

# Mobile Crane Hiring Award 2010 (MA000032)

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## Part 1—Application and Operation

### 1. Title

This award is the *Mobile Crane Hiring Award 2010*.

### 2. Commencement date

This award commences on 1 January 2010.

### 3. Definitions and interpretation

#### 3.1 In this award, unless the contrary intention appears:

**Act** means the *Workplace Relations Act 1996* (Cth)

**Commission** means the Australian Industrial Relations Commission or its successor

**crane crew** means workers with the qualifications and flexibility to perform the duties of crane operators and dogger/riggers on an interchangeable basis, provided that the crane operator will be regarded as the employee in charge of the crane crew

**dogger** means a worker who carries out the work of slinging loads and who controls the movement of such loads when handled by lifting appliances. It is also the dogger's responsibility to control loads when out of view of the crane operator. A dogger must hold the current certificates issued in accordance with statutory requirements.

**double time** means ordinary time plus 100%

**employee** has the meaning in the Act

**employer** has the meaning in the Act

**enterprise award** has the meaning in the Act

**enterprise NAPSA** means a NAPSA derived from a State award which immediately prior to 27 March 2006 applied only to a single business or a part of a single business

**MCE** means mobile crane employees in the mobile crane hiring industry

**mobile crane** means a crane having its own propulsion which includes tractor and crawler cranes

**mobile crane operator** means the operator who is the link between the operation of the mobile crane and its motive power and who controls the apparatus inside the crane's cabin to regulate its movements i.e. 'luffing' (raising or lowering the jib or boom), 'slewing' (turning the crane on its axis) and/or 'hoisting' (raising or lowering) the hook. A crane operator must hold the current certificates in accordance with statutory requirements.

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**mobile elevated work platform** means a vehicle mounted unit with a telescoping device, hinged device, or articulated device or any combination of these used to support a platform on which personnel, equipment, or materials may be elevated to perform work

**mobile elevating work platform operator** means an employee required to perform, alone or as part of a crew, tasks including:

- driving/relocating the platform between work locations;
- setting up the platform;
- operating the platform in a safe and efficient manner; and
- holding the current certificates in accordance with statutory requirements

**NAPSA** means notional agreement preserving a State award and has the meaning in the Act

**NES** means National Employment Standards

**rigger** means a worker who in addition to the work of a dogger, is directly in charge of the initial work of setting up the crane and who ensures that all rigging work is carried out in a safe and efficient manner in accordance with statutory requirements. A rigger must hold the current certificates in accordance with statutory requirements.

**standard rate** means 1/38th of the minimum weekly wage for a mobile crane employee (MCE) level 1 in clause 13—Wage rates

**time and a half** means ordinary time plus 50%

**3.2** Where this award refers to a condition of employment provided for in the NES the NES definition applies.

## **4. Coverage**

**4.1** This award covers employers throughout Australia engaged in the mobile crane hire industry and their employees in the classifications within Schedule A—Classification Structure to the exclusion of any other modern award.

**4.2** The award does not cover an employee excluded from award coverage by the Act.

**4.3** The award does not cover an employer bound by an enterprise award or enterprise NAPSA with respect to any employee who is covered by the enterprise award or NAPSA.

**4.4** The award does not cover clerical and administrative occupations.

**4.5** The award does not cover an employer bound by:

- the *Manufacturing and Associated Industries and Occupations Award 2010*; or
- the *Building and Construction General On-site Award 2010*.

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- 4.6** Where an employer is covered by more than one award, an employee of that employer is covered by the award classification which is most appropriate to the work performed by the employee and to the environment in which the employee normally performs the work.
- 4.7** For the purpose of clause 4.1, **mobile crane hire industry** means the service industry involving the hiring of mobile cranes, mobile elevated work platforms and like equipment and operating personnel to clients whose requirements include but are not limited to the provision and service of materials handling equipment, lifting and machinery movement equipment, earthmoving and construction plant hire and civil contracting, plant and mobile units for quarrying and mining projects, dig load and haul projects. Hiring can be on an hour by hour, day by day, or contract basis depending on the nature of the task.

NOTE: Where there is no classification for a particular employee in this award it is possible that the employer and that employee are covered by an award with occupational coverage.

## **5. Access to the award and the National Employment Standards**

The employer must ensure that copies of this award and the NES are available to all employees to whom they apply either on a noticeboard which is conveniently located at or near the workplace or through electronic means, whichever makes them more accessible.

## **6. The National Employment Standards and this award**

The [NES](#) and this award combine to contain the minimum conditions of employment for employees covered by this award.

## **7. Award flexibility**

- 7.1** Notwithstanding any other provision of this award, an employer and an individual employee may agree to vary the application of certain terms of this award to meet the genuine individual needs of the employer and the individual employee. The terms the employer and the individual employee may agree to vary the application of are those concerning:
- (a) arrangements for when work is performed;
  - (b) overtime rates;
  - (c) penalty rates;
  - (d) allowances; and
  - (e) leave loading.
- 7.2** The employer and the individual employee must have genuinely made the agreement without coercion or duress.
- 7.3** The agreement between the employer and the individual employee must:

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- (a) be confined to a variation in the application of one or more of the terms listed in clause 7.1; and
- (b) result in the employee being better off overall than the employee would have been if no individual flexibility agreement had been agreed to.

**7.4** The agreement between the employer and the individual employee must also:

- (a) be in writing, name the parties to the agreement and be signed by the employer and the individual employee and, if the employee is under 18 years of age, the employee's parent or guardian;
- (b) state each term of this award that the employer and the individual employee have agreed to vary;
- (c) detail how the application of each term has been varied by agreement between the employer and the individual employee;
- (d) detail how the agreement results in the individual employee being better off overall in relation to the individual employee's terms and conditions of employment; and
- (e) state the date the agreement commences to operate.

**7.5** The employer must give the individual employee a copy of the agreement and keep the agreement as a time and wages record.

**7.6** Except as provided in clause 7.4(a) the agreement must not require the approval or consent of a person other than the employer and the individual employee.

**7.7** An employer seeking to enter into an agreement must provide a written proposal to the employee. Where the employee's understanding of written English is limited the employer must take measures, including translation into an appropriate language, to ensure the employee understands the proposal.

**7.8** The agreement may be terminated:

- (a) by the employer or the individual employee giving four weeks' notice of termination, in writing, to the other party and the agreement ceasing to operate at the end of the notice period; or
- (b) at any time, by written agreement between the employer and the individual employee.

**7.9** The right to make an agreement pursuant to this clause is in addition to, and is not intended to otherwise affect, any provision for an agreement between an employer and an individual employee contained in any other term of this award.

## **Part 2—Consultation and Dispute Resolution**

### **8. Consultation regarding major workplace change**

#### **8.1 Employer to notify**

- (a) Where an employer has made a definite decision to introduce major changes in production, program, organisation, structure or technology that are likely to have significant effects on employees, the employer must notify the employees who may be affected by the proposed changes and their representatives, if any.
- (b) **Significant effects** include 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. Provided that where this award makes provision for alteration of any of these matters an alteration is deemed not to have significant effect.

#### **8.2 Employer to discuss change**

- (a) The employer must discuss with the employees affected and their representatives, if any, the introduction of the changes referred to in clause 8.1(b), the effects the changes are likely to have on employees and measures to avert or mitigate the adverse effects of such changes on employees and must give prompt consideration to matters raised by the employees and/or their representatives in relation to the changes.
- (b) The discussions must commence as early as practicable after a definite decision has been made by the employer to make the changes referred to in clause 8.1(b).
- (c) For the purposes of such discussion, the employer must provide in writing to the employees concerned and their representatives, if any, all relevant information about the changes including the nature of the changes proposed, the expected effects of the changes on employees and any other matters likely to affect employees provided that no employer is required to disclose confidential information the disclosure of which would be contrary to the employer's interests.

### **9. Dispute resolution**

- 9.1 In the event of a dispute in relation to a matter about this award, or in relation to the NES, in the first instance the parties must attempt to resolve the matter at the workplace by discussions between the employee or employees concerned and the relevant supervisor. If such discussions do not resolve the dispute, the parties will endeavour to resolve the dispute in a timely manner by discussions between the employee or employees concerned and more senior levels of management as appropriate.

- 9.2** If a dispute in relation to a matter arising under this award or the NES is unable to be resolved at the workplace, and all appropriate steps under clause 9.1 have been taken, a party to the dispute may refer the dispute to the Commission.
- 9.3** The parties may agree on the process to be utilised by the Commission including mediation, conciliation and consent arbitration.
- 9.4** Where the matter in dispute remains unresolved, the Commission may exercise any method of dispute resolution permitted by the Act that it considers appropriate to ensure the settlement of the dispute.
- 9.5** An employer or employee may appoint another person, organisation or association to accompany and/or represent them for the purposes of this clause.
- 9.6** While the dispute resolution procedure is being conducted, work must continue in accordance with this award and the Act. Subject to applicable occupational health and safety legislation, an employee must not unreasonably fail to comply with a direction by the employer to perform work, whether at the same or another workplace, that is safe and appropriate for the employee to perform

## **Part 3—Types of Employment and Termination of Employment**

### **10. Types of employment**

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

- full-time weekly hire employees; or
- casual employees.

**10.2** At the time of engagement an employer will inform each employee of the terms of their engagement and, in particular, whether they are to be full-time weekly hire or casual employee.

### **10.3 Casual employment**

- (a)** A casual employee is one engaged and paid in accordance with the provisions of this clause. A casual employee will be entitled to all of the applicable rates and conditions of employment prescribed by this award except annual leave, paid personal leave, paid parental leave, paid community service leave, public holidays, notice of termination and redundancy.
- (b)** An employer when engaging a person for casual employment must inform the employee in writing that the employee is to be employed as a casual, stating by whom the employee is employed, the job to be performed, the classification level, the actual or likely number of hours to be worked, and the relevant rate of pay.
- (c)** In addition to the rate appropriate for the type of work, a casual employee must be paid an additional 25% of the hourly rate.

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- (d) A casual employee required to work overtime, or on a Saturday, or on a Sunday, or on a public holiday, will be entitled to the relevant penalty rates prescribed by clause 25 provided that:
  - (i) where the relevant penalty is time and a half, the employee will be paid 175% of the hourly rate for the employee's classification;
  - (ii) where the relevant penalty rate is double time, the employee will be paid 225% of the hourly rate for the employee's classification; and
  - (iii) where the relevant penalty rate is double time and a half, the employee will be paid 275% of the hourly rate for the employee's classification.
- (e) Casual employees will be engaged for a minimum period of four hours per day.

#### 10.4 Casual conversion to full-time or part-time employment

- (a) A casual employee, other than an **irregular casual employee**, who has been engaged by a particular employer for a sequence of periods of employment under this award during a period of six months, thereafter has the right to elect to have their contract of employment converted to full-time weekly hire employment if the employment is to continue beyond the conversion process.
- (b) Every employer of such an employee must give the employee notice in writing of the provisions of clause 10.4(a) within four weeks of the employee having attained such period of six months. The employee retains their right of election under clause 10.4(a) if the employer fails to comply with this sub-clause.
- (c) Any such casual employee who does not within four weeks of receiving written notice elect to convert their contract of employment to full-time weekly hire employment is deemed to have elected against any such conversion.
- (d) Any casual employee who has a right to elect under clause 10.4(a), on receiving notice under clause 10.4(b) or after the expiry of the time for giving such notice, may give four weeks notice in writing to the employer that they seek to elect to convert their contract of employment to full-time weekly hire employment, and within four weeks of receiving such notice the employer must consent to or refuse the election but must not unreasonably so refuse.
- (e) Once a casual employee has elected to become and been converted to full-time weekly hire employment, the employee may only revert to casual employment by written agreement with the employer.
- (f) Where, in accordance with clause 10.4(d) an employer refuses an election to convert, the reasons for doing so must be fully stated to and discussed with the employee concerned and a genuine attempt made to reach agreement.
- (g) By agreement between the employer and the majority of the employees in the relevant workplace or a section or sections of it, or with the casual employee concerned, the employer may apply clause 10.4(a) as if the reference to six months is a reference to 12 months, but only in respect of a currently engaged individual employee or group of employees. Any such agreement reached must be kept by the employer as a time and wages record. Any such agreement

reached with an individual employee may only be reached within the two months prior to the period of six months referred to in clause 10.4(a).

- (h) For the purposes of clause 10.4(a), an **irregular casual employee** is one who has been engaged to perform work on an occasional or non-systematic or irregular basis.
- (i) An employee must not be engaged and re-engaged to avoid any obligation under this award.

#### **10.5 Loss of validation of licences/certificates**

- (a) Employees will notify the employer in the event of cancellation or suspension of licences and/or certificates required in the performance of their duties.
- (b) Should either a licence or certificate held by an employee be cancelled or suspended and the employee has notified the employer in accordance with clause 10.4(a), all possible alternate employment options will be examined and where practicable provided by the employer.

### **11. Termination of employment**

**11.1** Notice of termination is provided for in the NES.

#### **11.2 Notice of termination by an employee**

The notice of termination required to be given by an employee is the same as that required of an employer, except that there is no requirement on the employee to give additional notice based on the age of the employee concerned. If an employee fails to give the required notice the employer may withhold from any monies due to the employee on termination, under this award or the NES, an amount not exceeding the amount the employee would have been paid under this award in respect of the period of notice required by this clause, less any period of notice actually given by the employee.

#### **11.3 Job search entitlement**

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

### **12. Industry specific redundancy scheme**

**12.1** The following redundancy clause for the mobile crane hiring industry is an industry specific redundancy scheme as defined in s. 1 of the NES. In accordance with s.64(4)(b) of the NES the provisions of Subdivision B—*Redundancy pay* of Division 10 of the NES do not apply to employers and employees covered by this award.

## 12.2 Definitions

- (a) **Redundancy** means any employment situation where the number of employees reasonably required by the employer exceeds the number required to perform the work which is available.
- (b) Any one of the following factors may operate to reduce the amount of work which is available:
- (i) closure of a company;
  - (ii) a decline in trade or business opportunities;
  - (iii) technological change or changes in the industry; or
  - (iv) a decision by a company to cease providing a particular service performed by its employees in a locality or from a site or depot.
- (c) **Retrenchment** means termination of an employee who is made redundant in accordance with any of the circumstances covered by clause 12.2(b).
- (d) For the purpose of this clause, **continuous service** means service that will be deemed to be continuous notwithstanding an employee's absence from work for any of the following reasons:
- annual leave, personal leave or parental leave;
  - illness or accident up to a maximum of four weeks after the expiration of paid sick leave;
  - jury service;
  - injury received during the course of employment and up to a maximum of 26 weeks for which the employee received workers compensation;
  - where called up for military service for up to three months in any qualifying period;
  - long service leave;
  - any reason satisfactory to the employer, provided that the reason will not be deemed satisfactory unless the employee has informed the employer within 24 hours of the time when the employee was due to attend for work, or as soon as practicable thereafter, of the reason for the absence and probable duration.

## 12.3 Payment instead of notice

In supplementation of the NES, this subclause provides additional notice entitlements, to operate to the extent that the entitlements exceed those in the NES.

- (a) Employees with more than 12 months continuous service will be entitled to receive four weeks pay at ordinary rates instead of notice.

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- (b) Employees with less than 12 months continuous service, other than casuals will be entitled to notice on the following basis:
  - (i) up to three months—one week;
  - (ii) more than three months up to six months—two weeks;
  - (iii) more than six months up to nine months—three weeks; or
  - (iv) over nine months—four weeks.
- (c) An employee will be paid instead of such notice or be required to work one week of such notice and be paid any balance instead.

### 12.4 Retrenchment payments

- (a) Retrenched employees with more than 12 months service, will be entitled to three weeks pay, at the ordinary rate of pay for each completed year of service and pro rata payments for any uncompleted final year up to a maximum of 27 weeks pay.
- (b) Provided that any employee who had at 16 September 1994 accrued any entitlements of more than 27 weeks pay will be entitled to the number of weeks entitlement accrued at that date with payment at the ordinary rate of pay applicable at the date of retrenchment.

### 12.5 Other entitlements

In addition to the entitlements prescribed in clauses 12.3 and 12.4, retrenched employees are entitled to the following additional benefits:

- (a) payment of public holidays occurring within 20 working days of the final day of employment;
- (b) pro rata annual leave plus loading of 17.5%; and
- (c) accumulated sick leave to a maximum of 10 days.

### 12.6 Transmission of business

- (a) Except where an employee has received redundancy benefits, where a business is transmitted from an employer (in this subclause called the transmittor) to another employer (in this sub-clause called the transmittee) and an employee who at the time of such transmission was an employee of the transmittor in that business becomes an employee of the transmittee.
  - (i) the continuity of the employment of the employee will be deemed not to have been broken by reasons of such transmission; and
  - (ii) the period of employment which the employee has had with the transmittor or any prior transmittor will be deemed to be service of the employee with the transmittee.
- (b) In this subclause, business includes trade, process, business or occupation and includes part of any such business and transmission includes transfer,

conveyance, assignment or succession whether by agreement or by operation of law and transmitted has a corresponding meaning.

## Part 4—Classifications and Minimum Wage Rates

### 13. Wage rates

13.1 The minimum weekly rate of pay to employees in the mobile crane hiring industry will total the following weekly base rates of pay and the industry allowance set out in clause 13.2 for each classification level as described in Schedule A—Classification Structure.

Level	Minimum weekly wage	Minimum hourly wage
<b>Mobile Crane Employee (MCE)</b>	<b>\$</b>	<b>\$</b>
Level 1 (MCE1)	637.60	16.78
Level 2 (MCE2)	658.50	17.62
Level 3 (MCE3)	679.30	18.50
Level 4 (MCE4)	698.20	19.46
Level 5 (MCE5)	734.90	20.41
Level 6 (MCE6)	750.40	21.37
Level 7 (MCE7)	771.20	22.33

13.2 All employees will be paid an all purpose industry allowance of 5.7% of the standard rate per week in addition to the minimum classification rates set out in clause 13.1.

### 14. Allowances

#### 14.1 Adjustment of monetary allowances

- (a) This award contains wage-related allowances and expense-related (or reimbursement) allowances.
- (b) All wage-related allowances are expressed as a percentage of the standard rate and will be re-calculated at the time of any change in the standard rate.
- (c) At the time of each adjustment to standard rate, each expense-related allowance will be increased by the relevant adjustment factor. The relevant adjustment factor for this purpose is the percentage movement in the applicable index figure most recently published by the Australian Bureau of Statistics since the allowance was last adjusted.
- (d) The applicable index figure is the index figure published by the Australian Bureau of Statistics for the Eight Capitals Consumer Price Index (Cat No. 6401.0), as follows:

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<b>Allowance</b>	<b>Applicable Consumer Price Index Figure</b>
Protective clothing	Eight capital cities weighted average
Meal allowance	Food, meals out and take away foods group
Overnight Allowance	Recreation, travel and holiday accommodation group
Fares and Travel	Transportation group

### 14.2 Wage-related allowances

#### (a) Multi crane lift allowance

Where more than one crane is engaged on any single lift the following additional payments will be made:

- (i) where two cranes are engaged the drivers thereof will be paid at the rate of 16.1% of the standard rate per day for each day so occupied;
- (ii) where three cranes are engaged the drivers thereof will be paid at the rate of 31.9% of the standard rate per day for each day so occupied;
- (iii) where four cranes are engaged the drivers thereof will be paid at the rate of 47.7% of the standard rate per day for each day so occupied; or
- (iv) where more than four cranes are engaged the drivers will be paid at the rate of 63.8% of the standard rate per day for each day so occupied.

#### (b) Pile driving allowance

An employee performing pile driving or extraction will receive 78.1% of the standard rate per day or part thereof.

### 14.3 Expense-related allowances

#### (a) Protective clothing

- (i) Where an employee is required to work in a place where in the absence of protective clothing or footwear, the employees' clothing or footwear will become wet, the employee will provide such waterproof clothing, safety helmet and footwear, as necessary, and be reimbursed by the employer for the cost of such clothing and protective equipment. Alternatively the employer may provide such clothing and protective equipment.
- (ii) The purchase of safety footwear will be subsidised by the employer and will be replaced when required due to wear, loss or damage. On each occasion that an employee obtains safety footwear, the employer will subsidise the cost of such footwear to an amount of \$53.40.

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- (iii) The employee will purchase the approved type safety footwear and will present the receipt in order to obtain the subsidy.
- (iv) All employees will be eligible for the subsidy after one month qualifying service with the employer.
- (v) The purchase of a Tasmanian Bluey Jacket will be subsidised by the employer and will be replaced when required due to wear, loss or damage. On each occasion the employer will subsidise the cost of such jacket to an amount of \$53.40.

**(b) Damage to clothing**

After one month's service with the employer, compensation to the extent of any damage sustained to personal clothing will be made where, during the course of the work, clothing is damaged.

**(c) Fares and travel allowance**

- (i) \$16.50 per day will be paid to compensate for travel patterns and costs peculiar to the nature of employment in the mobile crane hiring industry i.e. paid only once per day.
- (ii) Provided that in NSW an additional amount of \$6.90 per day (non-adjustable) will be paid. This additional allowance ceases to apply on 31 December 2014.
- (iii) This allowance will be payable for every day upon which an employee works or reports for work in accordance with the employer's requirements but will not be taken into account in calculating overtime, penalty rates, annual leave, sick leave or rostered days off.
- (iv) An employee directed to a work site where there is no reasonable means of transport available on cessation of work will be reimbursed the cost of, or be supplied with, transport by the employer to return to the depot or point where work was commenced. Provided that this provision will apply only on the first day of engagement on any work site.

**(d) Car allowance**

- (i) An employee directed by an employer to use a private vehicle during working time will be paid \$0.74 per kilometre measured to and from respective sites, in addition to payment for the time travelling at the appropriate ordinary time or overtime rate.
- (ii) Provided the time spent travelling from home to the initial work site and travelling from the final work site to home on any day will not be paid unless the employee travels beyond a radius of 50 kilometres from the employer's depot. An employee travelling beyond the 50 kilometre radius on any day will be paid travelling time at the appropriate rate for the time taken travelling to and from the site to the 50 kilometre radius line.

**(e) Accommodation and overnight allowance**

Where an employee is required by the employer to be away from home overnight they will be reimbursed the cost of, or be provided with, first class accommodation, including full board, by the employer. In addition \$12.30 will be paid for each night the employee is required to be away from home.

**14.4 District allowances**

**(a) Northern Territory**

An employee in the Northern Territory is entitled to payment of a district allowance in accordance with the terms of an award made under the *Workplace Relations Act 1996* (Cth):

- (i) that would have applied to the employee immediately prior to 1 January 2010, if the employee had at that time been in their current circumstances of employment and no agreement made under that Act had applied to the employee; and
- (ii) that would have entitled the employee to payment of a district allowance.

**(b) Western Australia**

An employee in Western Australia is entitled to payment of a district allowance in accordance with the terms of a NAPSA or an award made under the *Workplace Relations Act 1996* (Cth):

- (i) that would have applied to the employee immediately prior to 1 January 2010, if the employee had at that time been in their current circumstances of employment and no agreement made under that Act had applied to the employee; and
- (ii) that would have entitled the employee to payment of a district allowance.

(c) This clause ceases to operate on 31 December 2014.

**14.5 Accident pay**

(a) Subject to clause 14.5(b), an employee is entitled to accident pay in accordance with the terms of:

- (i) a NAPSA that would have applied to the employee immediately prior to 1 January 2010 or an award made under the *Workplace Relations Act 1996* (Cth) that would have applied to the employee immediately prior to 27 March 2006, if the employee had at that time been in their current circumstances of employment and no agreement made under the *Workplace Relations Act 1996* (Cth) had applied to the employee; and
- (ii) that would have entitled the employee to accident pay in excess of the employee's entitlement to accident pay, if any, under any other instrument.

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- (b) The employee's entitlement to accident pay under the NAPSA or award is limited to the amount of accident pay which exceeds the employee's entitlement to accident pay, if any, under any other instrument.
- (c) This clause does not operate to diminish an employee's entitlement to accident pay under any other instrument.
- (d) This clause ceases to operate on 31 December 2014.

**15. Supported wage system**

See Schedule B

**16. National training wage**

See Schedule C

**17. School-based apprenticeship**

See Schedule D

**18. Higher duties**

Where an employee on any day performs work in a classification attracting a higher rate of pay then such higher rate of pay will apply for the whole day.

**19. Inclement weather**

- (a) Employees will not be entitled to payment for time lost due to inclement weather unless work has ceased by agreement with the employer provided that employees will not be required to work in unsafe conditions.
- (b) Subject to clause 19(a), employees unable to work at a site due to inclement weather may be required to:
  - remain on site; or
  - transfer the crane to an alternative site; or
  - return to the depot;until such inclement weather ceases or abates to allow safe work to continue.
- (c) Where cranes are left on site for five working days or more and employees are deemed to be part of the site, the procedures on the site will apply. A crane will not be removed from a site if it is unsafe to do so as a result of weather conditions.

**(d) Definitions**

- **Inclement weather** means the existence of abnormal climatic conditions (i.e. rain, hail, snow, high winds, cold, extreme high temperature of the like or any combination thereof) by virtue of which it is not reasonable or safe to continue working whilst the same prevail
- **Employer** means owner, manager or recognised agent of the owner or manager of the company
- **Site procedures** relate only to this inclement weather clause

**20. Payment of wages**

**20.1 Methods of payment**

Wages will be paid in cash, cheque or direct transfer into the employee's bank (or other recognised financial institution) account either weekly or fortnightly.

**20.2 Wages to be paid during working hours**

- (a) Where an employee is paid wages by cash or cheque such wages are to be paid during ordinary working hours.
- (b) If an employee is paid wages by cash and is kept waiting for their wages on pay day, after the usual time for ceasing work, the employee is to be paid at overtime rates for the period they are kept waiting.

**20.3 Payment by cheque**

In the case of an employee paid by cheque, if the employee requires it, the employer is to have a facility available during ordinary hours for the encashment of the cheque.

**20.4 Day off coinciding with pay day**

- (a) In the event that an employee, by virtue of the arrangement of ordinary working hours, is to take a day off on a day which coincides with pay day, such employee will be paid no later than the working day immediately following pay day.
- (b) Provided that where the employer is able to make suitable arrangements, wages may be paid on the working day preceding pay day.

**20.5 Termination of employment**

Upon termination of employment, wages due will be paid on the day of such termination or forwarded by electronic transfer or post on the next working day.

**20.6 Casual employees**

Where a casual employee is engaged for a work period which includes the designated pay day, wages will be paid in accordance with such arrangements. This will not affect the employee's status as a casual. If a casual is engaged on a daily basis, then the payment will be made on a daily basis unless otherwise mutually agreed.

## **21. Superannuation**

### **21.1 Superannuation legislation**

- (a) Superannuation legislation, including the *Superannuation Guarantee (Administration) Act 1992* (Cth), the *Superannuation Guarantee Charge Act 1992* (Cth), the *Superannuation Industry (Supervision) Act 1993* (Cth) and the *Superannuation (Resolution of Complaints) Act 1993* (Cth), deals with the superannuation rights and obligations of employers and employees. Under superannuation legislation individual employees generally have the opportunity to choose their own superannuation fund. If an employee does not choose a superannuation fund, the superannuation fund nominated in the award covering the employee applies.
- (b) The rights and obligations in these clauses supplement those in superannuation legislation.

### **21.2 Employer contributions**

- (a) An employer must make such superannuation contributions to a superannuation fund for the benefit of an employee as will avoid the employer being required to pay the superannuation guarantee charge under superannuation legislation with respect to that employee.

### **21.3 Voluntary employee contributions**

- (a) Subject to the governing rules of the relevant superannuation fund, an employee may, in writing, authorise their employer to pay on behalf of the employee a specified amount from the post-taxation wages of the employee into the same superannuation fund as the employer makes the superannuation contributions provided for in clause 21.2.
- (b) An employee may adjust the amount the employee has authorised their employer to pay from the wages of the employee from the first of the month following the giving of three months' written notice to their employer.
- (c) The employer must pay the amount authorised under paragraph clauses 21.3(a) or 21.3(b) no later than 28 days after the end of the month in which the deduction authorised under clauses 21.3(a) or 21.3(b) was made.

### **21.4 Superannuation fund**

Unless, to comply with superannuation legislation, the employer is required to make the superannuation contributions provided for in clause 21.2 to another superannuation fund that is chosen by the employee, the employer must make the superannuation contributions provided for in clause 21.2 and pay the amount authorised under clauses 21.3(a) or 21.3(b) to one of the following superannuation funds:

- (a) Construction and Building Industry Super (Cbus); or
- (b) any superannuation fund to which the employer was making superannuation contributions for the benefit of its employees before 12 September 2008, provided the superannuation fund is an eligible choice fund..

## Part 5—Hours of Work and Related Matters

### 22. Ordinary hours of work

22.1 The ordinary hours of work will be 38 per week, Monday to Friday, worked continuously at the discretion of the employer, between 6.00 am and 6.00 pm, except for meal breaks, arranged in accordance with clause 24—Breaks.

22.2 The method of working the 38 hour week may be any one of the following:

- (a) by employees working less than eight ordinary hours each day; or
- (b) by employees working less than eight ordinary hours on one or more days each week; or
- (c) by fixing one week day on which all employees will be off during a particular work cycle; or
- (d) by rostering employees off on various days of the week during a particular work cycle so that each employee has one week day off during that cycle.

22.3 A regular starting and finishing time will be fixed at each depot, which will not be changed, except after notice of at least a week. Provided that an employee/s starting time for a particular day may be altered to suit the business requirements of the employer by mutual agreement with the employee/s concerned.

22.4 The ordinary hours of work prescribed herein will not exceed 10 hours on any day provided that any arrangement of ordinary working hours in excess of eight hours in any one day will be with the agreement of the majority of employees involved.

22.5 An assessment should be made as to which method of implementation best suits the business and the proposal will be discussed with the employees concerned.

22.6 Circumstances may arise where different methods of implementation of a 38 hour week apply to various groups or sections of employees in the establishment concerned.

### 22.7 Providing for rostered days off

- (a) Where the hours of work are arranged in accordance with clause 22.2(c) and 22.2(d) the ordinary working hours will be worked in a 20 day cycle, Monday to Friday inclusive, with eight hours worked for each of 19 days and with 0.4 of an hour on each of those days accruing toward the 20th day which will be taken as a paid day off and known as a rostered day off.
- (b) An employee will be entitled to 13 rostered days off per year provided that the number of rostered days off will be reduced to the extent of any annual leave taken on the basis of one day for each four weeks of annual leave taken.
- (c) By mutual agreement between the employer and employee, rostered days off may be accumulated to a maximum of five days over a 20 week period. Accumulated rostered days off must be taken no later than the 14 day period

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commencing at the time of the fifth accumulated rostered day off of the 20 week cycle.

- (d) Where an employer and a majority of employees at an enterprise agree, another day may be substituted for the nominated industry rostered day off.
- (e) Where a majority of the employees request that their representative is to be consulted, consultation will take place at least five days prior to the alternate rostered day off being implemented.
- (f) Employees who agree to work on the rostered day off to satisfy the employer's business requirements will take an alternative rostered day off on a mutually convenient day prior to the next rostered day off. Where agreement cannot be reached it will be taken in conjunction with the next rostered day off.
- (g) Except in the case of an emergency circumstance no employee will be required to work on a rostered day off. Where an emergency circumstance does occur the employee will be paid an additional day's pay at ordinary rates for that week (that is 45 hours and 36 minutes pay for that week at the ordinary rate instead of 38 hours' pay) in addition to being given a substitute rostered day off. An emergency will mean where less than 24 hours notice of the requirement to work on the rostered day off has been given.
- (h) In the case of termination an employee who has not worked a completed 19 day four week cycle will receive pro rata accrued entitlements for each day worked in such cycle.

### **22.8 Make-up time**

- (a) Subject to a majority of employees at a workplace agreeing to introduce this provision an employee, other than an employee on shiftwork, may elect, with the consent of the employer, to work make-up time, under which the employee takes time off ordinary hours, and works those hours at a later time, during the spread of ordinary hours provided in the award.
- (b) Subject to a majority of employees at a workplace agreeing to introduce this provision an employee on shiftwork may elect, with the consent of their employer, to work make-up time under which the employee takes time off ordinary hours and works those hours at a later time, at the shiftwork rate which would have been applicable to the hours taken off.

## **23. Shiftwork**

**23.1** An employee may be required to work shiftwork.

**23.2** Except as otherwise provided for in this clause, shiftworkers will be paid 15% more than the ordinary rate for such shifts.

**23.3** Shiftworkers who work on any afternoon or night shift roster which does not continue for at least five successive afternoons or nights will be paid for each shift 50% for the first two hours, and 100% for the remaining hours, in addition to the ordinary rate.

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- 23.4** Where on a site at which the employee is engaged the shift premiums for the majority of employees are higher than those provided in clause 23.2, such employee will receive such higher shift premiums.
- 23.5** Where an employee is engaged in shiftwork on a site where employees receive compensation by way of annual leave and annual leave loading or otherwise for working Saturday, holiday and/or Sunday shifts, such employee will be given similar compensation for working such shifts.
- 23.6** All time worked on Saturdays will be paid at overtime rates.
- 23.7** All time worked on Sundays will be paid at the rate of double time.
- 23.8** All time worked on holidays will be paid at the rate of double time and a half.
- 23.9** All work outside the ordinary hours of shiftwork will be paid at the rate of double time.
- 23.10** A day worker required to work shiftwork will receive one week's notice or payment of penalty rates.
- 23.11 Definitions:**
- (a) **Day shift** means any shift starting at or after 6.00 am and before 10.00 am.
  - (b) **Afternoon shift** means any shift starting at or after 10.00 am and before 8.00 pm.
  - (c) **Night shift** means any shift starting at or after 8.00 pm and before 6.00 am.

**24. Breaks**

**24.1 Meal interval**

- (a) A set meal interval will be established in each depot by mutual agreement between the employer and employees which may be altered by the employer by giving one week's notice. An employee will cease work for a meal interval of 30 minutes on all working days, except Saturday and Sunday, between the hours of 11.30 am and 1.00 pm, inclusive.
- (b) An employee may be required to change the meal break to suit the requirements of the employer or client, provided that an employee who has not completed the meal break after six hours from the normal starting time on any day to suit the requirements of the employer or the client will be paid at the overtime rates prescribed in clause 25—Overtime for the period from six hours after normal starting time until a meal break is allowed.

**24.2 Meal interval during overtime**

- (a) If the period of overtime is more than 1.5 hours after working ordinary hours an employee, before starting such overtime, will be allowed a meal break of 20 minutes, which will be paid for at ordinary time.

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- (b) If agreement is reached between the employer and employee for variation of this provision to meet the circumstances of work in hand, then the employer will not be required to make payment in excess of 20 minutes.
- (c) An employee working overtime will be allowed a meal break of 20 minutes for each four hours of overtime worked provided that the employee continues to work after such meal break.
- (d) An employee required to work overtime for more than 1.5 hours after working ordinary hours will either be supplied meals by the employer, or be paid \$11.90 for the first and subsequent meals.
- (e) An employee required to start work two or more hours prior to the normal commencement time will be paid \$11.90 meal allowance and be allowed a 20 minute meal break as soon as is practicable.
- (f) Such allowance will be payable in any event where an employee is required to start work at or prior to 5.00 am.
- (g) Where an employee is required to work overtime on a Saturday or Sunday the first prescribed meal break will be between 10.00 am and 1.00 pm and be paid at ordinary rates.

**25. Overtime**

- 25.1** An employee may be required to work reasonable overtime and such overtime need not be limited to one job only. An employee may be notified to work such overtime prior to leaving the employer's premises or where the employee agrees, after having left the employer's premises.
- 25.2** All time worked on weekdays outside the ordinary hours and on Saturdays will be paid at time and a half for the first two hours and double time thereafter. Provided that overtime worked after 12 noon on Saturday will be paid at double time.
- 25.3** All time worked on a Sunday will be paid at double time.
- 25.4** All time worked on a public holiday will be paid at double time and a half.
- 25.5** An employee will be paid a minimum of four hours at the appropriate penalty rates for working overtime on a Saturday, Sunday or public holiday.
- 25.6** An employee travelling between the depot and nominated work site outside of ordinary hours will be paid at the appropriate overtime rates for the period of such travel.
- 25.7** An employee travelling to and/or from home to start/finish overtime when reasonable means of transport are not available will either be provided with transport to and/or from home or paid ordinary rates for the time taken for such travel.
- 25.8** When overtime work is necessary, it will, wherever reasonably practicable, be so arranged that employees have at least 10 consecutive hours off duty between the work of successive days or shifts. An employee who works so much overtime:

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- (a) between the finish of ordinary work on any day or shift and the commencement of ordinary work on the next day or shift, that the employee has not had at least 10 consecutive hours off duty between these times; or
- (b) on Saturdays, Sundays and holidays, not being ordinary working days, or on a rostered day off, without having had 10 consecutive hours off duty in the 24 hours preceding the employee's ordinary commencing time on the next ordinary day or shift

will, subject to this subclause, be released after completion of such overtime until the employee has had 10 consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

**25.9** If on the instruction of the employer such an employee resumes or continues work without having had such 10 consecutive hours off duty, the employee will be paid at double rates until released from duty for such a period and will then be entitled to be absent until the employee has had 10 consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

### **25.10 Call back**

- (a) An employee recalled to work after leaving the employer's premises will be paid a minimum of four hours at the appropriate penalty rates. The employee will not be required to work the full four hours if the job the employee was recalled to perform is completed within a shorter period.
- (b) An employee directed to be on standby either at home, place of work or elsewhere, to work prior to or after ordinary hours, or on a Saturday, or on a Sunday or public holiday, will be paid standby time at the ordinary rate for the period from which the employee is directed to standby and until released by the employer.
- (c) Where such overtime goes beyond midnight or commences between midnight and 2.00 am, a minimum of eight hours at the appropriate rate will be paid.

### **25.11 Time off instead of payment for overtime**

- (a) Subject to a majority of employees at a workplace agreeing to introduce this provision an employee may elect, with the consent of the employer, to take time off instead of payment for overtime at a time or times agreed with the employer.
- (b) Overtime taken as time off during ordinary time hours will be taken at the ordinary time rate, that is, an hour for each hour worked.
- (c) An employer will, if requested by an employee, provide payment, at the rate provided for the payment of overtime in this award, for any overtime worked under clause 25.11(a) where such time has not been taken within four weeks of accrual.

## Part 6—Leave and Public Holidays

### 26. Annual leave

#### 26.1 Leave entitlement

- (a) Section 32 of the NES prescribes the entitlement to annual leave. It does not apply to casual employees.
- (b) For the purpose of the additional week of leave provided by the NES, a **shiftworker** is a seven day shiftworker who is regularly rostered to work on Sundays and public holidays in a business in which shifts are continuously rostered 24 hours a day for seven hours a shift.

#### 26.2 Arrangements for taking leave

- (a) Leave will be given and will be taken within six months from the date when the right to annual leave occurred and after not less than four weeks notice to the employee.
- (b) **Broken leave**
  - (i) The annual leave will be given and taken in one or two continuous periods. If given in two separate periods, then one of those two periods must be at least 21 consecutive days, including non-working days.
  - (ii) If the employer and an employee so agree, an annual leave entitlement may be given and taken in two separate periods, neither of which is of at least 21 consecutive days, including non-working days, or on three separate periods.
  - (iii) Notwithstanding the provision of this clause, an employee may elect, with the consent of the employer, to take annual leave in single day periods or part of a single day not exceeding a total of five days in any calendar year at a time or times agreed between them.
  - (iv) An employee and employer may agree to defer payment of the annual leave loading in respect of single day absences, until at least five consecutive annual leave days are taken.
  - (v) The annual leave provided by this clause will be allowed and will be taken, and except in relation to proportionate leave entitlements upon termination, payment will not be made or accepted instead of annual leave.
- (c) **Leave allowed before due date**
  - (i) An employer may allow an employee to take annual leave prior to the employee's entitlement otherwise arising. In such circumstances, the qualifying period of further annual leave will not commence until the expiration of 12 months in respect of which the leave so allowed was taken.

- (ii) Where an employer has allowed an employee to take annual leave prior to the employee's entitlement otherwise arising and the employee's services are terminated (by whatsoever cause) before the right thereto has accrued, the employer will be entitled to deduct from any remuneration payable any excess due on account of such annual leave payments.

### **26.3 Payment for annual leave**

- (a) Section 35 of the NES prescribes the basis for payment for annual leave, including payment for untaken leave upon the termination of employment. Annual Leave is dealt with in Division 5 of the NES.

- (b) **Loading on annual leave**

An employer is required to pay an additional leave loading of 17.5% of that payment, provided that where the employee would have received shift loadings prescribed by clause 23—Shiftwork, had they not been on leave and such loading would be of a greater amount than 17.5%, then it will apply to the relevant weekly wage rate instead of 17.5%. The loading prescribed above will also apply to proportionate leave on lawful termination.

### **26.4 Annual close-down**

- (a) Where an employer closes down the depot or a section thereof, for the purposes of allowing annual leave to all or the bulk of employees in the depot or section concerned;
  - (i) The employer will give not less than four weeks notice of the close-down.
  - (ii) An employer may stand off for the duration of the close-down all employees in the depot, or section concerned, and allow to those who are not then qualified for a full entitlement to annual leave paid leave on a proportionate basis.
  - (iii) An employee who has qualified for a full entitlement to annual leave will be allowed paid leave.
  - (iv) All time during which an employee is stood off without pay for the purposes of this subclause will be deemed to be time of service for the purpose of annual leave accrual.
  - (v) An employer may close down the depot for one or two separate periods for the purpose of granting annual leave in accordance with this subclause. If the employer closes down the depot in two separate periods, one of those periods will be for a period of at least 21 consecutive days including non-working days.
  - (vi) Where the majority of the employees in the depot or section concerned agree, the employer may close down the depot in accordance with this subclause in two separate periods either of which is of at least 21 consecutive days including non-working days, or in three separate periods. In such cases the employer will advise the employees concerned

of the proposed dates of each close-down before asking them for their agreement.

**26.5 Part close-down and part rostered leave**

- (a) An employer may close down the depot, or a section thereof, for a period of at least 21 consecutive days including non-working days and grant the balance of the annual leave due to an employee in one continuous period in accordance with a roster.
- (b) An employer may close down the depot, or a section thereof for a period of less than 21 consecutive days including non-working days and allow the balance of the annual leave due to an employee in one or two continuous periods either of which may be in accordance with a roster. In such a case the granting and taking of annual leave will be subject to the agreement of the employer and the majority of employees in the depot, or a section thereof, and before asking the employees concerned for their agreement the employer will advise them of the proposed date of the close-down or close-downs and the details of the annual leave roster.

**27. Personal/carer's leave and compassionate leave**

Personal/carer's leave and compassionate leave are provided for in the NES.

**28. Community service leave**

- (a) Community service leave is provided for in the NES. This clause provides additional provisions.
- (b) A weekly hire employee required to attend for jury service during ordinary working hours will be reimbursed by the employer an amount equal to the difference between the amount paid in respect of attendance for such jury service and the amount of wages the employee would have received in respect of the ordinary time (including fares and travel) the employee would have worked had the employee not been on jury service.

**29. Public holidays**

**29.1 National Employment Standards**

- (a) Public holidays are provided for in the NES.
- (b) By agreement between the employer and the majority of employees in the relevant enterprise or section of the enterprise, an alternative day may be taken as the public holiday instead of any of days prescribed in s.54 of the NES.
- (c) This clause supplements the NES entitlements. An employer who terminates the employment of an employee except for reasons of misconduct or incompetence (proof of which will lie upon the employer) will pay the employee a day's ordinary wages for each holiday prescribed in or each

holiday in a group which falls within 10 consecutive calendar days after the day of termination.

## **Part 7—Transitional provisions**

### **30. Transitional provisions**

**TO BE FINALISED**

## **Schedule A—Classification Structure**

### **A.1 Classifications**

#### **A.1.1 Mobile Crane Employee Level 1 (MCE1)**

##### **(a) Skills and duties**

An employee at MCE1 level may perform the following tasks:

- Dogger
- Counterweight/Gear Truck Driver
- Mobile Hydraulic Platform Operator—up to 17m
- up to 20 tonne Slew Crane Operator

##### **(b) Minimum qualifications**

An employee at MCE1 level must have successfully obtained the following minimum qualification:

- Dogging License; or
- Boom-type elevating work platform License (WP); or
- Heavy Rigid License (HR); plus
- Slew Crane License of up to 20 tonnes

#### **A.1.2 Mobile Crane Employee Level 2 (MCE2)**

##### **(a) Skills and duties**

An employee at MCE2 level may perform the following tasks:

- 21t–60t Slew Crane Operator (C2 & C6)
- Non Slew (Franna) Operator (CN)
- Basic Rigger (structural steel frames erection or assembly of mobile cranes)
- Mobile Hydraulic Platform Operator - 17m and up to 28m

##### **(b) Minimum qualifications**

An employee at MCE2 level must have successfully obtained the following minimum qualification:

- Heavy Rigid License (HR); and•
- Slew Crane License of up to 60 tonne; or
- Non Slew Crane Operator License; or
- Basic Rigger ticket; or

- Boom-type elevating work platform license (WP).

#### **A.1.3 Mobile Crane Employee Level 3 (MCE3)**

##### **(a) Skills and duties**

An employee at MCE3 level may perform the following tasks:

- 61t–100t Slew Crane Operator (C1)
- Intermediate Rigger (Tower Crane erecting or Pre Cast Concrete component erection);
- Mobile Hydraulic Platform Operator–28m and above

##### **(b) Minimum qualifications**

An employee at MCE3 level must have successfully obtained the following minimum qualification:

- Heavy Combination License (HC); and
- Slew Crane License of up to 100 tonne; or
- Intermediate Riggers License; or
- Boom-type elevating work platform license (WP).

#### **A.1.4 Mobile Crane Employee Level 4 (MCE4)**

##### **(a) Skills and duties**

An employee at MCE4 level may perform the following tasks:

- 101t–200t Slew Crane Operator (No boom trailer) (CO);
- Advanced Rigger; or
- Heavy Low Bed Transport Operator.

##### **(b) Minimum qualifications**

An employee at MCE4 level must have successfully obtained the following minimum qualification:

- Heavy Combination License (HC); and
- Doggers ticket; and
- Slew Crane License of over 100 tonne; or
- Advanced Rigger; or
- Multi Combination License.

**A.1.5 Mobile Crane Employee Level 5 (MCE5)**

**(a) Skills and duties**

An employee at MCE5 level may perform the following tasks:

- 201t - 300t Slew Crane (CO);
- less than 100t Slew Crane with Boom Trailer; or
- less than 100t Slew Crane with Luffing Fly Jib.

**(b) Minimum qualifications**

An employee at MCE5 level must have successfully obtained the following minimum qualification:

- Slew Crane License of over 100 tonne; and
- Heavy Combination License (HC); and
- Doggers ticket.

**A.1.6 Mobile Crane Employee level 6 (MCE6)**

**(a) Skills and duties**

An employee at MCE6 level may perform the following tasks:

- 301t–400t Slew Crane Operator (CO); or
- less than 200t Crane Operator with Luffing Fly Jib.

**(b) Minimum qualifications**

An employee at MCE6 level must have successfully obtained the following minimum qualification:

- Slew Crane License of over 100 tonne; and
- Heavy Combination License (HC); and
- Riggers ticket.

**A.1.7 Mobile Crane Employee level 7 (MCE7)**

**(a) Skills and duties**

An employee at MCE7 level may perform the following tasks:

- 401t or greater Slew Crane (CO); or
- less than 200t with Superlift type attachment.

**(b) Minimum qualifications**

An employee at MCE7 level must have successfully obtained the following minimum qualification:

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- Slew Crane License of over 100 tonne; and
- Heavy Combination License (HC); and
- Intermediate Rigger.

**Schedule B—National Training Wage**

## Schedule C—Supported Wage System

**C.1** This schedule defines the conditions which will apply to employees who because of the effects of a disability are eligible for a supported wage under the terms of this award.

**C.2** In this schedule:

**approved assessor** means a person accredited by the management unit established by the Commonwealth under the supported wage system to perform assessments of an individual's productive capacity within the supported wage system

**assessment instrument** means the tool provided for under the supported wage system that records the assessment of the productive capacity of the person to be employed under the supported wage system

**disability support pension** means the Commonwealth pension scheme to provide income security for persons with a disability as provided under the *Social Security Act 1991*, as amended from time to time, or any successor to that scheme

**relevant minimum wage** means the minimum wage prescribed in this award for the class of work for which an employee is engaged

**supported wage system** means the Commonwealth Government system to promote employment for people who cannot work at full award wages because of a disability, as documented in the Supported Wage System Handbook. The Handbook is available from the following website: [www.jobaccess.gov.au](http://www.jobaccess.gov.au)

**SWS wage assessment agreement** means the document in the form required by the Department of Education, Employment and Workplace Relations that records the employee's productive capacity and agreed wage rate

### **C.3 Eligibility criteria**

**C.3.1** Employees covered by this schedule will be those who are unable to perform the range of duties to the competence level required within the class of work for which the employee is engaged under this award, because of the effects of a disability on their productive capacity and who meet the impairment criteria for receipt of a disability support pension.

**C.3.2** This schedule does not apply to any existing employee who has a claim against the employer which is subject to the provisions of workers compensation legislation or any provision of this award relating to the rehabilitation of employees who are injured in the course of their employment.

## **C.4 Supported wage rates**

**C.4.1** Employees to whom this schedule applies will be paid the applicable percentage of the relevant minimum wage according to the following schedule:

<b>Assessed capacity (clause C.5)</b>	<b>Relevant minimum wage</b>
%	%
10	10
20	20
30	30
40	40
50	50
60	60
70	70
80	80
90	90

**C.4.2** Provided that the minimum amount payable must be not less than \$69 per week.

**C.4.3** Where an employee's assessed capacity is 10%, they must receive a high degree of assistance and support.

## **C.5 Assessment of capacity**

**C.5.1** For the purpose of establishing the percentage of the relevant minimum wage, the productive capacity of the employee will be assessed in accordance with the Supported Wage System by an approved assessor, having consulted the employer and employee and, if the employee so desires, a union which the employee is eligible to join.

**C.5.2** All assessments made under this schedule must be documented in an SWS wage assessment agreement, and retained by the employer as a time and wages record in accordance with the Act.

## **C.6 Lodgement of SWS wage assessment agreement**

**C.6.1** All SWS wage assessment agreements under the conditions of this schedule, including the appropriate percentage of the relevant minimum wage to be paid to the employee, must be lodged by the employer with the Commission.

**C.6.2** All SWS wage assessment agreements must be agreed and signed by the employee and employer parties to the assessment. Where a union which has an interest in the award is not a party to the assessment, the assessment will be referred by the Industrial Registrar to the union by certified mail and the agreement will take effect unless an objection is notified to the Commission within 10 working days.

## **C.7 Review of assessment**

The assessment of the applicable percentage should be subject to annual or more frequent review on the basis of a reasonable request for such a review. The process of review must be in accordance with the procedures for assessing capacity under the supported wage system.

## **C.8 Other terms and conditions of employment**

Where an assessment has been made, the applicable percentage will apply to the relevant minimum wage only. Employees covered by the provisions of this schedule will be entitled to the same terms and conditions of employment as other workers covered by this award on a pro rata basis.

## **C.9 Workplace adjustment**

An employer wishing to employ a person under the provisions of this schedule must take reasonable steps to make changes in the workplace to enhance the employee's capacity to do the job. Changes may involve re-design of job duties, working time arrangements and work organisation in consultation with other workers in the area.

## **C.10 Trial period**

- C.10.1** In order for an adequate assessment of the employee's capacity to be made, an employer may employ a person under the provisions of this schedule for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding four weeks) may be needed.
- C.10.2** During that trial period the assessment of capacity will be undertaken and the percentage of the relevant minimum wage for a continuing employment relationship will be determined.
- C.10.3** The minimum amount payable to the employee during the trial period must be no less than \$69 per week.
- C.10.4** Work trials should include induction or training as appropriate to the job being trialled.
- C.10.5** Where the employer and employee wish to establish a continuing employment relationship following the completion of the trial period, a further contract of employment will be entered into based on the outcome of assessment under clause C.5.

## **Schedule D—School-based Apprenticeship**

- D.1** This schedule applies to school-based apprentices. A school-based apprentice is a person who is undertaking an apprenticeship in accordance with this schedule while also undertaking a course of secondary education.
- D.2** A school-based apprenticeship may be undertaken in the trades covered by this award under a training agreement or contract of training for an apprentice declared or recognised by the relevant State or Territory authority.
- D.3** The relevant minimum wages for full-time junior and adult apprentices provided for in this award, calculated hourly, will apply to school-based apprentices for total hours worked including time deemed to be spent in off-the-job training.
- D.4** For the purposes of clause D.3, where an apprentice is a full-time school student, the time spent in off-the-job training for which the apprentice must be paid is 25% of the actual hours worked each week on-the-job. The wages paid for training time may be averaged over the semester or year.
- D.5** A school-based apprentice must be allowed, over the duration of the apprenticeship, the same amount of time to attend off-the-job training as an equivalent full-time apprentice.
- D.6** For the purposes of this schedule, off-the-job training is structured training delivered by a Registered Training Organisation separate from normal work duties or general supervised practice undertaken on the job.
- D.7** The duration of the apprenticeship must be as specified in the training agreement or contract for each apprentice but must not exceed six years.
- D.8** School-based apprentices progress through the relevant wage scale at the rate of 12 months progression for each two years of employment as an apprentice.
- D.9** The apprentice wage scales are based on a standard full-time apprenticeship of four years (unless the apprenticeship is of three years duration). The rate of progression reflects the average rate of skill acquisition expected from the typical combination of work and training for a school-based apprentice undertaking the applicable apprenticeship.
- D.10** If an apprentice converts from school-based to full-time, all time spent as a full-time apprentice will count for the purposes of progression through the relevant wage scale in addition to the progression achieved as a school-based apprentice.
- D.11** School-based apprentices are entitled pro rata to all of the other conditions in this award.