

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

Industrial Relations Act 1999 – ss. 140G and 140GC – Variation of modern award
ss. 140G(3)(a) and 140GC(2)(a) – Commission acting on its own initiative

BRISBANE CITY COUNCIL
OPERATIONAL AND TRADE EMPLOYEES AWARD – STATE 2016

Matter No. MA/2017/3

DEPUTY PRESIDENT O'CONNOR
DEPUTY PRESIDENT SWAN
INDUSTRIAL COMMISSIONER THOMPSON

1 March 2017

DETERMINATION

This matter coming on for hearing before the Commission at Brisbane on 1 March 2017 this Commission orders that the said Award be varied as follows as from 1 March 2017:

1. By deleting clause 2 and inserting the following in lieu thereof:

2. Operation

This Award operates on and from 7 October 2016 with the exception of the undermentioned clauses which shall operate on and from 11 November 2016:

- clause 13.1.3
- clause 15.3
- clause 18.2
- clause 31

2. In clause 3:

(a) By deleting the definition of "Act" and inserting the following in lieu thereof:

Act means the *Industrial Relations Act 2016*

(b) By deleting the definition of "QES" and inserting the following in lieu thereof:

QES means the Queensland Employment Standards contained in Part 3 of Chapter 2 of the Act

(c) By deleting the definition of "registered medical practitioner" and inserting the following in lieu thereof:

registered medical practitioner means a medical practitioner registered with the Medical Board of Australia, but shall not include the services of osteopaths, chiropractors, acupuncturists, naturopaths, herbalists and homeopaths

3. By deleting clause 6.1(c) and inserting the following in lieu thereof:

(c) Any proposed genuine agreement reached between the Council and employees in an enterprise is contingent upon the agreement being submitted to the Commission in accordance with Chapter 4 of the Act and is to have no force or effect until approval is given.

4. By deleting clause 8.2(a)(i) and inserting the following in lieu thereof:

- (i) is engaged to work for a fixed number of ordinary hours each week that are less than those of a full-time employee; and

5. By deleting clause 8.2(e) and (f) and inserting the following in lieu thereof:

- (e) (i) By mutual agreement with the Council, a part-time employee may elect to work additional ordinary hours above their regular hours, up to and including full-time equivalent hours. The additional hours so worked are to be taken into account in the *pro rata* calculation of all leave and other entitlements.

- (ii) Any such additional ordinary hours are to be treated as follows:

- (A) day workers - additional hours worked within the spread of ordinary hours prescribed in clause 15.2 are to be paid for at the rate prescribed in clause 15.3;

- (B) shift workers - to be paid for at the rate prescribed in clause 15.5.

- (f) All time worked in excess of the agreed hours or outside the established spread of ordinary hours shall be paid at the appropriate overtime rate.

6. By deleting clause 8.3(f) and inserting the following in lieu thereof:

- (f) A casual employee shall be paid a minimum of 3 hours for each engagement on a Saturday or Sunday at the ordinary time rate plus the loading as described in clause 8.3(c).

7. By deleting clause 9.1 and inserting the following in lieu thereof:

9.1 Notice of termination by the Council

Notice of termination by the Council is provided for in Division 13 of the QES. Clauses 9.2 to 9.5 supplement the QES provisions.

8. By deleting clause 10.1 and inserting the following in lieu thereof:

10.1 Redundancy pay

Redundancy pay is provided for in Division 13 of the QES. Clauses 10.2 to 10.9 supplement the QES provisions.

9. By deleting clause 12.1 and inserting the following in lieu thereof:

12.1 Classification structure

Employees covered by this Award are to be classified into 5 occupational streams, as shown below, utilising the classification and operational principles and the definitions and position descriptors contained within the Schedules listed next to each occupational stream.

Occupational stream	Stream abbreviation	Schedule/s
Operational services employees	OSE	2 and 5
Building trades employees	BT	6 and 7
Engineering/Electrical trades employees	E/E	8 and 9
Miscellaneous Workers	MW	2, 3 and 11

Occupational stream	Stream abbreviation	Schedule/s
Plant Operators	PO	2, 4 and 12

10. By deleting clause 13.1.4(a) and inserting the following in lieu thereof:

- (a) Where practicable suitable waterproof clothing shall be provided by the Council to an employee who is required to work in the rain.

11. By deleting clause 13.3.2 and inserting the following in lieu thereof:

13.3.2 Bricklayers on repair work

- (a) Subject to clause 13.3.2(b) a Building trades employee engaged in repairing the brickwork of furnaces shall be paid at not less than one and one-sixth times the ordinary time rate.
- (b) Work at a temperature of 43 degrees Celsius or over shall be paid for at one and one-thirds times the ordinary time rate.

12. By deleting clause 13.3.3 and inserting the following in lieu thereof:

13.3.3 Brisbane Transport

A Building Tradesperson employed on the maintenance, repair and advertising operations on buses operated by the Council, through Brisbane Transport, shall be paid an allowance at the rate of \$34.80 per week, which shall be treated as part of the employee's ordinary weekly wage for all purposes of this Award.

13. By deleting clause 13.3.12 and inserting the following in lieu thereof:

13.3.12 Grindstone allowance

The Council shall provide a power driven grindstone of a type suitable for maintaining employees' hand tools at every shop, job or building site as required. In event of there being no grindstone provided the employer shall pay to each employee required to maintain their own tools an additional \$4.10 per week.

14. By deleting clause 13.4.12(b) and inserting the following in lieu thereof:

- (b) using a compound and/or polish for rubbing bodies or any portion of a car after it has been sprayed with pyroxylin enamel - an additional \$0.37 per hour.

15. By deleting clause 13.4.13 and inserting the following in lieu thereof:

13.4.13 Second hand articles allowance

An Engineering/Electrical trades employee engaged in the manufacture of any domestic article manufactured from any article already made up shall be paid 20% in addition to their ordinary time rate of pay.

16. By deleting only clause 13.6.1(a) and none of the clauses which follow, and inserting the following in lieu thereof:

- (a) Subject to clauses 13.6.1(c) and (d) a Plant Operator whilst engaged on any or all of the activities recorded in clauses 13.6.1(a)(i) to (iv), inclusive, shall be paid an all purpose allowance at the rate of \$30.70 per week to be treated as part of the ordinary weekly wage for all purposes of this Award to compensate for the working environments and conditions associated with such activities.

17. By deleting clause 15.2(d) and inserting the following in lieu thereof:
- (d) Ordinary work performed outside the hours of 0600 to 1800 which is not shift work shall be paid at overtime rates and will be deemed to be part of the ordinary hours of duty.

18. By deleting clause 15.3(a)(iv) and inserting the following in lieu of:

(iv) between 0000 and 2400 on a public holiday - at the rate prescribed in clause 23.

19. By deleting the third row in clause 15.5(c) and inserting the following in lieu thereof:

Engineering/Electrical trades employee	Saturday - Time and one-half. Sunday - double time.
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20. By deleting clause 18.2(g) and inserting the following in lieu of:

(g) All authorised overtime worked by an employee on a public holiday shall be paid at the rate prescribed in clause 23.

21. By deleting clause 18.2(h) and inserting the following in lieu of:

(h) The minimum payments provided in clauses 18.2(d) and (e) shall not apply where such overtime is performed immediately preceding or following ordinary hours.

22. By deleting clause 18.2(i) and inserting the following in lieu thereof:

(i) A Building trades employee who, after having been notified to do so, reports for overtime on a Saturday, Sunday or public holiday and is unable to work through wet weather shall receive payment for 3 hours at their ordinary time rate.

23. By deleting clause 18.3(b) and inserting the following in lieu thereof:

(b) All authorised overtime worked by a shift worker on a public holiday shall be paid at the rate prescribed in clause 23.

24. By deleting clause 18.6(b)(ii) and inserting the following in lieu thereof:

(ii) An employee can only accrue a maximum of 76 hours time off in lieu. If the accrual is greater than 76 hours at the end of each financial year it shall be paid out at the employee's ordinary time rate as at that time.

25. By deleting clause 18.7(b) and renumbering clauses 18.7(c), (d) and (e) as 18.7(b), (c) and (d).

26. By deleting heading and introductory paragraph of clause 19 and inserting the following in lieu thereof:

19. Annual leave

Annual leave is provided for in Division 5 of the QES. Clauses 19.1 to 19.3 supplement the QES.

27. By deleting clause 19.3(a)(ii) and inserting the following in lieu thereof:

(ii) an amount equal to the ordinary rate of wage being paid to the employee immediately before the employee takes the leave for the period of such leave plus a loading of 17.5% on 4 or 5 weeks' annual leave as the case may be, calculated on the rate of wage prescribed in clause 12.2 for their classification,

whichever is the higher.

28. By deleting the heading and introductory paragraph of clause 20 and inserting the following in lieu thereof:

20. Personal leave

Personal leave is provided for in Division 6 of the QES. Clauses 20.1 to 20.4 supplement the QES.

29. By deleting clause 20.1(e)(i) and inserting the following in lieu thereof:

- (i) Who is unable to perform their duties on account of illness or injury (except for those covered by workers' compensation).

30. By deleting clause 20.1(i) and inserting the following in lieu thereof:

- (i) While on annual leave, if an Operational services employee, Plant Operator or Miscellaneous Worker is certified by a duly qualified registered medical practitioner as being incapacitated to an extent that the employee would be unfit to perform their normal duties for a period of not less than five days, such period shall, on the application of the employee concerned, be debited against the employee's accrued sick leave and a corresponding annual leave credit allowed.

31. By deleting clause 20.4(a) and inserting the following in lieu thereof:

- (a) Bereavement leave is provided for in Division 6 of the QES. Clause 20.4(b) supplements the QES.

32. By deleting clause 21(a) and inserting the following in lieu thereof:

- (a) Parental leave is provided for in Division 8 of the QES and covers:

- (i) birth-related leave for an employee who is pregnant or whose spouse gives birth;
- (ii) adoption leave; and
- (iii) surrogacy leave.

33. By deleting clause 21.1(a) and inserting the following in lieu thereof:

- (a) Unless agreed otherwise between the Council and the employee, an employee may commence parental leave at any time within six weeks immediately prior to the expected date of the birth of their child. If recommended by a registered medical practitioner an employee may commence unpaid parental leave at any time during the term of the pregnancy.

34. By deleting the heading and introductory paragraph of clause 22 and inserting the following in lieu thereof:

22. Long service leave

Long service leave, including for casual employees, is provided for in Division 9 of the QES. Clauses 22(a) to (f) supplement the QES.

35. By deleting the heading and introductory paragraph of clause 23 and inserting the following in lieu thereof:

23. Public holidays

Public holidays are provided for in Division 10 of the QES. Clauses 23(a) to (e) supplement the QES.

36. By deleting clause 24 and inserting the following in lieu thereof:

24. Jury service

Jury service is provided for in Division 12 of the QES.

37. By deleting clause 28.2(b) and inserting the following in lieu thereof:

- (b) The Council shall be required to provide the following tools and appliances where necessary: chain wrenches, pipe cutters, plumbing irons, ratchets, stocks and dies, taps and drills, vices, soldering iron, files, hacksaw blades, hammers over 0.9 kilos in weight, pinch bars, and all pipe tongs 300 mm and over in length, chamois leather, gilding tip, gilding knife, gilding brush, signwriter's mop, dagger liner, sponge, pliers, claw hammer, screw driver, stripping knife, large compass, duster, perspex square, tracing wheel, T square, sign cutter, glass cutters and putty knife.

38. By deleting clause 32(b)(i) and inserting the following in lieu thereof:

- (b) Entry procedure
 - (i) An authorised industrial officer may enter a workplace at which the Council carries on a calling of the officer's organisation, during the Council's business hours, to exercise a power under Chapter 9, Part 1, Division 5, Subdivision 2 of the Act as long as the authorised industrial officer:
 - (A) has notified the Council or the Council's representative of the officer's presence; and
 - (B) produces their authorisation, if required by the Council or the Council's representative.

39. By deleting clause 32(c)(i) and inserting the following in lieu thereof:

- (c) Inspection of records
 - (i) An authorised industrial officer is entitled to inspect the time and wages record required to be kept under section 339 of the Act.

40. By deleting the Note under clause 32 and inserting the following in lieu thereof:

Note: Clause 32 - Right of entry, deals with comparable provisions contained within the Act. In order to ensure the currency of existing legal requirements parties are advised to refer to Chapter 9, Part 1, Division 5 of the Act as amended from time to time.

41. By deleting clause 2.4 in Schedule 1 and inserting the following in lieu thereof:

- 2.4** In addition to the hire rate and per kilometre allowances prescribed in Table 1 an owner driver engaged in accordance with Schedule 1 of this Award shall be paid travelling time of 30 minutes per day calculated at the rate prescribed for Operational services employee, grade level OSE 5, as amended from time to time.

42. By deleting clause 2.5 in Schedule 1 and inserting the following in lieu thereof:

- 2.5** The hire rate to be paid shall be in accordance with the carrying capacity of the vehicle which is determined by subtracting the tare mass from the gross vehicle mass registered under the *Transport Operations (Road Use Management) Act 1995* and as indicated on the vehicle registration certificate.

43. By deleting clause 3.1 in Schedule 1 and inserting the following in lieu thereof:

- 3.1** For any periods of more or less than the ordinary weekly hours and/or days a *pro rata* adjustment to the basic weekly rate as shown in Column two in Table 1 shall be made before calculating any additional kilometric payment.

44. By deleting clause 4.3 in Schedule 1 and inserting the following in lieu thereof:

- 4.3** At times when the crane is not in use the vehicle weekly hire rate shall be paid at the appropriate rate as specified in Part 2 of this Schedule calculated at the registered Gross Vehicle Mass less Vehicle Tare.

45. By deleting clause (b) of Schedule 9 and inserting the following in lieu thereof:
- (b) Without detracting from any of the processes set out in Schedule 9 any disputes in relation to classification or reclassification, including disputes relating to the terms of the Implementation Guide, shall be handled in accordance with the grievance and dispute settling procedure in clause 7 of this Award.

Dated: 1 March 2017

By the Commission,
M. Shelley,
Deputy Industrial Registrar.

Operative Date: 1 March 2017
Determination - Correction of error

Released: 6 March 2017