

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

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

SEA SWIFT PTY LTD ENTERPRISE AWARD - STATE 2005

Pursuant to s. 698 of the *Industrial Relations Act 1999*, the Sea Swift Pty Ltd Enterprise Award - State 2005 with all amendments as at 10 December 2009, is hereby reprinted.

I hereby certify that the Award contained herein is a true and correct copy of the Sea Swift Pty Ltd Enterprise Award - State 2005 as at 10 December 2009.

Dated 10 December 2009.

G.D. Savill
Industrial Registrar

SEA SWIFT PTY LTD ENTERPRISE AWARD - STATE 2005

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1.1 Title

This Award is known as the Sea Swift Pty Ltd Enterprise Award - State 2005.

1.2 Arrangement

Subject Matter Clause No.

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1.3 Date of operation

This Award takes effect from 27 June 2005.

1.4 Award coverage

1.4.1 This Award applies to Sea Swift Pty. Ltd., Maxitrans Pty. Ltd. and Neumayer Valley Pastoral Company Pty. Ltd. (as employers) and all employees engaged in or in connection with the said employers' operations and all associated operations throughout Queensland, and no other Award shall apply:

Provided that this Award shall not apply to employees covered by the Station Hands' Award - State 2003.

1.5 Definitions

- 1.5.1 "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 "Employee" means any person employed by Sea Swift Pty. Ltd.; Maxitrans Pty. Ltd.; and Neumayer Valley Pastoral Company Pty. Ltd. (as employers).
- 1.5.4 "Four Week Cycle" means a period of 4 consecutive weeks coinciding with 2 fortnightly voyages.
- 1.5.5 "Grade" means the skill and wages grade to which an employee is assigned, and shall also include any one or more functions defined in any lower grade at any time if required.
- 1.5.6 "Manager" means an employee who is, subject to the terms and conditions of their employment responsible for all work in a Section and who shall have absolute discretion in absence of agreement between employees where such agreement forms part of the working of this Award and who may delegate responsibility to another employee and to whom clauses 5.6, 6.1, 6.2, 6.5, 6.6 and 7.6 do not apply.
- 1.5.7 "Sea Swift" means Sea Swift Pty. Ltd. (Australian Company Number 010 889 040).
- 1.5.8 "Section" means a functional unit within the overall operation where employees, including a manager, work as a team to achieve the goals of Sea Swift.
- 1.5.9 "Union" means The Australian Workers' Union of Employees, Queensland.

1.6 Parties bound

This Award is legally binding on the employer(s) and employees as prescribed by clause 1.4, the Union and its members.

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 Consultative mechanisms and procedures in the workplace

- 3.1.1 The parties to this Award are committed to co-operating positively to increase the efficiency, productivity and competitiveness of the industries covered by this Award and to enhance the career opportunities and job security of employees in such industries.

3.2 Grievance and dispute settling procedure

The matters to be dealt with in this procedure shall include all grievances or disputes between an employee and an 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.

- 3.2.1 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.
- 3.2.2 If the grievance or dispute is not resolved under clause 3.2.1, 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.

- 3.2.3 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 3.2.5.
- 3.2.4 If the grievance or dispute is still unresolved after discussions mentioned in clause 3.2.2, the matter shall, in the case of a member of a 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.
- 3.2.5 If, after discussion between the parties, or their nominees mentioned in clause 3.2.4, the dispute remains unresolved after the parties have genuinely attempted to achieve a settlement thereof, then notification of the existence of the dispute is to be given to the Commission in accordance with the provisions of the Act.
- 3.2.6 Whilst all of the above procedure is being followed, normal work shall continue except in the case of a genuine safety issue.
- 3.2.7 The *status quo* existing before the emergence of the grievance or dispute is to continue whilst the above procedure is being followed.
- 3.2.8 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.
- 3.2.9 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.
- 3.2.10 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.

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

4.1 Employment categories

- 4.1.1 Employees covered by this Award shall be advised in writing of their employment category upon appointment. Employment categories are:
 - (a) Full-time;
 - (b) Part-time (as prescribed in clause 4.3); and
 - (c) Casual (as prescribed in clause 4.4).

4.2 Full-time employment

"Full-time employee" means a person who is engaged to work on a full-time basis.

4.3 Part-time employment

- 4.3.1 A part-time employee is defined as an employee, of lesser number of hours than constitute full-time employment under this Award, who works not less than 12 ordinary hours per week and less than 38 hours per week under this Award with a minimum payment of 4 hours per day with a regular number of ordinary hours per week. Part-time employees who work outside of their ordinary rostered hours are to be paid at overtime rates.

Any variations to work patterns for part-time employees are to be in accordance with Award provisions for full-time employees.

- 4.3.2 Part-time employees are to be paid on a *pro rata* basis (proportionate to the number of hours worked) for wages and employment conditions as specified in this Award for full-time employees.
- 4.3.3 All other conditions for part-time employment other than those specified above, shall be those that apply to full-

time employment.

- 4.3.4 An employee who does not meet the definition of a part-time employee and who is not a full-time employee will be paid as a casual employee in accordance with this Award.
- 4.3.5 Where an employee and the employer agree, part-time employment may be converted to full-time and *vice versa* on a permanent basis or for a specified period of time. If such as employee transfers from full-time to part-time (or *vice versa*) all accrued award and legislative entitlements shall be maintained. Following transfer to part-time employment accrual will occur in accordance with the provisions relevant to part-time employment.

4.4 Casual employment

- 4.4.1 "Casual employee" means an employee who is engaged by the hour for a minimum of 2 hours per engagement (or payment in lieu thereof) who may leave their employment or be discharged at any moment without notice.

The hourly rate for casual employees will be calculated by dividing the appropriate weekly rate for permanent employees of the same class by 38 and adding a loading of 23%.

4.5 Incidental and peripheral tasks

- 4.5.1 An employer may direct an employee to carry out such duties as are reasonably within the limits of the employee's skill, competence and training.
- 4.5.2 An employer may direct an employee to carry out such duties and use such tools and equipment as may be required provided that the employee has been properly trained in the use of such tools and equipment (where relevant).
- 4.5.3 Any direction issued by an employer pursuant to subclauses 4.5.1 and 4.5.2 shall be consistent with the employer's responsibilities to provide a safe and healthy working environment.

4.6 Two or more classes of work

- 4.6.1 Where any person on any one day performs work of 2 or more classes of work to which a differential rate fixed by any Award is applicable, such person, if employed for more than 4 hours on the class or classes of work carrying a higher rate, shall be paid in respect of the whole time during which the employee works on that day at the same rate, which shall be at the highest rate fixed by such Award in respect of any such classes of work, and if employed for 4 hours or less on the class or classes of work which carry a higher rate, the employee shall be paid for such highest rate for 4 hours.
- 4.6.2 *Multi-skilling* - In recognition of the operational requirements of Sea Swift and to create more varied and interesting work, it shall be a condition of employment that each employee shall work as required on any work within the employee's competence directly or indirectly connected with the operations of Sea Swift, (subject to prevailing statutory requirements) and that each employee shall acquire the skills and learn any other job as directed and shall provide instruction and/or training as appropriate to another employee as required.

4.7 Termination of employment

4.7.1 Termination by the employer

- (a) In order to terminate the employment of an employee the employer shall give the following notice:

| Period of Continuous Service | Period of Notice |
|---|------------------|
| not more than one year | 1 week |
| more than one year, but not more than 3 years | 2 weeks |
| more than 3 years, but not more than 5 years | 3 weeks |
| more than 5 years | 4 weeks |

- (b) In addition to the notice in clause 4.7.1(a), employees over 45 years of age at the time of giving of notice and with not less than 2 years' continuous service, shall be entitled to an additional week's notice.

Payment in lieu of notice shall be made if the appropriate notice is not given:

Provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof.

The period of notice in this subclause shall not apply to casual employees nor in the case of dismissal for

misconduct (including dishonesty, intoxication or wilful disobedience) or other grounds that justify instant dismissal.

4.7.2 *Notice of termination by employee*

- (a) 2 days' notice of termination is required to be given by the employee to the employer.
- (b) If an employee fails to give notice the employer shall have the right to withhold monies due to the employee with a maximum amount equal to the ordinary time rate for the period of notice.

4.7.3 *Casual employees*

No notice is required to be given by the employer or the employee to terminate the hourly contract of employment of a casual employee.

4.8 Introduction of changes

4.8.1 *Employer's duty to notify*

- (a) Where an employer decides to introduce changes in production, program, organisation, structure or technology, that are likely to have significant effects on employees, the employer shall notify the employees who may be affected by the proposed changes and, where relevant, their Union or Unions.
- (b) "Significant effects" includes 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 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 the Award makes provision for alteration of any of the matters referred to herein an alteration shall be deemed not to have significant effect.

4.8.2 *Employer's duty to consult over change*

- (a) The employer shall consult the employees affected and, where relevant, their Union or Unions about the introduction of the changes, the effects the changes are likely to have on employees (including the number and categories of employees likely to be dismissed, and the time when, or the period over which, the employer intends to carry out the dismissals), and the ways to avoid or minimise the effects of the changes (e.g. by finding alternate employment).
- (b) The consultation must occur as soon as practicable after making the decision referred to in clause 4.8.1.
- (c) For the purpose of such consultation the employer shall provide in writing to the employees concerned and, where relevant, their Union or Unions, 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 an employer shall not be required to disclose confidential information, the disclosure of which would be adverse to the employer's interests.

4.9 Redundancy

4.9.1 *Consultation before terminations*

- (a) Where an employer decides that the employer no longer wishes the job the employee has been doing to be done by anyone, and this is not due to the ordinary and customary turnover of labour, and that decision may lead to termination of employment, the employer shall consult the employee directly affected and where relevant, their Union or Unions.
- (b) The consultation shall take place as soon as it is practicable after the employer has made a decision, which will invoke the provisions of clause 4.9.1(a) and shall cover the reasons for the proposed terminations, measures to avoid or minimise the terminations and/or their adverse affects on the employees concerned.
- (c) For the purpose of the consultation the employer shall, as soon as practicable, provide in writing to the employees concerned and, where relevant, their Union or Unions, all relevant information about the proposed terminations including the reasons for the proposed terminations, the number and categories of employees likely to be affected, the number of workers normally employed and the period over which the terminations are likely to be carried out:

Provided that an employer shall not be required to disclose confidential information, the disclosure of

which would be adverse to the employer's interests.

4.9.2 *Transfer to lower paid duties*

- (a) Where an employee is transferred to lower paid duties for reasons set out clause 4.9.1 the employee shall be entitled to the same period of notice of transfer as the employee would have been entitled to if the employee's employment had been terminated under clause 4.7.
- (b) The employer may, at the employer's option, make payment in lieu thereof of an amount equal to the difference between the former amounts the employer would have been liable to pay and the new lower amount the employer is liable to pay the employee for the number of weeks of notice still owing.
- (c) The amounts must be worked out on the basis of:
 - (i) the ordinary working hours to be worked by the employee; and
 - (ii) the amounts payable to the employee for the hours including for example, allowances, loadings and penalties; and
 - (iii) any other amounts payable under the employee's employment contract.

4.9.3 *Transmission of business*

- (a) Where a business is, whether before or after the date of insertion of this clause in the Award transmitted from an employer (transmittor) to another employer (transmittee), and an employee who at the time of such transmission was an employee of the transmittor of the business, becomes an employee of the transmittee:
 - (i) the continuity of the employment of the employee shall be deemed not to have been broken by reason of such transmission; and
 - (ii) the period of employment which the employee has had with the transmittor or any prior transmittor shall be deemed to be service of the employee with the transmittee.
- (b) In clause 4.9.3, "business" includes trade, process, business or occupation and includes a part or subsidiary (which means a corporation that would be taken to be a subsidiary under the Corporations Law, whether or not the Corporations Law applies in the particular case) 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.

4.9.4 *Time off during notice period*

- (a) Where a decision has been made to terminate an employee in the circumstances outlined in clause 4.9.1, the employee shall be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment.
- (b) If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee shall, at the request of the employer, be required to produce proof of attendance at an interview or the employee shall not receive payment for the time absent. For this purpose a statutory declaration will be sufficient.

4.9.5 *Notice to Centrelink*

Where a decision has been made to terminate employees in the circumstances outlined in clause 4.9.1, the employer shall notify Centrelink as soon as possible giving all relevant information about the proposed terminations, including a written statement of the reasons for the terminations, the number and categories of the employees likely to be affected, the number of workers normally employed and the period over which the terminations are intended to be carried out.

4.9.6 *Severance pay*

- (a) In addition to the period of notice prescribed for ordinary termination in clause 4.7.2(a), and subject to further order of the Commission, an employee whose employment is terminated for reasons set out in clause 4.9.1(a), shall be entitled to the following amounts of severance pay:

| Period of Continuous Service | Severance Pay (weeks' pay) |
|------------------------------|-------------------------------|
| Less than 1 year | nil |

| Period of Continuous Service | Severance Pay (weeks' pay) |
|---|-------------------------------|
| 1 year but not more than 2 years | 4 |
| More than 2 years but not more than 3 years | 6 |
| More than 3 years but not more than 4 years | 7 |
| More than 4 years but not more than 5 years | 8 |
| More than 5 years but not more than 6 years | 9 |
| More than 6 years but not more than 7 years | 10 |
| More than 7 years but not more than 8 years | 11 |
| More than 8 years but not more than 9 years | 12 |
| More than 9 years but not more than 10 years | 13 |
| More than 10 years but not more than 11 years | 14 |
| More than 11 years but not more than 12 years | 15 |
| More than 12 years | 16 |

- (b) "Weeks' Pay" means the ordinary time rate of pay for the employee concerned:

Provided that the following amounts are excluded from the calculation of the ordinary time rate of pay: overtime, penalty rates, disability allowances, shift allowances, special rates, fares and travelling time allowances, bonuses and any other ancillary payments.

4.9.7 *Superannuation benefits*

An employer may make an application to the Commission for relief from the obligation to make severance payments in circumstances where:

- (a) the employer has contributed to a superannuation scheme which provides a particular benefit to an employee in a redundancy situation; and
- (b) the particular benefit to the employee is over and above any benefit the employee might obtain from any legislative scheme providing for superannuation benefits (currently the federal Superannuation Guarantee levy) or an award based superannuation scheme.

4.9.8 *Employee leaving during notice*

An employee whose employment is terminated for reasons set out in clause 4.9.1(a), may terminate such employment during the period of notice, and, if so, shall be entitled to the same benefits and payments under this clause had such employee remained with the employer until the expiry of such notice:

Provided that in such circumstances the employee shall not be entitled to payment in lieu of notice.

4.9.9 *Alternative employment*

An employer, in a particular case, may make application to the Commission to have the general severance pay prescription amended if the employer obtains acceptable alternative employment for an employee.

4.9.10 *Employees with less than one year's service*

Clause 4.9 shall not apply to employees with less than one year's continuous service and the general obligation on employers should be no more than to give relevant employees an indication of the impending redundancy at the first reasonable opportunity, and to take such steps as may be reasonable to facilitate the obtaining by the employees of suitable alternative employment.

4.9.11 *Employees exempted*

Clause 4.9 shall not apply:

- (a) where employment is terminated as a consequence of misconduct on the part of the employee; or
- (b) to employees engaged for a specific period or task(s), or
- (c) to casual employees

4.9.12 *Employers exempted*

- (a) Subject to an order of the Commission, in a particular redundancy case, clause 4.9 shall not apply to an employer including a company or companies that employ employees working a total of fewer than 550

hours on average per week, excluding overtime, Monday to Sunday. The 550 hours shall be averaged over the previous 12 months.

- (b) A "company" shall be defined as:
 - (i) a company and the entities it controls; or
 - (ii) a company and its related company or related companies; or
 - (iii) a company where the company or companies has a common Director or common Directors or a common shareholder or common shareholders with another company or companies.

4.9.13 *Exemption where transmission of business*

- (a) The provisions of clause 4.9.6 are not applicable where a business is before or after the date of the insertion of this clause into the Award, transmitted from an employer (transmittor) to another employer (transmittee), in any of the following circumstances:
 - (i) where the employee accepts employment with the transmittee which recognises the period of continuous service which the employee had with the transmittor, and any prior transmittor, to be continuous service of the employee with the transmittee; or
 - (ii) where the employee rejects an offer of employment with the transmittee:
 - (A) in which the terms and conditions are substantially similar and no less favourable, considered on an overall basis, than the terms and conditions applicable to the employee at the time of ceasing employment with the transmittor; and
 - (B) which recognises the period of continuous service which the employee had with the transmittor and any prior transmittor to be continuous service of the employee with the transmittee.
- (b) The Commission may amend clause 4.9.13(a)(ii) if it is satisfied that it would operate unfairly in a particular case, or in the instance of contrived arrangements.

4.9.14 *Incapacity to pay*

An employer in a particular redundancy case may make application to the Commission to have the general severance pay prescription amended on the basis of the employer's incapacity to pay.

4.10 Anti-discrimination

4.10.1 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 any of the above attributes;
- (b) sexual harassment; and
- (c) racial and religious vilification.

4.10.2 Accordingly, in fulfilling their obligations under the grievance and dispute settling procedure in clause 3.2, 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.

4.10.3 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.

4.10.4 Nothing in clause 4.10 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*;
- (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.

4.11 Continuity of service - transfer of calling

In cases where a transfer of calling occurs, continuity of service should be determined in accordance with sections 67-71 of the Act, as amended from time to time.

PART 5 - WAGES AND WAGE RELATED MATTERS

5.1 Definitions of classifications

- 5.1.1 "Grade 1" means an entry level employee undertaking induction and training as required.
- 5.1.2 "Grade 2" means an employee whose duties require that he or she use basic skills and work under regular supervision or who is required to gain competence through training and/or experience.
- 5.1.3 "Grade 3" means an employee whose duties require competence in work and the operation of ancillary equipment and machinery and for the employee to work under regular supervision within a Section.
- 5.1.4 "Grade 4" means an employee whose duties require competence and diligence in work and the operation of ancillary equipment and machinery or to carry out a major function with limited supervision within a Section.
- 5.1.5 "Grade 5" means an employee who has acquired the competency of operator and whose work requires the operation of major items of equipment or machinery or to carry out a major function with limited supervision within a Section.
- 5.1.6 "Grade 6" means an employee appointed as a leading hand whose work requires competence and diligence and for the employee to efficiently lead other employees in Grades 1 to 5 in achieving the goals of a Section.
- 5.1.7 "Grade 7" means an employee who possesses appropriate skills and/or trade qualifications acceptable to Sea Swift whose work requires the competent exercise of the skills of that calling under limited supervision.
- 5.1.8 "Grade 8" means an employee who possesses the skills and qualifications required for Grade 7 and whose work requires the competent and diligent exercise of the skills of that calling and to efficiently lead other employees (Grades 1 to 7 inclusive) in achieving the goals of a Section.
- 5.1.9 "Grade 9" means an employee with experience and current certification acceptable to Sea Swift to competently perform the duties associated with its operations and quality assurance manual and appropriate statutory regulations and to whom clauses 5.5.1, 6.1, 6.2, 6.5, 6.6 and 7.6 do not apply.
- 5.1.10 "Grade 10" means an employee who possesses skills and qualifications acceptable to Sea Swift whose salary is commensurate to the skills exercised in the employee's work and in any case higher than the weekly rate of pay for an employee Grade 9 and to whom clauses 5.5.1, 6.1, 6.2, 6.5, 6.6 and 7.6 do not apply.
- 5.1.11 According to the operational and functional needs of a Section and subject to consultation with the Union, having regard to training and career pathing, an employee will be selected according to suitability to work efficiently within a classification within a Section.

In determining competence, Sea Swift will have regard to an employee's job knowledge, job experience, ability to solve problems and take responsibility, and the possession of qualifications as may be required by law.

In determining diligence, Sea Swift will have regard to an employee's motivation towards achievement, persistence, work attitude, willingness to take responsibility, sense of duty to fellow employees.

Ancillary equipment and machinery includes equipment and machinery requiring qualification and training on the part of the operator up to and including a level typical of forklifts, stationary cranes under 20 metre-tonnes capacity, vehicles requiring A and B class licenses and outboard motor powered boats.

Major items of equipment and machinery shall be those items of equipment and machinery requiring qualification on the part of the operator to a level higher than that typical of ancillary equipment and machinery.

Major function shall mean a duty or group of duties comprising a function which an employee is principally occupied.

- 5.1.12 Where an employee seeks and is granted transfer to another Section or other duties, the employee's new classification will be determined in accordance with clause 5.1.11 and the employee's wage adjusted accordingly.

Where, after suitable counselling, an employee is considered unsuitable for work within a classification with in a

particular Section, the employee may be transferred to another classification and or Section and the employee's wage may be adjusted accordingly.

5.2 Wage rates

5.2.1 The minimum wage rates payable to employees under this Award shall be as follows:

| | Award rate per week \$ |
|---------|------------------------------|
| Grade 1 | 590.20 |
| Grade 2 | 598.80 |
| Grade 3 | 604.50 |
| Grade 4 | 623.20 |
| Grade 5 | 636.00 |
| Grade 6 | 644.60 |
| Grade 7 | 668.40 |
| Grade 8 | 688.50 |
| Grade 9 | 810.60 |

Note 1: The rates of pay in this Award are intended to include the arbitrated wage adjustment payable under the 1 September 2009 Declaration of General Ruling and earlier Safety Net Adjustments and arbitrated wage adjustments. 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.

5.2.2 *Junior employees* - The minimum rates of wages for junior employees shall be the undermentioned percentages of the appropriate adult Grade rate of the work performed:

| | % |
|-----------------------------|-----|
| 17 years and under 18 years | 60 |
| 18 years | 70 |
| 19 years | 80 |
| 20 years and over | 100 |

5.3 Restructuring, productivity and remuneration package

5.3.1 In addition to the conditions and rates of wages prescribed herein by mutual arrangement in writing between Sea Swift and the Branch Secretary of the Union, Sea Swift may introduce a productivity bonus scheme on behalf of employees and such written agreement shall be forwarded to the Industrial Registrar.

5.3.2 Where the function of a Section tends towards a style of living involving a flexible pattern of work and rest and or where as a part of its function a Section provides a service to customers and the efficiency and quality of that service may determine the level of future custom, a remuneration package may be developed for employees in a Section.

Such a package will reflect the typical fortnightly work of a Section and be based on a loaded wage and may include the accrual of additional annual leave and a performance related productivity payment, in addition to the minimum conditions prescribed herein.

Such a package will incorporate the appropriate ordinary fortnightly rate and a loading and, if applicable product payments, extra paid leave and flexi-time.

5.3.3 The intention of such a package is to provide the opportunity to an employee to enjoy a life-style with greater flexibility of work patterns, incentive to work at providing a level of service which will encourage greater custom and productivity and to have a sense of involvement in the productivity of Sea Swift.

5.3.4 The package will operate on the basis of a Section managing a budgeted time allocation for the carrying out of the functions of the Section. Work will be arranged by agreement between its employees within a 4 week cycle so as to conform with the time budget with priority being given to the principal function of the Section and with the balance of time being allocated to other functions as appropriate.

5.4 Payment of wages

- 5.4.1 Payment of wages shall be made fortnightly, and at the discretion of Sea Swift, shall be paid by wages, cheque, or by electronic funds transfer into a bank account nominated by the employee and no charge shall be incurred by the employee as a result of the method of payment of wages.

Casual employees may by mutual agreement with Sea Swift be paid by this method or paid in cash at the termination of each engagement.

5.5 Allowances

- 5.5.1 *Industry allowance* - Operational employees shall be paid an allowance of \$15.75 in addition to their ordinary rate of pay per week for the operation of all forms of machinery and mobile plant, and for work in inclement weather. This allowance shall be treated as part of the wage rate for all purposes under this Award. This allowance shall be amended in accordance with movements in the base rate.
- 5.5.2 Where at the request of Sea Swift, an employee uses their vehicle during working hours for the purpose of their work, Sea Swift shall pay an allowance of \$0.51 per kilometre for any such use.
- 5.5.3 Where Sea Swift requires employees to supply and use their own tools such employees shall be paid a tool allowance of \$10.45 per week in addition to their ordinary rate of pay in consideration of wear and loss to the employee's tools.
- 5.5.4 *First-aid allowance* - Where an employee of a Section holds an appropriate first-aid certificate as a first-aid attendant an additional \$11.85 per week shall be paid when the said employee is appointed by the employer to act as the first-aid attendant for three days or more in any working week.

5.6 Occupational superannuation

- 5.6.1 *Qualifying period*.- All employees having served 4 calendar weeks in employment (*pro rata* in the case of part-time and casual employees) shall have occupational superannuation payments paid by the employer retrospective to the date of commencement of employment.
- 5.6.2 Sea Swift Pty. Ltd. will make payments on behalf of each employee's occupational superannuation in accordance with the Declaration of General Ruling handed down by the full bench of the Commission as amended by the decision of the Commission and in accordance with Federal Legislation as enacted from time to time. Where there is inconsistency between the Declaration and Federal Legislation, the company shall make payments in accordance with the provisions of the Federally enacted law.

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

6.1 Hours of work

6.1.1 Operation of 38 hour week

- (a) Subject to clause 6.1.2 (Implementation of a 38 hour week), and subject to the exceptions hereinafter provided, the ordinary hours of work shall be an average of 38 per week, to be worked on one of the following bases:
- (i) 38 hours within a cycle not exceeding 7 consecutive days; or
 - (ii) 76 hours within a work cycle not exceeding 14 consecutive days; or
 - (iii) 114 hours within a work cycle not exceeding 21 consecutive days; or
 - (iv) 152 hours within a work cycle not exceeding 28 days.
- (b) The ordinary hours of work shall not exceed 10 hours per day.
- (c) Where necessary, employees shall commence their ordinary hours and breaks at different times to ensure continuity of service.
- (d) The ordinary starting and finishing times may be altered to suit geographic, safety, climatic or traffic conditions by the employer with the agreement of the majority of employees concerned:

Provided that any such altered starting and finishing time will not invoke any penalty payment that would not be payable if the Award spread of hours was observed.

- (e) Employees are required to observe the nominated starting and finishing times for the work day, including designated breaks to maximise available working time. Preparation for work and cleaning up of the Employee's person shall be in the employee's time.
- (f) Where a rostered day falls on a public holiday, the following day may be taken where practicable in lieu thereof or the employee and the employer may agree to an alternative day off duty as substitution.
- (g) Pay averaging
Employees shall be entitled to a week's wages in accordance with clauses 5.2 for each week of the cycle.
- (h) The entitlement to a rostered day off on full pay shall be subject to the following:
 - (i) Each day of paid leave taken (not including annual leave, long service leave) and any public holiday occurring during any cycle of 4 weeks shall be regarded as a day worked for accrual purposes.
 - (ii) An employee who has not worked a complete 4 week cycle in order to accrue a rostered day off shall be paid a *pro rata* amount for credits accrued for each day worked in such cycle payable for the rostered day off (i.e. an amount of 24 minutes for each 8 hour day worked or 2 hours for each 40 hours worked).

For the purposes of clause 6.1.1(h), "worked" includes paid leave referred to in clause 6.1.1(h)(i).

- (i) Sickness on a rostered day off which has resulted from the 19 days month work cycle
Where an employee is sick or injured on their rostered day off the employee shall not be entitled to sick pay nor shall their sick pay entitlement be reduced as a result of the sickness or injury on that day.
- (j) Payment of wages
In the event that an employee by virtue of the arrangement of the employee's ordinary working hours is rostered off duty on a day which coincides with pay day, such employee shall be paid no later than the working day immediately following such pay day.

6.1.2 Implementation of a 38 hour week

- (a) The 38 hour week shall be implemented on one of the following bases, most suitable to each location, after consultation with and giving reasonable consideration to the wishes of the employees concerned:
 - (i) by employees working less than 8 ordinary hours each day; or
 - (ii) by employees working less than 8 ordinary hours on one or more days each work cycle; or
 - (iii) by fixing one or more work days on which all Employees will be off during a particular work cycle; or
 - (iv) by rostering employees off on various days of the week during a particular work cycle, so that each employee has one work day off during that cycle.
- (b) Subject to clause 6.1.2, employees may agree that the ordinary hours of work are to exceed 8 on any day, thus enabling more than one work day to be taken off during a particular work cycle.
- (c) Notwithstanding any other provision in clause 6.1.2, where the arrangement of ordinary hours of work provides for a rostered day off, the employer and the employee concerned, may agree to accrue up to a maximum of 5 rostered days off. Where such agreement has been reached, the accrued rostered days off shall be taken within 12 calendar months of the date on which the first rostered day off was accrued. Consent to accrue rostered days off shall not be unreasonably withheld by either party.
- (d) Different methods of implementation of the 38 hour week may apply to individual Employees, groups or Sections of employees in each location concerned.

6.1.3 Procedure for discussions - 38 hour week

- (a) The employer and all employees concerned in each establishment shall consult over the most appropriate means of implementing and working a 38 hour week.
- (b) The object of such consultation shall be to reach agreement on the method of implementing and working the 38 hour week in accordance with clause 6.1.

- (c) The outcome of such consultation shall be recorded in writing.
- (d) In cases where agreement cannot be reached as a result of consultation between the parties, either party may request the assistance or advice of their relevant Employee or employer organisation.
- (e) Notwithstanding the consultative procedures outlined above, and notwithstanding any lack of agreement by Employees, the employer shall have the right to make the final determination as to the method by which the 38 hour week is implemented from time to time.
- (f) After implementation of the 38 hour week, upon giving 7 days' notice, or such shorter period as may be mutually agreed upon, the method of working the 38 hour week may be altered, from time to time, following negotiations between the employer and employees concerned, utilising the foregoing provisions of clause 6.1.3, including clause 6.1.3 (e).

6.1.4 A roster setting out the employee's days off duty and starting and finishing times on such days shall be displayed in a place conveniently accessible to employees at least 3 days before the commencement of each week.

6.1.5 Rosters shall provide a minimum of 10 hours break between the finish of ordinary hours on one day and the commencement of ordinary hours on the following day.

6.1.6 *Depot and associated operations* - Except for as herein provided, the ordinary working hours of designated depot employees shall not exceed 8 in any one day or 38 in any one week to be worked on 5 days of the week. The 2 rostered days off shall be consecutive wherever possible.

The ordinary daily working hours shall be worked continuously as required:

Provided however that by agreement between Sea Swift and the Branch Secretary of the Union, the ordinary working hours shall be arranged to average 76 per fortnight or 152 hours over a 4 week cycle to suit operational requirements and needs of employees.

6.1.7 *Mobile operations* - Except for as herein provided, the ordinary working hours of employees engaged in mobile operations shall be arranged as necessary to suit the operational, navigational safety and maintenance requirements in accordance with custom, practice and function of Sea Swift.

The ordinary hours of work shall be arranged to average 38 hours per week or 152 hours over a 4 week cycle to suit the operational requirements of Sea Swift.

6.1.8 *Rosters* - Each employee shall be rostered off 2 days per week between Monday and Sunday inclusive and be consecutive where practicable.

Should an employee be required to work on a rostered day off, such employee shall be paid at overtime rates with a minimum period of 4 hours excepting that on public holidays payment shall be 2 and a-half times the ordinary rate.

6.2 Meal hours

6.2.1 Subject to clause 6.1 all employees shall be entitled to a meal break of a minimum of 30 minutes to be taken between the fourth and sixth hours after commencing work.

6.2.2 Where a meal break of 30 minutes' duration is not practical employees shall be paid at the rate of time and a-half for such meal period.

6.2.3 Should an employee be required to work for more than one hour before the ordinary starting time or more than one hour after the ordinary ceasing time such employee shall be paid a meal allowance of \$9.60 for each occasion other than where meals are provided by Sea Swift.

6.3 Rest pauses

6.3.1 Subject to clause 6.1 all employees shall be entitled to a rest pause of not less than 10 minutes' duration in the first and in the second half of their daily work. Such rest pauses shall be taken at such times as will not interfere with continuity of work where continuity is necessary.

6.3.2 Casual employees who work a minimum of 4 consecutive ordinary hours but less than 8 consecutive ordinary hours on any one day shall receive a rest pause of 10 minutes' duration. Employees who work a minimum of 8 consecutive ordinary hours, excluding meal break, in any one day, shall receive a rest pause of 10 minutes' duration in the first half and the second half of the period worked:

Provided that Sea Swift may determine that the rest pauses may be combined into one 20 minute rest pause to be taken in the first part of the working day with such 20 minute rest pause and the meal break arranged in such a way that the ordinary working day is broken up into three approximately equal working periods.

6.4 Meal breaks and rest pauses flexibility

Subject to operational requirements, the timing and duration of meal breaks and rest pauses in any Section will be determined by agreement between its employees.

Meal breaks of 30 minutes will be in the employee's time and where practicable, taken to coincide with normal meal times.

One rest pause of 10 minutes for every 4 consecutive hours of work will be in Sea Swift's time.

6.5 Overtime

6.5.1 All time worked outside the ordinary hours of work as prescribed in clause 6.1 shall be overtime and paid for at the rate of time and one-half of the ordinary rate specified in clause 5.2 of the first 3 hours and double the ordinary rate for time worked thereafter.

6.5.2 An employee who works so much overtime between the termination of their ordinary work on the one day and the commencement of their ordinary work on the next day that they have not at least 10 consecutive hours off duty between those times shall, subject to clause 6.5.2, be released after completion of such overtime until they have had 10 consecutive hours off duty without loss of pay for ordinary working time occurring during such absence. If on the instructions of the employer, such an employee resumes or continues work without having had such 10 consecutive hours off duty they shall be paid double time until the employee is released from duty for such period, and they shall then be entitled to be absent until they have had 10 consecutive hours off duty, without loss of pay for ordinary working time occurring during such absence:

Provided that in the case of major breakdowns likely to affect the safety and/or schedule service of vessels operated by the company, by mutual agreement between the company and employees involved, the break as specified in clause 6.5.2 may be reduced to not less than 6 hours after the first work period and 8 hours thereafter until the breakdown or emergency repair work is completed, provided that due regard shall be given to avoiding exhaustion.

6.5.3 Where an employee engaged on mobile operations has been on duty continuously inclusive of meal breaks for 16 hours the employee shall not be required to commence duty again before an 8 hour break, exclusive of meal hours, is taken except for work necessary for the shifting, arrival or sailing of the ship and for emergency duties which cannot be deferred.

Should an employee work at the request of the employer after the employee has been on duty continuously, including meal breaks, for more than 18 hours, the employee shall be entitled to be paid at the rate of double time for the period of such duty in addition to any other payment due to the employee, until such time as the 8 hours respite from duty commences.

6.5.4 Notwithstanding the provisions of clause 6.5, a weekly employee who voluntarily offers themselves for work which may from time to time become available on their rostered day or days off and indicates to Sea Swift that payment as a casual is acceptable then that employee shall be paid at a casual rate of pay for any time so worked.

The work must be of a nature that would in ordinary situations require casuals and Sea Swift shall ensure that only legitimate volunteers are remunerated in this manner.

6.6 Weekend work

Weekend penalty - All ordinary time worked by employees on Saturday or Sunday shall be paid for at the rate of time and a-half of the ordinary rate for work performed on those days.

PART 7 - LEAVE OF ABSENCE AND PUBLIC HOLIDAYS

7.1 Annual leave

7.1.1 Every employee (other than a casual employee) covered by this Award, shall, at the end of each year of employment be entitled to annual leave on full pay of 4 weeks.

7.1.2 Such annual leave shall be exclusive of any public holiday which may occur during the period of that annual leave and (subject to clause 7.1.6) shall be paid for by the employer in advance:

(a) In the case of any and every employee in receipt immediately prior to that leave of ordinary pay at a rate

in excess of the ordinary rate payable under this Award at the excess rate; and

- (b) In every other case, at the ordinary rate payable to the employee concerned immediately prior to that leave under this Award.

7.1.3 If the employment of any employee is terminated at the expiration of a full year of employment, Sea Swift shall be deemed to have given the leave to the employees from the date of the termination of the employment and shall forthwith pay to the employee in addition to all other amounts due to the employee, the employee's pay, calculated in accordance with clause 7.1.6, for 4 weeks and also the employee's ordinary pay for any public holiday occurring during such period of 4 weeks.

7.1.4 If the employment of any employee is terminated before the expiration of a full year of employment, such employee shall be paid, in addition to all other amounts due to the employee, an amount equal to 1/12th of the employee's pay for the period of the employee's employment calculated in accordance with clause 7.1.6.

7.1.5 Part-time employees shall be entitled to *pro rata* annual leave based upon the number of hours worked per week in the preceding year of employment.

Reasonable notice shall be given to each employee of such annual leave becoming due.

7.1.6 *Calculation of annual leave pay* - In respect to annual leave entitlements to which clause 7.1 applies, annual leave pay (including any proportionate payments) shall be calculated as follows:

- (a) Shift workers - Subject to clause 7.1.6(c) the rate of wage to be paid to a shift worker shall be the rate payable for work in ordinary time according to the employee's roster or projected roster, including Saturday, Sunday or holiday shifts.
- (b) Leading hands etc.- Subject to clause 7.1.6(c), leading hand allowances and amounts of a like nature otherwise payable for ordinary time worked shall be included in the wages to be paid to employees during annual leave.
- (c) All employees - Subject to the provisions of clause 7.1.6(d), in no case shall the payment by Sea Swift to an employee be less than the sum of the following amounts:
 - (i) The employee's ordinary wage rate as prescribed by clause 5.2 of this Award for the period of the annual leave (excluding shift premiums);
 - (ii) Supervisory allowances or amounts of a like nature;
 - (iii) A further amount calculated at the rate of 17.5% of the amounts referred to in clauses 7.1.6(c)(i) and 7.1.6(c)(ii).
- (d) The provisions of clause 7.1.6(c) shall not apply to the following:
 - (i) Any period or periods of annual leave exceeding:
 - (A) 5 weeks in the case of employees employed in a calling where 3 shifts per day are worked over a period of 7 days per week; or
 - (B) 4 weeks in any other case.
 - (ii) Employers (and their employees) who are already paying (or receiving) annual leave bonus, loading or other annual leave payment which is not less favourable to employees.

7.2 Sick leave

7.2.1 Entitlement

- (a) Every employee, except casuals and school-based apprentices and trainees, is entitled to 60.8 hours' sick leave for each completed year of their employment with their employer:

Provided that part-time employees accrue sick leave on a proportional basis.

- (b) This entitlement will accrue at the rate of 7.6 hours' sick leave for each 6 weeks of employment.
- (c) Payment for sick leave will be made based on the number of hours which would have been worked by the employee if the employee were not absent on sick leave.

- (d) Sick leave may be taken for part of a day.
- (e) Sick leave shall be cumulative, but unless the employer and employee otherwise agree, no employee shall be entitled to receive, and no employer shall be bound to make, payment for more than 13 weeks' absence from work through illness in any one year.

7.2.2 *Employee must give notice*

The payment of sick leave is subject to the employee promptly advising the employer of the employee's absence and its expected duration.

7.2.3 *Evidence supporting a claim*

When the employee's absence is for more than 2 days the employee is required to give the employer a doctor's certificate, or other reasonably acceptable evidence, about the nature and approximate duration of the illness.

7.2.4 *Accumulated sick leave*

An employee's accumulated sick leave entitlements are preserved when:

- (a) The employee is absent from work on unpaid leave granted by the employer;
- (b) The employer or employee terminates the employee's employment and the employee is re-employed within 3 months;
- (c) The employee's employment is terminated because of illness or injury and the employee is re-employed by the same employer without having been employed in the interim.

The employee accumulates sick leave entitlements whilst absent from work on paid leave granted by the employer.

7.2.5 *Workers' compensation*

Where an employee is in receipt of workers' compensation, the employee is not entitled to payment of sick leave.

7.3 Bereavement leave

7.3.1 *Full-time and part-time employees*

Full-time and part-time employees shall, on the death of a member of their immediate family or household in Australia, be entitled to paid bereavement leave up to and including the day of the funeral of such person. Such leave shall be without deduction of pay for a period not exceeding the number of hours worked by the employee in 2 ordinary days of work. Proof of such death is to be furnished by the employee to the satisfaction of the employer.

7.3.2 *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 a particular 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 7.3.2.

7.3.3 "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.

7.3.4 *Unpaid leave*

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.

7.4 Long service leave

All employees covered by this Award are 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.

7.5 Family leave

The provisions of the Family Leave Award 2003 apply to and are deemed to form part of this Award.

7.5.1 It is to be noted that:

- (a) part-time work can be performed by agreement in the circumstances specified in the Family Leave Award 2003;
- (b) a copy of the Family Leave Award 2003 is required to be displayed in accordance with section 697 of the Act.

7.5.2 The Family Leave Award 2003 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.

7.6 Public holidays

7.6.1 Subject to clause 7.6.7 all work done by any employee on:

- the 1st January;
- the 26th January;
- Good Friday;
- Easter Saturday (the day after Good Friday);
- Easter Monday;
- the 25th April (Anzac Day);
- The Birthday of the Sovereign;
- Christmas Day;
- Boxing Day; or
- any day appointed under the *Holidays Act 1983*, to be kept in place of any such holiday

will be paid for at the rate of double time and a-half with a minimum of 4 hours.

7.6.2 *Labour Day*

All employees covered by this Award are entitled to be paid a full day's wage for Labour Day (the first Monday in May or other day appointed under the *Holidays Act 1983*, to be kept in place of that holiday) irrespective of the fact that no work may be performed on such day, and if any employee concerned actually works on Labour Day, such employee will be paid a full day's wage for that day and in addition a payment for the time actually worked by the employee at one and a-half times the ordinary time rate of pay prescribed for such work with a minimum of 4 hours.

7.6.3 *Annual show*

All work done by employees in a district specified from time to time by the Minister by notification published in the *Industrial Gazette* on the day appointed under the *Holidays Act 1983*, to be kept as a holiday in relation to the annual agricultural, horticultural or industrial show held at the principal city or town, as specified in such notification of such district will be paid for at the rate of double time and a-half with a minimum of 4 hours.

In a district in which a holiday is not appointed for an annual agricultural, horticultural or industrial show, the employee and employer must agree on an ordinary working day that is to be treated as a show holiday for all purposes.

7.6.4 *Employees who do not work Monday to Friday of each week*

Employees who do not ordinarily work Monday to Friday of each week are entitled to public holidays as follows:

- (a) A full-time employee is entitled to either payment for each public holiday or a substituted day's leave.
- (b) A part-time employee is entitled to either payment for each public holiday or a substituted day's leave:

Provided that the part-time employee would have been ordinarily rostered to work on that day had it not been a public holiday.

- (c) Where a public holiday would have fallen on a Saturday or a Sunday but is substituted for another day all employees who would ordinarily have worked on such Saturday or Sunday but who are not rostered to work on such day are entitled to payment for the public holiday or a substituted day's leave.
- (d) Where Christmas Day falls on a Saturday or a Sunday and the public holiday is observed on another day an employee required to work on Christmas Day (i.e. 25th December) is to be paid at the rate of double time.
- (e) Nothing in clause 7.6.4 confers a right to any employee to payment for a public holiday as well as a substituted day in lieu.

7.6.5 *Double time and a-half*

For the purposes of clause 7.6 "double time and a-half" means one and a-half day's wages in addition to the employee's ordinary time rate of pay or *pro rata* if there is more or less than a day.

7.6.6 *Stand down*

Any employee, with 2 weeks or more of continuous service, whose employment has been terminated by the employer or who has been stood down by the employer during the month of December, and who is re-employed in January of the following year, shall be entitled to payment at the ordinary rate payable to that employee when they were dismissed or stood down, for any one or more of the following holidays, namely, Christmas Day, Boxing Day and New Year's Day.

7.6.7 *Substitution*

Where there is agreement between the employer and the majority of employees concerned, a public holiday may be substituted for another day. If such other day is worked, then payment for that day will be at the rate of double time and a-half at the employees' ordinary time rate of pay.

7.7 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

8.1 Board and accommodation

8.1.1 Whilst away from the vessel's designated operational base, Sea Swift shall provide the employee with proper meals and accommodation and be responsible for payment of reasonable expenses actually incurred for such meals and accommodation ashore.

8.1.2 Whilst at sea, every employee shall be provided with proper meals, attendance, bedding and soap, and be supplied once a week with clean bed linen and twice a week with clean towels. Sea Swift shall be responsible for the laundering of linen and towels.

8.1.3 Where it is the Sea Swift's responsibility to provide the employee with proper meals and accommodation ashore, and he fails to do so Sea Swift shall reimburse the employee for all costs incurred in relation to normal meals partaken and charges incurred for a good standard of accommodation.

8.1.4 Tea, sugar, milk and coffee shall be provided on all vessels for employees at the employer's expense.

PART 9 - TRAINING AND RELATED MATTERS

9.1 Commitment to training

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
- (c) removing barriers to the use of skills acquired.

9.2 Training and education

9.2.1 The parties will develop an appropriate training programme for employees of Sea Swift on the following procedures:

9.2.2 All training will be competency based, subject to the prevailing statutory requirements, with clearly defined and agreed performance standards. Employees will have to demonstrate capability against these standards as part of the training process and additional training will be given as required.

9.2.3 Training will focus on the needs of the learner rather than the trainer. As far as possible, training will be self paced and self motivated and employees will be actively encouraged to participate in their own learning.

9.2.4 Training will be developed on a modular basis where possible, to suit the requirements of Sea Swift. It will be consistent with the workskills identified through the job appraisal system recognised by the Union as appropriate and currently operating at Sea Swift.

9.2.5 The role of every employee in training others is recognised and all employees will be given the opportunity to receive formal training in how to train others. The Section or work team will be responsible for the scheduling of training for that work team. Emphasis will be given to training, consistent with the skills required by the Section or work team.

9.5.6 Adequate time with no resulting loss of income shall be available where appropriate, for recognised training and educational purposes relevant to employees.

Training shall be available at both internal and external training facilities.

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

10.1 Uniforms and protective clothing and equipment

Where an employee is required to wear a uniform, sufficient numbers of such uniforms will be provided by Sea Swift having regard to the nature of the work performed.

Where an employee is required to work in areas exposed to sunlight or insect infestation, Sea Swift will provide appropriate hats, solar protective and insect lotions.

Where it is a requirement for an employee to wear safety footwear such footwear will, subject to clause 10.1, be provided by the employer. After each 6 months of employment, Sea Swift will reimburse the reasonable cost of safety footwear to the employee.

Where it is a requirement for an employee to wear protective clothing and equipment such clothing and equipment will be provided by Sea Swift for use during the employees work.

Uniforms, protective clothing and equipment, issued to an employee, will remain the property of Sea Swift, and shall be replaced on a fair wear and tear basis.

10.2 Safety and working environment

10.2.1 A continuing high safety and working environment standard will be maintained in all Sections of Sea Swift operations.

10.2.2 In support of this, employees will participate, where possible, in the following:

- (a) housekeeping to be carried out so that plant, equipment and machinery are maintained in a clean and reasonable condition as part of normal duties without loss of service.
- (b) emergency practices and simulations.
- (c) safety training programme and lectures.
- (d) safety audits.
- (e) unusual incident/injury reports and follow-up.

10.3 Alcohol and smoking and other policies

Subject to any prevailing statutory requirements, policies in relation to the consumption of alcohol, smoking and the duties of employees to each other may be developed in consultation with the Union and enforced as a condition of employment.

10.4 Loss of personal effects

If an employee sustains loss or damage of or to the employee's personal effects, tools or other equipment by fire, foundering shipwreck, collision, explosion, stranding or ingress of oil or water during or in the course of the employee's employment, Sea Swift shall compensate the employee concerned for such loss or damage by a cash payment equivalent to the value of the effects, tools or other equipment so lost or damaged but any such payment shall not exceed the amount of \$250.00.

10.5 Amenities

Suitable amenities shall be provided by Sea Swift, and such amenities shall comply in all respects with the requirements of the *Workplace Health and Safety Act 1995*, and any amendment thereof, and with all rules and regulations made under the said Act.

10.6 Accidents and first-aid

When employees are injured seriously or become seriously ill at their work, Sea Swift shall provide a means of getting them to the nearest hospital or pay expenses of transmission to hospital.

First-aid kits maintained in accordance with the provisions of the *Workplace Health and Safety Act 1995*, shall be kept in suitable and secure cases provided at central positions at an employee's place of work in the park so as to be at all times readily available for the use of the employees and the first-aid attendant.

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 they do not want their 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 An 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 Trade Union training leave

11.3.1 A Union delegate or duly elected or appointed Union representative will, upon written application by the Union to the employer, such application being endorsed by the Union and given to the employer at least 2 months in advance (or such lesser period as mutually agreed between the Union and the employer/s), 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. The scope, content and level of such courses or seminars must be such as to contribute to a better understanding of industrial relations within the employer's operations. Other courses mutually agreed between the Union and an employer, or employers, may be included under clause 11.3.

11.3.2 Any written application by the Union seeking release of a delegate or representative to attend a course will 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.

11.3.3 For the purposes of clause 11.3 "ordinary pay" means the ordinary time rate of pay payable to the employee exclusive of any allowance for travelling time and fares.

11.3.4 The granting of such leave is subject to the employee having at least 6 months' continuous service with the employer prior to such leave being granted and being the elected Union delegate/representative.

11.3.5 Unless otherwise agreed the maximum number of employees of one and the same employer attending a training course or seminar each year will be as follows:

| | |
|---|---|
| where the employer employs between 10-50 employees | 1 |
| where the employer employs between 51-100 employees | 2 |
| where the employer employs over 100 employees | 4 |

11.3.6 The granting of such leave is subject to the convenience of the employer so that the operations of the enterprise will not be adversely affected.

11.3.7 Where an employer approaches the Union and demonstrates genuine difficulties with respect to the release of a particular Union delegate or representative at a particular time (including where the employer might have previously advised of its ability to release such Union delegate or representative) the Union will not unreasonably press its request for the release of that delegate/representative at that time. If the matter is not amicably resolved, it will be processed in accordance with the grievance and dispute settling procedure contained in clause 3.2.

11.3.8 In granting such paid leave, the employer is not responsible for any additional costs except the payment of extra remuneration where relieving arrangements are instituted by the employer to cover the absence of the employee.

11.3.9 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 or with any other concessional leave.

11.3.10 Such paid leave will not affect other leave granted to employees under this Award.

11.3.11 On completion of the course the employee must, upon request, provide to the employer 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.

11.4 Posting of Award

A true copy of this Award must be exhibited in a conspicuous and convenient place on the premises of the employer so as to be easily read by employees.

11.5 Union encouragement

Preamble.

Clause 11.5 gives effect to section 110 of the Act in its entirety. Consistent with section 110 a Full Bench of the 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 the Union.

11.5.1 Documentation to be provided by employer

At the point of engagement, the employer shall provide employees with a document indicating that a Statement of Policy on Union Encouragement has been issued by the Commission, a copy of which is to be kept on the premises of the employer in a place readily accessible by each employee.

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

11.5.2 Union delegates

- (a) 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.
- (b) The employer shall not unnecessarily hinder accredited Union delegates and/or job representatives in the reasonable and responsible performance of their duties.

Dated: 27 June 2005.

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

Operative Date: 27 June 2005
Repeal of Industrial Agreement and New Award - Sea Swift
Pty Ltd Enterprise Award - State 2005.
Released: 6 July 2005