

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 Nos. MAP/2016/13 and MA/2016/38

DEPUTY PRESIDENT SWAN
INDUSTRIAL COMMISSIONER FISHER
INDUSTRIAL COMMISSIONER BLACK

11 November 2016

DETERMINATION

This matter coming on for hearing before the Commission at Brisbane on 11 November 2016 this Commission orders that the said Award be varied as follows as from 11 November 2016:

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

2. Operation

Subject to section 824 of the Act, 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. By deleting clause 13.1.3 and inserting the following in lieu thereof:

13.1.3 Overtime meal allowance

Subject to clause 18.2(j) when an employee works overtime the Council shall provide a reasonable meal or pay an allowance of \$12.35 in lieu thereof.

3. By deleting clause 15.3 and inserting the following in lieu thereof:

15.3 Payment for working ordinary hours - day workers

- (a) Subject to clause 15.3(b) all ordinary hours of duty performed by a day worker within the ordinary spread of hours prescribed in clause 15.2 shall be paid for as follows:
 - (i) Monday to Friday - ordinary time;
 - (ii) between 0000 and 2400 on a Saturday - at the applicable overtime rates specified in clause 18.2;
 - (iii) between 0000 and 2400 on a Sunday - double time; and
 - (iv) between 0000 and 2400 on a public holiday - at the rate prescribed in clause 23(a).

- (b) All ordinary time worked on a Saturday by a car park attendant, other than a continuous shift worker or a casual, shall be paid for at the rate of time and one-quarter.

4. By deleting clause 18.2 and inserting the following in lieu thereof:

18.2 Payment for overtime - day workers

Except as provided elsewhere in this Award:

- (a) All authorised overtime worked by an employee in excess of their ordinary daily hours of duty or outside their spread of ordinary working hours on any day, Monday to Friday, shall be paid:
 - (i) For a Building trades employee - at the rate of time and one-half for the first 2 hours and double time thereafter.
 - (ii) For all other employees - at the rate of time and one-half for the first 3 hours and double time thereafter.
- (b)
 - (i) Where an Operational services or Engineering/Electrical trades employee is required to report for work between 0600 and their ordinary starting time they shall be paid at overtime rates up to their ordinary starting time and then at their ordinary time rate.
 - (ii) Where a Building trades employee is required to report for work within 2 hours of their ordinary starting time they shall be paid overtime at the rate of time and one-half up to their ordinary starting time and then at their ordinary time rate.
- (c)
 - (i) Where an Operational services employee is required to report for overtime between 0000 and 0600 or required to continue to work overtime after 2400, Monday to Friday inclusive, they shall be paid at the rate of double time for all overtime so worked up to their ordinary starting time Monday to Friday, inclusive, and for all overtime worked on the Saturday.
 - (ii) Where an Engineering/Electrical trades employee is required to report for overtime between 0000 and 0600 they shall be paid at the rate of double time for all overtime so worked up to their ordinary starting time Monday to Friday, inclusive, and up to 0700 on Saturday.
 - (iii) Where a Plant Operator is required to report for overtime between 0000 and 0600 they shall be paid in accordance with clause 18.4(e).
- (d) All authorised overtime worked by an employee on a Saturday shall be paid:
 - (i) For a Building trades employee - at the rate of time and one-half for the first 2 hours and double time thereafter, with a minimum payment as for 3 hours' work.
 - (ii) For an Operational services employee - at the rate of time and one-half for the first 3 hours and double time thereafter, with a minimum payment as for 4 hours' work.
 - (iii) For all other employees - at the rate of time and one-half for the first 3 hours and double time thereafter, with a minimum payment as for 3 hours' work.
 - (iv) Where an Operational services employees is required to report for overtime between 0000 and 0600 on Saturday they shall be paid at the rate of double time for all overtime worked on the Saturday.

- (v) Where an Engineering/Electrical trades employee is required to report for overtime between 0000 and 0600 on Saturday they shall be paid at the rate of double time for all overtime so worked up to 0700. Where work commences after 0600 the overtime rate specified in clause 18.2(d)(iii) applies.
- (e) All authorised overtime worked by an employee on a Sunday shall be paid at the rate of double time, with a minimum payment as follows:
 - (i) For an Operational services employee - as for 4 hours' work.
 - (ii) For a Plant Operator - as for 2 hours' work.
 - (iii) For all other employees - as for 3 hours' work.
- (f) All authorised overtime worked by an employee on a rostered day off shall be paid:
 - (i) For a Building trades employee - at the rate of time and one-half for the first 2 hours and double time thereafter, with a minimum payment as for 3 hours' work.
 - (ii) For all other employees - at the rate of time and one-half for the first 3 hours and double time thereafter, with a minimum payment as for 3 hours' work.
- (g) All authorised overtime worked by an employee on a public holiday shall be paid at the rate prescribed in clause 23(a).
- (h) The minimum payments provided in clauses 18.2(c), (d) and (e) shall not apply where such overtime is performed immediately preceding or following ordinary hours.
- (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 the ordinary rate of wages.
- (j) Meal breaks on overtime and overtime meal or meal allowance entitlement in accordance with clause 13.1.3 will be as follows:
 - (i) Operational services employees (OSE):

Condition/s	Duration of break and timing	Meal provided or allowance paid under clause 13.1.3	Paid Meal Break	Rate
(OSE - A) Any employee working overtime immediately after their ordinary working day:				
Overtime worked more than one hour after ordinary ceasing time	(1) 30 mins after the first hour of overtime worked	Yes	Yes	Overtime rates
	(2) 45 mins every 4 hours worked after the first hour of overtime worked	Yes	Yes	Overtime rates

(ii) Engineering/Electrical trades employees (E/E):

Condition/s	Duration of break and timing	Meal provided or allowance paid under clause 13.1.3	Paid Meal Break	Rate
(E/E - A) Any employee working overtime immediately after their ordinary working day or shift:				
Overtime worked for more than 1 ½ hours after ordinary ceasing time	(1) 30 mins within 1 ½ hours of ordinary ceasing time	Yes	Yes	Ordinary rate
	(2) 30 mins every 4 hours after the first 1 ½ hours of overtime worked	Yes	Yes	Overtime rates
(E/E - B) Any employee who is required to return or come in to the workplace to perform overtime on any of the employee's ordinary working days (other than a public holiday):				
	(1) 30 mins on the completion of each 4 hours of overtime worked	No	Yes	Overtime rates
(E/E - C) Any employee who is required to report to perform overtime prior to ordinary starting time:				
	(1) 30 mins to be taken upon the commencement of ordinary starting time, where overtime worked is more than 2 hours (but less than 4 hours) before the commencement of ordinary starting time	No	Yes	Ordinary rate
(E/E - D) A day worker working overtime on a weekend or public holiday outside the scope of (E/E - A) to (E/E - C):				
	(1) 30 to 60 mins, 6 hours after commencing work if greater than 6 hours overtime is performed	No	No	N/A
	(2) 30 mins after the first 9 ½ hours of overtime worked - including overtime referred to in (E/E - D)(1)	No	Yes	Overtime rates
	(3) 30 mins for each 4 hours after the first 9 ½ hours of overtime worked	No	Yes	Overtime rates

(iii) Building trades employees (BT):

Condition/s	Duration of break and timing	Meal provided or allowance paid under clause 13.1.3	Paid Meal Break	Rate

(BT - A) Any employee working overtime immediately after their ordinary working day:				
	(1) 30 mins where overtime is worked for more than 2 hours after ordinary ceasing time, or after one hour if the overtime is worked beyond 1800	Yes	Yes	Overtime rates
	(2) 45 mins after each period of 4 hours overtime worked after (BT - A)(1), provided the employee is required to continue working thereafter	Yes	Yes	Overtime rates
(BT - B) Any employee working overtime on a Saturday or Sunday:				
	(1) 30 mins after 5 hours of commencement of overtime	No	No	N/A
	(2) 30 mins where the employee is required to continue overtime beyond 9 hours	Yes	Yes	Overtime rates
	(3) 45 mins after each period of 4 hours overtime worked after (BT - B)(2), provided the employee is required to continue working thereafter	Yes	Yes	Overtime rates

(iv) Plant Operators (PO):

Condition/s	Duration of break and timing	Meal provided or allowance paid under clause 13.1.3	Paid Meal Break	Rate
(PO - A) Any employee working overtime immediately after their ordinary working day (excluding shift workers or continuous shift workers):				
	(1) 30 mins after the first hour of overtime worked	Yes	Yes	Overtime rates
	(2) 45 mins after each further 4 hours of overtime worked	Yes	Yes	Overtime rates
(PO - B) Any employee working overtime on a Saturday or Sunday (excluding shift workers or continuous shift workers):				
	(1) 30 mins after 5 hours of commencement of overtime	No	No	N/A
	(2) 30 mins where the employee is required to continue overtime beyond 9 hours	Yes	Yes	Overtime rates
	(3) 45 mins after every 4 hours overtime worked after (PO	Yes	Yes	Overtime rates

	- B)(2), provided the employee is required to continue working thereafter			
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(v) Miscellaneous Workers (MW):

Condition/s	Duration of break and timing	Meal provided or allowance paid under clause 13.1.3	Paid Meal Break	Rate
(MW - A) Any employee working overtime immediately after normal ceasing time:				
Where work is to continue beyond 4 hours	(1) 30 mins after 2 hours' work, or after 1 hour where such overtime continues beyond 1800	Yes	Yes	Overtime rates
(MW - B) In all other circumstances:				
	(1) 30 mins after 5 hours of overtime if the employee is required to continue to work beyond 5 hours	Yes	Yes	Overtime rates
	(2) 45 minutes after each additional period of 4 hours where the employee is required to work beyond the period in (MW - B)(1)	Yes	Yes	Overtime rates

5. By deleting clause 31 and inserting the following in lieu thereof:

31. Industrial relations education leave

- (a) Upon written application by the union to the Council at least 6 weeks in advance (or such lesser period as mutually agreed between the union and Council), a union delegate or duly elected or appointed union representative who has an application endorsed by the union shall be granted up to 5 working days' leave (non-cumulative) on ordinary pay each calendar year to attend courses or seminars conducted by the union or specific training courses approved and accredited by the union. The scope, content and level of such courses or seminars shall be such as to contribute to a better understanding of industrial relations within the Council's operations. Other courses mutually agreed between the union and the Council may be included under clause 31.
- (b) The written application by the union seeking release of a delegate or representative to attend a course shall include details of the type and content of the course to be attended as well as the dates upon which the course is proposed to be conducted.
- (c) For the purposes of clause 31 **ordinary pay** means the ordinary weekly rate paid to the employee exclusive of any allowances or penalty rates for travelling time, fares, shift work or overtime.
- (d) Leave shall be granted subject to the following conditions:
 - (i) Unless otherwise agreed, the maximum number of ordinary hours of industrial relations education training leave and/or maximum absence at one time which the Council shall be required to grant each year will be as per clauses 31(d)(ii) and (iii).

- (ii) For each occupational stream, excluding Building trades employees:

No. of employees engaged in each occupational stream	No. of ordinary hours industrial relations education training per calendar year	Maximum absence at one time
Up to 15	38 hours	1
16 up to 30	76 hours	2
31 up to 50	114 hours	3
51 or more	152 hours	4

- (iii) For Building trades employees only:

- (A) An employee must have at least 12 months' uninterrupted service prior to such leave being granted.
- (B) Subject to clause 31(d)(iii)(C) the maximum number of employees attending a course or seminar at the same time will be as follows:

No. of employees	Maximum absence at one time
5 to 100 employees	2
over 100 employees	4

- (C) Where the employer has more than one place of employment in Queensland, then the formula above shall apply to the number of employees employed in or from each individual place of employment.
- (D) The scope, content and level of the course shall be such as to contribute to a better understanding of industrial relations within the employer's operations.
- (iv) The employee must have at least six months' continuous service with the Council prior to such leave being granted, or twelve months as per clause 31(d)(iii)(A), and be an elected union delegate/representative.
- (v) The granting of such leave shall be subject to the convenience of the Council so that the operations of the enterprise will not be adversely affected.
- (vi) The Council shall advise the union within 14 days whether the application for industrial relations education training has been agreed or otherwise. If the request is not agreed to, the Council shall state the reasons for such rejection.
- (vii) If the union does not accept the reasons for rejection provided by the Council, any dispute will be resolved in accordance with the grievance and dispute settling procedure at clause 7.1.
- (viii) In granting such paid leave, the Council is not responsible for any additional costs except the payment of extra remuneration where relieving arrangements are instituted by the Council to cover the absence of the employee.
- (ix) Leave granted to attend such training courses will not incur any additional payment or alternate time off if such course coincides with an employee's rostered day off.
- (x) Such paid leave will not affect other leave granted to employees under this Award.

- (xi) On completion of the course the employee shall, upon request, provide to the Council proof of their attendance at the course. Except in the case of sick leave or other authorised leave, non-attendance at a training course will result in the employee not being paid for such time.

Dated: 11 November 2016

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

Operative Date: 11 November 2016
Determination - Correction of error

Released: 11 November 2016