment instead of notice.

PART 4 – MINIMUM WAGES AND RELATED MATTERS

4.1 Classifications

Classification definitions are set out in Schedule B of the award, as follows:

Level 1 - An employee at this level has been employed for a period of less than three months and is not carrying out the duties of a level 3 or level 4 employee.

Level 2 - An employee at this level has been employed for more than three months and is not carrying out the duties of a level 3 or level 4 employee.

Level 3 - An employee at this level has a trade qualification or equivalent and is carrying out duties requiring such qualifications.

Miscellaneous Award 2010
Level 4 - An employee at this level has advanced trade qualifications and is carrying out duties requiring such qualifications or is a sub-professional employee.

4.2 Minimum wages

Refer to clause 14 of the award for current wage rates.

4.3 Allowances

The following allowances are payable under clause 15 of the award:
- Clothing reimbursement
- First aid allowance
- Leading hand/in charge allowance
- Meal allowance
- Vehicle allowance
- Reimbursement of expenses

District allowances are payable in accordance with clause 16.

4.4 Accident pay

An employee is entitled to accident pay in accordance with the terms of:
- an award made under the Workplace Relations Act 1996 (Cth) that would have applied to the employee immediately prior to 27 March 2006,
- a notional agreement preserving a State award that would have applied to the employee immediately prior to 1 January 2010 or
- a Division 2B State award that would have applied to the employee immediately prior to 1 January 2011.

This clause ceases to operate on 31 December 2014.

PART 5 – HOURS OF WORK AND RELATED MATTERS

5.1 Ordinary hours of work and rostering

The ordinary hours for employees other than casuals are to be worked on a regular basis with fixed starting and finishing times over a maximum of 6 days per week, provided that on average an employee must not be required to work ordinary hours on more than 20 days in any 28 day period. Once, fixed, starting and finishing times can be varied by agreement at any time or by the employer on 7 days notice.

Ordinary hours are not to exceed 10 hours on any day or shift or 12 hours where agreed.

5.2 Breaks

An employee must not be required to work more than 5 hours without an unpaid break of at least 30 minutes.
5.3 Overtime and penalty rates

Overtime

All time worked in excess of an average of 38 hours per week by a full-time employee or in excess of the agreed number of hours per week by a part-time employee is overtime and must be paid at a rate of 150% of the relevant minimum wage for the first 3 hours and then 200% thereafter.

Penalty rates

For all employees other than casuals, penalty rates are as follows:
- For all worked outside the hours of 7am – 7pm Monday to Friday and on Saturday which is not overtime, 120% of the relevant minimum wage.
- For all work performed on a Sunday which is not overtime, 150% of the relevant minimum wage.

For casual employees, penalty rates are as follows:
- For all worked outside the hours of 7am – 7pm Monday to Friday and on Saturday which is not overtime, 145% of the relevant minimum wage.
- For all work performed on a Sunday which is not overtime, 175% of the relevant minimum wage.

For all employees, work performed on a public holiday is to be paid at the rate of 250% of the relevant minimum wage.

PART 6 – LEAVE AND PUBLIC HOLIDAYS

6.1 Annual Leave

Annual leave is provided for in the NES.

For the purposes of the additional leave provided by the NES, a shiftworker is an employee who works ordinary hours over 7 days of the week and is regularly rostered to work on Sundays and public holidays. Where an employee with 12 months’ continuous service is engaged for part of the 12 month period as a shiftworker, that employee must have their annual leave increased by half a day for each month the employee is engaged as a shiftworker.

Annual leave loading

In addition to their ordinary pay, an employee will be paid annual leave loading of 17.5% of their ordinary rate of pay.

Annual close down

Where an employer intends to implement a close down period, the employer must give 1 months’ notice in writing.

Where notice has been given and the employee has sufficient annual leave to cover the close down period, the employee must take paid annual leave for the full period of the closing. Where the employee has insufficient leave, the employee must take leave without pay.

Miscellaneous Award 2010
6.2  **Personal/carer’s leave and compassionate leave**

Personal leave and carer’s leave are provided for in the NES.

6.3  **Community service leave**

Community service leave is provided for in the NES.

6.4  **Public holidays**

Public holidays are provided for in the NES.

*Please note that not all clauses contained in the award are contained in this summary. Please refer to the award for a full list of all terms and conditions.*