

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

Industrial Relations Act 1999 - s. 698 - reprint of award

NQMT LINESWORKERS AWARD - 2004

Following the Declaration of the General Ruling in the 2010 State Wage Case (matter numbers B/2010/20 and B/2010/21), the NQMT Linesworkers Award – 2004 is hereby reprinted, pursuant to s. 698 of the *Industrial Relations Act 1999*.

I hereby certify that the Award contained herein is a true and correct copy of the NQMT Linesworkers Award - 2004 as at 1 September 2010.

Dated 1 November 2010.

[L.S.] G.D. Savill
Industrial Registrar

NQMT LINESWORKERS AWARD - 2004

PART 1 - APPLICATION AND OPERATION

1.1 Title

This Award is known as the NQMT Linesworkers Award - 2004.

1.2 Arrangement

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1.3 Application and respondents

1.3.1 This Award applies to the terms and conditions of employment for Employees of North Queensland Marine Towage Pty Ltd, engaged in the mooring of vessels in the Port of Townsville.

1.3.2 This Award is binding on:

(a) North Queensland Marine Towage Pty Ltd; and

(b) The Seamen's Union of Australasia, Queensland Branch, Union of Employees (SUA).

1.4 Date of operation

1.4.1 This Award takes effect from 19 April 2004.

1.5 Definitions

In this Award where the context permits, words importing the plural will include the singular and vice versa.

1.5.1 The "Act" means the *Industrial Relations Act 1999* as amended or replaced from time to time.

1.5.2 "Commission" means the Queensland Industrial Relations Commission.

1.5.3 "Day" means 24 hours from midnight to midnight.

1.5.4 "Employee" means any person engaged or employed by an Employer respondent in the classification.

1.5.5 "Employer" means North Queensland Marine Towage Pty Ltd.

1.5.6 "Union" means The Seamen's Union of Australasia, Queensland Branch, Union of Employees (SUA).

PART 2 - FLEXIBILITY

2.1 Enterprise flexibility

- 2.1.1 As part of a process of improvement in productivity and efficiency, discussion should take place at each enterprise to provide more flexible working arrangements, improvement in the quality of working life, enhancement of skills, training and job satisfaction and to encourage consultative mechanisms across the workplace.
- 2.1.2 The consultative processes established in an enterprise in accordance with clause 2.1 may provide an appropriate mechanism for consideration of matters relevant to clause 2.1.1. Union delegates at the place of work may be involved in such discussions.
- 2.1.3 Any proposed genuine agreement reached between an Employer and Employee/s in an enterprise is contingent upon the agreement being submitted to the Commission in accordance with Chapter 6 of the Act and is to have no force or effect until approval is given.

PART 3 - COMMUNICATION, CONSULTATION AND DISPUTE RESOLUTION

3.1 Grievance and dispute settling procedure

The matters to be dealt with in this procedure shall include all grievances or disputes between an Employee and the Employer in respect to any industrial matter and all other matters that the parties agree on and are specified herein. Such procedures shall apply to a single Employee or to any number of Employees.

- 3.1.1 In the event of an Employee having a grievance or dispute the Employee shall in the first instance attempt to resolve the matter with the immediate supervisor, who shall respond to such request as soon as reasonably practicable under the circumstances. Where the dispute concerns alleged actions of the immediate supervisor the Employee/s may bypass this level in the procedure.
- 3.1.2 If the grievance or dispute is not resolved under clause 3.1.1, the Employee or the Employee's representative may refer the matter to the next higher level of management for discussion. Such discussion should, if possible, take place within 24 hours after the request by the Employee or the Employee's representative.
- 3.1.3 If the grievance involves allegations of unlawful discrimination by a supervisor the Employee may commence the grievance resolution process by reporting the allegations to the next level of management beyond that of the supervisor concerned. If there is no level of management beyond that involved in the allegation the Employee may proceed directly to the process outlined at clause 3.1.5.
- 3.1.4 If the grievance or dispute is still unresolved after discussions mentioned in clause 3.1.2, the matter shall, in the case of a member of the Union, be reported to the relevant officer of that Union and the senior management of the Employer or the Employer's nominated industrial representative. An Employee who is not a member of the Union may report the grievance or dispute to senior management or the nominated industrial representative. This should occur as soon as it is evident that discussions under clause 3.2.2 will not result in resolution of the dispute.
- 3.1.5 If, after discussion between the parties, or their nominees mentioned in clause 3.1.4, the dispute remains unresolved after the parties have genuinely attempted to achieve a settlement thereof, then notification of the existence of the dispute may be given by either party to the Commission in accordance with the provisions of the Act.
- 3.1.6 Whilst all of the above procedure is being followed, normal work shall continue except in the case of a genuine safety issue.
- 3.1.7 The *status quo* existing before the emergence of the grievance or dispute is to continue whilst the above procedure is being followed.
- 3.1.8 All parties to the dispute shall give due consideration to matters raised or any suggestion or recommendation made by the Commission with a view to the prompt settlement of the dispute.
- 3.1.9 Any Order or Decision of the Commission (subject to the parties' right of appeal under the Act) will be final and binding on all parties to the dispute.
- 3.1.10 Discussions at any stage of the procedure shall not be unreasonably delayed by any party, subject to acceptance that some matters may be of such complexity or importance that it may take a reasonable period of time for the appropriate response to be made. If genuine discussions are unreasonably delayed or hindered, it shall be open to any party to give notification of the dispute in accordance with the provisions of the Act.

3.2 Consultative committee

A Consultative Committee will be formed consisting of equal numbers of Employer and Employee representatives. The workforce covered by this Award shall elect Employee members.

PART 4 - EMPLOYER AND EMPLOYEES' DUTIES, EMPLOYMENT RELATIONSHIP AND RELATED ARRANGEMENTS

4.1 Contract of employment

4.1.1 All Employees engaged under this Award are casual Employees and are employed and paid as such.

4.1.2 The Union acknowledges NQMT's operation does not at present lend itself to a permanent and/or full-time workforce. During the life of this Award the Consultative Committee will:

- (a) Review the possibility of some or all of NQMT's Employees, subject to this Award, obtaining a form of permanency i.e. partial or full-time for future Awards or subsequent Agreements;
- (b) Consider and discuss operational matters, and
- (c) Any other relevant matter.

4.2 Employee selection

4.2.1 The Employer shall have the right to select persons who wish to be Employees.

4.3 Duties

4.3.1 All Employees will perform any duties within their skills competence and training, as the Employer may require and in the manner and at the time required by the Employer. The duties of the Employee shall be to undertake the functions required to moor and unmoor the vessels in the Port of Townsville.

4.4 Existing work practices

4.4.1 It is acknowledged and agreed upon by the parties to this Award that the lines service in Townsville has been a flexible service and shall continue as a flexible service under this Award. Where the work practices of the Employer and the Employees have contributed to that flexibility then those practices shall be continued. This shall include application of appropriate technology where appropriate.

4.5 Discipline procedure

4.5.1 The discipline procedure is to ensure an acceptable standard of conduct and behaviour is observed in the work environment whilst protecting the rights of the Employee and the Employer. It does not in any way diminish the Employer's right to instantly dismiss an Employee for serious or wilful misconduct.

4.5.2 In the event of a complaint being made against an Employee for a misdemeanour, or for poor work practice, anti-social behaviour, or minor infringement of rules, etc, it will be the responsibility of the Employee's supervisor to point out to the Employee the nature of the complaint and to counsel the Employee to ensure an understanding is reached.

4.5.3 Where the normal counselling process has not resulted in any improvement, formal counselling will be required. The supervisor shall counsel the Employee and a written record shall be taken which the Employee shall sign. The Union representative and another Employer representative may be present if required by either party.

4.5.4 In the event there has been no improvement, disciplinary action will be required.

4.5.5 Disciplinary action will take the form of a written warning to inform the individual of the Employer's intention to institute termination proceedings if no improvement is evident.

4.5.6 If there is no improvement following the written warning, the Employer will be advised that the Employee be suspended (removed from the job) pending termination proceedings. Notification of the suspension including reasons will be given to the Employee.

4.5.7 The Union official will also be notified by the Employer that the Employee has been suspended and that termination proceedings have been instituted.

4.6 Anti-discrimination

- 4.6.1 It is the intention of the parties to this Award to prevent and eliminate discrimination as defined by the *Anti-Discrimination Act 1991* and the *Industrial Relations Act 1999* as amended from time to time which includes:
- (a) discrimination on the basis of sex, marital status, family responsibilities, pregnancy, parental status, age, race, impairment, religion, political belief or activity, trade union activity, lawful sexual activity and association with, or relation to, a person identified on the basis of the above attributes;
 - (b) sexual harassment; and
 - (c) racial and religious vilification.
- 4.6.2 Accordingly in fulfilling their obligations under the grievance and disputes settling procedure in clause 3.1, the parties to this Award must take reasonable steps to ensure that neither the Award provisions nor their operation are directly or indirectly discriminatory in their effects.
- 4.6.3 Under the *Anti-Discrimination Act 1991* it is unlawful to victimise an Employee because the Employee has made or may make or has been involved in a complaint of unlawful discrimination or harassment.
- 4.6.4 Nothing in clause 4.6 is to be taken to affect:
- (a) any different treatment (or treatment having different outcomes) which is specifically exempted under the *Anti-Discrimination Act 1991*; or
 - (b) an Employee, Employer or registered organisation, pursuing matters of discrimination, including by application to the Human Rights and Equal Opportunity Commission/Anti-Discrimination Commission Queensland.

PART 5 - WAGES AND WAGE RELATED MATTERS

5.1 Classification and pay

5.1.1 Payment for working time

Employees shall be paid for each hour worked as follows:

Classification	Hours of Work	As from 16 September 2001 \$	As from 16 September 2002 \$
Linesworkers	0800-1700	15.38	15.76
	1700-0800	17.39	17.82
	Weekends	18.91	19.38
	Public Holidays	23.65	24.24

5.1.2 Calculating time

- (a) In calculating time, any period:
 - (i) less than half an hour will be counted as half an hour; and
 - (ii) greater than half an hour but less than an hour must be counted as an hour.
- (b) Rates of pay apply all Days of the week except for weekends and public holidays as stated.

5.2 Minimum pay

- 5.2.1 Employees will be entitled to a minimum payment of 2 hours pay on the first job of each Day (each Day to stand alone). However, if the second job on the Day starts less than 2 hours from the starting time of the first job then the minimum payment will not apply, i.e. Employees will be paid for actual time worked.
- 5.2.2 Where the second job on the Day starts more than 2 hours after the start of the first job, Employees will receive the minimum payment of 2 hours pay for the first job and payment for actual time worked thereafter.
- 5.2.3 Where the break between jobs is less than 1 hour, the Employer will pay the Employee for that time at the prescribed hourly rate of pay.

5.3 Payment of wages

- 5.3.1 Employees will be paid weekly by electronic funds transfer into a nominated account.

5.3.2 All Employees are to have a nominated bank account.

5.4 State Wage Case adjustments

5.4.1 The rates of pay in this Award are intended to include the arbitrated wage adjustment payable under the 1 September 2003 Declaration of General Ruling and earlier Safety Net Adjustments and arbitrated wage adjustments. [Disputed cases are to be referred to the Vice President.] This arbitrated wage adjustment may be offset against any equivalent amount in rates of pay received by employees whose wages and conditions of employment are regulated by this Award which are above the wage rates prescribed in the Award. Such payments include wages payable pursuant to certified agreements, currently operating enterprise flexibility agreements, Queensland workplace agreements, award amendments to give effect to enterprise agreements and overaward arrangements. Absorption which is contrary to the terms of an agreement is not required.

Increases made under previous State Wage Cases or under the current Statement of Principles, excepting those resulting from enterprise agreements, are not to be used to offset arbitrated wage adjustments.

PART 6 - HOURS OF WORK, BREAKS, OVERTIME, SHIFT WORK, WEEKEND WORK

6.1 Requirement to work overtime

An Employee must work reasonable amounts of overtime as directed by the Employer.

PART 7 - LEAVE OF ABSENCE AND PUBLIC HOLIDAYS

7.1 Public holidays

7.1.1 For the purposes of clause 5.1 the following public holidays will apply:

- New Year's Day (1 January)
- Australia Day (26 January)
- Good Friday
- Easter Saturday (the day after Good Friday)
- Easter Monday (the Monday after Good Friday)
- Anzac Day (25 April)
- Labour Day (the first Monday in May)
- Sovereign's birthday (the second Monday in June)
- Christmas Day (25 December)
- Boxing Day (26 December);
- a show holiday; or

a Day appointed under the *Holidays Act 1983* to be a substitute holiday for a Day mentioned in clause 7.1.

7.2 Long service leave

Employees covered under this Award shall be entitled to long service leave on full pay under, subject to, and in accordance with, the provisions of Chapter 2, Part 3, sections 42-58 of the Act as amended from time to time.

7.3 Family leave

The provisions of the Family Leave Award apply to and are deemed to form part of this Award.

7.3.1 It is to be noted that:

- (a) part-time work can be performed by agreement in the circumstances specified in the Family Leave Award;
- (b) a copy of the Family Leave Award is required to be displayed in accordance with section 697 of the Act.

7.3.2 The Family Leave Award also provides for the terms and conditions of leave associated with:

- (a) Maternity leave
- (b) Parental leave
- (c) Adoption leave
- (d) Special responsibility leave for the care and support of the Employee's immediate family or household.

7.4 Bereavement leave

7.4.1 Long-term casual employees

- (a) A long-term casual Employee is entitled to at least 2 Days unpaid bereavement leave on the death of a member of the person's immediate family or household in Australia;
- (b) A "long-term casual Employee" is a casual Employee engaged by the Employer, on a regular and systematic basis, for several periods of employment during a period of at least 1 year immediately before the Employee seeks to access an entitlement under clause 7.4.1;
- (c) Proof of such death is to be furnished by the Employee to the satisfaction of the Employer.

7.4.2 "Immediate family" includes:

- (a) a spouse (including a former spouse, a *de facto* spouse and a former *de facto* spouse, spouse of the same sex) of the Employee; and
- (b) a child or an adult child (including an adopted child, a foster child, an ex-foster child, a stepchild or an ex-nuptial child), parent, grandparent, grandchild or sibling of the Employee or spouse of the Employee.

7.4.3 An Employee with the consent of the Employer, may apply for unpaid leave when a member of the Employee's immediate family or household in Australia dies and the period of bereavement leave entitlement provided above is insufficient.

7.5 Jury service

- (a) An employee, other than a casual employee, required to attend for jury service during their ordinary working hours shall be reimbursed by the employer an amount equal to the difference between the amount paid in respect of their attendance for such jury service and the ordinary pay the employee would have been paid if the employee was not absent on jury service.
- (b) Alternatively, by agreement, fees (other than meal allowance) received by the employee to attend jury service will be paid to the employer and the employer will continue to pay the employee their ordinary pay for the time the employee was absent on jury service.
- (c) Employees shall notify their employer as soon as practicable of the date upon which they are required to attend for jury service and shall provide their employer with proof of such attendance, the duration of such attendance and the amount received in respect thereof.
- (d) If the employee is not required to serve on a jury for a day or part of a day after attending for jury service and the employee would ordinarily be working for all or part of the remaining day, the employee must, if practicable, present for work at the earliest reasonable opportunity.
- (e) "Ordinary pay" means the rate of pay that an employee would normally expect to receive for working ordinary hours on an ordinary day of the week, including any over-award payment. "Ordinary pay" excludes overtime, penalty rates of all types - including those attaching to working ordinary hours (for example) on a Saturday, disability allowances, shift allowances, special rates, fares and travelling time allowances, bonuses and other ancillary payments of a like nature.

PART 8 - TRANSFERS, TRAVELLING AND WORKING AWAY FROM USUAL PLACE OF WORK

NOTE: No provisions inserted in Award relevant to this Part.

PART 9 - TRAINING AND RELATED MATTERS

9.1 Training

9.1.1 The parties to this Award recognise that in order to increase the efficiency and productivity of the enterprise and also the national and international competitiveness of the industries covered by this award, a greater commitment to training and skill development is required. Accordingly, the parties commit themselves to:

- (a) developing a more highly skilled and flexible workforce;
- (b) providing Employees with career opportunities through appropriate training to acquire additional skills; and
- (a) removing barriers to the use of skills acquired.

PART 10 - OCCUPATIONAL HEALTH AND SAFETY MATTERS, EQUIPMENT, TOOLS AND

AMENITIES

10.1 Health and safety

10.1.1 NQMT is committed to providing a safe and healthy working environment in which all Employees can work.

10.1.2 The Employer reserves the right to direct an Employee to take a rest for health and safety reasons so those Employees do not work excessive hours. Where the Employer uses this right the delegate shall be informed. As a health and safety precaution the call-out priority listing will be rotated where necessary to minimise unreasonable extended hours.

10.2 Industrial and safety clothing

10.2.1 Each Employee as per the Award will be supplied with the following industrial and safety clothing:

ITEM	NUMBER
Shirts - long sleeve	2
Trousers - long or short	2
Safety boots	One pair
Hard hat	One
Sunglasses (Australian standards)	One

10.2.2 Industrial and safety clothing will be worn at all times while on duty.

10.2.3 Replacement of industrial and safety clothing will be on a fair wear and tear basis.

PART 11 - AWARD COMPLIANCE AND UNION RELATED MATTERS

Preamble

Clauses 11.1 and 11.2 replicate legislative provisions contained within the Act. In order to ensure the currency of existing legal requirements parties are advised to refer to sections 366, 372 and 373 of the Act as amended from time to time.

11.1 Right of entry

11.1.1 *Authorised industrial officer*

- (a) An "Authorised industrial officer" is any Union official holding a current authority issued by the Industrial Registrar.
- (b) Right of entry is limited to workplaces where the work performed falls within the registered coverage of the Union.

11.1.2 *Entry procedure*

- (a) The authorised industrial officer is entitled to enter the workplace during normal business hours as long as:
 - (i) the authorised industrial officer alerts the Employer or other person in charge of the workplace to their presence; and
 - (ii) shows their authorisation upon request.
- (b) Clause 11.1.2(a)(i) does not apply if the authorised industrial officer establishes that the Employer or other person in charge is absent.
- (c) A person must not obstruct or hinder any authorised industrial officer exercising their right of entry.
- (d) If the authorised industrial officer intentionally disregards a condition of clause 11.1.2 the authorised industrial officer may be treated as a trespasser.

11.1.3 *Inspection of records*

- (a) An authorised industrial officer is entitled to inspect the time and wages record required to be kept under section 366 of the Act.
- (b) An authorised industrial officer is entitled to inspect such time and wages records of any former or current

Employee except if the Employee:

- (i) is ineligible to become a member of the Union; or
 - (ii) is a party to a QWA or ancillary document, unless the Employee has given written consent for the records to be inspected; or
 - (iii) has made a written request to the Employer that the Employee does not want that Employee's record inspected.
- (c) The authorised industrial officer may make a copy of the record, but cannot require any help from the Employer.
- (d) A person must not coerce an Employee or prospective Employee into consenting, or refusing to consent, to the inspection of their records by an authorised industrial officer.

11.1.4 *Discussions with employees*

An authorised industrial officer is entitled to discuss with the Employer, or a member or Employee eligible to become a member of the Union:

- (a) matters under the Act during working or non-working time; and
- (b) any other matter with a member or Employee eligible to become a member of the Union, during non-working time.

11.1.5 *Conduct*

An authorised industrial officer must not unreasonably interfere with the performance of work in exercising a right of entry.

11.2 Time and wages record

11.2.1 The Employer must keep, at the place of work in Queensland, a time and wages record that contains the following particulars for each pay period for each Employee, including apprentices and trainees:

- (a) the Employee's award classification;
- (b) the Employer's full name;
- (c) the name of the award under which the Employee is working;
- (d) the number of hours worked by the Employee during each Day and week, the times at which the Employee started and stopped work, and details of work breaks including meal breaks;
- (e) a weekly, daily or hourly wage rate - details of the wage rate for each week, Day, or hour at which the Employee is paid;
- (f) the gross and net wages paid to the Employee;
- (g) details of any deductions made from the wages; and
- (h) contributions made by the Employer to a superannuation fund.

11.2.2 The time and wages record must also contain:

- (a) the Employee's full name and address;
- (b) the Employee's date of birth;
- (c) details of sick leave credited or approved, and sick leave payments to the Employee;
- (d) the date when the Employee became an Employee of the Employer;
- (e) if appropriate, the date when the Employee ceased employment with the Employer; and
- (f) if a casual Employee's entitlement to long service leave is worked out under section 47 of the Act - the total hours, other than overtime, worked by the Employee since the start of the period to which the entitlement

relates, worked out to and including 30 June in each year.

11.2.3 The Employer must keep the record for 6 years.

11.2.4 Such records shall be open to inspection during the Employer's business hours by an inspector of the Department of Industrial Relations, in accordance with section 371 of the Act or an authorised industrial officer in accordance with sections 372 and 373 of the Act.

11.3 Union encouragement

Clause 11.3 gives effect to section 110 of the Act in its entirety. Consistent with section 110 a Full Bench of the Queensland Industrial Relations Commission has issued a Statement of Policy on Union Encouragement (reported 165 QGIG 221) that encourages an Employee to join and maintain financial membership of an organisation of Employees that has the right to represent the industrial interests of the Employees concerned.

11.3.1 Documentation to be provided by employer

At the point of engagement, an Employer to whom this Award applies shall provide Employees with a document indicating that a Statement of Policy on Union Encouragement has been issued by the Queensland Industrial Relations Commission, a copy of which is to be kept on the premises of the Employer in a place readily accessible by the Employee.

The document provided by the Employer shall also identify the existence of a Union encouragement clause in this Award.

11.3.2 Union delegates

Union delegates and job representatives have a role to play within a workplace. The existence of accredited Union delegates and/or job representatives is encouraged.

The Employer shall not unnecessarily hinder accredited Union delegates and/or job representatives in the reasonable and responsible performance of their duties.

11.3.3 Deduction of union fees

Where arrangements can be entered into, Employers are encouraged to provide facilities for the deduction and remittance of Union fees for Employees who signify in writing to their Employer, their desire to have such membership fees deducted from their wages.

11.4 Award posting

11.4.1 A true copy of this Award shall be available in a convenient place on the Employer's premises so as to be readily available to Employees.

Dated 2 March 2004.

By the Commission,
[L.S.] G.D. SAVILL,
Acting Industrial Registrar.

Operative Date: 19 April 2004