

From: Daniel Shaw [mailto:daniel.shaw@harmers.com.au]
Sent: Friday, 30 January 2015 1:25 PM
To: Chambers - Ross J
Cc: Michael Harmer
Subject: AM 2014/198 - Four Yearly Review of Modern Awards - Submissions on Exposure Draft - Alpine Resorts Award 2014 [HWL-HARMERS.FID839861]

Dear Associate,

Please find **attached**, for filing, the Australian Ski Areas Association's submissions, and accompanying annexures, on the Exposure Draft - Alpine Resorts Award 2014.

Given the number and size of the annexures, we will be sending the remaining annexures in a further email.

Please do not hesitate to contact us if you have any questions.

Kind regards,

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Please note: The Harmers Sydney reception, conference rooms, and address have changed from L28 to L27 from 15 December 2014 as above.

FOUR YEARLY REVIEW OF MODERN AWARDS

**AUSTRALIAN SKI AREAS ASSOCIATION SUBMISSIONS ON THE EXPOSURE
DRAFT FOR THE ALPINE RESORTS AWARD 2014**

1 Introduction

- 1.1 These submissions on the exposure draft for the proposed *Alpine Resorts Award 2014* (“**Exposure Draft**”) are made by the Australian Ski Areas Association (“**Association**”), pursuant to President Ross’ directions, issued 8 December 2014.
- 1.2 The Association has reviewed the Exposure Draft and sets out below its submissions in relation to the variations that it seeks, its submissions in response to certain issues raised by other interested parties and its response to the comments left by the Fair Work Commission (“**Commission**”) in the Exposure Draft.
- 1.3 The Association notes that it presses for changes to the Exposure Draft regarding part-time work and certain certification levels in Schedule B of the Exposure Draft. A summary of these requested variations are set out in Harmers Workplace Lawyers’ letter to President Ross, dated 22 October 2014. Annexed and marked “A” is a copy of that letter.
- 1.4 The Association contends that the submissions in that letter provide a basis for the alteration of the Exposure Draft, however, it provides more fulsome and additional submissions below.
- 1.5 Precise variations sought through the Exposure Draft are set out at **Schedule 1** of these submissions.
- 1.6 The Association contends that the variations that it seeks strike an appropriate balance between the components of the Modern Awards objectives set out in Section 134 of the *Fair Work Act 2009* (Cth) (“**Act**”).
- 1.7 In these submissions, the Association collectively refers to the Exposure Draft and the *Alpine Resorts Award 2010* as the “**Award**”.

2 Part-time employment and ordinary hours of work

- 2.1 The Association requests that clauses 6.4(a)(ii) and 10.3 of the Exposure Draft are amended so that part-time employees are characterised as employees who are “engaged to work an average of at least eight and no more that 38 hours per week over a work cycle of four weeks”, rather than a maximum of 35 hours per week over a work cycle of four weeks, which clauses 6.4(a)(ii) and 10.3 of the Exposure Draft currently provide.

- 2.2 This requested variation is made to rectify the four hour discrepancy between full-time and part-time employment that currently exists in the Exposure Draft, since full-time employees are characterised as employees who are engaged to work 38 ordinary hours per week, whilst part-time employees are characterised as employees who are engaged to work at least eight and less than 35 hours per week.
- 2.3 The Association notes that the characterisation of part-time employment in clauses 6.4(a)(ii) and 10.3 of the Exposure Draft, in respect to the maximum hours worked by a part-time employee, are inconsistent with the characterisation of part-time employment in clause 7.4 of the Exposure Draft, in the same respect, which currently provides that “a part-time seasonal employee is a seasonal employee who is engaged to work less than 38 ordinary hours per week (or an average of less than 38 ordinary hours over the anticipated length of their employment)” [emphasis added].
- 2.4 The Association further notes that the characterisation of a part-time employee as an employee who is “engaged to work an average of at least eight and no more than 35 hours per week over a work cycle of four weeks” is not reflected in the following pre-modernisation snowsports industry awards:
- (a) *NSW Ski Industry (State) Award* (now a Preserved Collective State Agreement (“PCSA”)) (“**NSW Ski Industry Award**”);
 - (b) *NSW Ski Instructors (State) Award* (now a PCSA) (“**NSW Ski Instructors Award**”); and
 - (c) *NSW Ski Tube (State) Award* (now a PCSA) (“**NSW Skitube Award**”),
- (together the “**NSW Ski Awards**”),
- which the Association contends, along with the *Victorian Alpine Resorts (Australian Workers Union) Award 2001* (“**Victorian (AWU) Award**”), were the primary industrial instruments in the snowsports industry prior to the award modernisation process and are the instruments that properly form the basis of the Award. Annexed and marked “**B**”, “**C**”, “**D**” and “**E**” respectively are copies of these industrial instruments.
- 2.5 The Association similarly held this contention during the award modernisation process. See paragraphs 3.3 to 3.18 of the Association’s written submissions to the Australian Industrial Relations Commission (“**AIRC**”) on 6 March 2009 (“**March 2009 Submissions**”) and paragraphs 3.1 to 3.4 of the Association’s 8 April 2009 submissions (“**April 2009 Submissions**”). Annexed and marked “**F**” and “**G**” respectively are copies of these submissions.
- 2.6 Also during the award modernisation process, the Association, in its Draft Alpine Resorts (General) Award 2010 (“**Association AMOD Award**”), supported the characterisation of a part-time employee as an employee “engaged to work less than 38 ordinary hours” per week.¹ However, in the Australian Workers’ Union’s (“**AWU**”) Draft Alpine Resorts (General) Award 2010 (“**AWU AMOD Award**”),

¹ See clause 11.3 of the Association AMOD Award.

the AWU requested a variation to the Association AMOD Award, to the effect that a part-time employee was characterised as an employee engaged for at least 8 and no more than 35 hours per week, which was based on clause 16.1.2 of the Victorian (AWU) Award.² Annexed and marked “H” and “I” respectively are copies of these industrial instruments.

- 2.7 Notably, in both the Victorian (AWU) Award and the AWU AMOD Award, there also exists a four hour discrepancy between full-time and part-time employment, as full-time employees in these awards are characterised as employees who are engaged to work 38 ordinary hours per week.³
- 2.8 The Association further notes that a part-time seasonal employee, in the AWU AMOD Award, is characterised as an employee engaged to work less than 38 ordinary hours per week.⁴
- 2.9 It is the Association’s submission that the characterisation of a part-time employee in clauses 6.4(a)(ii) and 10.3 of the Exposure Draft, as an employee “engaged to work an average of at least eight and no more that 35 hours per week over a work cycle of four weeks”, is a mistake, which has been carried over from a mistake in the Victorian (AWU) Award. The Association submits that this mistake should be amended during this review process.

3 Equivalency table at Schedule B of the Exposure Draft

- 3.1 The second variation to the Exposure Draft requested by the Association is the variation of “Schedule B – Equivalency of Snowsports Qualifications” of the Exposure Draft. The Association seeks this variation due to the recent name changes of certification levels by the Australian Professional Snowsports Instructors.
- 3.2 Pursuant to Justice Ross’ comments during the Group 2 Conference on 2 December 2014, that the Association is encouraged to obtain consent from the parties for this requested variation, given that changes in certification levels should be a formality, the Association wrote to the interested parties in this matter on 22 January 2015, seeking consent for this variation. A copy of one such letter is annexed and marked “J”.
- 3.3 The Association notes that since sending its letter it has been in correspondence with some of the parties (including the AWU) regarding this requested variation and that it will notify the Commission if it obtains such consent.
- 3.4 The Association notes that Schedule C of the *Alpine Resorts Award 2010* appears as Schedule B in the Exposure Draft.
- 3.5 These requested variations are set out in **Schedule 1** of these submissions.

² See clauses 11.3 and 28.1 of the AWU AMOD Award.

³ See clause 16.1.1 of the Victorian (AWU) Award and clauses 11.2 and 28.1 of the AWU AMOD Award.

⁴ See clause 12.3 in the AWU AMOD Award.

4 Overtime and ordinary hours of work and rostering

- 4.1 The Association has reviewed the AWU's proposed variations to clauses 25.2 and 22.1 of the *Alpine Resorts Award 2010*, regarding the payment of overtime for casual employees. In the AWU's proposal, it submits that clause 25.2 of the *Alpine Resorts Award 2010* appears to conflict with clause 22.1 of the same award, as clause 25.2 excludes casual employees from the benefit of overtime, whilst clause 22.1 states that all employees (the clause is silent on whether or not it applies to full-time, part-time and/or casual employees) can work a maximum of 10 hours per day.
- 4.2 It is the Association's view that clause 25.2 of the *Alpine Resorts Award 2010* clearly excludes casual employees from overtime penalty rates, in that it expressly provides that "an employee, other than a casual employee or a Snowsports Instructor, must be paid overtime rates". Moreover, clause 10.5 of the *Alpine Resorts Award 2010* states that casual loading compensates casual employees for, *inter alia*, "other entitlements from which they are excluded by the terms of this award and the NES", which the Association submits, includes overtime.
- 4.3 Notably, in the Victorian (AWU) Award (which is one of the pre-modernisation snowsports industry awards that appropriately forms the basis of the Award) and the AWU AMOD Award, the clause concerning maximum daily ordinary hours states "the maximum daily ordinary hours of full-time and part-time employees will be 10 hours per day excluding meal breaks".⁵ Casual employees are expressly excluded from the characterisation of maximum daily hours.
- 4.4 Notwithstanding the above, the Association responds to specific matters raised by the AWU in its outline of variations, filed with the Commission on 25 November 2014 ("**AWU Outline of Variations**"). The Association notes, however, that whilst drafting these submissions it remained unaware of the full extent of the AWU's submissions, only that it relies on a certain subsection within 134 of the Act and certain entitlements within the NSW Ski Industry Award and the *Victorian Alpine Resorts Award 1999* (VIC) ("**VAR Award**").
- 4.5 Firstly, in respect to section 134 of the Act, the Association notes that the Modern Award objectives in 134 of the Act, in addition to the subsection quoted in the AWU Outline of Variations, also includes the following considerations:
- the need to promote flexible modern work practices and the efficient and productive performance of work;
 - the likely impact of any exercise of modern award powers on business, including on productivity, employment costs and the regulatory burden; and
 - the likely impact of any exercise of modern award powers on employment growth, inflation and the sustainability, performance and competitiveness of the national economy.

⁵ See clause 16.2 of the Victorian (AWU) Award and clause 28.1 of the AWU AMOD Award.

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- 4.6 It is the Association's submission that the variation sought by the AWU distorts the balance that the Award presently achieves, in respect to casual employees.
- 4.7 In respect to the instruments relied upon in the AWU Outline of Variations, the Association firstly notes that its contention, as it was during the award modernisation process (see paragraphs 3.3 to 3.21 of the Association's March 2009 Submissions, and paragraphs 2.4 to 2.21 of the Association's April 2009 Submissions, which are attached to these submissions), is that the following pre-modernisation snowsports industry awards properly form the basis of the Award:
- (a) Victorian (AWU) Award;
 - (b) NSW Ski Industry Award;
 - (c) NSW Ski Instructors Award; and
 - (d) NSW Skitube Award.
- (together the "**Snowsports Industry Awards**").
- 4.8 Against this background, the Association notes that the unique nature of the snowsports industry (in that it is an industry that is greatly seasonal in nature, highly vulnerable to changing weather conditions, experiences a substantial peak in business during the weekend and whose work is often undertaken by snowsports enthusiasts who wish to have the flexibility to work on weekends (when it is busiest) and ski on weekdays) is reflected in the Snowsports Industry Awards.
- 4.9 It is therefore significant that casual employees are excluded from overtime entitlements within the Victorian (AWU) Award. Moreover, it is the Association's contention that there is no express entitlement to overtime for casual employees under the Ski Industry Award, which is contrary to the contention in the AWU Outline of Variations.
- 4.10 Further, the Association notes that there is no express entitlement to overtime for casual employees under the NSW Ski Instructors Award and the NSW Skitube Award.
- 4.11 In respect to the VAR Award, it is the Association's contention that this award was not the primary pre-modern award for the snowsports industry and that it is inappropriate to benchmark the terms contained in the Award against those contained in the VAR Award.
- 4.12 The Association made extensive submissions regarding the unsuitability of the VAR Award as a benchmark for the Award. These submissions can be found at paragraphs 3.1 to 3.4 of the April 2009 Submissions. The April 2009 Submissions are attached at annexure "G" to these submissions.
- 4.13 The Association notes that clauses 25.2 and 22.1 of the *Alpine Resorts Award 2010* appear as clauses 17.2 and 10.1 respectively in the Exposure Draft.
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- 4.14 It is the Association's submission that the Exposure Draft, in its current form, is sufficiently clear in respect to clauses 17.2 and 10.1 (clauses 25.2 and 22.1 respectively in the *Alpine Resorts Award 2010*). Therefore, no variation is necessary.
- 4.15 The Association notes, however, that if the Commission find that there is conflict between clauses 17.2 and 10.1 of the Exposure Draft, its submission is that clause 10.1 should be amended so that it applies only to full-time and part-time employees, and not casual employees, in the same manner as the example in paragraph 4.3 above.
- 4.16 The Association reserves its right to make further submissions regarding the AWU's proposed variations to the Award.

5 Payment for work performed on public holidays

- 5.1 The Association has reviewed the Fair Work Ombudsman's identification of issues with the *Alpine Resorts Award 2010*. The FWO submitted that clause 25.1 of the *Alpine Resorts Award 2010* is unclear, as it is unclear as to whether the rate of double time and a half, which casual employees are paid for work performed on public holidays, is calculated as:
- (a) 250% of the base rate of pay (with no further casual loading payable); or
 - (b) 250% of the base rate of pay plus the 25% casual loading; or
 - (c) 250% of the casually loaded rate of pay.
- 5.2 The Association notes that clause 25.1 of the *Alpine Resorts Award 2010* appears as clause 17.1 in the Exposure Draft.
- 5.3 The Association submits that clause 17.1 of the Exposure Draft clearly provides that the rate of double time and a half is to be paid on the base rate of pay, in place of the casual loading of 25%, and not in addition to the casual loading of 25%, as clause 17.1(b) expressly provides that "in the case of casual employees this rate includes the casual loading of 25%".
- 5.4 It is therefore the Association's submission that the Exposure Draft, in its current form, is sufficiently clear in respect to clause 17.1. Therefore, no variation is necessary.
- 5.5 The Association reserves its right to make further submissions regarding this perceived issue with the Award.

6 Seasonal Employees

- 6.1 The Association requests that the phrase "plus the loading in clause 7.5" is removed from clause 7.6 of the Exposure Draft, as it creates uncertainty as to the actual rate of pay that seasonal employees are entitled to receive.

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- 6.2 Clause 7.6 of the Exposure Draft provides that “seasonal employees will be paid the hourly rate applicable to their classification as set out in clause 13—Minimum wages plus the loading in clause 7.5”.
- 6.3 Relevantly, the minimum hourly rate provided for seasonal employees in clause 13—Minimum wages already includes an 8.33% loading on the minimum hourly rate for each classification.
- 6.4 The inclusion of the phrase “plus the loading in clause 7.5” in clause 7.6 of the Exposure draft invites an argument that casual employees are entitled to receive an 8.33% loading on top of the minimum seasonal hourly rate provided for in clause 13—Minimum wages, which already includes an 8.33% loading.
- 6.5 This is contrary to operation of seasonal employment in the *Alpine Resorts Award 2010*. The Association notes that clause 7.6 of the Exposure Draft reflects clause 11.8 of the *Alpine Resorts Award 2010*, which provides that “seasonal employees will be paid the hourly rate applicable to their classification as set out in clause 16—Minimum hourly rates”.

7 Apprentices

- 7.1 The Association requests that clause 8.1 in the Exposure Draft is amended so that the phrase “clause 13.4—Apprentices” is replaced with the phrase “clause 13—Minimum wages”, as this is consistent with clause 12.1 in the *Alpine Resorts Award 2010*.
- 7.2 The Association notes that clause 12.1 of the *Alpine Resorts Award 2010* appears as clause 8.1 in the Exposure Draft.

8 Coverage of the Award

- 8.1 The Association notes that Falls Creek and Mount Hotham Chamber of Commerce have made submissions on the Exposure Draft (“**Falls Creek and MHCC Submissions**”). The substance of the Falls Creek and MHCC Submissions is that the coverage of the Award is extended beyond employers who operate an alpine resort, whose business, among other things, includes alpine lifting.
- 8.2 It is the Association’s submission that the coverage of the Award should not be varied and that the Falls Creek and MHCC Submissions should not be considered during this process.
- 8.3 Falls Creek and Mount Hotham Chamber of Commerce had the opportunity to raise this matter in accordance with the timetable set by Justice Ross for the Group 2 Awards in the Award Stage, however, it failed to do so. The Association’s comments in this regard reflect those of Justice Ross during the 2 December 2014 conference for the Group 2 Awards.
- 8.4 The Association notes that the requested variation that forms the substance of the Falls Creek and MHCC Submissions was the subject of an application to the Commission made by Falls Creek Oversnow Pty Ltd and DPSI General Pty Ltd on 23 May 2014. That application was withdrawn by Falls Creek Oversnow Pty Ltd

and DPSI General Pty Ltd following substantial written and oral argument in the proceedings. The Association relies on its written (in particular its outline of submissions dated 24 June 2014) and oral submissions during the proceedings in support of its objection to the Falls Creek and MHCC Submissions.

- 8.5 A copy of the Association's outline of submissions dated 24 June 2014 is annexed and marked "K".
- 8.6 The Association reserves its right to make further submissions regarding its objection to the Falls Creek and MHCC Submissions in the next round of submissions on the Exposure Draft.

9 Response to comments left by the Commission in the Exposure Draft

Provisions that do not apply to casual employees

- 9.1 At clause 6.5 of the Exposure Draft, the Commission asked the parties to provide a list of provisions that do not apply to casual employees.
- 9.2 It is the Association's view that the following provisions do not apply to casual employees:
- (a) 7 - Seasonal employment;
 - (b) 8 - Apprentices;
 - (c) 10 - Ordinary hours worked;
 - (d) 11.3 - Rostered days off;
 - (e) 13.4 - Apprentices;
 - (f) 15.3(a) - Meal allowance;
 - (g) 17.2 - Overtime;
 - (h) 18 - Annual leave;
 - (i) 19 - Personal/carer's leave and compassionate leave, save for the third bullet point in clause 19.1 regarding unpaid compassionate leave;
 - (j) 22 - Community service leave, only in respect to the entitlement to paid leave for jury service;
 - (k) 23 - Termination of employment;
 - (l) 24 - Redundancy;
 - (m) 25 - Consultation, so far as it relates to redundancy;
 - (n) D.2 - Expense related allowances, only in respect to meal allowances;

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- (o) D.3.1(b) - Adjustment of expense related allowances, only in respect to meal allowances;
 - (p) Schedule E - National training wage; and
 - (q) Schedule G - School-based apprentices.

Ordinary Hours of Work

- 9.3 At clause 10.1 of the Exposure Draft, the Commission asked the parties whether “any five days of the week” should be changed to “any five days from Monday to Sunday” or “Monday to Friday” and whether these days need to be consecutive.
- 9.4 It is the Association’s submission that clause 10.1 of the Exposure Draft should not be changed.
- 9.5 In this regard, the Association notes that clause 10.1 of the Exposure Draft, as it stands, is consistent with the Snowsports Industry Awards, which the Association submits, as it did during the award modernisation process, are the pre-modernisation snowsports industry awards that appropriately form the basis of the Award.
- 9.6 The terms and conditions within these pre-modernisation snowsports industry awards were negotiated against the unique nature of the snowsports industry, which was concisely summarised by his Honour Justice Watson, when in 1989 the NSW Ski Industry Award was formed. In deliberating the terms and conditions within the Ski Industry Award, his Honour took into account:
- (a) the seasonal nature of the industry – with the majority of employees being engaged only during the ski season (which runs from early June to early October, depending on the snow conditions);
 - (b) the amount of work depending on the snow conditions on any particular day;
 - (c) that weekends are the busiest times at the resorts; and
 - (d) that the work is often undertaken by snowsports enthusiasts who wish to have the flexibility to work on weekends (when it is busiest) and ski on weekdays.
- 9.7 These considerations are relevant throughout the snowsports industry and remain relevant today.
- 9.8 Against this background, the Association submits that clause 10.1 should not be changed to “any five days from Monday to Sunday” or “Monday to Friday”, nor should it be changed so that the five in seven days that employees are required to work are consecutive days.
- 9.9 Such an amendment would result in a significant increase in costs to the Alpine Resorts (as defined in the Award) and a reduction in the flexibility of working

arrangements, which is a necessary component with the unique nature of the snowsports industry.

9.10 In this context, the Association submits that an amendment causing such an increase in costs and a reduction in the flexibility of working arrangements in the snowsports industry is against the Modern Awards objectives set out in Section 134 of the Act.

9.11 The Association reserves the right to make further submissions in this regard, in the face of submissions by other interested parties to amend clause 10.1 of the Exposure Draft, and otherwise.

Annual leave

9.12 At clause 18.1 of the Exposure Draft, the Commission asked the parties whether a provision regarding the rate of pay on annual leave should be inserted.

9.13 It is the Association's view that such an addition is unnecessary, as the rate of pay on annual leave is made sufficiently clear within the Act.

Requirement to take annual leave

9.14 At clause 18.2 of the Exposure Draft, the Commission asked the parties whether a provision should be inserted in clause 18 to clarify seasonal employees' entitlement to annual leave.

9.15 It is the Association's view that clause 18, as it stands, is sufficiently clear, however, the Association reserves its right to make further submissions in response to any suggested variation in this regard.

Coverage

9.16 At E.3.3 of the Exposure Draft, the Commission asked the parties to identify "any training program which applies to the same occupation and achieves essentially the same training outcome as an existing apprenticeship in an award as at 25 June 1997" that they consider should not be covered by Schedule E.

9.17 The Association makes no comments in this regard, however, it reserves its right to make further submissions in response to any suggested variation in this regard.

Allocation of traineeships to wage allocation

9.18 At E.7 of the Exposure Draft, the Commission has asked the parties to review the packages listed to ensure the lists are complete and up-to-date.

9.19 The Association makes no comments in this regard, however, it reserves its right to make further submissions in response to any suggested variation in this regard.

10 Request for certain variations to be referred back to the Group 2 Awards Stage concerning the Alpine Resorts Award 2010

- 10.1 The Association notes that at the 2 December 2014 Group 2 Conference, President Ross referred the variations proposed by the AWU regarding casual employees (see paragraph 4 above), by the FWO regarding casual employees (see paragraph 5 above) and by the Association regarding part-time employees (see paragraph 2 above) (“**Referred Variations**”), to the Full Bench dealing with common issues concerning part-time and casual employees.
- 10.2 In accordance with the President’s directions, the Association participated in the Full Bench’s proceedings dealing with common issues concerning part-time and casual employees, however, the Association respectfully requests that the Referred Variations are referred back to the Group 2 Award Stage, concerning the *Alpine Resorts Award 2010*.
- 10.3 The primary justification for this request is the unique nature of the snowsports industry and its industrial regulation, which requires the Referred Variations to be considered in isolation from the other awards being considered by the Full Bench and with full contemplation of the unique nature of the snowsports industry.
- 10.4 The unique nature of the snowsports industry, and its industrial regulation, was deliberated extensively before the AIRC during the award modernisation process, and is summarised at paragraph 9.6 and 9.7 above. The Association reiterates the unique nature of the snowsports industry, in that it is an industry that is greatly seasonal in nature, highly vulnerable to changing weather conditions, experiences a substantial peak in business during the weekend and whose work is often undertaken by snowsports enthusiasts who wish to have the flexibility to work on weekends (when it is busiest) and ski on weekdays.
- 10.5 The relevant pre-modernisation industrial instruments in the snowsports industry, which form the basis of the Award, each contain unique conditions and flexibilities (including, for example, clauses relating to the payment of penalty rates, any five in seven work arrangements and that contain specific provisions for seasonal employees), which have been negotiated over a number of years against the unique nature of the snowsports industry. A summary of the industrial regulation of the snowsports industry is set out at paragraphs 3.3 to 3.21 of the Association’s March 2009 Submissions, and paragraphs 2.4 to 2.21 of the Association’s April 2009 Submissions. These submissions are attached at annexures “**F**” and “**G**” respectively.
- 10.6 The broad range of classifications that exist within the Award, which are otherwise uncommon in other awards, further evidences the unique nature of the snowsports industry and its industrial regulation. Notably, the classifications in the Award cover roles that otherwise may have fallen within other occupations and industries, but which are appropriately included in the Award, as it enables the Alpine Resorts (as defined in the Award) to utilise their employees across their resorts efficiently and commercially, particularly during times of poor weather conditions.⁶

⁶ See paragraphs 2.8 to 2.11 of the April 2009 Submissions

- 10.7 Against this background, the Association respectfully requests that the Commission refers the Referred Variations back to the Group 2 Award Stage, concerning the *Alpine Resorts Award 2010*.
- 10.8 Such an adjustment will provide the Association with greater opportunity to participate in the four yearly review process, particularly given the Association's discrete involvement.
- 10.9 The Association respectfully submits that the requirement for the Association to be involved in the Full Bench's proceedings dealing with common issues concerning part-time and casual employees will be a costly exercise for the Association, and is a process with which the Association will have minimal involvement.

11 Further matters

- 11.1 The Association reserves its right to make further submissions in this matter.

Harmers Workplace Lawyers

30 January 2015

Schedule 1**Alpine Resorts Award 2014**
Amendments to Exposure Draft as published on 8 December 2014
Proposed by the Australian Ski Areas Association**1. Clause 6.4(a)(ii) — Part-time employment**

Delete clause 6.4(a)(ii), insert instead:

- (ii) is engaged to work an average of at least eight and no more than 38 hours per week over a work cycle of four weeks

2. Clause 7.6 — Seasonal employees

Delete clause 7.6, insert instead:

Seasonal employees will be paid the hourly rate applicable to their classification as set out in clause 13—Minimum wages.

3. Clause 8.1 — Apprentices

Delete clause 8.1, insert instead:

Apprentices will be engaged in accordance with relevant apprenticeship legislation and be paid in accordance with clause 13—Minimum wages.

4. Clause 10.3 — Ordinary hours of work

Delete clause 10.3, insert instead:

The ordinary hours of part-time employees will average at least eight and no more than 38 hours per week over a maximum work cycle of four weeks.

5. Clause 6.5(b)(iii) — Casual Loading

At clause 6.5(b)(iii), insert:

- (a) 7 - Seasonal employment;
- (b) 8 - Apprentices;
- (c) 10 - Ordinary hours worked;
- (d) 11.3 - Rostered days off;
- (e) 13.4 - Apprentices;
- (f) 15.3(a) - Meal allowance;
- (g) 17.2 - Overtime;

- (h) 18 - Annual leave;
- (i) 19 - Personal/carer's leave and compassionate leave, save for the third bullet point in clause 19.1 regarding unpaid compassionate leave;
- (j) 22 - Community service leave, only in respect to the entitlement to paid leave for jury service;
- (k) 23 - Termination of employment;
- (l) 24 - Redundancy;
- (m) 25 - Consultation, so far as it relates to redundancy;
- (n) D.2 - Expense related allowances, only in respect to meal allowances;
- (o) D.3.1(b) - Adjustment of expense related allowances, only in respect to meal allowances;
- (p) Schedule E - National training wage; and
- (q) Schedule G - School-based apprentices.

6. Schedule B — Equivalency of Snowsports Qualifications

Amend the table at Schedule B, in accordance with the amendments shown in mark up below:

Table 1 Country	Association Certification Level
Australia	APSI (Ski & SB) Instructor Training Course/Recruitment Clinic <u>Level 1</u>
Austria	ÖSSV (Ski & SB) Anwärter
Canada	CSIA (Ski) CSIA Level 1 CASI (SB) CASI Level 1 CSCF (Coaching) Entry Level (1)
<u>Korea</u>	<u>KSIA (Ski & SB) Level 1</u>
New Zealand	NZSIA (Ski) SBINZ <u>& (SB) Level 1-C.S.I</u>
<u>Poland</u>	<u>SITN-PZN Children's Level</u>
Switzerland	SSSA (Ski & SB) Kinderlehrer (Child Tutor)
United Kingdom	BASI (Ski) Alpine <u>Level 1 – Dry Slope Specific</u> BASI (SB) SB <u>Level 1 – Dry Slope Specific</u>
USA	PSIA (Ski) PSIA <u>Level 1</u> AASI (SB) AASI <u>Level 1</u>

Table 2 Country	Association Certification Level
Australia	APSI (Ski & SB) APSI Level 1 (or equivalent certification prior to 2011 being Australia APSI (Ski & SB) Children's Certificate)
Canada	CSCF (Coaching) Level 1 Advanced Certification
<u>USA</u>	<u>PSIA (Ski) AASI (SB) Level 1 plus PSIA children's specialist 1</u>

Table 3 Country	Association Certification Level
Australia	APSI (Ski & SB) APSI Level 2 (or equivalent certification prior to 2011 being Australia APSI (Ski & SB) APSI Level 1)
Austria	ÖSSV (Ski & SB) <u>Landeslehrer 1 (Aufnahmsprüfung)Anwärter</u>
Canada	CSIA (Ski) CSIA Level 2 CASI (SB) CASI Level 2 CSCF (Coaching) Development Level (2)
Czech Republic	APUL (<u>Ski & SB</u>) APUL C
Japan	SIA (<u>Ski & SB</u>) IT I (Bronze Medal)
<u>Korea</u>	<u>KSIA (Ski & SB) Level 2</u>
Netherlands	NVVS (<u>Ski & SB</u>) A-Diploma
New Zealand	NZSIA (Ski) <u>SBINZ (-& SB) Stage One Level 2</u>
Poland	SITN-PZN Level Basic
Slovakia	SAPUL (<u>Ski & SB</u>) C Qualification
Slovenia	SIAS-ZUTS (Ski & SB) Level 1
Switzerland	SSSA (<u>Ski & SB</u>) Stufe 1
United Kingdom	BASI (Ski) Alpine L <u>Level 2</u> BASI (SB) SB <u>Level 2</u>
USA	AASI (SB) AASI Level 2 <u>plus children's specialist 1</u> PSIA (Ski) PSIA Level 2 <u>plus children's specialist 1</u>

Table 4 Country	Association Certification Level
Australia	APSI (Ski & SB) APSI Level 3 (or equivalent certification prior to 2011 being Australia APSI (Ski & SB) APSI Level 2)
Austria	ÖSSV (Ski & SB) Landes eh lehrer (completed) or <u>Landeslehrer 2</u>
Canada	CSIA (Ski) CSIA Level 3 CASI (SB) CASI Level 3 CSCF (Coaching) Performance Level (3)
Czech Republic	APUL (<u>Ski & SB</u>) APUL B
Japan	SIA (<u>Ski & SB</u>) IT II (Silver Medal)
<u>Italy</u>	<u>AMSI (Ski & SB) Maestro di Sci / Snowboard</u>
<u>Korea</u>	<u>KSIA (Ski & SB) Level 3</u>
<u>New Zealand</u>	<u>NZSIA (Ski & SB) Level 3</u>
Netherlands	NVVS (<u>Ski & SB</u>) B-Diploma
Poland	SITN-PZN Assistant PZN
Slovakia	SAPUL (<u>Ski & SB</u>) B Qualification
Slovenia	SIAS-ZUTS (Ski & SB) Level 2
Switzerland	SSSA (<u>Ski & SB</u>) Stufe 2
United Kingdom	BASI (Ski) Ski Teacher <u>Level 3</u> BASI (SB) SB Teacher <u>Level 3</u>
USA	PSIA (Ski) PSIA-AASI (SB) Level 2 <u>3 plus PSIA children's specialist 2</u>

	AASI-PSIA (SB/Ski) AASI (SB) Level 3 USSA (Coaching) Level 200 State Coach
--	--

Table 5 Country	Association Certification Level
Australia	APSI (Ski & SB) APSI Level 4 (or equivalent certification prior to 2011 being Australia-APSI (Ski & SB)-APSI Level 3)
Austria	ÖSSV (Ski & SB) Staatlich geprüfter Schilehrer
Canada	CSIA (Ski) CSIA Level 4 CASI (SB) CASI CSIA Level 4 CSCF (Coaching) Program Director (4)
Czech Republic	APUL (Ski & SB) APUL A
Italy	AMSI (Ski & SB) Maestro di Sci/Snowboard (Gold Level)
Japan	SIA (Ski & SB) IT III (Gold Medal)
Netherlands	NVVS (Ski & SB) C-Diploma
New Zealand	NZSIA (Ski & SB) Stage Two Level 3 plus Trainer
Poland	SITN PZN PZN ISIA
Slovakia	SAPUL (Ski & SB) A Qualification
Slovenia	SIAS-ZUTS (Ski & SB) Level 3
Sweden	ESS (Ski & SB) Examinerad Svensk Skidlarare (Level 3)
Switzerland	SSSA (Ski & SB) Stufe 3 (ISIA)
United Kingdom	BASI (Ski & SB) (Ski) Level 4 ISTD BASI (Ski Coach) Diploma Level 4 Coach IVSI
USA	PSIA (Ski) PSIA-AASI (SB) Level 3 USA AASI (SB)-AASHISIA plus Trainer Cert (Education Staff, i.e. DCL, TA)-Trainer

- Change Management
- Industrial Relations
- Employment
- Occupational Health & Safety
- Human Rights & Equal Opportunity
- Legal Risk Management

Our ref: MDH:DJS:20141371
Please reply to: Sydney office

22 October 2014

The Hon Justice Iain Ross AO
President
Fair Work Commission
11 Exhibition Street
MELBOURNE VIC 3000

By email: chambers.ross.j@fwc.gov.au

Dear Mr Justice Ross

AM 2014/198 – SECTION 156 FAIR WORK ACT 2009 (CTH) – FOUR YEARLY REVIEW OF MODERN AWARDS – GROUP 2 AWARDS STAGE – OUTLINE OF ISSUES – ALPINE RESORTS AWARD 2010 – AUSTRALIAN SKI AREAS ASSOCIATION

We act for the Australian Ski Areas Association (“**Association**”) in relation to the Fair Work Commission’s Four Yearly Review of Modern Awards (“**Review**”).

This outline of issues is made by the Association prior to the Initial Conference before Justice Ross on 23 October 2014, in respect to the Award Stage for the Group 2 Awards.

The Association has identified the following issues affecting the *Alpine Resorts Award 2010* that it intends to raise during the Award Stage for the Group 2 Awards:

- (a) the variation of Schedule C of the *Alpine Resorts Award 2010*, due to the recent name change of certification levels by the Australian Professional Snowsports Instructors; and
- (b) that clauses 10.4(b) and 22.3 of the *Alpine Resorts Award 2010* are amended so that part-time employees are characterised as employees who are “engaged to work an average of at least eight and less than 38 hours per week over a work cycle of four weeks”, rather than a maximum of 35 hours over a work cycle of four weeks, which clauses 10.4(b) and 22.3 of the *Alpine Resorts Award 2010* currently provides.

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We note that, as it currently stands, the characterisation of part-time employment in clauses 10.4(b) and 22.3 of the *Alpine Resorts Award 2010*, in respect to the maximum hours worked by a part-time employee, is inconsistent with the characterisation of part-time employment in clause 11.4 of the *Alpine Resorts Award 2010*, in the same respect, which currently provides that “a part-time seasonal employee is a seasonal employee who is engaged to work less than 38 ordinary hours (or an average of less than 38 ordinary hours over the anticipated length of their employment) per week” [emphasis added].

We thank you for the opportunity to raise these issues for consideration as part of the Review. We will provide more fulsome submissions in accordance with the timetable which is to be set down by the Fair Work Commission at the conference on 23 October 2014.

Please do not hesitate to contact us if we can be of any further assistance.

Yours faithfully

HARMERS WORKPLACE LAWYERS



Michael Harmer



Daniel Shaw

(769) SKI INDUSTRY (STATE) AWARD**(769) SERIAL C0160****SKI INDUSTRY (STATE) AWARD**

Schedule of Consolidated Award Published on 29.6.2001 and Subsequent Variations Incorporated

Clause	Award/ Variation Serial No.	Date of Publication	Date of Taking Effect	Industrial Gazette	
				Vol	Page
Award	C0160	29.6.01	On and from 19.4.01	325	876
4; Appendix A; Appendix B	C0940	8.2.02	First full pay period on or after 1.9.01	331	228
24 (24.1)	C1016	8.3.02	On and from 31.5.01	331	1077
4 & Part B - Appendix A & B	C1562	28.2.03	First pay period on or after 1.9.02	338	620
4, 9 & Part B - Appendix A & B	C2271	21.11.03	First pay period on or after 1.9.03	342	143
1 & 24A	C2232	05.03.04	First pay period on or after 10.03.04	343	570
4, Part B	C3003	29.10.2004	First pay period on or after 01.09.2004	347	74
4, Part B	C4012	11.11.2005	First full pay period on or after 1.9.2005	354	787

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(769) SKI INDUSTRY (STATE) AWARD

AWARD**Arrangement**

Clause No. Subject Matter

1. Definitions

2. Rates of Pay
3. Allowances
4. Safety Net Commitments
5. Mixed Functions
6. Hours of Work
7. Rostered Days Off
8. Rosters
9. Overtime
10. Meal Breaks and Meal Allowances
11. Stand Down/Stand-by Arrangements
12. Public Holidays
13. Payment of Wages
14. Contract of Employment
15. Sick Leave
16. Personal/Carer's Leave
17. Bereavement Leave
18. Annual Leave
19. Use of Uphill Transport Facilities and other Employee Responsibilities
20. Protective Clothing
21. No Publicity Rights
22. Disputes and Industrial Grievance Procedure
23. Superannuation
24. Anti-Discrimination
- 24A. Deduction of Union Membership Fees
25. Area, Incidence and Duration

PART B

Appendix A - Rates of Pay

Appendix B - Other Rates and Allowances

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(769) SKI INDUSTRY (STATE) AWARD

1. Definitions

(i) "Casual Employee" means an employee engaged by the hour to work on an hourly basis.

(ii) "Daily Employee" means an employee who has signed an Employment Arrangement Form with the employer and whose term of employment, as shown on the form, has not been terminated and who is engaged to work for a limited period on a daily basis as required.

(iii) "Employer" means Perisher Blue Pty Limited, Kosciusko Thredbo Pty Limited, Mt. Selwyn Snowfields Pty Limited and Charlotte's Pass Village Pty Limited.

(iv) "Supervisor" means an authorised officer of the employer to whom an employee is

directly responsible.

(v) "Union" means the Australian Workers' Union, New South Wales.

(vi) "Union Representative" means an employee elected from time to time by other employees, who are union members, as their representative to communicate with the Union and the employer on industrial matters.

(vii) "Week" means any seven consecutive days as nominated from time to time by the employer.

(viii) "Weekly Employee" means an employee engaged on a weekly basis who has signed an Employment Arrangement form with the employer and whose term of employment, as shown on the form, has commenced but has not been terminated.

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(769) SKI INDUSTRY (STATE) AWARD

2. Rates of Pay

Group A - Weekly Rates) as set out in Appendix A - Rates of Pay

Group B - Daily Rates)

Group C - Casual Rates: Employees in Group C may be engaged in classifications in Group A or B as

a casual employee and shall be paid a loading of 15 per cent in addition to the appropriate hourly rate which shall be deemed to incorporate payment for pro rata annual leave. The hourly rates in Group B shall be reduced by one-thirteenth to avoid double counting.

General - The rates prescribed by these conditions shall be adjusted in accordance with State Wage Case decisions.

The rates prescribed by this clause are all inclusive and have been fixed on the basis that they include compensation for all incidences of the employment, including the location of the work, seasonal conditions and variations, the need to work in the open, and/or exposed to the elements, and/or in all sorts of weather, including wet and windy and hot and cold weather or any combination thereof, and where considered necessary at night and/or as shift workers.

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(769) SKI INDUSTRY (STATE) AWARD

3. Allowances

3.1 Leading Hand Allowances - An employee appointed as a leading hand or required by an employer to perform the duties of such, shall be paid in addition to the wage rate otherwise prescribed, the allowances set out in Items 1 - 3 of Appendix B - Other Rates and Allowances.

3.2 Sewerage Farm Allowance

Resort Worker at Thredbo designated as sewerage farm attendant shall be paid an additional amount as set out in Item 4 of Appendix B - Other Rates and Allowances for all purposes of this award.

3.3 Equipment Allowance

(a) Where the employer does not provide all tools and equipment (including ski equipment and boots) required to perform the duties of an employee classified as a Lift Operator, Lift Attendant or Courtesy Staff in Groups A or B of Appendix A - Rates of Pay, the employee shall be paid an allowance as set out in Item 5 of Appendix B - Other Rates and Allowances.

(b) Where the employer does not provide all tools and equipment required to perform the duties of an employee classified as Ski Patrol or Trail Crew in Group A of Appendix A - Rates of Pay, the employee shall be paid an allowance as set out in Item 6 of Appendix B - Other Rates and Allowances.

(c) Where the employer does not provide all tools and equipment (including boots) required to perform the duties of an employee classified as Snow Groomer Operator, Snow Maker or Resort Worker, in Groups A and B of Appendix A - Rates of Pay, the employee shall be paid an allowance as set out in Item 7 of Appendix B - Other Rates and Allowances.

(d) Employees may purchase boots from the employer at cost price. Payment may be made either in a lump sum or, at the election of the employee, by deduction from wages of an amount per week not less than 10 per cent of the cost of the boots. Any amount unpaid as at the termination of employment shall be deducted from moneys due to the employee.

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(769) SKI INDUSTRY (STATE) AWARD

4. Safety Net Commitments

The rates of pay in this award include the adjustments payable under the State Wage Case 2005. These adjustments may be offset against:

(a) any equivalent over-award payments; and/or

(b) award wage increases since 29 May 1991 other than safety net, State Wage Case, and minimum rates adjustments.

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(769) SKI INDUSTRY (STATE) AWARD

5. Mixed Functions

5.1 Any weekly or daily employee engaged on any one day or shift for a period exceeding four hours in the aggregate on work carrying a higher rate than the classification in which the employee is employed shall be paid the higher rate for such day or shift. If so engaged for four hours or less in the aggregate on any one day or shift, the employee shall be paid the higher rate for the time so worked.

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(769) SKI INDUSTRY (STATE) AWARD

6. Hours of Work

6.1 Ordinary hours of work for employees in Group A will be an average of 38 hours per week in any four-week period and may, at the employer's discretion, include one rostered day off per four weeks in accordance with Clause 7, Rostered Day Off, or the working of 7.6 hours per day.

6.2 Ordinary hours worked by employees in Group A may be performed on any or all days of the week.

6.3 Ordinary hours of work for employees in Group B shall, at the employer's discretion, be 7.6 hours per day or eight hours per day, in which case such employee shall accumulate a credit of 24 minutes per day which shall be paid for on termination.

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(769) SKI INDUSTRY (STATE) AWARD

7. Rostered Days Off

7.1 For each day or shift upon which an employee in Group A is rostered to work eight hours as part of his ordinary working week including a day upon which an employee is absent with reasonable excuse, proof of which shall lie on the employee, the employee shall accumulate twenty-four minutes towards a rostered day off without loss of pay.

7.2 No employee shall be entitled to a rostered day off until he or she has accumulated in

accordance with subclause 7.1 seven hours and thirty-six minutes.

7.3 An employee shall take his or her rostered day off on a day not being a Saturday, Sunday or public holiday, at the discretion of the employer, provided that the employer shall grant and the employee shall take the rostered day off within fourteen days of the employee's entitlement thereto arising.

7.4 In the event of an emergency an employer may require an employee to work on his or her rostered day off, provided that the employee is paid time and a half for work done on that day and the employee is granted another day off as a rostered day off in lieu thereof.

7.5 Upon termination an employee shall be paid all time credited to him in accordance with subclause 7.1 and which has not been taken by him or her as a rostered day off.

7.6 Notwithstanding the provisions of subclauses 7.1 to 7.5 inclusive, if the majority of employees covered by this award agree that rostered days off should be accumulated until the employee's termination, such days shall be so accumulated for all employees.

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(769) SKI INDUSTRY (STATE) AWARD

8. Rosters

8.1 A daily roster, showing days of work for all employees, is to be prepared daily and displayed no later than midday of the day prior to the commencement of the roster.

8.2 Changes to the roster shall only be made when reasonable notice is provided to the employee.

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(769) SKI INDUSTRY (STATE) AWARD

9. Overtime

9.1 Overtime

(a) All time worked in excess of an employee's ordinary hours of work each week, prescribed in Clause 6, Hours of Work, shall be referred to as overtime.

(b) The first two hours of overtime performed each week shall be paid for at the employee's normal hourly rate.

(c) All time worked in excess of the first two hours of overtime each week shall be paid for

at the rate of time and one half for the first two hours and at double time thereafter.

(d) Reasonable Overtime

(1) Subject to subparagraph (2) of this paragraph, an employer may require an employee to work reasonable overtime at overtime rates or as otherwise provided for in this award.

(2) An employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working hours which are unreasonable.

(3) For the purpose of the said subparagraph (2), what is unreasonable or otherwise will be determined having regard to:

(i) any risk to employee health and safety;

(ii) the employee's personal circumstances, including any family and carer responsibilities;

(iii) the needs of the workplace or enterprise;

(iv) the notice (if any) given by the employer of the overtime and by the employee of his or her intention to refuse it; and

(v) any other relevant matter.

9.2 Call Back

Employees who have worked two hours overtime in a week and who are recalled to work further overtime after the cessation of work on any day in the same week shall be paid for a minimum of

4 hours work at the appropriate rate for each time they are so recalled.

9.3 Rest Periods

All employees shall have a rest period of at least ten hours between ceasing work on one day and recommencing work on the same or the next day. If employees do not receive this rest period

they will be paid overtime rates until released from such duty for such rest period.

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(769) SKI INDUSTRY (STATE) AWARD

10. Meal Breaks and Meal Allowances

10.1 Meal breaks of not less than half an hour are to be arranged on a roster basis.

10.2 Lift Operators at Perisher Blue Pty Limited shall be entitled:

(a) in addition to a half hour meal break, to two breaks of half an hour's duration during the period of a day's employment; or

(b) in the alternative, if agreed by the majority of employees working in that classification, to at least two breaks totalling one and a half hours per day.

10.3 Where an employee is required to work for more than five hours without a meal break overtime rates shall be paid until such a break is provided.

10.4 All employees required to work during their rostered meal breaks shall be paid at overtime rates until they have received a meal break of the usual period.

10.5 When an employee is required to continue working overtime for more than two hours after ordinary ceasing time a meal allowance as set out in Item 8 of Appendix B shall be paid if a meal is not provided. Provided that if such overtime extends, an extra meal allowance as set out in Item 8 of Appendix B shall be paid after each subsequent four hours worked if a meal is not provided.

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(769) SKI INDUSTRY (STATE) AWARD

11. Stand Down/Stand-by Arrangements

11.1 The employer shall have the right to deduct payment for any day or part thereof the employee cannot be usefully employed because of any strike or through any breakdown in machinery or any stoppage of work by any cause for which the employer cannot reasonably be held responsible.

11.2 Where a stand down is due to unfavourable weather conditions preventing or limiting normal operations, weekly and daily employees shall be paid a minimum of four hours pay at normal rates.

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(769) SKI INDUSTRY (STATE) AWARD

12. Public Holidays

12.1 In view of the nature of the operations of the employers covered by these conditions, employees may be required to work on public holidays.

12.2 Public holidays will be as gazetted for the whole of the State of New South Wales.

12.3 When worked on the public holiday the employee shall be paid the rate of double time and one half.

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(769) SKI INDUSTRY (STATE) AWARD

13. Payment of Wages

13.1 Wages will be paid no later than three days after the end of the pay week by electronic funds transfer. In the event that this is not possible through technological failure, wages will be paid by cash or cheque.

13.2 When an employee is kept waiting for wages beyond the term specified by this clause, the employee shall be paid ordinary time rates until payment is made, except where such waiting time is occasioned by reasons beyond the control of the employer.

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(769) SKI INDUSTRY (STATE) AWARD

14. Contract of Employment

14.1 Contract of Employment - Weekly Employees -

(a) All employees paid a weekly rate of pay as prescribed in Group A as set out in Appendix A, shall be deemed to be employed by the week.

(b) Termination of Employment -

(1) Employment shall be terminated by a week's notice on either side given at any time during the week or by the payment or forfeiture, as the case may be, of the wages an employee would have received in respect of the ordinary time the employee would have worked during the period of notice had the employee's employment not been terminated.

(2) Notwithstanding the provisions of subparagraph (a) of this paragraph, the employer shall have the right to dismiss any employee without notice for malingering, inefficiency, neglect of duty, refusing duty, or misconduct and in such cases the wages shall be paid up to the time of dismissal only.

(3) Where the employee has given or been given notice as in subclause (a) above the employee shall, unless expressly permitted otherwise, continue in employment until the date of the expiration of such notice. If, without reasonable cause (proof of which shall be the employee's responsibility), the employee is absent from work during such period the employee shall be deemed to have abandoned his or her employment and shall not be entitled to payment for work performed within that period provided however, an employee other than a casual employee, shall, on request, be granted leave of absence without pay for one day in order to look for alternative employment.

14.2 Contract of Employment - Daily Employees -

(a) All employees engaged under Group B of Appendix A of this award, shall be deemed to be employed by the day.

(b) Termination of Employment -

One day's notice shall be given on either side or one day's pay shall be paid or forfeited in lieu thereof.

14.3 Contract of Employment - Casuals -

(a) All employees engaged under Group C of Clause 3, Rates of Pay, of this award shall be deemed to be employed by the hour.

(b) Termination of Employment -

One hour's notice shall be given on either side or one hour's pay shall be paid or forfeited in lieu thereof.

14.4 Rolling Notice

In some cases a Daily or Weekly Employee may be provided with notice as set out above and then, because of an extension of the season due to favourable weather conditions, the opportunity arises for the employee to be provided with further work.

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(769) SKI INDUSTRY (STATE) AWARD

In such cases where notice has already been given and an employee works on, a further one

hour's notice shall be given on either side or one hour's pay shall be given or forfeited in lieu where the employment is to be terminated.

14.5 Engagement -

(a) All prospective employees shall complete an employment application form prior to each engagement. The information given on the application form shall be true in every respect and if subsequently any detail is found to be untrue the employer may terminate the employee without notice.

(b) Upon being accepted an employee shall sign an employment acceptance form.

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(769) SKI INDUSTRY (STATE) AWARD

15. Sick Leave

15.1 Each Group B employee who has completed 20 days service, and each Group A employee who has completed four weeks' continuous service, who is absent from work on account of personal illness or accident, not being an accident compensatable by workers' compensation, shall be entitled to leave of absence with pay subject to the following conditions and limitations:

(i) The employee shall, prior to the commencement of the shift unless not reasonably practicable, inform the employer of his or her inability to attend for duty and, insofar as practicable, state the nature of the illness and the estimated duration of the absence.

(ii) The employee shall furnish such evidence as the employer reasonably may require that he or she was unable, by reason of such illness or injury, to attend for duty on the day or days for which sick leave is claimed.

(iii) Subject to subclauses (i) and (ii) of this clause, an employee shall be entitled to sick leave at the rate of one day per month during the ski season, namely the months of June, July, August and September, and one day per two months during the remainder of the year. Untaken sick leave may accumulate with continuous service up to sixty days.

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(769) SKI INDUSTRY (STATE) AWARD

16. Personal/Carer's Leave

16.1 Use of Sick Leave

(a) An employee, other than a casual employee, with responsibilities in relation to a class of persons set out in subparagraph (2) of paragraph (c) who needs the employee's care and support, shall be entitled to use, in accordance with this subclause, any current or accrued sick leave entitlement, provided for in clause 15, Sick Leave, for absences to provide care and support for such persons when they are ill. Such leave may be taken for part of a single day.

(b) The employee shall, if required, establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person. In normal circumstances, an employee must not take carer's leave under this subclause where another person has taken leave to care for the same person.

(c) The entitlement to use sick leave in accordance with this subclause is subject to:

(1) the employee being responsible for the care of the person concerned; and

(2) the person concerned being:

(i) a spouse of the employee; or

(ii) a de facto spouse, who, in relation to a person, is a person of the opposite sex to the first mentioned person who lives with the first mentioned person as the husband or wife of that person on a bona fide domestic basis although not legally married to that person; or

(iii) a child or an adult child (including an adopted child, a step child, a foster child or an ex nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the employee or spouse or de facto spouse of the employee; or

(iv) a same sex partner who lives with the employee as the de facto partner of that employee on a bona fide domestic basis; or

(v) a relative of the employee who is a member of the same household, where for the purposes of this subparagraph:

1. "relative" means a person related by blood, marriage or affinity;

2. "affinity" means a relationship that one spouse because of marriage has to blood relatives of the other; and

3. "household" means a family group living in the same domestic dwelling.

(d) An employee shall, wherever practicable, give the employer notice prior to the absence of the intention to take leave, the name of the person requiring care and that person's relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the employee to give prior notice of absence, the employee shall notify the employer by telephone of such absence at the first opportunity on the day of absence.

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(769) SKI INDUSTRY (STATE) AWARD

16.2 Unpaid Leave for Family Purpose

(a) An employee may elect, with the consent of the employer, to take unpaid leave for the purpose

of providing care and support to a member of a class of person set out in subparagraph (2) of paragraph

(c) of subclause 16.1 who is ill.

16.3 Annual Leave

(a) A Weekly Employee may elect with the consent of the employer, subject to the *Annual Holidays Act 1944*, to take annual leave not exceeding five days in single day periods or

part thereof, in any calendar year at a time or times agreed by the parties.

(b) Access to annual leave, as prescribed in paragraph (a) of this subclause, shall be exclusive of any shutdown period provided for elsewhere under this award.

(c) An employee and employer may agree to defer payment of the annual leave loading in respect of single day absences, until at least five consecutive annual leave days are taken.

16.4 Time Off in Lieu of Payment for Overtime

(a) An employee may elect, with the consent of the employer, to take time off in lieu of payment for overtime at a time or times agreed with the employer within 12 months of the said election.

(b) Overtime taken as time off during ordinary time hours shall be taken at the ordinary time rate, that is an hour for each hour worked.

(c) If, having elected to take time as leave in accordance with paragraph (a) of this subclause, the leave is not taken for whatever reason payment for time accrued at overtime rates shall be made at the expiry of the 12 month period or on termination.

(d) Where no election is made in accordance with the said paragraph (a), the employee shall be paid overtime rates in accordance with the award.

16.5 Make-up Time

(a) An employee may elect, with the consent of the employer, to work "make-up time", under which the employee takes time off ordinary hours, and works those hours at a later time, during the spread of ordinary hours provided in the award, at the ordinary rate of pay.

(b) An employee on shift work may elect, with the consent of the employer to work "make-up time" (under which the employee takes time off ordinary hours and works those hours at a later time), at the shift work rate which would have been applicable to the hours taken off.

16.6 Rostered Days Off

(a) An employee may elect, with the consent of the employer, to take a rostered day off at any time.

(b) An employee may elect, with the consent of the employer, to take rostered days off in part day amounts.

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(769) SKI INDUSTRY (STATE) AWARD

(c) An employee may elect, with the consent of the employer, to accrue some or all rostered

days off for the purpose of creating a bank to be drawn upon at a time mutually agreed between the employer and employee, or subject to reasonable notice by the employee or the employer.

(d) This subclause is subject to the employer informing each union which is both party to the award and which has members employed at the particular enterprise of its intention to introduce an enterprise system of RDO flexibility, and providing a reasonable opportunity for the union(s) to participate in negotiations.

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(769) SKI INDUSTRY (STATE) AWARD

17. Bereavement Leave

17.1 An employee, other than a casual employee, shall be entitled to two days bereavement leave without deduction of pay, on each occasion of the death of a person as prescribed in subclause 17.3.

17.2 The employee must notify the employer as soon as practicable of the intention to take bereavement leave and will, if required by the employer, provide to the satisfaction of the employer proof of death.

17.3 Bereavement leave shall be available to the employee in respect to the death of a person prescribed for the purposes of personal/carer's leave as set out in subparagraph (2) of paragraph (c) of subclause 16.1 of clause 16, Personal/Carer's Leave provided that, for the purpose of bereavement leave, the employee need not have been responsible for the care of the person concerned.

17.4 An employee shall not be entitled to bereavement leave under this clause during any period in respect of which the employee has been granted other leave.

17.5 Bereavement leave may be taken in conjunction with other leave available under subclauses

16.2, 16.3, 16.4, 16.5 and 16.6 of the said clause 16. In determining such a request, the employer will

give consideration to the circumstances of the employee and the reasonable operational requirements of the business.

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(769) SKI INDUSTRY (STATE) AWARD

18. Annual Leave

See *Annual Holidays Act 1944*.

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(769) SKI INDUSTRY (STATE) AWARD

19. Use of Uphill Transport Facilities and other Employee Responsibilities

19.1 Where the employee is allowed to use chair lifts, T-bars and other uphill transport of whatever nature free of charge, such transport shall only be used in accordance with the conditions published by the employer.

19.2 Further, where such uphill transport or facilities are used they are used on the condition that the employer shall not be liable for any loss, damage or injury to the employee or the employee's property in any way caused with or attributable to the area held by the employer under lease.

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(769) SKI INDUSTRY (STATE) AWARD

20. Protective Clothing

20.1 The employer shall provide all employees required to work outdoors with wet weather and protective clothing, free of charge. All such protective clothing shall remain the property of the employer.

20.2 Protective clothing shall include a hat, a parka coat, a fleece, overpants, one pair of either sunglasses or goggles as determined by the employer, and one pair of protective gloves which shall be sufficient to provide for both wet weather and cold weather application.

20.3 All laundering and cleaning costs of protective clothing specified in this clause shall be paid for by the employer.

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(769) SKI INDUSTRY (STATE) AWARD

21. No Publicity Rights

21.1 The employer reserves the right to utilise any photographs, films or any form of

publicity taken of employees without any remuneration to employees.

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(769) SKI INDUSTRY (STATE) AWARD

22. Disputes and Industrial Grievance Procedure

22.1 The procedure for the resolution of industrial dispute and grievances will be in accordance with the *Industrial Relations Act 1996*. These procedural steps are as follows:

(i) Procedure relating to a grievance of an individual employee:

(a) The employee shall notify (in writing or otherwise) the employer as to the substance of the grievance, request a meeting with the employer for bilateral discussions and state the remedy sought.

(b) The grievance must initially be dealt with as close to the source as possible, with graduated steps for further discussion and resolution at the higher levels of authority.

(c) Reasonable time limits must be allowed for discussion at each level of authority.

(d) At the conclusion of the discussion, the employer must provide a response to the employee's grievance, if the matter has not been resolved, including reasons for not implementing any proposed remedy.

(e) While a procedure is being followed, normal work must continue.

(f) The employee may be represented by an industrial organisation of employees for the purpose of each procedure.

(ii) Procedure for a dispute between an employer and the employees:

(a) A question, dispute or difficulty must initially be dealt with as close to its source as possible, with graduated steps for further discussion and resolution at higher levels of authority.

(b) Reasonable time limits must be allowed for discussion at each level of authority.

(c) While a procedure is being followed, normal work must continue.

(d) The employer may be represented by an industrial organisation of employer and the employees may be represented by an industrial organisation of employees for the purpose of each procedure.

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(769) SKI INDUSTRY (STATE) AWARD

23. Superannuation

23.1 The subject of superannuation contributions is dealt with extensively by legislation including the *Superannuation Guarantee (Administration) Act 1992*, the *Superannuation Guarantee Charge Act 1992*, the *Superannuation Industry (Supervision) Act 1993*, the *Superannuation (Resolution of Complaints) Act 1993* and the *Industrial Relations Act 1996* (NSW). The legislation, as varied from time to time, governs the superannuation rights and obligations of the parties.

23.2 The employer shall be a participating employer in any of the following funds: AMP Super Leader Plan for Casuals

Australian Superannuation Savings Employment Trust (ASSET)

Hospitality Organisations and Portable Liquor Union Superannuation Trust (HOST-PLUS)
or

Superannuation Trust Scheme (STA)

and shall participate in accordance with the Trust Deed of that fund.

23.3 The employer shall contribute to the Fund in accordance with the legislation provided that employer contributions do not fall below 3% of ordinary time earnings.

NOTATION: Employer contributions under relevant legislation are set at 8% until 30 June 2002, when they will increase to 9% from that date.

23.4 The employer shall provide each employee upon commencement of employment with membership forms of the fund and shall forward the completed membership form to the fund within 14 days.

23.5 An employee may make contributions to the fund in addition to those made by the employer.

23.6 An employee who wishes to make additional contributions must authorise the employer in writing to pay into the fund from the employee's wages a specified amount in accordance with the Trust Deed and the rules of the fund.

23.7 An employee may vary his or her additional contributions by a written authorisation and the employer must alter the additional contributions within 14 days of the receipt of the authorisation.

23.8 All contributions shall be made at the completion of each calendar month.

23.9 Ordinary time earnings shall be as defined by the relevant legislation.

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(769) SKI INDUSTRY (STATE) AWARD

24. Anti-Discrimination

24.1 It is the intention of the parties bound by this award to seek to achieve the object in section

3(f) of the *Industrial Relations Act 1996* to prevent and eliminate discrimination in the workplace. This includes discrimination on the grounds of race, sex, marital status, disability, homosexuality, transgender identity, age and responsibilities as a carer.

24.2 It follows that in fulfilling their obligations under the dispute resolution procedure prescribed by this award the parties have obligations to take all reasonable steps to ensure that the operation of the provisions of this award are not directly or indirectly discriminatory in their effects. It will be consistent with the fulfilment of these obligations for the parties to make application to vary any provision of the award which, by its terms or operation, has a direct or indirect discriminatory effect.

24.3 Under the *Anti-Discrimination Act 1977*, 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.

24.4 Nothing in this clause is to be taken to affect:

- (a) any conduct or act which is specifically exempted from anti-discrimination legislation;
- (b) offering or providing junior rates of pay to person under 21 years of age;
- (c) any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti Discrimination Act 1977*;
- (d) a party to this award from pursuing matters of unlawful discrimination in any State or federal jurisdiction.

24.5 This clause does not create legal rights or obligations in addition to those imposed upon the parties by the legislation referred to in this clause.

NOTES

(a) Employers and employees may also be subject to Commonwealth anti-discrimination legislation.

(b) Section 56(d) of the *Anti-Discrimination Act 1977* provides:

"Nothing in the Act affects...any other act or practice of a body established to propagate religion that conforms to the doctrine of that religion or is necessary to avoid injury to the religious susceptibilities of the adherents of that religion."

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(769) SKI INDUSTRY (STATE) AWARD

24A. Deduction of Union Membership Fees

(1) The employer shall deduct Union membership fees (not including fines or levies) from the pay of any employee, provided that:

(a) the employee has authorised the employer to make such deductions in accordance with subclause (2) herein;

(b) the Union shall advise the employer of the amount to be deducted for each pay period applying at the employer's workplace and any changes to that amount;

(c) deduction of Union membership fees shall only occur in each pay period in which payment has or is to be made to an employee; and

(d) there shall be no requirement to make deductions for casual employees with less than two months' service (continuous or otherwise).

(2) The employee's authorisation shall be in writing and shall authorise the deduction of an amount of Union fees (including any variation in that fee effected in accordance with the Union's rules) that the Union advises the employer to deduct. Where the employee passes any such written authorisation to the Union, the Union shall not pass the written authorisation on to the employer without first obtaining the employee's consent to do so. Such consent may form part of the written authorisation.

(3) Monies so deducted from employees' pay shall be remitted to the Union on either a weekly, fortnightly, monthly or quarterly basis at the employer's election, together with all necessary information to enable the reconciliation and crediting of subscriptions to employees' membership accounts, provided that:

(a) where the employer has elected to remit on a weekly or fortnightly basis, the employer shall be entitled to retain up to five per cent of the monies deducted; and

(b) where the employer has elected to remit on a monthly or quarterly basis, the employer shall be entitled to retain up to 2.5 per cent of the monies deducted.

(4) Where an employee has already authorised the deduction of Union membership fees in writing from his or her pay prior to this clause taking effect, nothing in this clause shall be read as requiring the employee to make a fresh authorisation in order for such deductions to commence or continue.

(5) The Union shall advise the employer of any change to the amount of membership fees made under its rules, provided that this does not occur more than once in any calendar year. Such advice shall be in the form of a schedule of fees to be deducted specifying either weekly, fortnightly, monthly or quarterly, as the case may be. The Union shall give the employer a minimum of two months' notice of any such change.

(6) An employee may at any time revoke in writing an authorisation to the employer to make payroll deductions of Union membership fees.

(7) Where an employee who is a member of the Union and who has authorised the employer to make payroll deductions of Union membership fees resigns his or her membership of the Union in accordance with the rules of the Union, the Union shall inform the employee in writing of the need to revoke the authorisation to the employer in order for payroll deductions of

Union
membership fees to cease.

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(769) SKI INDUSTRY (STATE) AWARD

(8) The above variations shall take effect:

(a) In the case of employers who currently deduct Union membership fees, or whose payroll facilities are carried out by way of an outsourcing arrangement, or whose payroll calculations are made through the use of computerised means, from the beginning of the first full pay period to commence on or after 10 March 2003;

(b) In the case of employers who do not fall within paragraph (a) above, but who currently make deductions, other than Union membership fee deductions or mandatory deductions (such as for taxation instalments or superannuation contributions), from employees' pay, or have in place facilities to make such deductions, from the beginning of the first full pay period to commence on or after 10 June 2003;

(c) For all other employers, from the beginning of the first full pay period to commence on or after 10 September 2003.

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(769) SKI INDUSTRY (STATE) AWARD

25. Area, Incidence and Duration

25.1 This award shall apply to the Union and to the Employers defined herein and to all persons employed by the Employers in the classifications listed in Appendix A and Group C - Casual Rates appearing in clause 2, Rates of Pay.

25.2 This award shall take effect from the beginning of the first pay period to commence on or after
20 August 1992 and shall remain in force thereafter for a period of thirty months.

25.3 This award shall not be varied during its term for any reason other than with the consent of all parties or in order to implement State Wage Case variations or to give effect to the *Occupational Health and Safety Act 1983*.

25.4 This reviewed award replaces the Ski Industry (State) Award published 12 March 1993 (273 I.G. 972), as varied and rescinds and replaces the Ski Industry Remuneration (State) Award published 8

may 1998 (304 IG 824), as varied.

26.5 The changes to give effect to section 19 of the Act and the Commission's Principles for Review of Awards shall take effect on and from 19 April 2001.

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(769) SKI INDUSTRY (STATE) AWARD

PART B

APPENDIX A Rates of Pay

Classification Group A SWC 2004 Weekly Rate \$ SWC 2005 Adjustment \$ SWC 2005 Weekly Rate \$

Lift Operator	560.70	17.00	577.70
Lift Attendant	492.50	17.00	509.50
Parking Attendant	492.50	17.00	509.50
Ski Patrol	620.50	17.00	637.50
Ticket Seller	524.70	17.00	541.70
Courtesy Staff	524.70	17.00	541.70
Snow Groomer Operator	658.00	17.00	675.00
Snow Maker	655.00	17.00	672.00
Driver	560.70	17.00	577.70
Resort Worker	519.70	17.00	536.70
Trail Crew	560.70	17.00	577.70
Ski Outlet staff	519.70	17.00	536.70

Group B Existing Daily Rate \$ New Daily Rate (incl SWC 2005) \$

Lift Operator	121.4849	125.1683
Lift Attendant	106.7083	110.3916
Parking Attendant	106.7083	110.3916
Ski Patrol	134.4416	138.1245
Ticket Seller	113.6849	117.3683
Courtesy Staff	113.6849	117.3683
Snow Groomer Operator	142.5666	146.25
Snow Maker	141.9166	145.60
Driver	121.4849	125.1683
Resort Worker	112.6016	116.285
Trail Crew	121.4849	125.1683
Ski Outlet Staff	112.6016	116.285

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(769) SKI INDUSTRY (STATE) AWARD

APPENDIX B

Other Rates and Allowances

Item No.	Clause No.	Brief Description	SWC 2004 Amount	\$	SWC 2005 Amount	\$		
1	2 3 5(i)	(1) (2) (3) Leading Hand Allowance In charge of 2 or more and up to and including 5 employees In charge of more than 5 and up to and including 10 employees In charge of more than 10 employees	0.48	0.69	0.81	0.49	0.71	0.83
4	5(II)	Sewerage Farm Allowance	7.37		7.59			
5	5(1)	Equipment Allowance - Lift Operator, Lift Attendant or Courtesy Staff (Group A/B)	1.82		1.87			
6	5(2), (5)	Ski Patrol or Trail Crew (Group A/B)	14.85		15.30			
7	5(3)	Snow Groomer Operator, Snow Maker or Resort Workers (Group A)	1.24		1.27			
8	11(v)	Meal Allowance during overtime: More than one hour After each subsequent four hours	8.69	7.10	8.95	7.30		

"Note": These allowances are contemporary for expense related allowances as at 30 March 2005 and for work related allowances are inclusive of adjustment in accordance with the June 2005 State Wage Case Decision of the Industrial Relations Commission of New South Wales.

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(801) SKI INSTRUCTORS (STATE) AWARD**(801) SERIAL C0162****SKI INSTRUCTORS (STATE) AWARD**

Schedule of Consolidated Award Published on 29.6.2001 and Subsequent Variations Incorporated

Clause	Award/ Variation Serial No.	Date of Publication	Date of Taking Effect	Industrial Gazette	
				Vol	Page
Award	C0162	29.6.01	On and from 19.4.01	325	863
4.1, Appendix A - Points Table	C0781	1.3.02	First full pay period on and from 1.9.01	331	1066
19 (19.1)	C1016	8.3.02	On and from 31.5.01	331	1077
4(4.1) & Appendix A (3)	C1563	28.2.03	First pay period on 1.9.02	338	622
4(4.1) & Appendix A (3)	C2272	21.11.03	First pay period on 1.9.03	342	146
1 & 19A	C2233	05.03.04	First pay period on 10.03.04	343	572
4, Part B	C3002	29.10.2004	First pay period on 01.09.2004	347	76
4, Appendix A	C4011	11.11.2005	First full pay period on 1.9.2005	354	785

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(801) SKI INSTRUCTORS (STATE) AWARD

AWARD**Arrangement**

1. Definitions
2. Wages
3. Working Hours
4. Safety Net Commitments

5. Guaranteed Weekly Earnings for Contract Employees
6. Casual Employment
7. Annual Leave
8. No Publicity Rights
9. Uniform and Equipment
10. Relocation Reimbursement
11. Contracts of Employment
12. Accident and Sickness
13. Personal Carer's Leave
14. Bereavement Leave
15. Disputes and Industrial Grievance Procedure
16. Productivity and Related Matters
17. Use of Uphill Transport Facilities and Other
Employee Responsibilities
18. Superannuation
19. Anti-Discrimination
- 19A. Deduction of Union Membership Fees
20. Area, Incidence and Duration

PART B

Appendix A - Qualification Points and Monetary Rates Tables Appendix B - Equivalence of Levels for Qualifications Points Table Appendix C - Contract of Employment

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(801) SKI INSTRUCTORS (STATE) AWARD

1. Definitions

- (i) "Category" means a classification of employees based on qualifications and experience in accordance with an established points table (See Appendices A, B and C).
- (ii) "Company" means Perisher Blue Pty Limited, Kosciusko Thredbo Pty Limited, Mt. Selwyn Snowfields Pty Limited and Charlotte's Pass Village Pty Limited.
- (iii) "Contract Instructor" means an employee employed by the Company as a Snow Sports Instructor for a guaranteed term and hours of employment as set out in Appendix A.
- (iv) "Employee" means a person employed as a ski instructor by the employer.
- (v) "Employer" means Perisher Blue Pty Limited, Kosciusko Thredbo Pty Limited, Mt. Selwyn Snowfields Pty Limited and Charlotte's Pass Village Pty Limited.
- (vi) "Hourly Rate" means hourly rate of pay which includes consideration for equipment and entertainment expenses and pro rata annual leave.
- (vii) "Casual Instructor" means an employee employed by the Company as a Snow Sports Instructor on a day-to-day basis and/or a contract instructor outside his/her contract period.

(viii) "Pay Week" means seven days inclusive of any seven consecutive days as determined from time to time by the Company.

(ix) "Supervisor" means an authorised officer of the employer to whom an employee is directly responsible.

(x) "Union" means the Australian Workers' Union, New South Wales.

(xi) "Union Representative" means an employee elected, from time to time, by other employees, who are Union members, as their representative to communicate with the Union and the employer on industrial matters.

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(801) SKI INSTRUCTORS (STATE) AWARD

2. Wages

2.1 Hourly Rate - An hourly rate of pay is established for each instructor based on qualifications and experience and in accordance with the established qualifications and experience points table, as set out in Appendix "A". The hourly rate includes consideration for equipment and entertainment expenses. The hourly rate incorporates payment for pro rata annual leave.

2.2 All teaching hours are to be paid at the appropriate rate and wages are to be paid weekly within four days of the end of each pay week.

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(801) SKI INSTRUCTORS (STATE) AWARD

3. Working Hours

3.1 Ordinary Time - All time spent teaching is classified as ordinary working time.

3.2 Requested Day Off - Employees may request one day off per week by arrangement with the Ski School Supervisor or two half days per week mutually agreed by the parties.

3.3 Lunch Break - Employees are entitled to one half hour lunch break per day without pay provided they do not work more than 5 consecutive hours without a half hour break. Where an employee is requested to work more than 5 hours without a break overtime rates will apply until a half hour break is taken. If, by mutual agreement, an employee works longer than 5

hours without a break then that time shall not attract the overtime rate.

3.4 Related Duties - All employees may be required to carry out some duties other than teaching, but related to Ski School operation such as but not restricted to attending safety programmes, search and rescue operations, teaching clinics, contests, or demonstrations as directed by the Ski School Director. It is expected that such duties will not exceed five hours per week. The rate for such duties will be the applicable hourly rate.

3.5 Marketing and Public Relations - Employees may be required to carry out some duties relating to resort marketing and public relations. Remuneration is to be agreed between the relevant department manager and employee. These duties would include customer welcomings, flare runs, social functions and the like. Notwithstanding the foregoing all rehearsals shall be done without pay.

3.6 The employee shall give the whole of his/her time, ability and attention during the hours of employment (or when reasonably required outside these hours) to his or her duties as a snow sports instructor and shall not be engaged or concerned in any other business not permitted pursuant to subclause 3.7 of this clause. The employee shall perform his/her obligations hereunder to the best of his/her ability and in the manner calculated to promote the best interests of the employer.

3.7 Non-competition during Employment - Without limiting the generality of the foregoing, the employee will not during the continuance of this employment with the employer without its written consent directly or indirectly be concerned or interested whether as a principal, agent, partner, shareholder, director, employee or otherwise in any firm or corporation involved in the conduct of any business which is in competition with the employer's business being conducted at the employer resort; provided that this shall not prevent the employee from holding not more than five per cent of the issued capital of a company which is listed on any recognised stock exchange in Australia.

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(801) SKI INSTRUCTORS (STATE) AWARD

4. Safety Net Commitments

4.1 The rates of pay in this award include the adjustments payable under the State Wage Case

2005. These adjustments may be offset against:

(a) any equivalent over award payments; and/or

(b) any wage increases since 29 May 1991 other than safety net, State Wage Case and minimum rates adjustments.

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(801) SKI INSTRUCTORS (STATE) AWARD

5. Guaranteed Weekly Earnings for Contract Employees

5.1 Guaranteed Weekly Earnings - The guaranteed weekly earnings and hours for contract employees per pay week will be those set out in Appendix A and as reproduced in the Contract of Employment as set out in Appendix C.

5.2 Poor Snow - During times of poor snow conditions contract employees may be required to perform other duties related to Ski Area operations or improvements, as directed by the Ski School Director to make up the guaranteed weekly earnings.

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(801) SKI INSTRUCTORS (STATE) AWARD

6. Casual Employment

6.1 Outside the term of the guaranteed period or when an employee is employed casually, the employee is to be available as directed by mutual agreement with the Ski School Director. If the employee leaves without the agreement of the Ski School Director outstanding payments will be forfeited. Therefore, as a minimum, one week's notice or mutual agreement is required.

6.2 Where a Ski Instructor is engaged outside of or the contract period, the casual hourly rate shall

be the applicable hourly rate for his or her classification as defined in their contract. During such periods of casual employment the employee will be guaranteed a minimum of one hour per day if the employee reports for work when required.

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(801) SKI INSTRUCTORS (STATE) AWARD

7. Annual Leave

7.1 The rates of pay in this award incorporate payment for pro rata annual leave.

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8. No Publicity Rights

8.1 The Company reserves the right to release any photographs, films or any form of publicity taken of employees without any remuneration to employees.

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(801) SKI INSTRUCTORS (STATE) AWARD

9. Uniform and Equipment

9.1 Employees are to be supplied, free of charge, with an appropriate waterproof Ski School Uniform as determined by the employer.

9.2 Where uniforms, protective clothing and/or other tools and equipment are issued on a personal basis, such items shall remain the property of the Company and must be produced by the employee to the employer when requested on termination of employment. Loss due to any cause or damage through misuse by the employee shall be charged against the wages of the employee. A deduction at a reasonable rate may be made by the Company from the wages of the employee, provided that no deduction shall be made for reasonable wear and tear.

9.3 The Company retains the right to involve sponsor/s of the Ski School from time to time and to specify that employees will not display or promote in any way any sponsor name without prior approval of the Ski School Director.

The Company reserves the right to supply promotional pins, badges, decals, etc. to be worn and equipment to be used by employees for the exclusive benefit of the said sponsors.

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(801) SKI INSTRUCTORS (STATE) AWARD

10. Relocation Reimbursement

10.1 A Relocation Reimbursement will be paid to the appropriate Category of Instructor as per the amount set out in Appendix A hereto.

10.2 The benefits will be paid only to employees who are:

(a) engaged overseas as part of an exchange programme or who work as a full time instructor for a full season at a Snow Sports School approved by prior arrangement with the Ski School Director;

(b) engaged overseas and enter Australia as temporary non-residents.

In order to qualify for a relocation reimbursement the employee will be required to prove that a minimum of 8 weeks has been worked on a full time basis at an approved snow sports school and will also be required to produce the original airline ticket in order to prove that the expense has been incurred.

10.3 Where the employer so offers the benefit may be taken as an airline ticket to the value per category as set out in Appendix A.

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(801) SKI INSTRUCTORS (STATE) AWARD

11. Contract of Employment

11.1 Application Form - All prospective employees must complete an Employment Application Form prior to each engagement. The information given on the application form must be true in every respect and if proven incorrect, subsequent employment may be terminated.

11.2 Contract of Employment - Upon being accepted an instructor must sign a Contract of Employment as set out in Appendix C hereto attached and shall also be given at the time of engagement a copy of this award, and a payroll deduction form for Union contributions.

11.3 Seasonal - All employment is defined as seasonal.

11.4 Notice of Termination During Contact Period - Employment may be terminated by either party on one week's notice or by payment or forfeiture of one week's pay respectively (i.e. 25 hours x hourly rate) in lieu of notice, after contract guarantee has been met. Provided however, that if the employee leaves without the agreement of the Ski School Director, any outstanding relocation reimbursement will be forfeited. A Termination Advice Form is to be completed and signed by the supervisor and the employee.

11.5 Misconduct - A contract of employment may be terminated without notice in case of neglect of duty or misconduct.

Notwithstanding the generality of the foregoing, termination without notice shall be justified in the event of any of the following actions by an employee:

- Dishonesty
- Neglecting to maintain the controls required to ensure that correct payment is made by a customer for goods and services

- Frequent lateness or missing time on duty and meetings (daily or weekly)
- Not following procedures or instructions
- Misuse of Staff Snow Sports Lift Passes
- Behaving in a manner as to seriously discredit the Snow Sports School and the employer
- Impoliteness to the public
- Drug use, possession or use of controlled substances or alcohol on the job.

11.6 Terms of Employment - Terms of employment for contract employees shall vary in accordance with the qualifications and experience set out in Appendices A and B.

11.7 Disaster - Contracts may be terminated early in case of disaster (other than lack of snow) such as fire, earthquake, acts of war, major equipment breakdowns, etc. as a result of which the scope of operation of the Company's facilities is reduced considerably and for a period of at least ten days or more. Where contracts have been terminated earlier, employees will be paid twenty-five times their hourly rate on termination.

11.8 Dismissal procedure -

11.8.1 Cause - The Company reserves the right to dismiss employees for inefficiency, neglect of duty or misconduct, but agrees that this right should be exercised with care and only after due consideration of the facts of each case.

11.8.2 First Warning - Where the Supervisor is dissatisfied with the performance of an employee, for reasons other than neglect of duty or misconduct, the employee will be given a verbal warning.

11.8.3 Second Warning - If there is no substantial and consistent improvement, a second warning will be given in writing and a copy given to the employee.

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This second warning will also state the cause of this dissatisfaction and the expected improvement. If

the employee does not improve, the employee may be dismissed.

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(801) SKI INSTRUCTORS (STATE) AWARD

12. Accident and Sickness

12.1 Workers' Compensation - Workers' compensation benefits shall be in accordance with the

Workers' Compensation Act 1987, the Workplace Injury Management and Workers' Compensation Act 1988 and/or any relevant successor legislation.

12.2 Sick Leave -

Each employee who has completed 20 days service and who is absent from work on account of personal illness or accident not being an accident compensatable by workers' compensation shall be entitled to up to five hours leave of absence at the relevant classification rate of pay subject to the following conditions and limitations:

- (i) prior to the commencement of the day's shift unless not reasonably practicable the employee shall inform the employer of the employee's inability to attend work and, insofar as practicable, state the nature of the illness and the estimated duration of absence;
- (ii) the employee shall furnish such evidence as the employer may reasonably require that the employee was unable, by reason of such illness or injury, to attend for duty on the day or days for which sick leave is claimed;
- (iii) subject to subparagraphs (i) and (ii) of this clause, an employee shall be entitled to sick leave at the rate of 5 hours per month which may accumulate for no longer than one season.

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(801) SKI INSTRUCTORS (STATE) AWARD

13. Personal/Carer's Leave

13.1 Use of Sick Leave

(a) An employee other than a casual employee with responsibilities in relation to a class of persons set out in subparagraph (ii) of paragraph (c), who needs the employee's care and support, shall be entitled to use, in accordance with this subclause, any current or accrued sick leave entitlement, provided for in clause 12, Accident and Sickness, for absences to provide care and support for such persons when they are ill. Such leave may be taken for part of a single day.

(b) The employee shall, if required, establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person. In normal circumstances, an employee must not take carer's leave under this subclause where another person has taken leave to care for the same person.

(c) The entitlement to use sick leave in accordance with this subclause is subject to:

(i) the employee being responsible for the care of the person concerned; and

(ii) the person concerned being:

(a) a spouse of the employee; or

- (b) a de facto spouse, who, in relation to a person, is a person of the opposite sex to the first mentioned person who lives with the first mentioned person as the husband or wife of that person on a bona fide domestic basis although not legally married to that person; or
- (c) a child or an adult child (including an adopted child, a step child, a foster child or an ex nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the employee or spouse or de facto spouse of the employee; or
- (d) a same sex partner who lives with the employee as the de facto partner of that employee on a bona fide domestic basis; or
- (e) a relative of the employee who is a member of the same household, where for the purposes of this subparagraph:
- (1) "relative" means a person related by blood, marriage or affinity;
 - (2) "affinity" means a relationship that one spouse because of marriage has to blood relatives of the other; and
 - (3) "household" means a family group living in the same domestic dwelling.

(d) An employee shall, wherever practicable, give the employer notice prior to the absence of the intention to take leave, the name of the person requiring care and that person's relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the employee to give prior notice of absence, the employee shall notify the employer by telephone of such absence at the first opportunity on the day of absence.

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(801) SKI INSTRUCTORS (STATE) AWARD

13.2 Unpaid Leave for Family Purpose

(a) An employee may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care and support to a member of a class of person set out in subparagraph (ii) of paragraph (c) of subclause 13.1 who is ill.

13.3 Annual Leave

(a) An employee may elect with the consent of the employer, subject to the *Annual Holidays Act 1944*, to take annual leave not exceeding five days in single day periods or part thereof, in any calendar year at a time or times agreed by the parties.

(b) Access to annual leave, as prescribed in paragraph (a) of this subclause, shall be exclusive of any shutdown period provided for elsewhere under this award.

(c) An employee and employer may agree to defer payment of the annual leave loading in

respect of single day absences, until at least five consecutive annual leave days are taken.

13.4 Time Off in Lieu of Payment for Overtime

(a) An employee may elect, with the consent of the employer, to take time off in lieu of payment for overtime at a time or times agreed with the employer within 12 months of the said election.

(b) Overtime taken as time off during ordinary time hours shall be taken at the ordinary time rate, that is an hour for each hour worked.

(c) If, having elected to take time as leave in accordance with paragraph (a) of this subclause, the leave is not taken for whatever reason payment for time accrued at overtime rates shall be made at the expiry of the 12 month period or on termination.

(d) Where no election is made in accordance with the said paragraph (a), the employee shall be paid overtime rates in accordance with the award.

13.5 Make-up Time

(a) An employee may elect, with the consent of the employer, to work "make-up time", under which the employee takes time off ordinary hours, and works those hours at a later time, during the spread of ordinary hours provided in the award, at the ordinary rate of pay.

(b) An employee on shift work may elect, with the consent of the employer to work "make-up time" (under which the employee takes time off ordinary hours and works those hours at a later time), at the shift work rate which would have been applicable to the hours taken off.

13.6 Rostered Days Off

(a) An employee may elect, with the consent of the employer, to take a rostered day off at any time.

(b) An employee may elect, with the consent of the employer, to take rostered days off in part day amounts.

(c) An employee may elect, with the consent of the employer, to accrue some or all rostered days off for the purpose of creating a bank to be drawn upon at a time mutually agreed

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(801) SKI INSTRUCTORS (STATE) AWARD

between the employer and employee, or subject to reasonable notice by the employee or the employer.

(d) This subclause is subject to the employer informing each union which is both party to

the award and which has members employed at the particular enterprise of its intention to introduce an enterprise system of RDO flexibility, and providing a reasonable opportunity for the union(s) to participate in negotiations.

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14. Bereavement Leave

14.1 An employee, other than a casual employee, shall be entitled to two days bereavement leave without deduction of pay, on each occasion of the death of a person as prescribed in subclause (iii) of this clause.

14.2 The employee must notify the employer as soon as practicable of the intention to take bereavement leave and will, if required by the employer, provide to the satisfaction of the employer proof of death.

14.3 Bereavement leave shall be available to the employee in respect to the death of a person prescribed for the purposes of personal/carer's leave as set out in subparagraph (ii) of paragraph (c) of subclause 13.1 of clause 13, Personal/Carer's Leave provided that, for the purpose of bereavement leave, the employee need not have been responsible for the care of the person concerned.

14.4 An employee shall not be entitled to bereavement leave under this clause during any period in respect of which the employee has been granted other leave.

14.5 Bereavement leave may be taken in conjunction with other leave available under subclauses

13.2, 13.3, 13.4, 13.5 and 13.6 of the said clause 13. In determining such a request, the employer will

give consideration to the circumstances of the employee and the reasonable operational requirements of the business.

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(801) SKI INSTRUCTORS (STATE) AWARD

15. Disputes and Industrial Grievance Procedure

15.1 The procedure for the resolution of industrial disputation and grievances will be in accordance with the *Industrial Relations Act 1996*. These procedural steps are as follows:

(i) Procedure relating to a grievance of an individual employee:

(a) The employee shall notify (in writing or otherwise) the employer as to the substance of

the grievance, request a meeting with the employer for bilateral discussions and state the remedy sought.

(b) The grievance must initially be dealt with as close to the source as possible, with graduated steps for further discussion and resolution at the higher levels of authority.

(c) Reasonable time limits must be allowed for discussion at each level of authority.

(d) At the conclusion of the discussion, the employer must provide a response to the employee's grievance, if the matter has not been resolved, including reasons for not implementing any proposed remedy.

(e) While a procedure is being followed, normal work must continue.

(f) The employee may be represented by an industrial organisation of employees for the purpose of each procedure.

(ii) Procedure for a dispute between an employer and the employees:

(a) A question, dispute or difficulty must initially be dealt with as close to its source as possible, with graduated steps for further discussion and resolution at higher levels of authority.

(b) Reasonable time limits must be allowed for discussion at each level of authority.

(c) While a procedure is being followed, normal work must continue.

(d) The employer may be represented by an industrial organisation of employer and the employees may be represented by an industrial organisation of employees for the purpose of each procedure.

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(801) SKI INSTRUCTORS (STATE) AWARD

16. Productivity and Related Matters

16.1 Restrictive Activities - It is agreed that the Union will avoid the following restrictive activities which lower productivity.

16.2 Stoppages - The Union will not call, impose or allow its members to call or impose any strike, stopwork meeting, ban, limitation of output or similar restriction. Clause 15, Disputes Settlement Procedure, of this award shall be followed in dealing with a dispute arising.

16.3 Working Hours - The Union will encourage its members to reduce absenteeism and eliminate late coming, extended work breaks, early stopping and malingering.

16.4 Demarcation Issues - Where a demarcation dispute occurs between Unions, employees will continue working on the predispute basis until the dispute is resolved.

16.5 Communications - The Union and the employer agree to keep each other appropriately informed on relevant matters.

16.6 Visiting Union Officials - Before going on site, visiting Union officials will call at the office and introduce themselves to an appropriate employer representative, in this case, either the Snow sports School Director or Resort Manager.

16.7 A Ski Industry Consultative Committee shall be established with appropriate Union and employer representatives. At least one paid meeting of the Committee shall take place each season. The Union and the employer are to agree on an agenda prior to the meeting taking place.

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(801) SKI INSTRUCTORS (STATE) AWARD

17. Use of Uphill Transport Facilities and Other Employee Responsibilities

17.1 Where the employee is allowed to use chairlifts, T-bars and other uphill transport of whatsoever nature, free of charge, then such transport shall only be used in accordance with the conditions published by the Company.

17.2 Further, where such uphill transport or facilities are used they are used on the condition that the Company shall not be liable for any loss, damage or injury to the employee or the employee's property in any way caused with or attributable to the area held by the Company under lease.

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(801) SKI INSTRUCTORS (STATE) AWARD

18. Superannuation

18.1 The subject of superannuation contributions is dealt with extensively by legislation including the *Superannuation Guarantee (Administration) Act 1992*, the *Superannuation Guarantee Charge Act 1992*, the *Superannuation Industry (Supervision) Act 1993*, the *Superannuation (Resolution of Complaints) Act 1993* and the *Industrial Relations Act (NSW) 1996*. The legislation, as varied from time to time, governs the superannuation rights and obligations of the parties.

18.2 The employer shall be a participating employer in any of the following funds: AMP Super Leader Plan for Casuals
Australian Superannuation Savings Employment Trust (ASSET)

Hospitality Organisations and Portable Liquor Union Superannuation Trust (HOST-PLUS)
or

Superannuation Trust Scheme (STA)

and shall participate in accordance with the Trust Deed of that fund.

18.3 The employer shall contribute to the Fund in accordance with the legislation provided that employer contributions do not fall below 3% of ordinary time earnings:

NOTATION: Employer contributions under relevant legislation are set at 8% from 30 June 2000, until they increase to 9% from 1 July 2002.

18.4 The employer shall provide each employee upon commencement of employment with membership forms of the fund and shall forward the completed membership form to the fund within 14 days.

18.5 An employee may make contributions to the fund in addition to those made by the employer.

18.6 An employee who wishes to make additional contributions must authorise the employer in writing to pay into the fund from the employee's wages a specified amount in accordance with the Trust Deed and the rules of the fund.

18.7 An employee may vary his or her additional contributions by a written authorisation and the employer must alter the additional contributions within 14 days of the receipt of the authorisation.

18.8 All contributions shall be made at the completion of each calendar month.

18.9 Ordinary time earnings shall be as defined in the relevant legislation:

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(801) SKI INSTRUCTORS (STATE) AWARD

19. Anti-Discrimination

19.1 It is the intention of the parties bound by this award to seek to achieve the object in section

3(f) of the *Industrial Relations Act 1996* to prevent and eliminate discrimination in the workplace. This includes discrimination on the grounds of race, sex, marital status, disability, homosexuality, transgender identity, age and responsibilities as a carer.

19.2 It follows that in fulfilling their obligations under the dispute resolution procedure prescribed

by this award the parties have obligations to take all reasonable steps to ensure that the operation of the provisions of this award are not directly or indirectly discriminatory in their effects. It will be consistent with the fulfilment of these obligations for the parties to make application to vary

any provision of the award which, by its terms or operation, has a direct or indirect discriminatory effect.

19.3 Under the *Anti-Discrimination Act 1977*, 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.

19.4 Nothing in this clause is to be taken to affect:

- (a) any conduct or act which is specifically exempted from anti-discrimination legislation;
- (b) offering or providing junior rates of pay to person under 21 years of age;
- (c) any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti Discrimination Act 1977*;
- (b) a party to this award from pursuing matters of unlawful discrimination in any State or federal jurisdiction.

19.5 This clause does not create legal rights or obligations in addition to those imposed upon the parties by the legislation referred to in this clause.

NOTES

(a) Employers and employees may also be subject to Commonwealth anti-discrimination legislation.

Section 56(d) of the *Anti-Discrimination Act 1977* provides:

(b) "Nothing in the Act affects...any other act or practice of a body established to propagate religion that conforms to the doctrine of that religion or is necessary to avoid injury to the religious susceptibilities of the adherents of that religion."

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(801) SKI INSTRUCTORS (STATE) AWARD

19A. Deduction of Union Membership Fees

(1) The employer shall deduct Union membership fees (not including fines or levies) from the pay of any employee, provided that:

- (a) the employee has authorised the employer to make such deductions in accordance with subclause (2) herein;
- (b) the Union shall advise the employer of the amount to be deducted for each pay period applying at the employer's workplace and any changes to that amount;
- (c) deduction of Union membership fees shall only occur in each pay period in which

payment has or is to be made to an employee; and

(d) there shall be no requirement to make deductions for casual employees with less than two months' service (continuous or otherwise).

(2) The employee's authorisation shall be in writing and shall authorise the deduction of an amount of Union fees (including any variation in that fee effected in accordance with the Union's rules) that the Union advises the employer to deduct. Where the employee passes any such written authorisation to the Union, the Union shall not pass the written authorisation on to the employer without first obtaining the employee's consent to do so. Such consent may form part of the written authorisation.

(3) Monies so deducted from employees' pay shall be remitted to the Union on either a weekly, fortnightly, monthly or quarterly basis at the employer's election, together with all necessary information to enable the reconciliation and crediting of subscriptions to employees' membership accounts, provided that:

(a) where the employer has elected to remit on a weekly or fortnightly basis, the employer shall be entitled to retain up to five per cent of the monies deducted; and

(b) where the employer has elected to remit on a monthly or quarterly basis, the employer shall be entitled to retain up to 2.5 per cent of the monies deducted.

(4) Where an employee has already authorised the deduction of Union membership fees in writing from his or her pay prior to this clause taking effect, nothing in this clause shall be read as requiring the employee to make a fresh authorisation in order for such deductions to commence or continue.

(5) The Union shall advise the employer of any change to the amount of membership fees made under its rules, provided that this does not occur more than once in any calendar year. Such advice shall be in the form of a schedule of fees to be deducted specifying either weekly, fortnightly, monthly or quarterly, as the case may be. The Union shall give the employer a minimum of two months' notice of any such change.

(6) An employee may at any time revoke in writing an authorisation to the employer to make payroll deductions of Union membership fees.

(7) Where an employee who is a member of the Union and who has authorised the employer to make payroll deductions of Union membership fees resigns his or her membership of the Union in accordance with the rules of the Union, the Union shall inform the employee in writing of the need to revoke the authorisation to the employer in order for payroll deductions of Union membership fees to cease.

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(801) SKI INSTRUCTORS (STATE) AWARD

(8) The above variations shall take effect:

(a) In the case of employers who currently deduct Union membership fees, or whose payroll facilities are carried out by way of an outsourcing arrangement, or whose payroll calculations are made through the use of computerised means, from the beginning of the first full pay period to commence on or after 10 March 2003;

(b) In the case of employers who do not fall within paragraph (a) above, but who currently make deductions, other than Union membership fee deductions or mandatory deductions (such as for taxation instalments or superannuation contributions), from employees' pay, or have in place facilities to make such deductions, from the beginning of the first full pay period to commence on or after 10 June 2003;

(c) For all other employers, from the beginning of the first full pay period to commence on or after 10 September 2003.

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(801) SKI INSTRUCTORS (STATE) AWARD

20. Area, Incidence and Duration

20.1 This award shall apply to the Union and to the employers defined herein and to all persons employed by the employer as Ski Instructors.

20.2 This award shall take effect from the beginning of the first pay period to commence on or after
1 June 1990 and shall remain in force until 31 October 1992.

20.3 This award shall not be varied during its term for any reason other than with the consent of all parties or in order to implement State Wage Case variations or to give effect to the *Occupational Health and Safety Act 1983*.

20.4 This reviewed award replaces the Ski Instructors (State) Award published 3 October 1990

(260 I.G. 119), as varied and rescinds and replaces the Ski Instructors Remuneration (State) Award published 25 January 1996 (290 I.G. 199), as varied.

20.5 The changes to give effect to section 19 of the Act and the Commission's Principles for Review of Awards shall take effect on and from 19 April 2001.

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(801) SKI INSTRUCTORS (STATE) AWARD

PART B**Appendix A**

1. Qualifications Points Table

Group Points Qualifications

1 1 APSI Children's Certificate
 2 2 APSI Level 1
 3 4 APSI Level 2
 4 6 Fully Qualified Overseas Instructors
 (Temporary Visa Instructors Only)
 4 7 APSI Level 3 (Fully Qualified in Australia)

2. Experience Points Table

Number of Seasons*	Employer Resort Points	Points Elsewhere	Maximum Points
1	2	1	
2-3	4	2	
4-6	6	3	
7-10	8	4	
11	10	5	15

*Seasons, for the purpose of the Experience Points table, shall consist of a period of continuous

employment which shall be of not less than eight weeks duration with one employer.

#For overseas "visa" ski instructors refer to Appendix B.

3. Total Points Table

Note: These points relate to all resorts except Mt. Selwyn where it is acknowledged that the ski season is one-third shorter than other areas.

Points Category	G'teed hours per week	G'teed weeks per season	SWC 2004 min. rate per hour \$	SWC 2005 weekly rate per hour \$	Relocation Reimbur't \$
22	1 25	12 30	30.3285	30.8131	1,500
18-21	2 25	12 28	28.2593	28.7439	1,500
15-17	3 25	10 24	24.9632	25.4478	1,000
10-14	4 25	8 22	22.7070	23.1916	500
5-9	5 25	5 20	20.1532	20.6378	-
2-4	6 25	3 18	18.2032	18.6878	-
0-1	7 -	- 16	16.8598	17.3444	-

Mt Selwyn Rates

Points Category	G'teed hours per week	G'teed weeks per season	SWC 2004 min. rate per hour \$	SWC 2005 weekly rate per hour \$	Relocation Reimbur't \$
22	1 25	8 30	30.3285	30.8131	1,500
18-21	2 25	8 28	28.2593	28.7439	1,500
15-17	3 20	6 24	24.9632	25.4478	660
10-14	4 15	4 22	22.7070	23.1916	330
5-9	5 10	2 20	20.1532	20.6378	-
2-4	6 10	2 18	18.2032	18.6878	-

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(801) SKI INSTRUCTORS (STATE) AWARD

0-1 7 - - 16.8598 17.3444 -

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(801) SKI INSTRUCTORS (STATE) AWARD

Notation:

The formula to be applied by the parties to this award for the purposes of any State Wage Case adjustments to wage rates shall be as follows:

1. Take the existing hourly rate less the annual leave component, that is, one thirteenth of the existing hourly rate.
2. Multiply the amount in point 1. by 38 (being the Guaranteed hours per week).
3. Identify the relevant State Wage Case adjustment applicable to the amount at point 2.
4. Take the amount at point 1., multiply by 38 and add the adjustment identified at point 3.
5. Divide the amount at point 4. by 38 (to calculate the new hourly rate excluding annual leave).
6. Add one twelfth of the amount in point 5. to the amount in point 5. (being the annual leave component).

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(801) SKI INSTRUCTORS (STATE) AWARD

Appendix B

Equivalence of Levels for Qualifications Points Table

Group Equivalence

1 APSI Children's Certificate

Anwärter ÖBSV CSIA Level 1

2 BASI Level 3
 PSIA Level 1
 CSIA Level 2
 NZSIA Level 1
 JOKYOSHI (Previously Joshu) Japan

3 BASI Level 2
 PSIA Level 2
 Landeslehrer OBSV
 1st Swiss - Vorkurs
 KYOSHI (previously Jokyoshi) Japan
 CSIA Level 3

4 CSIA Level 4
 PSIA Level 3
 NZSIA Level 2
 BASI Level 1
 Swiss Full - Patentierungskurs
 Staatlicher - Geprüfter Schilehrer OBSV French Full
 Jokyukuoshi (previously Kyoshi) Japan

Qualification points for overseas "visa" ski instructors**

Group Points

1 1
 2 2
 3 4
 4 6

** Appendix B applies solely to overseas "Visa" snow sports instructors engaged by an employer under exchange arrangements with an overseas resort where those arrangements enable snow sports instructors engaged by the employer to be placed for engagement with that overseas resort.

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(801) SKI INSTRUCTORS (STATE) AWARD

Appendix C

Contract of Employment

1. General conditions of employment will be in accordance with Job Specification(s), Employment Arrangements and Classifications as listed below:

Job Specification: Ski Instructor

Classification Category 1, 2, 3, 4, 5, 6, 7 Non Guaranteed / Contract

Points: Hourly Rate: AUD\$.....per hour

2. The term of employment is from _____ to _____.

3. The Guaranteed Weeks of employment are from _____ to _____.

4. In addition to the respective Employment Arrangements, the following arrangements will apply:

I accept and agree to be bound by the employment conditions as outlined above and confirm that I have received and read a copy of the Snow Sports Instructors (State) Award.

Employee's Signature: _____ Name: _____

Date: _____

Employer's Signature: _____ Name: _____

Position _____ Date: _____

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*(1749) PERISHER BLUE PTY LTD (SKI TUBE) STATE AWARD***(1749) SERIAL C2772****PERISHER BLUE PTY LTD (SKI TUBE) STATE AWARD**

Schedule of Consolidated Award Published on 28.5.2004 and Subsequent Variations Incorporated

Clause	Award/ Variation Serial No.	Date of Publication	Date of Taking Effect	Industrial Gazette	
				Vol	Page
Award	C2772	28.5.2004	First pay period on or after 11.2.2004	344	643
13	C3196	4.3.2005	First pay period on or after 29.6.2004	348	1114
13	C3816	7.10.2005	First pay period on or after 29.6.2005	354	429
3, 27	C4645	2.6.2006	From 1.3.2006	359	568

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AWARD**1. Arrangement**

Clause No. Subject Matter

- 1 Arrangement
- 2 Definitions
- 3 Contract of Employment
- 4 Termination of Employment
- 5 Classification of Employment
- 6 Discipline Code for Train Drivers
- 7 Disputes Procedure
- 8 Payment of Wages
- 9 Hours of Work
- 10 Shift Work
- 11 Additional Day Off
- 12 Meal Break
- 13 Rates of Pay and Allowances
- 14 Overtime
- 15 Mixed Functions
- 16 Dual Role Employment
- 17 Termination, Charge and Redundancy
- 18 Public Holidays
- 19 Sick Leave

- 21 Long Service Leave
- 22 Bereavement Leave
- 23 Parental Leave
- 24 Personal Carer's Leave
- 25 Jury Service
- 26 Training
- 27 Occupational Health and Safety
- 28 Anti-Discrimination
- 28 Certification
- 29 Uniforms, Protective Clothing & Equipment
- 30 Annual Leave
- 31 No Publicity Rights
- 32 Acknowledgment of Unique Nature of Skitube
- 33 Area, Incidence and Duration
- 34 Rights of Union Officials
- 35 Superannuation
- 36 Code of Ethics

Appendix A

Grandparenting Arrangements Over Award Entitlements For Employees Engaged Prior To 25 August 2003

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2. Definitions

For the purposes of this award:

2.1 "Additional Day Off" means a day off duty with pay pursuant to Clause 11.

2.2 "Allowance" means a monetary allowance paid to an employee other than their hourly rate of pay. An allowance usually is a stand alone ordinary amount, and not subject to overtime penalty rate calculations etc.

2.3 "Annual Leave" means leave as prescribed by the *Annual Holidays Act 1944*.

2.4 "Any 5 Days" means any five (5) ordinary working days worked between Monday to Sunday.

2.5 "Casual Employee" is an employee engaged on an hourly basis and paid as such. Casual employees are paid the applicable hourly rate plus twenty percent (20%) to compensate for Sick Leave, Annual Leave and Public Holidays.

2.6 "Duty Controller" means a person who:

2.6.1 is a Train Driver;

2.6.2 has served in the Skitube Train Operations Department as a Train Driver;

2.6.3 has been trained in the additional functions of train controlling;

2.6.4 and has spent a minimum period of three (3) months in the control room under supervision.

2.7 "Duty Controllers Allowance" is an hourly Allowance paid to an employee who is required to act as a Duty Controller, and who is rostered to work in that capacity. Duty Controllers Allowance is to be paid for all hours worked as a Duty Controller.

2.7.1 An employee who performs the duties of a Duty Controller for at least 1,040 hours during any financial year shall be paid the Duty Controllers Allowance while on annual leave. This Allowance is only payable on leave taken, not leave paid out on termination.

2.8 "Crib Time" means a paid break of twenty (20) minutes duration taken for a tea or meal break. This paid time shall be paid at the appropriate rate for the work being performed at the time the meal break was taken.

2.9 "Dual Role Employment" means an employee who is specifically employed on a full time basis in two different job classifications at two rates of pay as described in Clause 13 of this agreement.

2.10 "First Aid Allowance" - leave reserved.

2.11 "Permanent Employee" means an employee engaged to work for an average of thirty-eight (38) hours per week and who is not a seasonal employee.

2.12 "General Duties" means employees who normally perform various general maintenance duties for the employer.

2.13 "Meal Allowance" is an Allowance paid to an employee required to work overtime for more than two (2) hours without being notified on the previous day or earlier that they will be so required to work. An employee shall either be supplied with a meal by the Employer or paid a Meal Allowance.

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2.14 "Misconduct" without limiting its ordinary meaning, includes malingering, inefficiency, and neglect of duty, insobriety and unauthorised absenteeism.

2.15 "Overtime" means work done outside of or in excess of ordinary hours worked (as prescribed by this agreement). Work conducted under such conditions shall then be paid at the prescribed rate in Clause 14.

2.16 "Pay Week" means seven (7) days from Monday to Sunday.

2.17 "Roster" is a list showing when each employee is required for duty.

2.18 "Rostered Day Off" means a day shown on a roster as a day off without pay other than the employee's Additional Day Off.

2.19 "Seasonal Employee" means an employee who is employed for a limited period of employment.

2.20 "Seven Day Shift Worker" means a permanent employee who is rostered to work shift work and/or weekend work for more than 26 weeks in the period from 1 July to 30 June the next year. For the purposes of this definition 'weekend' work shall mean the commencement and completion of at least one period of ordinary hours of work of 7.6 hours between the hours of 0001 on a Saturday and 2359 on a Sunday. For the purposes of this definition the commencement and completion of at least 7.6 hours (worked continuously) of shift work during a 38 hour week shall qualify as one week of shift work.

2.21 "Shift Work" pertaining to this award, means work performed in accordance with the prescribed shifts of "Afternoon Shift", "Night Shift" or "Early Morning Shift" as defined in Clause 10.7.

2.22 "Shift Worker" means an employee who is required to work on "Shift Work" as defined by definition 2.21 "Shift Work".

2.23 "Skitube Tunnels" means the underground area between Portal 1 and Portal 2 (Bilston Tunnel) and Portal 3 and Portal 4 (Blue Cow Tunnel).

2.24 "Supervisor" means an authorised officer of the Employer to whom an employee is directly responsible.

2.25 "Train Driver" means an employee who is in possession of a Certificate of Competency to drive Skitube trains granted pursuant to the *Rail Safety Act 2002* or such other legislative instrument governing the operation of railways in New South Wales from time to time.

2.26 "Tunnel Allowance" is an hourly Allowance paid to an employee, who is employed under the General Duties classification and who works within the Skitube Tunnels, (but not including the Perisher Skitube Terminal, Blue Cow Terminal and platform areas) for all ordinary hours worked within the Skitube Tunnels.

2.27 "Union Official" means a duly authorised person elected, or accredited as an official of the Union, and authorised to act for and on behalf of the Union.

2.28 "Union Representative" is a Permanent, Weekly or Seasonal Employee who is elected by a majority of employees who are financial members of the Union. This person shall represent the employees and the Union and have all rights of a Union Representative in negotiating with management on matters concerning this award, working conditions, or amenities, etc.

2.29 "Weekly Employee" means a Permanent or Seasonal Employee engaged by the week

to work on a weekly basis.

2.30 "Year" for the purposes of this award shall mean a year of employment.

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3. Contract of Employment

3.1 Employees may be engaged as Permanent Employees, Seasonal Employees or Casual Employees.

3.2 All prospective employees shall complete an employment application form prior to each engagement. The employee must ensure that the information given on the application form is true in every respect as far as reasonably possible and, if subsequently any detail is found to be untrue, the Employer may dismiss the employee without notice.

3.2.1 All employees engaged shall be informed in writing of the type of hiring being offered at the time of engagement and the method of payment and conditions of work which apply to the hiring and shall be required to sign in acceptance of the terms and conditions of hiring.

3.2.2 Upon engagement a Seasonal Employee shall be advised of the anticipated duration of the season, provided that the employer may vary this period by giving not less than seven (7) days notice in writing to the employee.

3.3 Secure Employment

Notwithstanding Clause 3. Contract of Employment, sub-clauses 3.1 & 3.2, the following clause shall apply to casual employees

3.3.1 Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

3.3.2 Casual Conversion

(i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.

(ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such

period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.

(iii) Any casual employee who has a right to elect under paragraph 3.3.2 (i), upon receiving notice under paragraph 3.3.2 (ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

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(iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.

(v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.

(vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph 3.3.2 (iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph 3.3.2 (iii), discuss and agree upon:

(1) whether the employee will convert to full-time or part-time employment;
and

(2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

(vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time

employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

(viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.

3.3.3 Disputes Regarding the Application of this Clause

Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.

3.3.4 This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.

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4. Termination of Employment

4.1 Subject to Clause 17, the employment of Permanent and Seasonal Employees may be terminated

by one (1) week's notice on either side or payment in lieu of notice by the employer or forfeiture

of one week's pay in lieu of notice by the employer.

4.2 The employment of Casual Employees may be terminated by one (1) hour's notice on either side or by one (1) hour's pay being paid or forfeited, as the case may be, in lieu of notice.

4.3 Where an employee has given or been given notice, they shall continue in their employment until the notice date. If, without reasonable cause (proof of which shall be the employee's responsibility), the employee is absent from work during such period, they shall be deemed to have abandoned their employment and shall not be entitled to payment for work done by them within that period.

4.4 Notwithstanding the provisions of subclauses 4.1, 4.2, 4.3 and clause 17, the employer has the right to summarily dismiss any employee for serious misconduct.

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5. Classifications of Employment

5.1 Classifications covered by this award are:

5.1.1 Trainee Driver - An employee engaged to undertake training to become a Train Driver and who is not yet in possession of a Certificate of Competency to drive Skitube trains granted pursuant to the *Rail Safety Act 2002* or such other legislative instrument governing the operation of railways in New South Wales from time to time.

5.1.2 First Level Train Driver - A Train Driver who meets the criteria at Second Level Driver but who is the subject of disciplinary action for misconduct and is reduced to a lower rate of pay.

5.1.3 Second Level Train Driver - An employee who is in possession of a Certificate of Competency to drive Skitube trains granted pursuant to the *Rail Safety Act 2002* or such other legislative instrument governing the operation of railways in New South Wales from time to time.

5.1.4 Leading Hand Track Inspector - An employee who is an accredited rail safety worker and who is responsible for the inspection and maintenance of track, tunnels and general rail infrastructure as well as the general supervision of staff involved in processes.

5.1.5 Track Inspector - An employee who is an accredited rail safety worker and who is responsible for the inspection and maintenance of track, tunnels and general rail infrastructure ally all track and rail lines, to ensure the safe running of railway services.

5.1.6 Resort Worker - an employee who performs various maintenance and general duties for the employer.

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6. Discipline Code for Train Drivers

6.1 Generally, a Train Driver shall be disciplined to a lower rate of pay for a specified period of time, if, in the opinion of the Skitube Operations Supervisor, and at the final discretion of the Skitube Manager, the Train Driver has been negligent, inattentive, or lacking in quality of work, which causes an unwarranted and unwanted variance to the operation of the train and/or system, or is deemed to place the Employers property, other employees, and/or patrons in jeopardy of their well-being.

6.2 Any Train Driver who believes he/she has been unfairly disciplined has the right of appeal to the Skitube Manager, General Manager Operations, or the Chief Executive Officer. The Union Official or the Union Representative may represent the Employee.

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legal advice to determine whether NSW industrial relations laws apply to them.

7. Dispute Procedure

7.1 An employee may refer any dispute arising out of employment to his/her nominated representative or the Union Representative may refer any dispute arising out of employment to the Employer Representative appointed for this purpose.

7.2 The Union Representative shall refer any dispute arising out of employment to the Employer Representative appointed for this purpose.

7.3 Failing settlement between the employer and the Union Representative on the job, the Union Representative shall refer the dispute to the appropriate Union Official who will take the matter up with the Employer.

7.4 All efforts shall be made by the Employer and the Union Organiser to settle the matter, but failing settlement both parties shall have the right to refer the matter to the Industrial Commission of NSW.

7.5 During the discussions the situation and conditions shall remain as that which existed prior to the dispute and work shall proceed normally.

7.6 In the case of a dispute full consultation between both parties must take place as soon as possible and no later than 14 days after the dispute arises.

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8. Payment of Wages

8.1 Wages will be lodged with the Employees' bank no later than three (3) days after the end of the pay week for distribution by EFT to employees' bank accounts.

8.2 Wages shall be paid by electronic funds transfer and transferred to the employees' bank or building society account, as selected by the employee.

8.3 On each pay-day, the Employer shall notify each employee in writing the amount of wages to which they are entitled, the amount of deductions made and the net amount due to be paid to the employee. Such detail shall be given confidentially.

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9. Hours of Work

9.1 The ordinary hours of work shall be 7.6 hours per day and shall be worked continuously.

9.2 Employees shall work in accordance with a weekly roster. Rosters are to be displayed no later than four (4) days prior to the start of the weekly period and shall not be changed except by mutual agreement between the Employer and employee.

9.3 Subject to Clause 10, Shift Work, the ordinary hours of work shall be an average of thirty eight (38) per week to be worked on any day between the hours of 6.00 am and 7.00 pm, Monday to Sunday on one of the following basis:

9.3.1 38 hours within a work cycle not exceeding seven (7) consecutive days; or

9.3.2 76 hours within a work cycle not exceeding fourteen (14) consecutive days; or

9.3.3 114 hours within a work cycle not exceeding twenty-one (21) consecutive days; or

9.3.4 152 hours within a work cycle not exceeding twenty-eight (28) consecutive days.

9.4 A thirty eight (38) hour week may be any one of the following:

9.4.1 by employees working 5 equal days of 7.6 hours; OR by the employees working eight (8) hours each day, therefore accruing 24 minutes per day towards an additional day off.

9.5 Consultation shall occur on any other method of implementation of the thirty eight (38) hour week with the appropriate union representatives. However, the final choice as to the method of implementation of the thirty eight (38) hour week shall rest with the Employer.

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10. Shift Work

10.1 The employer may require its employees to work under a system of shift work with shifts operating twenty four (24) hours per day and seven (7) days in each week.

10.2 Subject to the following conditions, shift workers shall work at such times as the Employer may require.

10.2.1 Except at the regular changeover of shifts, an employee shall not be required to work more than one shift in each twenty four (24) hour period.

10.2.2 Twenty (20) minutes shall be allowed to shift workers each shift for crib that shall be counted as time worked.

10.3 The composite rates in this award comprehend shift work and all other aspects of the

work of the employees not otherwise expressly addressed in this award.

10.4 All persons who were engaged as permanent, seasonal or casual employees in any of the Classifications listed in Clause 5 at 25 August 2003 are to refer to Addendum 1 for their entitlement to shift penalties.

10.5 Shift work under this award is to be rostered on a full rotational basis which is to be fair in its application to employees, or on such other roster as may be agreed between the employer and the majority of rostered employees.

10.6 Reasonable shift swaps between employees will be permitted with the consent of the employer, such consent will not be unreasonably withheld.

10.7 Employees will be rotated through the following shifts in accordance with clause 10.5:

10.7.1 "Afternoon Shift" means a shift which employees commence at or between 1200 noon and 6.59 pm.

10.7.2 "Night Shift" refers to the hours worked means a shift which employees commence at or between 7.00 pm and 3.59 am.

10.7.3 "Early Morning Shift" means a shift which employees commence at or between 4.00 am and 5.59 am.

10.8 Unless the contrary intention appears, all provisions of Clause 9 of this award shall apply to the provisions of this clause.

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11. Additional Day Off

11.1 An employee (excluding Casual Employees) who works an eight hour day accrues twenty-four

(24) minutes per day worked towards an Additional Day Off.

11.2 Subject to sub-clause 11.5, an employee shall take their Additional Day Off within fourteen (14) days of the employee's entitlement thereto arising, being accrued or as agreed between the employee and the employer.

11.3 In the event of an emergency the Employer may require an employee to work on their additional day off, provided that the employee shall be paid at the overtime rates for that day worked.

11.4 Upon termination an employee shall be paid all time accrued which has not been taken by the employee as Additional Days off.

11.5 Despite sub-clause 11.2 the entitlement to Additional Day/s Off shall be accumulated during the period of 1 June to 30 September to be taken at the end of the ski season. The accumulated Additional Day/s Off may, with agreement of the Employer, be deferred and

taken together with annual leave entitlements.

11.6 The Employer may make payment to an employee in lieu of any Additional Day Off or part thereof to which the employee is entitled at the Employers discretion.

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12. Meal Breaks

12.1 Employees are entitled to a meal break of between 30 and 60 minutes duration without pay provided they do not work more than 5 consecutive hours without a break.

12.2 Where train movements do not allow an unpaid meal break in accordance with clause 12.1, Train Drivers and/or Controllers shall have a paid crib break of 20 minutes which is to be taken between the third and fifth hour.

12.3 Where an employee is required to work for more than five hours after the start of ordinary time without a meal break, the employee shall be paid at the overtime rate until such a break is provided.

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13. Rates of Pay and Allowances

13.1 The following rates of pay shall apply to the classifications and allowances for Skitube workers employed under this award:

Rates of Pay	Rate Per Hour \$
Train Drivers	
Trainee Driver	13.5784
Train Driver - Level I	16.3759
Train Driver - Level II	17.7474
General Duties	
Leading Hand Track Inspector	16.1100
Track Inspector	15.5678
Resort Worker	13.3878
Allowances	
Duty Controllers (per hour)	1.8670
Tunnel Allowance (per hour)	0.6514

Meal Allowance (see clause 12.3) 5.4562

13.2 The rates stated in this clause are, apart from the allowances, inclusive of compensation for all discomforts and disabilities associated with the normal duties of the job classifications shown in subclause 13.1 above and shall include compensation for shift work and all other aspects of the work of the employees not otherwise expressly addressed in this award.

13.3 All rates of pay in this award include the adjustments payable under the State Wage Case 2005. These adjustments may be offset against:

(a) any equivalent over award payments; and/or

(b) award wage increases since 29 May 1991 other than safety net, State Wage Case, and minimum rates adjustments.

13.4 All persons who were engaged as permanent, seasonal or casual employees in any of the Classifications listed in Clause 5 at 25 August 2003 are entitled to the rates of pay, shift penalties and allowances listed in Addendum 1 of this award.

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14. Overtime

14.1 Subject to Clause 14.2, an employer may require an employee to work reasonable overtime at overtime rates.

14.2 An employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working hours which are unreasonable.

14.3 For the purposes of clause 14.2 what is unreasonable or otherwise will be determined having regard to:

14.3.1 any risk to employee health and safety;

14.3.2 the employee's personal circumstances including any family and carer responsibilities;

14.3.3 the needs of the workplace or enterprise;

14.3.4 the notice (if any) given by the employer of the overtime and by the employee of his or her intention to refuse it; and

14.3.5 any other relevant matter.

14.4 For all time worked in excess of ordinary hours prescribed in Clause 9 - Hours of Work, and Clause 10, Shift Work, the rates of pay shall be time and one-half for the first two (2) hours and double time thereafter, such double time to continue until the completion of the overtime work.

In calculating overtime, each days work shall stand-alone.

14.5 All employees shall have a rest period of at least ten (10) consecutive hours between ceasing the work on one day and recommencing work on the next day. Employees who do not have a rest period of at least ten (10) consecutive hours shall be paid overtime rates until released from duty for such a rest period.

14.6 An employee with the exception of Track Inspectors and Resort Workers recalled to work after leaving the employer's premises shall be paid for a minimum of two (2) hours work at the appropriate overtime rate. Track Inspectors and Resort Workers will be paid a minimum of four (4) hours at the appropriate overtime rate. This subclause shall not apply in cases where it is customary for an employee to return to the employer's premises to perform a specific job outside their ordinary working hours.

14.7 An employee working overtime shall be entitled to a crib break of twenty (20) minutes.

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15. Mixed Functions

15.1 The Employer may require an employee to perform functions other than the ordinary functions of their classification so long as those functions are within the employee's competence. Additionally, the Employer may require an employee to perform work at locations other than the location at which the employee ordinarily works.

15.2 An employee engaged during one day or shift on duties carrying a higher rate than their ordinary classification, shall be paid the higher rate only whilst performing those duties.

15.3 An employee ordered to lot in or to relieve for another in a lower grade shall not have their rate of pay reduced while so employed, except in cases of disciplinary action (clause 6).

15.4 An employee ordered to act in or to relieve for another in a grade shall abide by the conditions of that classification.

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16. Dual Role Employment

16.1 A person may be employed to carry out two specific job roles on two rates of pay,

provided that:

16.1.1 The employee is given written notice that they are being employed specifically under the conditions of this clause prior to the commencement of their employment;

16.1.2 The employment under each role is for a specified, seasonal period of not less than four months in any one period;

16.1.3 The periods of employment be nominated by date prior to commencement of the employment;

16.1.4 If the employee is required to act in the higher nominated job role for a period of time while serving in the lower duties role they shall be paid a minimum of one day on the higher rate of pay relevant to that duty (as per clause 13);

16.1.5 While the employee is employed under the terms of this clause all Annual Leave shall be paid on the basis of time spent in each job classification;

16.1.6 Superannuation contributions shall be deducted weekly from the actual weekly wages earned. The hourly rates for each job description are detailed in Clause 13 and the percentage of the Superannuation contribution is specified in Clause 35;

16.1.7 Clause 13 shall determine the rates of pay for the relevant positions worked; and,

16.1.8 When a permanent position becomes vacant in the higher duties classification of the employees dual role classification then this person shall have first option to the position. An employee shall retain the right of refusal to accept the position.

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17. Termination, Change and Redundancy

17.1 Application

(a) This clause shall apply in respect of permanent employees.

(b) This clause shall only apply to employers who employ 15 or more employees immediately prior to the termination of employment of employees.

(c) Notwithstanding anything contained elsewhere in this clause, this clause shall not apply to employees with less than one year's continuous service and the general obligation on employers shall be no more than to give such 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.

(d) Notwithstanding anything contained elsewhere in this clause, this clause shall not apply where employment is terminated as a consequence of conduct that justifies instant dismissal, including malingering, inefficiency or neglect of duty, or in the case of casual employees, apprentices or employees engaged for a specific period of time or for a

specified task or tasks or where employment is terminated due to the ordinary and customary turnover of labour.

17.2 Introduction of Change

(a) Employer's duty to notify

(1) Where an employer has made a definite decision to introduce major changes in production, program, organisation, structure or technology that are likely to have significant effects on employees, the employer shall notify the employees who may be affected by the proposed changes and the union to which they belong.

(2) "Significant effects" include termination of employment, major changes in the composition, operation or size of the employer's workforce or in the skills required, the elimination or diminution of job opportunities, promotion opportunities or job tenure, the alteration of hours of work, the need for retraining or transfer of employees to other work or locations and the restructuring of jobs.

Provided that where the award makes provision for alteration of any of the matters referred to herein, an alteration shall be deemed not to have significant effect.

(b) Employer's duty to discuss change

(1) The employer shall discuss with the employees affected and the union to which they belong, inter alia, the introduction of the changes referred to in paragraph (a) above, the effects the changes are likely to have on employees and measures to avert or mitigate the adverse effects of such changes on employees, and shall give prompt consideration to matters raised by the employees and/or the union in relation to the changes.

(2) The discussion shall commence as early as practicable after a definite decision has been made by the employer to make the changes referred to in paragraph (a) of this subclause.

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(3) For the purpose of such discussion, the employer shall provide to the employees concerned and the union to which they belong, 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 any employer shall not be required to disclose confidential information the disclosure of which would adversely affect the employer.

17.3 Redundancy

(a) Discussions before terminations:

(1) Where an employer has made a definite decision that the employer no longer wishes the job the employee has been doing to be done by anyone pursuant to subparagraph (1) of paragraph (a) of 17.2 above, and that decision may lead to the termination of

employment, the employer shall hold discussions with the employees directly affected and with the union to which they belong.

(2) The discussions shall take place as soon as is practicable after the employer has made a definite decision which will invoke the provision of subparagraph (1) of this paragraph and shall cover, inter alia, any reasons for the proposed terminations, measures to avoid or minimise the terminations and measures to mitigate any adverse effects of any termination on the employees concerned.

(3) For the purposes of the discussion the employer shall, as soon as practicable, provide to the employees concerned and the union to which they belong, all relevant information about the proposed terminations including the reasons for the proposed terminations, the number and categories of employees likely to be affected, and the number of workers normally employed and the period over which the terminations are likely to be carried out. Provided that any employer shall not be required to disclose confidential information the disclosure of which would adversely affect the employer.

17.4 Termination of Employment

(a) Notice for Changes in Production, Programme, Organisation or Structure - This subclause sets out the notice provisions to be applied to terminations by the employer for reasons arising from "production", "programme", "organisation" or "structure" in accordance with Clause 17.2.

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

Period of Continuous Service	Period of Notice
Less than 1 year	1 week
1 year and less than 3 years	2 weeks
3 years and less than 5 years	3 weeks
5 years and over	4 weeks

(2) In addition to the notice above, employees over 45 years of age at the time of the giving of the notice with not less than two years continuous service, shall be entitled to an additional week's notice.

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(3) Payment in lieu of the notice above shall be made if the appropriate notice period is not given. Provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof.

(b) Notice for Technological Change - This subclause sets out the notice provisions to be applied to terminations by the employer for reasons arising from "technology" in accordance with Clause 17.2 above:

(1) In order to terminate the employment of an employee the employer shall give to the

employee 3 months notice of termination.

(2) Payment in lieu of the notice above shall be made if the appropriate notice period is not given. Provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof.

(3) The period of notice required by this subclause to be given shall be deemed to be service with the employer for the purposes of the Long Service Leave Act 1955, the Annual Holidays Act 1944, or any Act amending or replacing either of these Acts.

(c) Time off during the notice period

(1) During the period of notice of termination given by the employer, an employee shall be allowed up to one day's time off without loss of pay during each week of notice, to a maximum of five weeks, for the purposes of seeking other employment.

(2) 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.

(d) Employee leaving during the notice period - If the employment of an employee is terminated (other than for misconduct) before the notice period expires, the employee shall be entitled to the same benefits and payments under this clause had the 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.

(e) Statement of employment - The employer shall, upon receipt of a request from an employee whose employment has been terminated, provide to the employee a written statement specifying the period of the employee's employment and the classification of or the type of work performed by the employee.

(f) Notice to Centrelink

Where a decision has been made to terminate employees, the employer shall notify Centrelink thereof as soon as possible giving relevant information including the number and categories of the employees likely to be affected and the period over which the terminations are intended to be carried out.

(g) Centrelink Separation Certificate

The employer shall, upon receipt of a request from an employee whose employment has been terminated, provide to the employee an "Employment Separation Certificate" in the form required by Centrelink.

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(h) Transfer to lower paid duties

Where an employee is transferred to lower paid duties for reasons set out in Clause 17.2

above, 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, and the employer may, at the employer's option, make payment in lieu thereof of an amount equal to the difference between the former ordinary time rate of pay and the new ordinary time rate for the number of weeks of notice still owing.

17.5 Severance Pay

(a) Where the employment of an employee is to be terminated pursuant to Clause 17.4, subject to further order of the Industrial Relations Commission, the employer shall pay the following severance pay in respect of a continuous period of service:

(1) If an employee is under 45 years of age, the employer shall pay in accordance with the following scale:

Years of Service	Under 45 Years of Age Entitlement
Less than 1 year	Nil
1 year and less than 2 years	4 weeks
2 years and less than 3 years	7 weeks
3 years and less than 4 years	10 weeks
4 years and less than 5 years	12 weeks
5 years and less than 6 years	14 weeks
6 years and over	16 weeks

(2) Where an employee is 45 years of age or over, the entitlement shall be in accordance with the following scale:

Years of Service	45 Years of Age and over entitlement
Less than 1 year	Nil
1 year and less than 2 years	5 weeks
2 years and less than 3 years	8.75 weeks
3 years and less than 4 years	12.5 weeks
4 years and less than 5 years	15 weeks
5 years and less than 6 years	17.5 weeks
6 years and over	20 weeks

(3) "Weeks pay" means the all-purpose rate of pay for the employee concerned at the date of termination and shall include, in addition to the ordinary rate of pay, overaward payments, shift penalties and allowances provided for in the relevant award.

(b) Incapacity to Pay - Subject to an application by the employer and further order of the Industrial Relations Commission, an employer may pay a lesser amount (or no amount) of severance pay than that contained in paragraph (a) above.

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legal advice to determine whether NSW industrial relations laws apply to them.

The Industrial Relations Commission shall have regard to such financial and other resources of the employer concerned as the Commission thinks relevant, and the probable effect paying the amount of severance pay in paragraph (a) above will have on the employer.

(c) Alternative Employment - Subject to an application by the employer and further order of the Industrial Relations Commission, an employer may pay a lesser amount (or no amount) of severance pay than that contained in paragraph (a) above if the employer obtains acceptable alternative employment for an employee.

17.6 Savings Clause

Nothing in this award shall be construed so as to require the reduction or alteration of more advantageous benefits or conditions which an employee may be entitled to under any existing redundancy arrangement, taken as a whole, between the union and any employer bound by this award.

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18. Public Holidays

18.1 In view of the nature of the Employer's operations, employees may, from time to time be required to work on Public Holidays, that are gazetted in the State of NSW.

18.2 Where an employee is absent from their employment on the working day before or the working day after a Public Holiday, without reasonable excuse or without the consent of the Employer, the employee shall not be entitled to payment of such holiday.

18.3 All employees who work on a Public Holiday shall be paid the normal rate for the actual hours worked plus time and one-half.

18.4 Where a weekly employee is rostered to work five days in seven and works five days in seven, inclusive of authorised sick leave, and a Public Holiday, as described within clause 18.1 falls on the day or days that the employee is rostered off within the normal seven day week, then the employee will accrue an additional day off, to be taken as paid time off, at normal hours. This accrued additional day off shall be generally taken consistent with the provisions of clause 11.2 of the award.

18.5 Where a seven (7) day shift worker cannot accrue 38 hours during any five day in seven work cycle due to a Public Holiday, as described in clause 18.1, occurring within that cycle, then the employee shall be paid normal hours for that public holiday.

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19. Sick Leave

19.1 Each Permanent Employee who has completed eight (8) weeks continuous service and who is absent from work on account of personal illness or accident, not being an accident compensated by workers' compensation, shall be entitled to leave of absence with pay subject to the following conditions and limitations.

19.1.1 Permanent Employees shall be entitled to sick leave of five (5) days in the first year of employment and eight (8) days in each subsequent year of continuous employment with the Employer. Permanent employees shall be entitled to two (2) sick days of their annual entitlement in each year of their employment on full pay without the production of a Doctor's Certificate, such uncertified entitlement shall not accumulate.

19.1.2 The employee shall notify the Employer prior to the beginning of their shift of their inability to attend for duty, and as far as practicable, state the nature of the injury or illness and the estimated duration of the absence.

19.1.3 On their return to work, the employee shall furnish evidence as the Employer may reasonably require that the employee was unable, by reason of illness or injury, to attend for duty on the day or days for which sick leave is claimed.

19.1.4 Permanent Employees' shall accumulate the balance of sick leave not taken each calendar year. The balance of sick leave not taken by an employee is not payable on termination of employment.

19.1.5 When an employee who has been on sick leave is ready to return to duty he or she shall notify the Supervisor prior to returning to work in accordance with the Employers 'Return to Work Policy'.

19.2 Seasonal Employees who have completed four (4) weeks continuous service shall be entitled to one (1) day of paid sick leave for every two (2) calendar months.

19.2.1 The employee shall, inform the Employer prior to the beginning of their shift of their inability to attend for duty, and as far as is practicable, state the nature of the injury or illness and the estimated duration of the absence.

19.2.2 The employee shall furnish such evidence as the employer may reasonably require that the employee was unable, by reason of such illness or injury, to attend for duty on the day or days for which sick leave is claimed.

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20. Annual Leave

20.1 Subject to Clauses 20.2, 20.3, 20.4 and 20.5 annual leave will be taken in accordance

with the
Annual Leave Act, 1944.

20.2 Seven Day Shift Workers (defined in Clause 2.20) shall be entitled to five weeks annual leave.

20.3 Loading Annual Leave

20.3.1 During a period of annual leave an employee shall receive a loading calculated at the rate of seventeen and one half percent (17.5%) of the ordinary weekly rate described by this Agreement for the classification in which the employee was employed immediately before commencing their annual holiday.

20.3.2 Leave loading is not payable on leave paid out termination.

20.3.3 The loading on annual leave taken in advance as per clause 20.1 shall not be payable until the actual entitlement.

20.4 Employees are required to take annual leave during the period from the 15 October in one year and 31 May of the next year.

20.5 The annual leave shall be given and taken as directed by the Employer on the following basis:

20.5.1 In one continuous period or

20.5.2 In two separate periods, one of which shall be of at least two (2) week duration.

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21. Long Service Leave

See *Long Service Leave Act, 1955.*

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22. Bereavement Leave

22.1 An employee on weekly engagement shall, on the death within Australia of a wife, husband, father, mother, brother, sister, child or step-child, mother-in-law, father-in-law, grandfather and grandmother be entitled to be taken in the period up to and including the day of the funeral of such relation, and such leave shall be without deduction of pay for a period not exceeding the number of hours worked by the employee in two (2) ordinary days of work. The employee to the satisfaction of their Employer shall furnish proof of such death.

22.2 Provided further an employee, on weekly engagement, shall be entitled to a maximum of three

(3) days leave without loss of pay on the production of satisfactory evidence of the death outside Australia of an employee's mother, father, husband, wife or child where such employee travels outside Australia to attend the funeral.

22.3 For the purposes of this clause the words "wife" and "husband" shall include a person who lives with the employee as a de-facto wife or husband.

22.4 Provided further that, with the consent of the Employer, which consent shall not be unreasonably withheld, an employee shall, in addition to this entitlement, be paid bereavement leave and also be entitled to up to five (5) working days unpaid leave in respect to the death within Australia or overseas of a relation to whom the clause applies.

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23. Parental Leave

23.1 Refer to the provisions of the *Industrial Relations Act 1996*

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24. Personal Carer's Leave

24.1 Refer to the provisions contained in the Schedule to the State Personal/Carer's Leave Case

(1996) 68 IR 308 and/or in State Personal/Carer's Leave Case [1998] NSWIRComm 652

(10

December 1998).

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25. Jury Service

25.1 A weekly employee required to attend for jury service during their ordinary working hours shall

be reimbursed by the Employer at an amount equal to the difference between the amount paid in respect of their attendance for such jury service and the amount of single time pay

the employee would have received had they not been on jury service.

25.2 A weekly employee shall notify the Employer as soon as possible of the date upon which they are required to attend for jury service. Further, the weekly employee shall give the Employer proof of their attendance, the duration of such attendance and the amount received in respect of such jury service.

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26. Training

In accordance with the provisions of the *Rail Safety Act 2003*, the employer will provide suitable training to employees.

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27. Occupational Health and Safety

27.1 In accordance with the *Occupational Health and Safety Act 2000* (NSW), the parties to this award agree that an Occupational Health and Safety Committee shall be established at the workplace.

27.2 For the purposes of this subclause, the following definitions shall apply:

27.2.1 A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.

27.2.2 A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.

27.3 Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):

27.3.1 consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;

27.3.2 provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate

training required for such employees to perform their jobs safely;

27.3.3 provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and

27.3.4 ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.

27.4 Nothing within Clause 27 or its sub-clauses is intended to affect or detract from any obligation

or responsibility upon a labour hire business arising under the *Occupational Health and Safety*

Act 2000 or the *Workplace Injury Management and Workers Compensation Act 1998*.

27.5 Disputes Regarding the Application of this Clause.

Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.

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28. Certification

The Employer may require employees to undertake training, retraining and refresher programs from time to time and to obtain and keep current any licences or certificates required by law or by the appropriate regulatory authorities or reasonably required by the Employer in order for them to fulfil their duties.

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29. Uniforms & Equipment

29.1 Where uniforms, clothing and/or tools and equipment are issued on a personal basis, such items shall remain the property of the Employer and shall be produced by the employee to the employer when requested or on termination of employment. Loss and damage due to any cause arising out of neglect or misuse by the employee shall be a charge against the wages of the employee. The Employer may make a deduction at a reasonable rate from the wages of the employee, provided that no deductions shall be made for reasonable wear and tear.

29.2 It is a condition of employment for an employee to use and/or wear such equipment where and as directed by the Employer.

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30. Anti-Discrimination

30.1 It is the intention of the parties bound by this award to seek to achieve the object in section 3(f)

of the *Industrial Relations Act 1996* (NSW) to prevent and eliminate discrimination in the workplace. This includes discrimination on the grounds of race, sex, marital status, disability, homosexuality, transgender identity and age.

30.2 It follows that in fulfilling the obligations under the dispute resolution procedure prescribed by this award, the parties have obligations to take all reasonable steps to ensure that the operation

of the provisions of this award are not directly or indirectly discriminatory in their effects. It will be consistent with the fulfilment of these obligations for the parties to make application to

vary any provision of the award which, by its terms or operation has a direct or indirect discriminatory effect.

30.3 Under the *Anti-Discrimination Act 1977* (NSW), 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.

30.4 Nothing in this clause is taken to affect:

(a) any conduct or act which is specifically exempted from anti-discrimination legislation;

(b) offering or providing junior rates of pay to persons under 21 years of age;

(c) any act or practice of a body established to propagate Religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977* (NSW);

(d) a party to this award from pursuing matters of unlawful discrimination in any State or Federal jurisdiction;

(e) this clause does not create legal rights or obligations in addition to those imposed upon the parties by the legislation referred to in this clause.

30.5 This clause does not create legal rights or obligations in addition to those imposed upon the parties by the legislation referred to in this clause.

Notes:

Employers and Employees may also be subject to Commonwealth anti-discrimination legislation. Section 56(d) of the *Anti-Discrimination Act* provides:

"Nothing in the Act affects ... any other act or practice of a body established to propagate religion that confirms to the doctrines of that religion or is necessary to avoid injury to the religious susceptibilities

of the adherents of that religion.”

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31. No Publicity Rights

31.1 The Employer reserves the right to release any photographs, films, or any form of publicity taken of employees during the execution of his/her normal duties, without any remuneration to employees provided, where the consent of the employee has been gained.

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32. Acknowledgment of Unique Nature of Skitube

32.1 The Union and Employer each state and acknowledge that the Employer's operation is unique and not associated with any other railway system or industrial operation in New South Wales or elsewhere.

32.2 In addition, in recognition of that circumstance the Union undertakes that it will not seek to involve the Employer or any employees engaged under this agreement in any industrial action over matters affecting or relating to other members, or the Union's membership generally.

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33. Area, Incidence and Duration

33.1 This award shall apply to the Union and the Employer defined herein and to all persons employed by the Employer in the classifications listed in Clause 13, Rates of Pay of this award.

33.2 This award shall take effect from the beginning of the first pay period to commence on or after

11 February 2004 and shall remain in force for a period of one year.

33.3 This award shall not be varied during its term for any reason other than with the consent of all parties or in order to implement State Wage Case variations or to give effect to the *Occupational Health & Safety Act 2000*.

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34. Rights of Union Officials

34.1 Officials of the Union shall be entitled, with reasonable notice, to enter the Employers premises for the purpose of interviewing Union members and discussing matters of mutual concern. During such visits normal work will continue without interruption.

34.2 The Employer recognises that the Union Representative duly elected by the Union members of the work place, is a legitimate representative of the Union.

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35. Superannuation

35.1 Subject to the requirements of the relevant legislation superannuation contributions shall be made to the ACP Retirement Fund for permanent employees and to Hostplus for seasonal and casual employees.

35.2 The Employer shall pay contributions on behalf of the employee to the superannuation fund in accordance with statutory requirements. Such contributions made on behalf of the employee shall be based on the ordinary time earnings component of the rates of pay for each classification of employee, as specified in clause 13 of this award.

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36. Code of Ethics

36.1 The Union agrees to encourage and use its best endeavours to ensure its members:

36.1.1 Treat the Employers customers, the public and other employees in a businesslike, courteous and friendly manner.

36.1.2 Abide by, at all times, the Employers published policies and work place rules.

36.1.3 Carry out their duties to a high standard and at all times to promote work place health and safety standards.

36.1.4 Respect and safeguard the property of the Employer, other employees and the

public.

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Appendix A

Grandparenting Arrangements Over Award Entitlements For Employees Engaged Prior To 25 August 2003

This Addendum reflects the arrangements concluded as part of the interim award made by Commissioner O'Neill on 11 February 2004.

Clauses 7 and 8 of that interim award provide as follows:

"7. The employer will "grandparent" all wage rates and conditions under the Enterprise Agreement, as adjusted to date, for all persons who are engaged as permanent, seasonal or casual employees, in any of the classifications under the Enterprise Agreement, as at 25 August 2003."

"8. The State Wage Case Increase 2003 will be added to the wage rates to be applied in 2004 for all employees the subject of "grandparenting" under Clause 7 above."

The Enterprise Agreement referred to is the Skitube Enterprise Agreement between Perisher Blue Pty Limited and the Australian Rail Tram and Bus Industry Union, New South Wales.

The rates of pay and allowances applicable for those grandparented employees as over award payments are as follows:

Rates of Pay	Rate per Hour
	\$
Train Drivers	
Trainee Driver	14.5102
Train Driver - Level I	17.6248
Train Driver - Level II	19.1518
General Duties	
Leading Hand Track Inspector	17.3288
Track Inspector	16.7251
Resort Worker	14.2980
Allowances	
Duty Controllers	2.0083
Tunnel Allowance	0.6463
Meal Allowance	5.4140

The rates of pay and allowances include the 2003 State Wage Case Adjustment.

The parties agree that they will confer in respect of the application of the 2004 State Wage Case increase, and any dispute in relation to that matter will be referred to the Commission.

For ease of reference, Clause 10 of the Enterprise Agreement provides for shift penalties as follows:

“10.3 For all paid time on duty, not subject to overtime penalties, employees shall be paid as follows when employed on shift work:

10.3.1 Afternoon Shift means a shift which employees commence at or between 12.00 noon and 6.59 pm for which they shall be paid fifteen (15%) percent in addition to the normal hourly rates as described in Clause 13 of the agreement.

10.3.2 Night Shift means a shift which employees commence at or between 7.00 pm and 3.59 am. Hours worked within this band will be paid twenty (20%) percent in addition to the normal hourly rate described in Clause 13 of the agreement.

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10.3.3 Early Morning Shift means a shift which employees commence at or between 4.00 am and 5.59 am for which they shall be paid fifteen (15%) in addition to the normal hourly rates as described in Clause 13 of the agreement.”

For all other grandparented terms and conditions, employees should refer to the terms of the Enterprise Agreement. The grandparented terms and conditions are in satisfaction of all entitlements under this award.

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AP805713CRV - Alpine Resorts (The Australian Workers' Union) Award 2001

This AIR consolidated award incorporates all amendments up to and including 22 March 2006 (variation PR970201).

Clauses affected by the most recent amendment(s) are:

- 2. Arrangement
- 9. Employment categories
- 10. Redundancy
- 11. Termination of employment
- 12. Classifications and wage rates
- 18. Overtime
- 22. Parental leave
- 27. Supported wage system

About this Award:

Printed by authority of the Commonwealth Government Printer.

This award consolidates AW767332.

Disclaimer:

Please note that this consolidated award is prepared by the Australian Industrial Registry and is believed to be accurate but no warranty of accuracy or reliability is given and no liability is accepted for errors or omissions or loss or damage suffered as a result of a person acting in reliance thereon.

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AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

Workplace Relations Act 1996

Review of Award pursuant to Item 51 of Part 2 of Schedule 5 of the
Workplace Relations and Other Legislation Amendment Act 1996
(C No. 00558 of 1999)

ALPINE RESORTS (THE AUSTRALIAN WORKERS' UNION) AWARD 1997
(ODN C No. 21761 of 1995)
[Print P4714 [A2458]]

Various employees

Industries not otherwise assigned

COMMISSIONER HOLMES

MELBOURNE, 24 APRIL 2001

Award simplification.

ORDER

A. Further to the decision issued by the Commission on 24 April 2001 [PR901764] the above Award is varied as follows:

By deleting all clauses, schedules and appendices and inserting the following:

PART 1 - APPLICATION AND OPERATION OF AWARD

1. AWARD TITLE

This Award will be known as the Alpine Resorts (The Australian Workers' Union) Award 2001.

2. ARRANGEMENT

[2 amended by PR970201]

This Award is arranged as follows:

Part 1 - Application and operation of award

1. Award title
2. Arrangement [PR970201]
3. Anti-discrimination
4. Definitions
5. Commencement date of award and period of operation
6. Coverage of award
7. Parties bound

Part 2 - Communication, consultation and dispute resolution

8. Procedures for the avoidance of industrial disputes

Part 3 - Employer and employees' duties, employment relationship and related arrangements

9. Employment categories [PR970201]
 - 9.1 General
 - 9.2 Full-time employees
 - 9.3 Part-time employment
 - 9.4 Casual employment
 - 9.5 Seasonal employment
10. Redundancy [PR970201]
 - 10.1 Definitions
 - 10.2 Transfer to lower paid duties
 - 10.3 Severance pay
 - 10.4 Employee leaving during notice period
 - 10.5 Alternative employment
 - 10.6 Job search entitlement
 - 10.7 Transmission of business
 - 10.8 Employees exempted
 - 10.9 Incapacity to pay
 - 10.10 Employees with less than one year's service
11. Termination of employment [PR970201]
 - 11.1 Notice of termination by employer
 - 11.2 Notice of termination by an employee
 - 11.3 Job search entitlement
 - 11.4 Transmission of business

Part 4 - Wages and related matters

12. Classifications and wage rates [PR970201]
13. Mixed functions
14. Payment of wages
15. Continuity of service

Part 5 - Hours of work, breaks, overtime, shift work, weekend work

16. Hours of work

- 16.1 Ordinary hours of work
- 16.2 Maximum daily ordinary hours
- 16.3 Rostered days off
- 16.4 Notice and rostered days off
- 16.5 Rostered days off - substitute days
- 16.6 Make-up time
- 16.7 Winter and summer seasons

17. Breaks

- 17.1 Entitlement to meal breaks
- 17.2 Time for taking meal breaks

18. Overtime [PR970201]

- 18.1 Requirement to work reasonable overtime
- 18.2 When is an employee paid at overtime rates?
- 18.3 What are overtime rates?

Part 6 - Leave of absence and public holidays

19. Annual leave

- 19.1 Annual leave entitlement - general
- 19.2 Time of taking annual leave
- 19.3 Payment for annual leave
- 19.4 Annual leave exclusive of public holidays
- 19.5 Annual leave to be taken
- 19.6 Payment for accrued annual leave on termination
- 19.7 Payment for proportionate annual leave on termination
- 19.8 Leave allowed before due date
- 19.9 Single day annual leave absences
- 19.10 Definitions

20. Personal leave

- 20.1. Amount of paid personal leave
- 20.2. Immediate family or household
- 20.3. Sick leave
- 20.4. Bereavement leave
- 20.5. Carer's leave

21. Personal/carer's leave - seasonal employees

- 21.1 Sick leave - seasonal employees
- 21.2 Bereavement leave - seasonal employees
- 21.3 Carer's leave - seasonal employees
- 21.4 Definitions

22. Parental leave [PR970201]

- 22.1 Definitions
- 22.2 Basic entitlement
- 22.3 Maternity leave
- 22.4 Paternity leave
- 22.5 Adoption leave
- 22.6 Variation of period of parental leave
- 22.7 Parental leave and other entitlements

- 22.8 Transfer to a safe job
- 22.9 Returning to work after a period of parental leave
- 22.10 Replacement employees
- 23. Public holidays

Part 7 - Training and related matters

- 24. Training - ski instructors
- 25. Clothing allowance

Part 8 - Award compliance and union related matters

- 26. Posting of awards
- 27. Supported wage system [PR970201]
 - 27.2 Eligibility criteria
 - 27.3 Supported wage rates
 - 27.4 Assessment of capacity
 - 27.5 Lodgement of assessment instrument
 - 27.6 Review of assessment
 - 27.7 Other terms and conditions of employment
 - 27.8 Workplace adjustment
 - 27.9 Trial period

3. ANTI-DISCRIMINATION

- 3.1 It is the intention of the respondents to this Award to achieve the principal object in s.3(j) of the *Workplace Relations Act 1996* through respecting and valuing the diversity of the workforce by helping to prevent and eliminate discrimination on the basis of race, colour, sex, sexual preference, age, physical or mental disability, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin.
- 3.2 Accordingly, in fulfilling their obligations under the dispute avoidance and settling clause, the respondents must make every endeavour to ensure that neither the Award provisions nor their operation are directly or indirectly discriminatory in their effects.
- 3.3 Nothing in this clause is taken to affect:
- 3.3.1 any different treatment (or treatment having different effects) which is specifically exempted under the Commonwealth anti-discrimination legislation;
 - 3.3.2 junior rates of pay, until 22 June 2000 or later date determined by the Commission in accordance with s.143(1E) of the Act;
 - 3.3.3 an employee, employer or registered organisation, pursuing matters of discrimination in any State or federal jurisdiction, including by application to the Human Rights and Equal Opportunity Commission;
 - 3.3.4 the exemptions in s.170CK(3) and (4) of the Act.

4. DEFINITIONS

Unless otherwise specifically provided in this Award, the following definitions will apply:

- 4.1 **APSI** means the Australian Professional Ski Instructors Incorporated.
- 4.2 **Casual employee** means an employee engaged and paid as such.
- 4.3 **Commission** means the Australian Industrial Relations Commission.
- 4.4 **Employer** means all or one, as the case may be, of the parties listed in clause 7 of this Award.
- 4.5 **Employee** means a person employed by an employer.
- 4.6 **Union** means The Australian Workers' Union.
- 4.7 **Ordinary time rate** means the relevant Award classification rate payable to the employee during the spread of hours specified in clause 16 plus any applicable over Award payment.
- 4.8 **Outdoor employee** means an employee whose primary duties require them to work outdoors.

5. COMMENCEMENT DATE OF AWARD AND PERIOD OF OPERATION

This Award comes into operation from the beginning of the first pay period commencing on or after 24 April 2001 and will remain in force for a period of three years.

6. COVERAGE OF AWARD

This Award relates to Alpine Resorts. It covers the Respondent employers (see clause 7) in respect of their employees, employed in any of the classifications listed in this Award.

7. PARTIES BOUND

This Award is binding on:

- 7.1 The MHSC Pty Limited;
- 7.2 Falls Creek Ski Lifts Pty Limited;
- 7.3 Mount Hotham Skiing Company Pty Limited; and
- 7.4 The Australian Workers' Union.
- 7.5 All employees who are members or eligible to be members of The Australian Workers Union who are engaged in any of the classifications, occupations, industries or callings specified in clause 12 - Classifications and Wage Rates bound by this Award.
- 7.6 This Award wholly supersedes The Alpine Resorts (The Australian Workers' Union) Award 1997 [Print G6896 [A0373]] in its entirety but no right, obligation or liability accrued or incurred under that Award or variations to it are affected by such supersession.

PART 2 - COMMUNICATION, CONSULTATION AND DISPUTE RESOLUTION

8. PROCEDURES FOR THE AVOIDANCE OF INDUSTRIAL DISPUTES

- 8.1 A dispute or grievance between an employee and an employer will be settled according to the following procedure:
- 8.1.1 Any dispute, grievance or claim which arises will, where possible, be settled by discussion on the job between the employee and the employee's immediate supervisor.
 - 8.1.2 If the matter is not resolved between the employee and the employee's immediate supervisor, the dispute, grievance or claim will be further discussed between the employee, and the employer's management.
 - 8.1.3 If no agreement is reached, the dispute, grievance or claim will be further discussed between the employee, a union official and/or a Worksite Representative and the employer's management.
 - 8.1.4 If no agreement is reached, a union official and/or Worksite Representative will discuss the dispute, grievance or claim with the employer's management.
- 8.2 Should the dispute, grievance or claim remain unresolved, it will be referred to the Commission. The Commission will have the power to resolve the dispute, grievance or claim by conciliation or arbitration.

**PART 3 - EMPLOYER AND EMPLOYEES' DUTIES, EMPLOYMENT
RELATIONSHIP AND RELATED ARRANGEMENTS**

9. EMPLOYMENT CATEGORIES

9.1 General

9.1.1 All employees will be employed as permanent employees (full-time or part-time), seasonal employees (full-time or part-time), or casual employees.

9.1.2 Within one month of the commencement of this clause and thereafter at the time of engagement, the employer will inform each employee in writing of the terms of their engagement and, in particular, whether they are to be permanent (full-time or part-time), seasonal (full-time or part-time), or casual.

9.2 Full-time employees

9.2.1 Full-time employees will be paid the hourly rate applicable to their classification as set out in 12.1 for the hours worked in any one week.

9.3 Part-time employment

9.3.1 Part-time employees will be paid the hourly rate applicable to their classification as set out in 12.1 for the hours worked in any week.

9.3.2 The provisions in this Award in respect of annual leave and personal/carer's leave will apply on a proportionate basis to part-time employees.

9.4 Casual employment

[9.4 substituted by PR970201 ppc 24Feb06]

9.4.1 A casual employee is to be one engaged and paid as such. A casual employee for working ordinary time shall be paid an hourly rate calculated on the basis of one thirty-eighth of the weekly award wage prescribed in Clause 12 for the work being performed plus a casual loading of 25%.

The 25% casual loading shall compensate casual employees for the non-receipt of annual leave, personal leave, public holidays not worked, severance pay and notice of termination.

9.4.1(a) A casual employee, other than an irregular casual employee as defined in clause 9.4.4, who has been engaged by a particular employer for a sequence of periods of employment under this Award during a period of twelve months shall thereafter have the right to elect to have his or her contract of employment converted to full-time employment or part-time employment if the employment is to continue beyond the conversion process.

9.4.1(b) Every employer of such an employee shall give the employee notice in writing of the provisions of this clause within four weeks of the employee having attained such period of twelve months.

The employee retains his or her right of election under this clause if the employer fails to comply with this paragraph.

- 9.4.1(c) Any such casual employee who does not within four weeks of receiving written notice elect to convert his or her contract of employment to a full-time employment or a part-time employment will be deemed to have elected against any such conversion.
- 9.4.1(d) Any casual employee who has a right to elect under clause 9.4.1(a), upon receiving notice under clause 9.4.1(b) or after the expiry of the time for giving such notice, may give four weeks notice in writing to the employer that he or she seeks to elect to convert his or her contract of employment to full-time or part-time employment, and within four weeks of receiving such notice the employer shall consent to or refuse the election but shall not unreasonably so refuse. Any dispute about a refusal of an election to convert a contract of employment shall be dealt with as far as practicable with expedition through the dispute settlement procedure.
- 9.4.1(e) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- 9.4.1(f) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with clause 9.4.1(d), the employer and employee in accordance with this subparagraph, and subject to clause 9.4.1(d), shall discuss and agree upon:
- (1) which form of employment the employee will convert to, that is, full-time or part-time; and
 - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked, as set out in clause 9.4.2

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed upon between the employer and employee.

Following such agreement being reached, the employee shall convert to full-time or part-time employment.

Where, in accordance with clause 9.4.1(d) an employer refuses an election to convert, the reasons for doing so shall be fully stated to and discussed with the employee concerned and a genuine attempt made to reach agreement.

Any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment shall be dealt with as far as practicable with expedition through the dispute settlement procedure.

9.4.2 An employer when engaging a person for casual employment must inform the employee then and there that the employee is to be employed as a casual, stating by whom the employee is employed, the job to be performed and the classification level, the actual or likely number of hours required, and the relevant rate of pay.

9.4.2(a) On each occasion a casual employee is required to attend work the employee is entitled to payment for a minimum of two hours work.

9.4.2(b) In order to meet his or her personal circumstances a casual employee may request and the employer may agree to an engagement for less than the minimum of four hours. Any dispute about a refusal to such a request is to be dealt with as far as practicable with expedition through the dispute settlement procedure.

9.4.3 An employee must not be engaged and re-engaged to avoid any obligation under this Award.

9.4.3(a) An **irregular casual employee** is one who has been engaged to perform work on an occasional or non-systematic or irregular basis.

9.4.3(b) The provisions of clause 9.4 do not apply to irregular casual employees.

9.5 Seasonal employment

The employer may engage seasonal employees upon the following terms:

9.5.1 A seasonal employee means an employee engaged by the week for the duration of a Winter season in the expectation that employment will cease or be suspended during the summer season.

9.5.2 Seasonal employment may be either on a full-time or part-time basis.

9.5.3 As a weekly employee all entitlements arising under this Award apply to a seasonal employee on a pro rata basis.

9.5.4 In the event of adverse climatic conditions a seasonal employee may have their anticipated period of seasonal employment reduced.

9.5.5 The employer will advise each seasonal employee in writing prior to the end of the season whether that employee's employment will be terminated or suspended at the end of the season.

9.5.6 Notwithstanding the requirements of clauses 14 - Payment of Wages and 15 - Continuity of Service, the following provisions shall apply to the termination of employment of seasonal employees, in circumstances other than those which justify summary dismissal:

- 9.5.6(a) A seasonal employee whose employment is terminated at the completion of one season shall not be entitled to termination with notice or severance pay.
- 9.5.6(b) A seasonal employee whose employment is terminated at the completion of a second consecutive season where that employee's employment was suspended between seasons shall not be entitled to termination with notice or severance pay.
- 9.5.6(c) Subject to 9.5.6(d) below, only those seasonal employees whose employment has been suspended between three consecutive seasons shall be entitled to termination with notice and severance pay.
- 9.5.6(d) The employer may agree to a suspension of seasonal employment for more than one summer season, in which case their accrued entitlements shall be carried over into the next season in which they are employed.
- 9.5.6(e) For the purposes of calculating an entitlement to termination with notice and severance pay, work of three consecutive seasons shall constitute a period of service of one year.
- 9.5.6(f) Seasonal employees will be paid the hourly rate applicable to their classification as set out in 12.1.

10. REDUNDANCY

[10 substituted by PR970201 ppc 24Feb06]

10.1 Definitions

- 10.1.1 **Business** includes trade, process, business or occupation and includes part of any such business.
- 10.1.2 **Redundancy** occurs where an employer has made a definite decision that the employer no longer wishes the job the employee has been doing done by anyone else and that decision leads to the termination of employment of the employee, except where this is due to the ordinary and customary turnover of labour.
- 10.1.3 **Small employer** means an employer who employs fewer than 15 employees.
- 10.1.4 **Transmission** includes transfer, conveyance, assignment or succession whether by agreement or by operation of law and **transmitted** has a corresponding meaning.
- 10.1.5 **Week's pay** means the ordinary time rate of pay for the employee concerned. Provided that such rate shall exclude:
- overtime;
 - penalty rates;
 - disability allowances;
 - shift allowances;
 - special rates;
 - fares and travelling time allowances;
 - bonuses; and
 - any other ancillary payments of a like nature.

10.2 Transfer to lower paid duties

Where an employee is transferred to lower paid duties by reason of redundancy the same period of notice must be given as the employee would have been entitled to if the employment had been terminated, and the employer may at the employer's option, make payment in lieu thereof of an amount equal to the difference between the former ordinary time rate of pay and the new lower ordinary time rate of pay for the number of weeks of notice still owing.

10.3 Severance pay

10.3.1 Severance pay – other than employees of a small employer

An employee, other than an employee of a small employer as defined in clause 10.1, whose employment is terminated by reason of redundancy, is entitled to the following amount of severance pay in respect of a period of continuous service:

Period of continuous service	Severance pay
1 YEAR OR LESS	Nil
1 year and less than 2 years	4 weeks' pay*
2 years and less than 3 years	6 weeks' pay
3 years and less than 4 years	7 weeks' pay
4 years and less than 5 years	8 weeks' pay
5 years and less than 6 years	10 weeks' pay
6 years and less than 7 years	11 weeks' pay
7 years and less than 8 years	13 weeks' pay
8 years and less than 9 years	14 weeks' pay
9 years and less than 10 years	16 weeks' pay
10 years and over	12 weeks' pay

* Week's pay is defined in 10.1.

10.3.2 Severance pay – employees of a small employer

An employee of a small employer as defined in 10.1 whose employment is terminated by reason of redundancy is entitled to the following amount of severance pay in respect of a period of continuous service.

Period of continuous service	Severance pay
Less than 1 year	Nil
1 year and less than 2 years	4 weeks' pay*
2 years and less than 3 years	6 weeks' pay
3 years and less than 4 years	7 weeks' pay
4 years and over	8 weeks' pay

* Week's pay is defined in 10.1.

10.3.3 Provided that the severance payments shall not exceed the amount which the employee would have earned if employment with the employer had proceeded to the employee's normal retirement date.

10.3.4 Continuity of service shall be calculated in the manner prescribed by clause 15. Provided that service prior to 24 February 2006 shall not be taken into account in calculating an entitlement to severance pay for an employee of a small employer pursuant to 10.3.2.

10.3.5 Application may be made for variation of the severance pay provided for in this clause in a particular redundancy situation in accordance with the *redundancy Case Decision* [PR032004, 26 March 2004] and the *Redundancy Case Supplementary Decision* [PR062004, 8 June 2004].

10.3.6 Clause 10.3 applies subject to the operation of clause 9.5.6.

10.4 Employee leaving during notice period

An employee given notice of termination in circumstances of redundancy and for reasons set out in clause 9.5.6 hereof may terminate his/her employment during the period of notice set out in clause 11 - Notice of Termination. In this circumstance the employee will be entitled to receive the benefits and payments they would have received under this clause had they remained with the employer until the expiry of the notice, but will not be entitled to payment in lieu of notice.

10.5 Alternative employment

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

10.5.2 This provision does not apply in circumstances involving transmission of business as set in 10.7.

10.6 Job search entitlement

10.6.1 During the period of notice of termination given by the employer in accordance with 11.1, an 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.

10.6.2 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 he or she shall not receive payment for the time absent. For this purpose a statutory declaration will be sufficient.

10.6.3 The job search entitlements under this subclause apply in lieu of the provisions of clause 11.3.

10.7 Transmission of business

10.7.1 The provisions of this clause are not applicable where a business is before or after the date of this award, transmitted from an employer (in this subclause called the **transmittor**) to another employer (in this subclause called the **transmittee**), in any of the following circumstances:

10.7.1(a) 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

10.7.1(b) Where the employee rejects an offer of employment with the transmittee:

- 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

- which recognises the period of continuous service which the employee had with the transmitter and any prior transmitter to be continuous service of the employee with the transmittee.

10.7.2 The Commission may vary 10.7.1(b) if it is satisfied that this provision would operate unfairly in a particular case.

10.8 Employees exempted

This clause does not apply to:

- employees terminated as a consequence of serious misconduct that justifies dismissal without notice;
- probationary employees;
- apprentices;
- trainees;
- employees engaged for a specific period of time or for a specified task or tasks; or
- casual employees.

10.9 Incapacity to pay

The Commission may vary the severance pay prescription on the basis of an employer's incapacity to pay. An application for variation may be made by an employer or a group of employers.

10.10 Employees with less than one year's service

This clause 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.

11. TERMINATION OF EMPLOYMENT

[11 substituted by PR970201 ppc 24Feb06]

11.1 Notice of termination by employer

11.1.1 In order to terminate the employment of an employee the employer must give to the employee the period of notice specified in the table below:

Period of continuous service	Period of notice
1 year or less	1 week
Over 1 year and up to the completion of 3 years	2 weeks
Over 3 years and up to the completion of 5 years	3 weeks
Over 5 years of completed service	4 weeks

11.1.2 In addition to the notice in 11.1.1, employees over 45 years of age at the time of the giving of the notice with not less than two years continuous service, are entitled to an additional week's notice.

11.1.3 Payment in lieu of the prescribed notice in 11.1.1 and 11.1.2 must be made if the appropriate notice period is not required to be worked. Provided that employment may be terminated by the employee working part of the required period of notice and by the employer making payment for the remainder of the period of notice.

11.1.4 The required amount of payment in lieu of notice must equal or exceed the total of all amounts that, if the employee's employment had continued until the end of the required period of notice, the employer would have become liable to pay to the employee because of the employment continuing during that period. That total must be calculated on the basis of:

11.1.4(a) the employee's ordinary hours of work (even if not standard hours); and

11.1.4(b) the amounts ordinarily payable to the employee in respect of those hours, including (for example) allowances, loading and penalties; and

11.1.4(c) any other amounts payable under the employee's contract of employment.

11.1.5 The period of notice in this clause does not apply:

11.1.5(a) in the case of dismissal for serious misconduct;

11.1.5(b) to apprentices;

11.1.5(c) to employees engaged for a specific period of time or for a specific task or tasks;

11.1.5(d) to trainees whose employment under a traineeship agreement or an approved traineeship is for a specified period or is, for any other reason, limited to the duration of the agreement; or

11.1.5(e) to casual employees.

11.1.6 Continuous service is defined in clause 15.

11.2 Notice of termination by an employee

11.2.1 The notice of termination required to be given by an employee is the same as that required of an employer, save and except that there is no requirement on the employee to give additional notice based on the age of the employee concerned.

11.2.2 If an employee fails to give the notice specified in 11.1.1 the employer has the right to withhold monies due to the employee to a maximum amount equal to the amount the employee would have received under 11.1.4.

11.3 Job search entitlement

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

11.4 Transmission of business

Where a business is transmitted from one employer to another, as set out in clause 10-Redundancy, the period of continuous service that the employee had with the transmitter or any prior transmitter is deemed to be service with the transferee and taken into account when calculating notice of termination. However, an employee shall not be entitled to notice of termination or payment in lieu of notice for any period of continuous service in respect of which notice has already been given or paid for.

PART 4 - WAGES AND RELATED MATTERS

12. CLASSIFICATIONS AND WAGE RATES

[12 substituted by PR970201 ppc 24Feb06]

12.1 The following weekly rates of pay will be paid to permanent (full-time or part-time) and seasonal (full-time or part-time) employees in the classification listed in the following tables:

	Hourly rate
Lift Operations	
Lift Attendant 1	559.46
Lift Attendant 2	586.54
Lift Operator 1	602.88
Lift Operator 2	627.48
Lift Operator 3	665.10
Lift Operator 4	688.66
Skier Services	
Attendant 1	559.46
Attendant 2	602.88
Desk Co-ordinator	627.48
Ski Hire	
Attendant	559.46
Certified Attendant 1	602.88
Certified Attendant 2	627.48
Certified Attendant 3	671.94
Assistant Technician	627.48
Head Technician	688.28
Supervisor	688.28
Tickets/Administration	
Ticket Seller 1	559.46
Ticket Seller 2	602.88
Ticket Seller 3	627.48
Ticket Seller Supervisor	667.10
Group Sales Assistant 1	602.88
Group Sales Assistant 2	627.48
Receptionist	657.60
Clerical Assistant	602.88
Workshop	
First Year Mechanic	657.60
Second Year Mechanic	671.94
Third Year Mechanic	688.28
Handyman	657.60

	Hourly rate
Retail Shops	
Shop Assistant 1	559.46
Shop Assistant 2	602.88
Supervisor	671.94
Race Department	
Assistant 1	559.46
Assistant 2	602.88
Assistant 3	627.48
Time Keeper	671.60
Snow Groomers	
Trainee Driver	616.18
Standard Driver	724.00
Experienced Driver or Snow Groomer (multi skilled)	762.00
Snow Grooming Supervisor	797.00
Snow Makers	
Category 1	559.46
Category 2	602.88
Category 3	627.60
Category 4	724.10

12.2 The following weekly rates of pay will be paid to Ski Instructors employed by the employer on a permanent (full-time or part-time) or seasonal (full-time or part-time) basis at Falls Creek in the classifications listed in the following table:

Ski Instructors	Weekly rate
A1	1,085.94
A2	947.62
A3	882.14
B1	857.94
B2	802.18
B3	749.08
C1	709.94
C2	682.20
C3	666.62
D1	652.56
D2	565.80

12.3 In clause 12.2 the following definitions will apply:

12.3.1 A1 having completed a minimum of three full seasons at Falls Creek Ski School as a Fully Certified Instructor and in possession of an exceptionally high standard of skiing and teaching capability.

12.3.2 A2 having completed a minimum of two full seasons at Falls Creek Ski School as a Fully Certified Instructor and in possession of a high standard of skiing and teaching capability and overall job performance.

- 12.3.3 A3 Fully Certified Instructor (i.e. having passed APSI Level 3 examination or a recognised equivalent).
- 12.3.4 B1 having completed a minimum of one full season at Falls Creek Ski School as an Associate Certified Instructor (i.e. having passed APSI Level 2 examination or a recognised equivalent) and:
- being in possession of a high standard of skiing and teaching capability and overall job performance; and
 - having been recommended by the Ski School Director.
- 12.3.5 B2 having completed a minimum of one full season at Falls Creek Ski School as an Associate Certified Instructor.
- 12.3.6 B3 Associate Certified Instructor (i.e. having passed APSI Level 2 examination or a recognised equivalent).
- 12.3.7 C1 having completed a minimum of one full season at Falls Creek Ski School as Level 1 Proficiency Instructor.
- 12.3.8 C2 Level 1 Proficiency Instructor.
- 12.3.9 C3 Instructor who has completed the Falls Creek Hiring Clinic.
- 12.3.10 D1 Non-Certified Instructor.
- 12.3.11 D2 a “trainee” instructor with no experience teaching at any recognised Ski School. Instructors automatically move to category D1 after a maximum three week trial period.
- 12.4 The equivalence to APSI certification referred to in 12.3 will be as specified in the following tables:

Australian Hiring Clinic

Anwerter Austria
 CSIA Level 1
 PSIA Level 1
APSI Level 1
 APSI Children’s Certificate
 PSIA Level 2
 CSIA Level 2/3 with less than two years experience
 Jokyoshi Japan
 APSI Level 1 Snow Board
 All first Level Snow Board
 ATA Level 1 Telemark
 ASF Level 1 Cross-Country
APSI Level 2
 Laneslehrer Austria
 PSIA Level 3
 CSIA Level 3 (two years or more experience)
 CSIA Level 3/Level 2 Coach

APSI Level 2 Snow Board (Full Cert)
 All Full Certified Snow Board
 ATA Level 2 Telemark (Full Cert)
 ASF Level 2 Cross-Country (Full Cert)
APSI Level 3
 CSIA Level 4
 Patentierungskurs Switzerland
 French Full Certified
 PSIA District Clinic Leader
 Staatliche Gepr. Austria

12.5 The following weekly rates of pay will be paid to Ski Instructors employed on a casual basis, as prescribed in clause 9.4, by the Mount Hotham Snow Sports School:

No. Hours	Level 1	Level 2	Level 3	Level 4	Level 5
0 - 75	892.90	727.04	625.20	556.80	522.98
76 - 150	995.50	825.60	727.04	625.20	593.00
151 - 225	1,049.84	879.60	781.76	670.54	645.34
226 - 300	1,152.06	981.82	879.60	781.76	713.74
301 - 375	1,322.30	1,152.06	1,049.84	879.60	747.56
376 - 450	1,492.54	1,288.10	1,186.26	1,016.02	779.76
> 450	1,562.56	1,356.12	1,254.28	1,152.06	813.58

12.6 In clause 12.5 the following definitions will apply:

- 12.6.1** **Level 5** will mean an employee with an Australian hiring clinic certificate or equivalent;
- 12.6.2** **Level 4** will mean an employee with APSI Level 1 certification or Children's Certificate or equivalent;
- 12.6.3** **Level 3** will mean an employee with APSI Level 2 certification or equivalent with a minimum of 600 teaching hours overall;
- 12.6.4** **Level 2** will mean an employee with APSI Level 2 certification or equivalent with a minimum of 600 teaching hours at this Level or has APSI Level 3 or equivalent;
- 12.6.5** **Level 1** will mean an employee with APSI Level 3 certification or equivalent. This instructor must have taught at least six of the last 8 seasons full-time and must have spent at least one season at Mount Hotham within the last two Australian ski seasons.

12.7 No permanent employee who was paid at the casual rate shall have his or her wage reduced as a result of the variation to clause 12 of the Alpine Resorts (The Australian Workers' Union) Award 1997 which took effect from the first pay period to commence on or after 1 July 1996.

13. MIXED FUNCTIONS

An employee engaged on any 1 day or shift for a time exceeding 2 hours in the aggregate on work carrying a higher rate than his or her ordinary classification will be paid the higher rate for such day or shift. If so engaged for 2 hours or less in the aggregate on any 1 day or shift, the employee will be paid the higher rate for the time so worked.

14. PAYMENT OF WAGES

14.1 Owing to the particular isolation of the employers operations in the Alpine region from banking facilities, an employee's wages will be paid wherever possible no later than three days after the end of the pay week.

14.2 An employee's wages may be paid by cash or cheque or direct deposit.

15. CONTINUITY OF SERVICE

15.1 Unless otherwise provided in this Award, continuity of service will be calculated according to 15.2.

15.2 The service of an employee will be deemed to be continuous notwithstanding:

15.2.1 any annual leave or long service leave taken in the year of employment;

15.2.2 any interruption or ending of the employment by the employer if such interruption or ending is made with the intention of avoiding obligations in respect of annual leave or long service leave;

15.2.3 any absence from work of more than fourteen days in the year of employment on account of personal sickness or accident or personal/carer's leave;

15.2.4 any absence on account of leave in the year of employment (other than annual leave, long service leave) granted or imposed or agreed to by the employer;

15.2.5 any absence in the year of employment on any other account not involving termination of employment.

15.3 In calculating continuity of service any absence of a kind mentioned in 15.2.1, 15.2.2 and 15.2.3 will be counted as part of a year of employment. But, in respect of absences of a kind mentioned in 15.2.4 and 15.2.5, it will be necessary for the employee to serve such additional period as equals the period of such absences to count as part of the year of employment.

PART 5 - HOURS OF WORK, BREAKS, OVERTIME, SHIFT WORK, WEEKEND WORK

16. HOURS OF WORK

16.1 Ordinary hours of work

- 16.1.1** The ordinary hours of work of full-time employees will average 38 hours per week over a maximum work cycle of four weeks.
- 16.1.2** The ordinary hours of work of part-time employees will average at least 8 and no more than 35 hours per week over a work cycle of four weeks.

16.2 Maximum daily ordinary hours

The maximum daily ordinary hours of full-time and part-time employees will be 10 hours per day excluding meal breaks.

16.3 Rostered days off

A rostered day off must not be on a Saturday, Sunday or public holiday except from May to October.

16.4 Notice and rostered days off

- 16.4.1** An employer will give at least one week's notice of a rostered day off.
- 16.4.2** An employee may agree to a lesser period of notice than that specified in 16.4.1.

16.5 Rostered days off - substitute days

- 16.5.1** An employer may require an employee to work on the employee's rostered day off in the event of an emergency.
- 16.5.2** In the circumstances addressed by 16.5.1, the employee will be paid for time and a half worked on the rostered day off and the employee will be granted another rostered day off.

16.6 Make-up time

- 16.6.1** Notwithstanding provisions elsewhere in this Award, the employer and the majority of employees at an enterprise may agree to establish a system of make-up time provided that:
- 16.6.1(a)** An employee may elect, with the consent of the employer, to work **make-up time** under which the employee takes time off during ordinary hours, and works those hours at a later time, during the spread of ordinary hours provided in this Award.

16.6.1(b) An employee on shift work may elect, with the consent of their employer, to work "make-up time" under which the employee takes time off ordinary hours and works those hours at a later time, at the shift work rate which would have been applicable to the hours taken off.

16.7 Winter and summer seasons

16.7.1 The **winter season** is that time of the year where the employer determines that the resort/s is/are to be fully operational (usually between the Queen's Birthday weekend and the first or second Sunday in October).

16.7.2 The **summer season** is all those days not covered by the winter season.

16.7.3 During the winter season, the ordinary hours which will be worked by full-time employees are over any six days in a week.

16.7.4 For the summer season, the ordinary time hours which may be worked are between Monday to Friday except on occasions when a ski lift operates on Saturdays, Sunday or public holidays in which case ordinary hours may be worked on any day as set out in 16.1 and 16.2.

17. BREAKS

17.1 Entitlement to meal breaks

17.1.1 Unless otherwise agreed between the employer and the employee, an employee will be entitled to an unpaid meal break of not less than half an hour after five hours continuous work.

17.1.2 An employee who has not received a meal, other than by his or her agreement, break after five continuous hours work will be paid at overtime rates after the fifth hour of continuous work until a meal break begins.

17.2 Time for taking meal breaks

An employee's meal break should be taken at a time mutually agreed upon between the employee and the employer.

18. OVERTIME

18.1 Requirement to work reasonable overtime

[18.1 Reasonable overtime title changed and substituted by PR970201 ppc 24Feb06]

18.1.1 Subject to clause 18.1.2 an employer may require an employee to work reasonable overtime at overtime rates.

18.1.2 An employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working hours which are unreasonable having regard to:

18.1.2(a) any risk to employee health and safety;

18.1.2(b) the employees personal circumstances including any family responsibilities;

18.1.2(c) the needs of the workplace or enterprise;

18.1.2(d) the notice (if any) given by the employer of the overtime and by the employee of his or her intention to refuse it; and

18.1.2(e) any other relevant matter.

18.2 When is an employee paid at overtime rates?

An employee, other than a casual employee, must be paid overtime rates for any time worked greater than the ordinary hours of work, or for any time worked greater than the maximum daily ordinary hours.

18.3 What are overtime rates?

18.3.1 The overtime rates payable to an employee are as follows:

18.3.1(a) one and a half times the employee's normal rate of pay for the first 2 hours; and

18.3.1(b) twice the employee's normal rate of pay for the rest of the over time.

PART 6 - LEAVE OF ABSENCE AND PUBLIC HOLIDAYS

19. ANNUAL LEAVE

19.1 Annual leave entitlement - general

An employee, other than a casual employee, will be entitled to annual leave of four weeks after every twelve months' continuous service.

19.2 Time of taking annual leave

19.2.1 This clause will apply to annual leave whether taken according to a roster, a closedown, a part closedown, or a part closedown/part rostered leave.

19.2.1(a) An employee and an employer will seek to reach agreement on the taking of annual leave at a mutually convenient time. If no agreement is reached, the employer may give the employee one month's notice of the date from which the employee's annual leave will commence.

19.2.1(b) An employee must be allowed to take annual leave within six months of the date on which the right to annual leave accrues. In the alternative, the employee may agree to postpone the taking of annual leave.

19.2.1(c) An employee and the employer may agree that the employee's annual leave be taken wholly or partly in advance before the employee has become entitled to the annual leave.

19.3 Payment for annual leave

19.3.1 An employee taking annual leave will be paid his or her ordinary pay (as defined) for the leave period.

19.3.2 The employer must pay the amount required by 19.3.1 before the commencement of the employee's annual leave.

19.4 Annual leave exclusive of public holidays

Where a public holiday to which an employee is entitled to occurs during any period of annual leave taken by the employee, the period of annual leave shall be increased by one day.

19.5 Annual leave to be taken

An employer must not pay an employee in lieu of annual leave to which the employee is entitled, except as provided in 19.6 and 19.7 of this Award.

19.6 Payment for accrued annual leave on termination

19.6.1 Where the employment of an employee who has become entitled to one or more periods of annual leave is terminated:

19.6.1(a) The employer will immediately pay to the employee the entitlements required under 19.3.1;

19.6.1(b) The employer will be deemed to have given all of such accrued annual leave (except so much, if any as has already been taken) to the employee as from the date of the termination of the employment; and

19.6.1(c) This payment will be in addition to all other amounts due to the employee on termination.

19.6.2 Nothing in 19.6.1 affects the obligation of an employer to give, or an employee to take annual leave in accordance with this Award.

19.7 Payment for proportionate annual leave on termination

19.7.1 This clause applies to every period of employment of an employee by an employer which is less than one year:

19.7.1(a) from the date of the commencement of the employee's employment; or

19.7.1(b) (where the employee has during the employment become entitled to any annual leave under 19.1) from the date the employee became entitled to that annual leave or to the last preceding annual leave as the case may be.

19.7.2 Where the employment of an employee is terminated at the end of a period of employment to which 19.7.1 applies, the employer will immediately pay to the employee an amount equal to 1/12th of the employee's ordinary pay for that period. This payment will be in addition to all other amounts due to the employee on termination.

19.7.3 The payment required under 19.7.2 will not include any annual leave loading.

19.8 Leave allowed before due date

19.8.1 Where annual leave has been taken in advance by an employee pursuant to 19.2.1(c) and:

19.8.1(a) the employment of the employee is terminated before the employee has completed the year of employment in respect of which such annual leave or part was taken;

19.8.1(b) the sum paid by the employer to the employee for the annual leave or part so taken in advance exceeds the sum which the employer is required to pay the employee under 19.7; and

19.8.1(c) the employer will not be liable to make any payment to the employee under 19.7 and will be entitled to deduct the amount of such excess from any remuneration payable to the employee upon termination of the employment.

19.9 Single day annual leave absences

The employer and the majority of employees at an enterprise may agree to establish a system of single day annual leave absences, provided that:

- 19.9.1 An employee may elect, with the consent of the employer, to take annual leave in single day periods or part of a single day not exceeding a total of 5 days in any calendar year at a time or times agreed between them;
- 19.9.2 Access to annual leave, as prescribed in 19.9.1 above, shall be exclusive of any shutdown period provided for elsewhere under this Award;
- 19.9.3 An employee and employer may agree to defer payment of the annual leave loading in respect of single day absences, until at least five consecutive annual leave days are taken; and
- 19.9.4 An employer shall record these short term annual leave arrangements in the time and wages book.

19.10 Definitions

In this clause:

- 19.10.1 **Employee** does not include a casual employee.
- 19.10.2 **Ordinary pay** means remuneration for the employee's normal weekly earnings to which the employee is entitled in accordance with his or her contract of employment for the ordinary hours of work.
- 19.10.3 A year of employment will be deemed to be unbroken notwithstanding:
- 19.10.3(a) any annual leave or long service leave taken in the year of employment;
 - 19.10.3(b) any interruption or ending of the employment by the employer if such interruption or ending is made with the intention of avoiding obligations in respect of annual leave or long service leave;
 - 19.10.3(c) any absence from work of not more than fourteen days in the year of employment on account of personal sickness or accident or personal/carer's leave;
 - 19.10.3(d) any absence on account of leave in the year of employment (other than annual leave, long service leave) granted or imposed or agreed to by the employer;
 - 19.10.3(e) any absence in the year of employment on any other account not involving termination of employment.
- 19.11 In calculating a year of employment any absence of a kind mentioned in 19.10.3(a), 19.10.3(b) and 19.10.3(c) will be counted as part of the year of employment. But, in respect of absences of a kind mentioned in 19.10.3(d), 19.10.3(e) and 19.10.3(f) it will be necessary for the employee as part of the qualification for annual leave to serve such additional period as equals the period of such absences.

20. PERSONAL LEAVE

The provisions of this clause apply to full-time and regular part-time employees, but do not apply to casual employees or seasonal employees.

20.1. Amount of paid personal leave

20.1.1 Paid personal leave will be available to an employee when they are absent due to:

- personal illness or injury (sick leave); or
- for the purposes of caring for an immediate family or household member that is sick and requires the employee's care and support (carer's leave); or
- because of bereavement on the death of an immediate family or household member (bereavement leave).

20.1.2 The amount of personal leave to which an employee is entitled depends on how long he or she has worked for the employer and accrues as follows:

20.1.2(a) 10 working days will be available in the first year of service; and

20.1.2(b) 12 working days will be available per annum in the second and subsequent years of service.

20.1.3 In any year unused personal leave accrues by the lesser of:

20.1.3(a) 8 working days in the first year of service less the amount of sick leave and carer's leave taken during the year; or

20.1.3(b) 10 working days in the second and following years of service less the amount of sick leave and carer's leave taken during the year.

20.2. Immediate family or household

20.2.1 The entitlement to carer's or bereavement leave is subject to the person in respect of whom the leave is taken being either:

20.2.1(a) a member of the employee's immediate family; or

20.2.1(b) a member of the employee's household.

20.2.2 The term **immediate family** includes:

20.2.2(a) spouse (including a former spouse, a de facto spouse and a former de facto spouse) of the employee. A de facto spouse means a person of the opposite sex to the employee who lives with the employee as his or her husband or wife on a bona fide domestic basis; and

- 20.2.2(b) child or an adult child (including an adopted child, a step child or an ex-nuptial child), parent, grandparent, grandchild or sibling of the employee or spouse of the employee.

20.3. Sick leave

- 20.3.1 An employee is entitled to use up to 8 working days of the current year's personal leave entitlement as sick leave in the first year of service and 10 working days in the second and subsequent years of service.
- 20.3.2 An employee is entitled to use accumulated personal leave for the purposes of sick leave where the current year's sick leave entitlement has been exhausted.
- 20.3.3 An employee who is absent due to personal illness or injury must, within 8 hours of the commencement of such absence, inform the employer of his or her inability to attend for duty and, insofar as practicable, state the nature of the illness and the estimated duration of the absence.
- 20.3.4 An employee may require that an application for sick leave by or on behalf of an employee be supported by evidence of personal illness or injury. A certificate from a registered medical practitioner will be sufficient evidence of personal illness or injury for the purposes of this clause.

20.4. Bereavement leave

- 20.4.1 An employee is entitled to use up to 2 days personal leave as bereavement leave on each occasion when a member of the employee's immediate family or household in Australia dies.
- 20.4.2 Where an employee has exhausted all personal leave entitlements, including accumulated entitlements, they will be entitled to 2 days unpaid bereavement leave.
- 20.4.3 An employee is entitled to use accumulated sick leave as paid bereavement leave up to 2 days on each occasion when a member of the employees immediate family outside Australia dies and the employee has already used the current year's personal/carer's leave entitlement under clause 20.1.2.
- 20.4.4 An employee is entitled to use unpaid leave up to 2 days on each occasion when a member of the employee's immediate family or household in Australia dies if the employee has already used the current year's personal/carer's leave entitlement under clause 20.1.2 and accumulated sick leave is available.
- 20.4.5 Proof of death must be provided to the satisfaction of the employer, if requested.

20.5. Carer's leave

- 20.5.1 An employee is entitled to use up to 5 days personal leave each year as carer's leave.

- 20.5.2** The entitlement to use personal/carer's leave is subject to the employee being responsible for the care of the person concerned.
- 20.5.3** The employee must, if required by the employer, establish by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another.
- 20.5.4** In normal circumstances an employee must not take carer's leave under this clause where another person has taken leave to care for the same person.
- 20.5.5** The employee must, where practicable, give the employer notice prior to the absence of the intention to take leave, the name of the person requiring care and their relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the employee to give prior notice of absence, the employee must notify the employer by phone of such absence at the first opportunity on the day of absence.
- 20.5.6** Each day or part day of carer's leave taken in accordance with clause 20.5.1 is to be deducted from the amount of personal/carer's leave provided in clause 20.1.2 up to a maximum of 5 days per annum.
- 20.5.7** An employee is entitled to use accumulated sick leave as paid carer's leave if the employee has used the current year's personal/carer's leave entitlement. An exception to this is where an employee has already taken 5 days carer's leave in the current year.
- 20.5.8** An employee may take unpaid carer's leave by agreement with the employer.

21. PERSONAL/CARER'S LEAVE - SEASONAL EMPLOYEES

21.1 Sick leave - seasonal employees

- 21.1.1** A seasonal employee will accrue an entitlement to paid sick leave at the rate of 1 day per calendar month of continuous employment. Sick leave will be paid at the ordinary time rate of pay.
- 21.1.2** The entitlement to such sick leave will be credited to the seasonal employee at the rate of 1 day at the date of commencement of his or her employment and thereafter at the rate of 1 day credited on the corresponding date in each subsequent calendar month of continuous employment.
- 21.1.3** A seasonal employee who is absent due to personal illness or injury must, within 8 hours of the commencement of such absence, inform the employer of his or her inability to attend for duty and, insofar as practicable, state the nature of the illness and the estimated duration of the absence.
- 21.1.4** An employer may require that an application for sick leave by or on behalf of a seasonal employee be supported by evidence of personal illness or injury. A certificate from a registered medical practitioner will be sufficient evidence of personal illness or injury for the purposes of this clause.

21.2 Bereavement leave - seasonal employees

- 21.2.1** A seasonal employee is entitled to up to one day's paid leave at the ordinary time rate of pay on each occasion when a member of the employee's immediate family or household in Australia dies.
- 21.2.2** A seasonal employee is entitled to up to one day's paid leave at the ordinary time rate of pay on each occasion when a member of the employee's immediate family outside Australia dies.
- 21.2.3** Proof of death must be provided to the satisfaction of the employer, if requested.

21.3 Carer's leave - seasonal employees

- 21.3.1** A seasonal employee with responsibilities in relation to either members of their immediate family or household who need their care and support is entitled to use up to 5 days per annum of their sick leave entitlement to be paid at the ordinary time rate of pay to provide care and support for such persons when they are ill. Leave may be taken for part of a single day.
- 21.3.2** The entitlement to use personal/carer's leave is subject to the seasonal employee being responsible for the care of the person concerned.
- 21.3.3** The seasonal employee must, if required by the employer, establish by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another.

- 21.3.4 In normal circumstances a seasonal employee must not take carer's leave under this clause where another person has taken leave to care for the same person.
- 21.3.5 The seasonal employee must, where practicable, give the employer notice prior to the absence of the intention to take leave, the name of the person requiring care and their relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the seasonal employee to give prior notice of absence, the seasonal employee must notify the employer by telephone of such absence at the first opportunity on the day of absence.
- 21.3.6 Each day or part of a day of carer's leave taken in accordance with 21.3.1 is to be deducted from the amount of sick leave provided in 21.1 up to a maximum of 5 days per annum.

21.4 Definitions

In this clause the term **immediate family** will be given the same meaning as defined in 20.2.2.

22. PARENTAL LEAVE

[22 preamble substituted by PR970201 ppc 24Feb06]

Subject to the terms of this clause employees are entitled to maternity, paternity and adoption leave and to work part-time in connection with the birth or adoption of a child.

The provisions of this clause apply to full-time, part-time and eligible casual employees, but do not apply to other casual employees.

An eligible casual employee means a casual employee:

- (a) employed by an employer on a regular and systematic basis for several periods of employment or on a regular and systematic basis for an ongoing period of employment during a period of at least 12 months; and
- (b) who has, but for the pregnancy or the decision to adopt, a reasonable expectation of ongoing employment.

For the purposes of this clause, continuous service is work for an employer on a regular and systematic basis (including any period of authorised leave or absence).

An employer must not fail to re-engage a casual employee because:

- (a) the employee or employee's spouse is pregnant; or
- (b) the employee is or has been immediately absent on parental leave.

The rights of an employer in relation to engagement and re-engagement of casual employees are not affected, other than in accordance with this clause.

22.1 Definitions

22.1.1 For the purpose of this clause **child** means a child of the employee under the age of one year except for adoption of a child where 'child' means a person under the age of five years who is placed with the employee for the purposes of adoption, other than a child or step-child of the employee or of the spouse of the employee or a child who has previously lived continuously with the employee for a period of six months or more.

22.1.2 Subject to clause 22.1.3, **spouse** includes a de facto or former spouse.

22.1.3 In relation to clause 22.5, **spouse** includes a de facto spouse but does not include a former spouse.

22.2 Basic entitlement

22.2.1 After twelve months continuous service, parents are entitled to a combined total of 52 weeks unpaid parental leave on a shared basis in relation to the birth or adoption of their child. For females, maternity leave may be taken and for males, paternity leave may be taken. Adoption leave may be taken in the case of adoption.

22.2.2 Subject to 22.3.6, parental leave is to be available to only one parent at a time, in a single unbroken period, except that both parents may simultaneously take:

22.2.2(a) for maternity and paternity leave, an unbroken period of up to one week at the time of the birth of the child;

22.2.2(b) for adoption leave, an unbroken period of up to three weeks at the time of placement of the child.

22.3 Maternity leave

22.3.1 An employee must provide notice to the employer in advance of the expected date of commencement of parental leave. The notice requirements are:

22.3.1(a) of the expected date of confinement (included in a certificate from a registered medical practitioner stating that the employee is pregnant) - at least ten weeks;

22.3.1(b) of the date on which the employee proposes to commence maternity leave and the period of leave to be taken – at least four weeks.

22.3.2 When the employee gives notice under 22.3.1(a) the employee must also provide a statutory declaration stating particulars of any period of paternity leave sought or taken by her spouse and that for the period of maternity leave she will not engage in any conduct inconsistent with her contract of employment.

22.3.3 An employee will not be in breach of this clause if failure to give the stipulated notice is occasioned by confinement occurring earlier than the presumed date.

22.3.4 Subject to clause 22.2.1 and unless agreed otherwise between the employer and employee, an employee may commence parental leave at any time within six weeks immediately prior to the expected date of birth.

22.3.5 Where an employee continues to work within the six week period immediately prior to the expected date of birth, or where the employee elects to return to work within six weeks after the birth of the child, an employer may require the employee to provide a medical certificate stating that she is fit to work on her normal duties.

22.3.6 Special maternity leave

22.3.6(a) Where the pregnancy of an employee not then on maternity leave terminates after 28 weeks other than by the birth of a living child, then the employee may take unpaid special maternity leave of such periods as a registered medical practitioner certifies as necessary.

22.3.6(b) Where an employee is suffering from an illness not related to the direct consequences of the confinement, an employee may take any paid sick leave to which she is entitled in lieu of, or in addition to, special maternity leave.

22.3.6(c) Where an employee not then on maternity leave suffers illness related to her pregnancy, she may take any paid sick leave to which she is then entitled and such further unpaid special maternity leave as a registered medical

practitioner certifies as necessary before her return to work. The aggregate of paid sick leave, special maternity leave and parental leave, including parental leave taken by a spouse, may not exceed 52 weeks.

22.3.7 Where leave is granted under clause 22.3.4, during the period of leave an employee may return to work at any time, as agreed between the employer and the employee provided that time does not exceed four weeks from the recommencement date desired by the employee.

22.4 Paternity leave

22.4.1 An employee will provide to the employer at least ten weeks prior to each proposed period of paternity leave, with:

22.4.1(a) a certificate from a registered medical practitioner which names his spouse, states that she is pregnant and the expected date of confinement, or states the date on which the birth took place; and

22.4.1(b) written notification of the dates on which he proposes to start and finish the period of paternity leave; and

22.4.1(c) a statutory declaration stating:

22.4.1(c)(i) he will take that period of paternity leave to become the primary care-giver of a child;

22.4.1(c)(ii) particulars of any period of maternity leave sought or taken by his spouse; and

22.4.1(c)(iii) that for the period of paternity leave he will not engage in any conduct inconsistent with his contract of employment.

22.4.2 The employee will not be in breach of clause 22.4.1 if the failure to give the required period of notice is because of the birth occurring earlier than expected, the death of the mother of the child, or other compelling circumstances.

22.5 Adoption leave

22.5.1 The employee will notify the employer at least ten weeks in advance of the date of commencement of adoption leave and the period of leave to be taken. An employee may commence adoption leave prior to providing such notice, where through circumstances beyond the control of the employee, the adoption of a child takes place earlier.

22.5.2 Before commencing adoption leave, an employee will provide the employer with a statutory declaration stating:

22.5.2(a) the employee is seeking adoption leave to become the primary care-giver of the child;

22.5.2(b) particulars of any period of adoption leave sought or taken by the employee's spouse; and

- 22.5.2(c) that for the period of adoption leave the employee will not engage in any conduct inconsistent with their contract of employment.
- 22.5.3 An employer may require an employee to provide confirmation from the appropriate government authority of the placement.
- 22.5.4 Where the placement of a child for adoption with an employee does not proceed or continue, the employee will notify the employer immediately and the employer will nominate a time not exceeding four weeks from receipt of notification for the employee's return to work.
- 22.5.5 An employee will not be in breach of this clause as a consequence of failure to give the stipulated periods of notice if such failure results from a requirement of an adoption agency to accept earlier or later placement of a child, the death of a spouse, or other compelling circumstances.
- 22.5.6 An employee seeking to adopt a child is entitled to unpaid leave for the purpose of attending any compulsory interviews or examinations as are necessary as part of the adoption procedure. The employee and the employer should agree on the length of the unpaid leave. Where agreement cannot be reached, the employee is entitled to take up to 2 days' unpaid leave. Where paid leave is available to the employee, the employer may require the employee to take such leave instead.

22.6 Variation of period of parental leave

Unless agreed otherwise between the employer and employee, an employee may apply to their employer to change the period of parental leave on one occasion. Any such change to be notified at least four weeks prior to the commencement of the changed arrangements.

22.7 Parental leave and other entitlements

An employee may in lieu of or in conjunction with parental leave, access any annual leave or long service leave entitlements which they have accrued subject to the total amount of leave not exceeding 52 weeks.

22.8 Transfer to a safe job

- 22.8.1 Where an employee is pregnant and, in the opinion of a registered medical practitioner, illness or risks arising out of the pregnancy or hazards connected with the work assigned to the employee make it inadvisable for the employee to continue at her present work, the employee will, if the employer deems it practicable, be transferred to a safe job at the rate and on the conditions attaching to that job until the commencement of maternity leave.
- 22.8.2 If the transfer to a safe job is not practicable, the employee may elect, or the employer may require the employee to commence parental leave for such period as is certified necessary by a registered medical practitioner.

22.9 Returning to work after a period of parental leave

- 22.9.1** An employee will notify of their intention to return to work after a period of parental leave at least four weeks prior to the expiration of the leave.
- 22.9.2** An employee will be entitled to the position which they held immediately before proceeding on parental leave. In the case of an employee transferred to a safe job pursuant to clause 22.8, the employee will be entitled to return to the position they held immediately before such transfer.
- 22.9.3** Where such position no longer exists but there are other positions available which the employee is qualified for and is capable of performing, the employee will be entitled to a position as nearly comparable in status and pay to that of their former position.

22.10 Replacement employees

- 22.10.1** A replacement employee is an employee specifically engaged or temporarily promoted or transferred, as a result of an employee proceeding on parental leave.
- 22.10.2** Before an employer engages a replacement employee the employer must inform that person of the temporary nature of the employment and of the rights of the employee who is being replaced.

23. PUBLIC HOLIDAYS

- 23.1 In view of the nature of the operations of the employer, employees may be required to work on public holidays.
- 23.2 Public holidays will be as gazetted for the whole of the State of Victoria with the exception of the Queen's Birthday Public Holiday.
- 23.3 In lieu of the Queen's Birthday Public Holiday, employees will be provided a Public Holiday on Melbourne Cup Day.
- 23.4 When working on a public holiday, the employee will be paid a normal day's pay plus the actual hours worked at time and one half.

PART 7 - TRAINING AND RELATED MATTERS

24. TRAINING - SKI INSTRUCTORS

- 24.1** A Ski Instructor who is an employee of the employer at Mount Hotham will be credited with 4 hours "Non-paid Accrual Hours" by the employer at Mount Hotham on each day that he or she attends at official APSI training sessions and examination courses.
- 24.2** The employer at Mount Hotham will not be required to pay an employee for travel time taken to reach official APSI training sessions and examination courses or credit that employee with "Non-paid Accrual Hours" for that travel time.

25. CLOTHING ALLOWANCE

- 25.1 **Protective clothing** means, in relation to outdoor employees, other than Ski Instructors, a suitable parka, raincoat, wet weather gloves, overpants, gloves and Sorel type snow boots, and in relation to Ski Instructors, a suitable parka, raincoat, wet weather gloves, overpants.
- 25.2 Where an outdoor employee is required to wear protective clothing, the employer will reimburse the employee for the cost of purchasing such clothing. The provisions of this clause do not apply where the employer provides the protective clothing.
- 25.3 Where protective clothing, uniforms and/or other tools and equipment are supplied without cost to the employee, it will remain the property of the employer and will be returned by the employee to the employer when requested on termination of the employee's employment.

PART 8 - AWARD COMPLIANCE AND UNION RELATED MATTERS

26. POSTING OF AWARDS

This Award will be exhibited by the employer on the employer's premises in a place accessible to all employees.

27. SUPPORTED WAGE SYSTEM

[27 inserted by PR970201 ppc 24Feb06]

27.1 This clause defines the conditions which will apply to employees who because of the effects of a disability are eligible for a supported wage under the terms of this agreement/award. In the context of this clause, the following definitions will apply:

- 27.1.1 **Supported wage system** means the Commonwealth Government system to promote employment for people who cannot work at full award wages because of a disability, as documented in *Supported Wage System: Guidelines and Assessment Process*.
- 27.1.2 **Accredited assessor** means a person accredited by the management unit established by the Commonwealth under the supported wage system to perform assessments of an individual's productive capacity within the supported wage system.
- 27.1.3 **Disability support pension** means the Commonwealth pension scheme to provide income security for persons with a disability as provided under the *Social Security Act 1991*, as amended from time to time, or any successor to that scheme.
- 27.1.4 **Assessment instrument** means the form provided for under the supported wage system that records the assessment of the productive capacity of the person to be employed under the supported wage system.

27.2 Eligibility criteria

- 27.2.1 Employees covered by this clause will be those who are unable to perform the range of duties to the competence level required within the class of work for which the employee is engaged under this agreement/award, because of the effects of a disability on their productive capacity and who meet the impairment criteria for receipt of a disability support pension.
- 27.2.2 This clause does not apply to any existing employee who has a claim against the employer which is subject to the provisions of workers' compensation legislation or any provision of this agreement/award relating to the rehabilitation of employees who are injured in the course of their employment.
- 27.2.3 This clause does not apply to employers in respect of their facility, programme, undertaking, service or the like which receives funding under the *Disability Services Act 1986* and fulfils the dual role of service provider and sheltered employer to people with disabilities who are in receipt of or are eligible for a disability support pension, except with respect to an organisation which has received recognition under s.10 or under s.12A of the *Disability Services Act*, or if a part only has received recognition, that part.

27.3 Supported wage rates

27.3.1 Employees to whom this clause applies shall be paid the applicable percentage of the minimum rate of pay prescribed by this award/agreement for the class of work which the person is performing according to the following schedule:

Assessed capacity (clause 27.4)	Prescribed award rate
10%*	10%
20%	20%
30%	30%
40%	40%
50%	50%
60%	60%
70%	70%
80%	80%
90%	90%

27.3.2 Provided that the minimum amount payable shall be not less than \$62 per week.

27.3.3 * Where a person's assessed capacity is 10%, they shall receive a high degree of assistance and support.

27.4 Assessment of capacity

For the purpose of establishing the percentage of the award rate to be paid to an employee under this award/agreement, the productive capacity of the employee will be assessed in accordance with the supported wage system and documented in an assessment instrument by either:

27.4.1 The employer and a union party to the award/agreement, in consultation with the employee or, if desired by any of these;

27.4.2 The employer and an accredited assessor from a panel agreed by the parties to the award and the employee.

27.5 Lodgement of assessment instrument

27.5.1 All assessment instruments under the conditions of this clause, including the appropriate percentage of the award wage to be paid to the employee, shall be lodged by the employer with the Registrar of the Australian Industrial Relations Commission.

27.5.2 All assessment instruments shall be agreed and signed by the parties to the assessment, provided that where a union which is party to the award/agreement, is not a party to the assessment, it shall be referred by the Registrar to the union by certified mail and shall take effect unless an objection is notified to the Registrar within ten working days.

27.6 Review of assessment

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

27.7 Other terms and conditions of employment

Where an assessment has been made, the applicable percentage shall apply to the wage rate only. Employees covered by the provisions of the clause will be entitled to the same terms and conditions of employment as all other workers covered by this award/agreement paid on a pro rata basis.

27.8 Workplace adjustment

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

27.9 Trial period

- 27.9.1** In order for an adequate assessment of the employee's capacity to be made, an employer may employ a person under the provisions of this clause for a trial period not exceeding twelve weeks, except that in some cases additional work adjustment time (not exceeding four weeks) may be needed.
- 27.9.2** During that trial period the assessment of capacity shall be undertaken and the proposed wage rate for a continuing employment relationship shall be determined.
- 27.9.3** The minimum amount payable to the employee during the trial period shall be no less than \$62 per week.
- 27.9.4** Work trials should include induction or training as appropriate to the job being trialled.
- 27.9.5** Where the employer and employee wish to establish a continuing employment relationship following the completion of the trial period, a further contract of employment shall be entered into based on the outcome of assessment under S.4 hereof.

DECLARATION - VICTORIA

[Common rule declared by [PR959029](#) from 21Jul05]

Further to the decision issued by the Commission on 29 June 2005 [[PR959027](#)] and pursuant to ss. 141 and 493A of the *Workplace Relations Act 1996* (the Act), the Commission makes the following declaration for a common rule award:

1. In this Declaration:
 - 1.1 **the award** means the Alpine Resorts (The Australian Workers' Union) Award 2001 as varied from time to time;
 - 1.2 **employees** means employees in the industry who perform work of a kind that is covered by the award;
 - 1.3 **employers** means employers who employ employees;
 - 1.4 **the industry** means classifications, occupations, industries or callings specified in clause 12 of the Award.
2. That save for and subject to the matters referred to in clauses 4 to 10 below, the whole of the terms of the award, as varied from time to time, except those specified in clause 3 below, shall be:
 - 2.1 a common rule for the industry in Victoria and known as the Alpine Resorts Victorian Common Rule Declaration 2005;
 - 2.2 binding on all employers in respect of the employment by them of employees;
 - 2.3 binding on all employees; and
 - 2.4 binding on The Australian Workers' Union and the registered organisations respondent to the award.
3. The following clauses of the award are not included in the Alpine Resorts Victorian Common Rule Declaration 2005:
 - 3.1 clause 4 - Commencement date and period of operation;
 - 3.2 Clause 7 - Parties bound
4. Subject to 4.1 to 4.5 below, all provisions in the Alpine Resorts Victorian Common Rule Declaration 2005 are to operate from 21 July 2005.
 - 4.1 With respect to annual leave, only periods of annual leave commencing on or after 1 August 2005 attract leave loading.
 - 4.2 With respect to redundancy payments for employees of employers who have fewer than 15 employees, only service on or after 21 July 2005 is to be taken into account for the purpose of calculating service.

- 4.3 With respect to redundancy payments for employees of employers who have 15 employees or more, only service on or after 1 January 2004 is to be taken into account for the purpose of calculating service. [Note: the agreement in respect of this issue is without prejudice to the position a party may put in roping-in proceedings.]
- 4.4 Any accident make-up pay clause is to apply in relation to any injury on or after 3 August 2004.
- 4.5 The wages clauses (including all allowances and penalty payments) are to commence operation from the first pay period on or after 21 July 2005.
5. The Alpine Resorts Victorian Common Rule Declaration 2005 shall not apply to employers respondent by any means to any other award of the Commission in respect of the employment by them of employees covered by that award.
6. This declaration shall not apply to a person with a disability who is eligible for a Disability Support Pension and who is employed by a supported employment service that receives funding under the *Disability Services Act 1986* to provide support for that person. [See Note 1 below].
7. An employer who is making superannuation contributions into a complying superannuation fund, within the meaning of the *Superannuation Industry (Supervision) Act 1993* (Cth), on behalf of an employee covered by this declaration, prior to the date of effect of this declaration is exempt from any provision in the award which specifies the fund or funds into which superannuation contributions are to be paid. [See Note 2 below].
8. In the event of a dispute about the entitlement of an employer to set-off entitlements and benefits provided under a contract of employment made prior to the date of this declaration against entitlements and benefits required to be provided under the Alpine Resorts Victorian Common Rule Declaration 2005, the matter may be referred to a Board of Reference, consisting of a member of the Commission, which shall determine whether or not such a set-off should be permitted having regard to what is fair and equitable in all the circumstances of the case, without regard to technicalities and legal forms.
 - 8.1 An appeal lies from a decision of a Board of Reference to a Full Bench of the Commission.
 - 8.2 This clause shall apply for a period of twelve months from the commencement date of the Alpine Resorts Victorian Common Rule Declaration 2005.
 - 8.3 Any registered organisation bound by the terms of the Alpine Resorts Victorian Common Rule Declaration 2005 shall be notified of the time and date of hearing in relation to any application made pursuant to this provision.
9. Nothing in this declaration reduces or in any way detracts from any accrued rights to any forms of leave including sick leave, annual leave, long service leave or parental leave to which employees or any of them have become entitled by accrual or otherwise prior to the commencement date in clause 10 below.
10. This declaration shall be an award of the Commission, shall come into force on 21 July 2005 and shall remain in force for a period of three months and thereafter in accordance with the Act. [See Note 3 below].

Note 1

1. Disability Support Pension means the Commonwealth pension scheme to provide income security for persons with a disability as provided for under the *Social Security Act 1991* (Cth), as amended from time to time, or any successor to that scheme.
2. The intention of this provision is limited to preventing the award from applying to sheltered workshops (je supported employment services) - it does not prevent the award from applying to employees with disabilities in open employment.
3. Leave is reserved for any party to have this issue reconsidered in the light of any developments in the national process which is currently considering workplace relations issues for sheltered workshops. This national process includes the Disability Sector National Industry Consultative Council and any related applications that seek award coverage for sheltered workshops.

Note 2

1. The purpose of the exception above is to maintain the status quo in respect of employers who, as at the date of effect of the common rule declaration, are making superannuation contributions into a complying superannuation fund. These employers will not be required to change their existing arrangements. Nor will there be any requirement for the existing arrangements to be subject of an agreement between superannuation funds which are successor funds (as defined in Regulation 1.03 of the *Superannuation Industry (Supervision) Act 1993* (Cth) and the Regulations thereunder. Further, "existing arrangements" includes the making of contributions to such funds.
2. The exception is on respect of current and future employees of the employers whoa re entitled to the benefit of the exemption.
3. The exception does not apply to new businesses which are established after the date on which the award is declared to have effect as a common rule.
4. The exception only applies to employers who are required to apply the terms of the award by virtue of the Common Rule declaration. It does not apply to employer who are named respondents to the award or who are parties bound by virtue of their membership of an employer organisation.
5. The exception applies subject to any Commonwealth legislation to the contrary.

Note 3

Subject to s.133 of the *Workplace Relations Act 1996* and any order of the Commission, an award dealing with particular matters continues in force until a new award is made dealing with the same matters (see s.148 of the *Workplace Relations Act 1996*).

** end of text **

- Change Management
- Industrial Relations
- Employment
- Occupational Health & Safety
- Human Rights & Equal Opportunity
- Legal Risk Management

SUBMISSIONS BY HARMERS WORKPLACE LAWYERS
ON BEHALF OF THE
AUSTRALIAN SKI AREAS ASSOCIATION
IN RELATION TO THE
**ALPINE RESORTS (GENERAL) AWARD
2010**

6 MARCH 2009

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1 Introduction

1.1 We act for the Australian Ski Areas Association ("ASAA"), and refer to our letters to the Australian Industrial Relations Commission ("Commission") dated 10 October 2008, a copy of which we enclose with this submission:

- (a) the first which seeks that a "stand-alone" Modern Award be made for the Australian snowsports industry ("Snowsports Industry"); and
- (b) the second which sought that the Modern Award for the Snowsports Industry be included in Stage 3 of the Award Modernisation Process.

1.2 The ASAA is grateful to the Commission for including consideration of the Modern Award for the Snowsports Industry in Stage 3, as requested in that second letter, by including the Federal *Alpine Resorts (Australian Workers Union) Award 2001* in the list of awards for Stage 3 under the "Tourism Industry".

1.3 In relation to the ASAA request for a "stand-alone" Modern Award to apply to the Snowsports Industry, we enclose with these submissions a draft *Alpine Resorts (General) Modern Award* ("Draft Award"). These submissions relate to that Draft Award.

2 Overview of the Australian Ski Areas Association and Nature of the Snowsports Industry

2.1 The members of the ASAA are the companies that operate all of the ski resorts in Australia ("Alpine Resorts").

2.2 As noted in the first of our letters dated 10 October 2008, the Snowsports Industry is unique in its nature.

2.3 The employees of the Alpine Resorts fall within a large range of occupational groups, and perform work that is generally highly seasonal in nature, requires mostly specialist skills, and is undertaken in potentially extreme climatic conditions within the Snowsport Industry, those occupations include:

- (i) Skitube drivers;
- (ii) Ski instructors;
- (iii) Ski patrollers;
- (iv) Ski lift operators;
- (v) Snow groomers;
- (vi) Snow makers;
- (vii) Snow courtesy staff;
- (viii) Ticket sellers;

-
- (ix) Electrical and trades staff;
 - (x) Retail and sales staff;
 - (xi) Hospitality staff;
 - (xii) Childcare staff; and
 - (xiii) Administration staff.
- 2.4 The Snowsports Industry is highly seasonal, resulting in high numbers of employees during the Ski Season when alpine lifting is being provided by the Alpine Resorts (generally between early June and early October) ("Ski Season") and significantly reduced staff outside the Ski Season.
- 2.5 The level of tourism during the Ski Season is dependent on the quantum of snow falls during the season and the level of discretionary spending on tourism in the economy, which then influences the amount of work available for employees of the Alpine Resorts, resulting in the need for flexibility in the employment arrangements for the Alpine Resorts.
- 3 Current Industrial Regulation of Alpine Resorts**
- 3.1 Alpine Resorts currently operate in three states in Australia: Victoria, New South Wales and Tasmania.
- 3.2 The industrial regulation of the Alpine Resorts differs between those States.
- Industrial Regulation in Victoria*
- 3.3 The key pre-reform Federal Award applying to the Alpine Resorts in Victoria is the *Alpine Resorts (Australian Workers Union) Award 2001* ("Victorian (AWU) Award").
- 3.4 There is also the *Federal Victorian Alpine Resorts Award 1999*, which applies to employees of an Alpine Resort Management Board established under the *Alpine Resorts (Management) Act 1997*, and not to employees of the companies that operate the Alpine Resorts. As such, that Award is more akin to a public service award.
- 3.5 The following classification groups are covered by the Victorian (AWU) Award (with specific roles under each group being identified in the Award):
- (a) Lift Operations;
 - (b) Skier Services;
 - (c) Ski Hire;
 - (d) Tickets/Administration;
 - (e) Workshop;

- (f) Retail Shops;
 - (g) Race Department;
 - (h) Snow Groomers; and
 - (i) Snow Makers.
- 3.6 We understand that the unique conditions, and flexibilities, in the Victorian (AWU) Award were introduced by consent with the Australian Workers Union.
- 3.7 The Federal *Hospitality Industry - Accommodation, Hotels, Resorts and Gaming Award 1998* ("Federal Hospitality Award") sets the minimum terms and conditions of employees of the Alpine Resorts in hospitality roles.
- 3.8 The Federal *Children's Services (Victoria) Award 2005* ("Victorian Childcare Award") sets the minimum terms and conditions of employees of the Alpine Resorts in child-care roles.
- 3.9 The vast majority of employees engaged by the Victorian Alpine Resorts during the Ski Season are engaged in roles that fall within the Victorian (AWU) Award.
- 3.10 In stating the above, we note that some of the Alpine Resorts in Victoria currently have in place Federal certified agreements applying to their employees, which override the above Awards.

Industrial Regulation in New South Wales

- 3.11 Prior to the commencement of Work Choices on 27 March 2006, the key awards applying to the Alpine Resorts in NSW were:
- (a) *Ski Industry (State) Award* ("Ski Industry Award");
 - (b) *Ski Instructors (State) Award* ("Ski Instructors Award");
 - (c) *Perisher Blue Pty Limited (Ski Tube) State Award* ("Skitube Award");
 - (d) *Electrician & c. (State) Award* ("Electricians Award");
 - (e) *Metal, Engineering and Associated Industries (State) Award* ("NSW Metals Award");
 - (f) *Federal Metal Industries Award*;
 - (g) *Theatrical Employees Recreation and Leisure Industry (State) Award* ("Leisure Award");
 - (h) *Miscellaneous Workers - Kindergartens and Child Care Centres (State) Award* ("NSW Childcare Award"); and
 - (i) the Federal Hospitality Award.

- 3.12 As a result of legislation passed by the NSW government just prior to the introduction of Work Choices, the Ski Industry Award, Ski Instructors Award and Skitube Award were deemed to be State enterprise agreements. As a result, after Work Choices, those three awards became known as "preserved collective state agreements" or "PCSAAs". Hence, we refer to them below as the Ski Industry PCSA; Ski Instructors PCSA and Skitube PCSA.
- 3.13 As a result of Work Choices, the Electricians Award, NSW Metals Award, Leisure Award and NSW Childcare Award, became known as "notional agreements preserving state awards" or "NAPSAs".
- 3.14 The following classification groups are covered by the Ski Industry PCSA:
- (a) Lift Attendant;
 - (b) Lift Operator;
 - (c) Ticket Seller;
 - (d) Snow Groomer Operator;
 - (e) Snow Maker;
 - (f) Parking Attendant;
 - (g) Ski Patrol;
 - (h) Courtesy Staff;
 - (i) Driver;
 - (j) Trail Crew;
 - (k) Ski Outlet Staff; and
 - (l) a general classification of "Resort Worker".
- 3.15 The Ski Instructors PCSA is a specific instrument applying only to snowsports instructors.
- 3.16 The Skitube PCSA is also a specific instrument applying only to employees of Perisher Blue Pty Limited (being one of the Alpine Resorts) in the following classifications, due to the Skitube Railway System ("Skitube") operated by Perisher Blue Pty Limited:
- (a) Trainee driver;
 - (b) First level train driver;
 - (c) Second level train driver;
 - (d) Leading hand track inspector;

(e) Resort worker – being an employee who performs various maintenance and general duties.

3.17 The vast majority of employees engaged by the NSW Alpine Resorts during the Ski Season are engaged in roles that fall within the Ski Industry PCSA and Ski Instructors PCSA.

3.18 The unique conditions, and flexibilities, in the Ski Industry PCSA and Ski Instructors PCSA were introduced by consent with the Australian Workers Union.

Industrial Regulation in Tasmania

3.19 There is no Award in Tasmania that applies specifically to the Snowsports Industry.

3.20 We do not currently have instructions from any Tasmanian Alpine Resort on the industrial regulation of their employees in the Snowsports Industry in Tasmania.

3.21 However, we understand that there are two Alpine Resorts in Tasmania which operate only for a very limited period during the year.

4 Submissions regarding Staud Alone Modern Award and Exemptions

4.1 In light of the matters outlined in section 2 above, when considered in the context of the number of different industrial instruments applying to the Alpine Resorts as outlined in section 3 above, the ASAA considers it appropriate for a stand-alone Modern Award to be made for the Snowsports Industry.

4.2 The requirement for flexibility in the operation of minimum terms and conditions to Alpine Resorts is highlighted in section 6 of these submissions, in which section comments are made on particular aspects of the Draft Award and the reasons for the flexibility sought in that Award.

5 Consultation with the Australian Workers Union (AWU)

5.1 The ASAA has not had an opportunity, to date, to consult with the AWU in relation to the Draft Award, although a copy of the Draft Award as well as these submissions, will be provided to the AWU.

5.2 It is the ASAA's intention to invite the AWU to have discussions with it regarding the Draft Award, prior to the public consultation on 18 March 2009.

5.3 As such, the ASAA and AWU may have further submissions to put forward to the Commission as at that date, in light of any such discussions that may take place.

6 Overview comments on the Draft Award

6.1 To assist the Commission in reviewing the Draft Award, we are instructed to provide the following comments in relation to certain clauses and parts of the Draft Award as identified below:

Clause 4: Coverage

- 6.2 It is proposed that the Draft Award cover "Alpine Resorts" and their employees within the classifications in Schedule A to the Award, to the exclusion of any other modern award.
- 6.3 As noted above, due to the unique nature of the Snowsports Industry, and the flexibility required due to the seasonal, and weather-dependent, nature of that Industry, the ASAA submits that it is appropriate that the Draft Award apply as a stand-alone modern award to Alpine Resorts.

Clause 7: Award Flexibility

- 6.4 The ASAA seeks two variations to the "standard" award flexibility clause that the Commission has generally been adopting in the Modern Awards.
- 6.5 The first is the addition, in clause 7.1, of the ability of an employer and employee to reach agreement on how and when annual leave is taken, as well as in relation to public holidays.
- 6.6 The second is, in clause 7.8(a), that the flexibility agreement be able to be terminated on one (rather than four) week's notice.
- 6.7 The reason for these two variations is due to the seasonal nature of the Snowsports Industry. Many of the roles in the Draft Award only exist when there is sufficient snow for the Alpine Resorts to offer alpine lifting, which is generally between early June and early October. Given the roles only exist for a short period, having employees take annual leave during that period can adversely impact on the operational requirements of the Alpine Resorts. Further, as many of the roles are only required for the duration of the season when alpine lifting is being offered, requiring notice of four weeks for termination is disproportionate when compared to the potential duration of the employment relationship.

Clause 8: Consultation regarding major workplace change

- 6.8 Given the seasonal nature of operating an Alpine Resort, there is also a significant variation in the number of employees employed during the season when the Alpine Resorts are providing alpine lifting as compared to when alpine lifting is not being provided.
- 6.9 As a result of this significant variation in employee numbers, the ASAA considers it appropriate to specifically include in the Draft Award, at clause 8.1(b), the following statement:

[A]n event or change which is a normal incidence of the seasonal nature of operating an alpine resort will not be considered a "significant effect".

Clauses 10: Employment Categories

- 6.10 The ASAA proposes that there be four employment categories: permanent employees (clause 11), seasonal employees (clause 12), casual employees (clause 13) and Snowsports Instructors (clause 14).

- 6.11 Snowsports Instructors are, in essence, a particular category of "casual employee", and so receive a casual loading as part of their hourly rate of pay.
- 6.12 The reason they are separately identified in the Draft Award is because of their qualifications and experience levels, and the fact that there are to be five categories of Snowsports Instructor levels as outlined in clause 21.1 of the Draft Award.
- 6.13 We also note that Snowsports Instructors are a separate category under the Victorian (AWU) Award, and in respect to Snowsports Instructors in NSW, are subject to a specific industrial instrument, being the Ski Instructors PCSA.
- 6.14 Further, as seasonal employees and Snowsports Instructors are only employed for a limited period of time, due to the seasonal nature of the Snowsports Industry, their hourly rates include a loading in respect to annual leave.

Clause 17: Termination of Employment

- 6.15 The ASAA considers it appropriate to include a "Termination of Employment" clause in the Draft Award, as different notice periods apply for the different employment classifications in the Award, being permanent employees, seasonal employees, casual employees and Snowsports Instructors.
- 6.16 Clause 17.7 is titled "Rolling Notice". Due to the fact that the conclusion of the Ski Season depends on the weather conditions, the circumstance can arise where a seasonal employee may be provided with notice of termination and then there are additional snowfalls providing the opportunity for further work. Due to this situation, the ASAA seeks a clause that permits an Alpine Resort to offer the employee further work, beyond the date on which the notice period would have expired, after which time the employment relationship can terminate on one hour's notice or payment in lieu. A "Rolling Notice" clause is also contained in the Ski Industry PCSA, and clause 17.7 of the Draft Award is consistent with that clause.

Clause 18: Redundancy

- 6.17 The ASAA considers it appropriate to include a "Redundancy" clause in the Draft Award, so as to make it clear for employees that the entitlement for a severance payment:
- (a) only arises for permanent employees; and
 - (b) does not arise if a position ceases to exist due to the seasonal nature of operating an Alpine Resort.

Clause 21: Minimum Wages

- 6.18 The methodology used by the ASAA to determine the wage rates and classifications, was to look at the current minimum Award/PCSA/NAPSA wage rates for relevant classifications applicable to each Alpine Resort. As there are differences between the minimum rates in each of those instruments, the roles were then banded together based on these wages rates and an assessment made as to the relative work value of

each role. This ensured that roles have been retained at least at the lowest level being implemented in an Alpine Resort under their relevant Award/PCSA/NAPSA.

- 6.19 Once the groupings were set, a graduating system of wages was applied to ensure that increased skills or experience were being appropriately recognised. This was compared to previous wage rates to ensure parity for each group. Finally the proposed rates and scales were reviewed by each resort to ensure that overall costs were maintained (excluding overaward payments).

Clause 22: Allowances

- 6.20 We are instructed that the allowances included in the Draft Award are the key allowances actually implemented and utilised by one or more Alpine Resort.

Clause 24: Mixed Functions and Dual-Role Employment

- 6.21 This clause has been inserted also due to the unique nature of operating an Alpine Resort.

Clause 24.3: Dual-Role Employment

- 6.22 As a number of the positions in the Draft Award are only available during that part of the year when alpine lifting is being provided, both the ASAA and certain employees, wish to have the flexibility to have "dual-role employment". Under such an arrangement, by way of example, an employee may be engaged as a qualified Ski Patroller (Resort Worker Level 6) during that period of the year when alpine lifting is being provided, and a Qualified Fitness Instructor with lifeguard qualifications (Resort Worker Level 4) outside of that period.

- 6.23 Clause 24.3 is designed to facilitate an Alpine Resort and an employee entering into an employment arrangement of that nature.

Clause 24.4: Multi-hiring Arrangement

- 6.24 A number of employees are engaged by the Alpine Resorts only during that period when alpine lifting is being provided. Again, as the employment may be seasonal, a number of employees wish to have the option of having two roles during that period. For example, an employee may wish to have a primary role of Ticket sales (under Resort Worker Level 2), which duties are performed during the day, and then a supplementary role of undertaking bar duties (also under Resort Worker Level 2) during the evenings.

- 6.25 Clause 24.4 is designed to facilitate an Alpine Resort and an employee entering into an employment arrangement of that nature.

Clause 28: Hours of Work

- 6.26 The Award provides for ordinary hours of work for permanent employees and seasonal employees to be on an "any five in seven basis".

- 6.27 Currently under the Victorian (AWU) Award, Ski Industry PCSA and Ski Instructors PCSA, ordinary hours may be undertaken on any day in the week. Therefore, clause 28 is consistent with those Awards and PCSAs.

Clause 33: Annual Leave

- 6.28 The ASAA considers it appropriate to include an "Annual Leave" clause in the Draft Award, so as to make it clear for employees that the entitlement to annual leave only arises for permanent employees, and not casual employees, seasonal employees or Snowsports Instructors.

Clause 34: Personal/Carer's Leave and Compassionate Leave

- 6.29 The ASAA considers it appropriate to include a "Personal/Carer's Leave and Compassionate Leave" clause in the Draft Award, so as to make it clear how those entitlements operate for permanent employees, seasonal employees, casual employees and Snowsports Instructors.

Schedule D: Transitional Provisions – Casual Loadings

- 6.30 The current casual loading percentages applying under the industrial instruments between the Alpine Resorts in New South Wales and those in Victoria differ. As a result, the ASAA proposes a transitional provision to apply in respect to the casual loading percentage.
- 6.31 While the casual loading percentage under the Victorian (AWU) Award is 25%, under the Ski Industry PCSA it is 15%. As a result, the ASAA proposes the transitional arrangement set out in Schedule D to the Draft Award such that the casual loading for Casual Employees of Alpine Resorts in NSW transitions, on a graduated basis, from 15% to 25% between 2010 and 2014.

HARMERS WORKPLACE LAWYERS
6 March 2009

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10 October 2008

Australian Industrial Relations Commission
Level 8, Terrace Towers
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East Sydney NSW 2011

By email: amod@airc.gov.au

Dear Commissioner(s)

MODERN AWARD FOR SNOWSPORT INDUSTRY

We act for the Australian Ski Areas Association ("ASAA"). The members of the ASAA are the companies that operate all of the ski resorts in Australia ("Ski Resorts").

1 Consultation in relation to Award Modernisation

We write to the Commission as part of the consultation being undertaken for the award modernisation process. In particular, we are instructed to write to the Commission to express the views of the ASAA in relation to the scope of the modern awards that may apply to the Australian snowsport industry ("Snowsport Industry").

2 Nature of the Snowsport Industry

The Snowsport Industry is unique in its nature. Some of the key reasons it is unique include the following:

(a) The employees of the Ski Resorts fall within a large range of occupational groups, and perform work that is generally highly seasonal in nature, requires mostly specialist skills, and is undertaken in potentially extreme climatic conditions within the Snowsport Industry, those occupations including:

- (i) Skitube drivers;
- (ii) Ski instructors;
- (iii) Ski patrollers;

-
- (iv) Ski lift operators;
 - (v) Snow groomers;
 - (vi) Snow makers;
 - (vii) Snow courtesy staff;
 - (viii) Ticket sellers;
 - (ix) Electrical and trades;
 - (x) Retail and sales;
 - (xi) Hospitality;
 - (xii) Childcare; and
 - (xiii) Administration.
- (b) The Snowsport Industry is highly seasonal, resulting in high numbers of employees during the ski season (between June and October) and significantly reduced staff during the "off-season" period.
- (c) The level of tourism during the ski season is dependent on the quantum of snow falls during the season, which then influences the amount of work available for employees of the Ski Resorts, resulting in the need for flexibility in the employment arrangements for the Ski Resorts.

3 Modern Award for Snowsport Industry

The ASAA's intention is to press for a single modern Snowsport Industry Award ("Proposed Award"), to apply to employees of the Ski Resorts in the Snowsport Industry.

The ASAA intends to liaise with the Australian Workers Union ("AWU") (and other unions as necessary) in relation to that Award. The AWU is the union with the predominant coverage of employees of the Ski Resorts in the Snowsport Industry. In a letter to the ASAA, dated 12 May 2008, the AWU indicated that it has also proposed that a single Snowsport Industry Award be made as part of the award modernisation process.

Given the unique nature of the Snowsport Industry, the ASAA's intention is to seek that the Proposed Award be the only award applying to employees of Ski Resorts in the Snowsport Industry.

We also note that we have been instructed to write separately to the Commission to seek that the Snowsport Industry which, at present, would fall within Stage 4 of the award modernisation process (under "Industries not otherwise assigned"), be dealt with at an earlier stage of the process, given the seasonal nature of the Industry and the necessity for clarity during the 2009 season of potential award conditions for the return 2010 season.

4 **Modern Awards for Priority Industries**

There is the potential for a number of the Modern Awards for the Priority Industries to impact on the Snowsport Industry, given the current coverage of those Awards. These include the *Hospitality Industry (General) Award 2010*, *Manufacturing and Associated Industries and Occupations Award 2010*, *Clerks – Private Sector Award 2010*, *Retail Industry Award 2010*, *Security Services Industry Award 2010* and *Rail Industry Award 2010*.

Given the ASAA seeks to have a Proposed Ski Award that is, in effect, a “stand-alone” instrument, its intention is to press for a carve-out from other Awards, including the Modern Awards for the Priority Industries referred to above, that may otherwise have applied to employees of the Snowsport Industry.

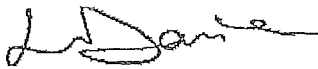
In putting this forward to the Commission, we understand that the Commission is not seeking to finally determine the scope of the Modern Awards at this stage of the award modernisation process.

Please do not hesitate to contact the undersigned in order to further discuss any aspect of this matter.

Yours faithfully

HARMERS WORKPLACE LAWYERS

Per:



Michael Harmer / Bronwyn Maynard / Leanne Davies

10 October 2008

Australian Industrial Relations Commission
Level 8, Terrace Towers
80 William Street
East Sydney NSW 2011

By email: amod@airc.gov.au

Dear Commissioner(s)

**MODERN AWARD FOR SNOWSPORT INDUSTRY – SUBMISSION FOR
INCLUSION IN THIRD ROUND OF AWARD MODERNISATION PROCESS**

We confirm that we act for the Australian Ski Areas Association (“ASAA”). The members of the ASAA are the companies that operate all of the ski resorts in Australia (“Ski Resorts”).

In a letter to the Commission dated 10 October 2008, we sought to put the Commission on notice that the ASAA intends to press for a single modern Snowsport Industry Award (“Proposed Award”), to apply to employees of the Ski Resorts in the Snowsport Industry. A copy of that letter is enclosed.

Based on the timetable released by the Commission on 3 September 2008, our view is that the Proposed Award is currently likely to be dealt with in Round Four of the Award Modernisation Process, by virtue of the Snowsport Industry falling within the scope of “*Industries not otherwise assigned*”.

We write to the Commission on this occasion in order to press for the Proposed Award to be included as part of Round Three of the Award Modernisation Process.

Detailed submissions in support of the ASAA’s position on the need for prioritisation of the Proposed Award are set out below.

**1 Submissions in support of inclusion of the Proposed Award in the Third Round
of the Award Modernisation Process**

If the Proposed Award were to proceed in Round Four then, based on the *Stage 4 Timetable* contained in the Statement made by the Commission on 3 September 2008 [2008] AIRC 708, the Snowsport Industry would likely not have the benefit of reviewing any exposure draft for the Proposed Award until 25 September 2009, and the Proposed Award would not be made until 4 December 2009.

For the reasons set out below, the Stage 4 Timetable will pose difficulties for the recruitment of employees by the Snowsports Industry for the 2010 season, given the late release of the awards under that stage.

1.1 Duration of the Australian Ski Season

The official Australian Ski Season runs from the beginning of the long weekend in June (which this year fell on 7 June 2008) to the end of the long weekend in October (which this year fell on 6 October 2008).

During 2009, the official Australian Ski Season will run from the period 6 June 2009 to 5 October 2009, inclusive.

1.2 Seasonal recruitment within the Snowsports Industry

Many of the employees – and in particular, the Ski Instructors – who are required to be engaged by the Ski Resorts each season possess skill-sets and qualifications unique to the industry. In addition, a high proportion of these employees reside overseas outside of the Australian Ski Season.

It is critical to the success of each Ski Resort that it is able to attract sufficient numbers of appropriate personnel each season, to fulfil its business needs.

Furthermore, the level of certainty the Ski Resorts have as to the likelihood of former employees returning to it impacts on the recruitment, induction and training efforts required to be undertaken in preparation for the forthcoming season.

The combined effect of:

- a limited talent pool from within which to attract suitably qualified employees (and in particular, Ski Instructors); and
- the desirability of Ski Resorts being able to maximise the likelihood of employees with specific experience in their business operations returning to work for the Ski Resort the following season

makes it important for the Ski Resorts, around the time of the conclusion of the ski season each year, to know with certainty the minimum terms and conditions of employment that will apply for the following season so as to increase the likelihood of those seasonal employees, who have experience in their operations, returning for the next season.

1.3 Importance of achieving certainty during the 2009 Ski Season as to terms and conditions of employment for the 2010 Ski Season

From a practical perspective, this has led to each of the Ski Resorts, during each current Ski Season, putting proposals forward to a number of employees as to potential employment arrangements for the following Ski Season. In order to do this for the 2010 Ski Season, the Ski Resorts will require certainty as to the minimum terms and conditions of employment for seasonal employees by no later than October 2009.

As the date for making Round Four Modern Awards is not until 4 December 2009, certainty as to the minimum terms and conditions of employment for seasonal employees in the Ski

Industry within the required timeframe will not be obtained unless the Proposed Award is included in Round Three.

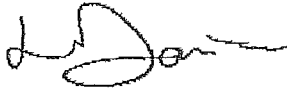
Consistent with this, it is the ASAA's strong preference for the Proposed Award to be made by 4 September 2009 (being the date by which Round Three Modern Awards must be made) and not as part of the later Round Four.

Please do not hesitate to contact the undersigned should you have any questions in relation to the above or require any additional information.

Yours faithfully

HARMERS WORKPLACE LAWYERS

Per:



Michael Harmer / Bronwyn Maynard / Leanne Davies

Encl.

Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010

Parties' Draft Award—Australian Ski Areas Association – 6 March 2009

Alpine Resorts (General) Award 2010

Table of Contents

Part 1— Application and Operation	2
Part 2— Consultation and Dispute Resolution	5
Part 3— Types of Employment and Termination of Employment	6
Part 4— Classifications and Minimum Wage Rates	11
Part 5— Hours of Work and Related Matters	17
Part 6— Leave and Public Holidays	20

This award does not come into force until 1 January 2010

Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010

Part 1—Application and Operation

1. Title

This award is the *Alpine Resorts (General) Award 2010*.

2. Commencement date

This award commences on 1 January 2010.

3. Definitions and interpretation

3.1 In this award, unless the contrary intention appears:

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

alpine resort means an establishment whose business, among other things, includes alpine lifting

any five in seven means any five ordinary working days worked between Monday and Sunday

applicable hourly rate means the relevant rate for the classification the employee is working under as set out in clause 21

Commission means the Australian Industrial Relations Commission or its successor

double time means double the applicable hourly rate

employee has the meaning in the Act

employer has the meaning in the Act

enterprise award has the meaning in the Act

junior employee means an employee who is less than 19 years old

NES means National Employment Standards

rostered day off ("RDO") means any continuous 24 hour period between the completion of the last ordinary shift and the commencement of the next ordinary shift on which an employee is rostered for duty

seasonal employee means an employee engaged to perform work for the duration of a specified season

shift worker means an employee who:

- (i) is employed by an employer which has shifts continuously rostered 24 hours a day for seven days a week; and
- (ii) is regularly rostered to work those shifts; and
- (iii) regularly works on Sundays and public holidays

skitube tunnels are defined as the underground area between Portal 1 and Portal 2 (Bilston Tunnel) as well as between Portal 3 and Portal 4 (Blue Cow Tunnel)

This award does not come into force until 1 January 2010

Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010

Snowsports Instructor is an employee whose primary role is the teaching of skiing or boarding including race and specialist program coaches

spread of hours means the period of time elapsing from the time an employee commences duty to the time the employee ceases duty within any period of 24 hours

standard rate means the minimum hourly rate for a Resort Worker Level 2 (Seasonal) in clause 21

Time and one half means one and a half times the applicable hourly rate

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

4. Coverage

4.1 This industry award covers employers throughout Australia who operate an alpine resort and their employees in the classifications within Schedule A to the exclusion of any other modern awards.

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

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

5. Access to the award and the National Employment Standards

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

6. The National Employment Standards and this award

The NES and this award combine to contain the minimum conditions of employment for employees covered by this award.

7. Award flexibility

7.1 Notwithstanding any other provision of this award, an employer and an individual employee may agree to vary the application of certain terms of this award to meet the genuine individual needs of the employer and the individual employee. The terms the employer and the individual employee may agree to vary the application of are those concerning:

- (a) arrangements for when work is performed;
- (b) hours of work;
- (c) overtime rates;
- (d) penalty rates;
- (e) allowances;
- (f) leave loading;

This award does not come into force until 1 January 2010

Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010

- (g) how and when annual leave is taken; and
 - (h) public holidays.
- 7.2 The employer and the individual employee must have genuinely made the agreement without coercion or duress.
- 7.3 The agreement between the employer and the individual employee must:
- (a) be confined to a variation in the application of one or more of the terms listed in clause 7.1; and
 - (b) not disadvantage the individual employee in relation to the individual employee's terms and conditions of employment.
- 7.4 For the purposes of clause 7.3(b) the agreement will be taken not to disadvantage the individual employee in relation to the individual employee's terms and conditions of employment if:
- (a) the agreement does not result, on balance, in a reduction in the overall terms and conditions of employment of the individual employee under this award and any applicable agreement made under the Act, as those instruments applied as at the date the agreement commences to operate; and
 - (b) the agreement does not result in a reduction in the terms and conditions of employment of the individual employee under any other relevant laws of the Commonwealth or any relevant laws of a State or Territory.
- 7.5 The agreement between the employer and the individual employee must also:
- (a) be in writing, name the parties to the agreement and be signed by the employer and the individual employee and, if the employee is under 18 years of age, the employee's parent or guardian;
 - (b) state each term of this award that the employer and the individual employee have agreed to vary;
 - (c) detail how the application of each term has been varied by agreement between the employer and the individual employee;
 - (d) detail how the agreement does not disadvantage the individual employee in relation to the individual employee's terms and conditions of employment; and
 - (e) state the date the agreement commences to operate.
- 7.6 The employer must give the individual employee a copy of the agreement and keep the agreement as a time and wages record.
- 7.7 An employer seeking to enter into an agreement must provide a written proposal to the employee. Where the employee's understanding of written English is limited the employer must take measures, including translation into an appropriate language, to ensure that the employee understands the proposal.

This award does not come into force until 1 January 2010

Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010

- 7.8 The agreement may be terminated:
- (a) by the employer or the individual employee giving one week's notice of termination, in writing, to the other party and the agreement ceasing to operate at the end of the notice period; or
 - (b) at any time, by written agreement between the employer and the individual employee.
- 7.9 The right to make an agreement pursuant to this clause is in addition to, and is not intended to otherwise affect, any provision for an agreement between an employer and an individual employee contained in any other term of this award.

Part 2—Consultation and Dispute Resolution

8. Consultation regarding major workplace change

8.1 Employer to notify

- (a) Where an employer has made a definite decision to introduce major changes in production, program, organisation, structure or technology that are likely to have significant effects on employees, the employer must notify the employees who may be affected by the proposed changes and their representative or representatives, if any.
- (b) **Significant effects** include termination of employment, major changes in the composition, operation or size of the employer's workforce or in the skills required; the elimination or diminution of job opportunities, promotion opportunities or job tenure; the alteration of hours of work; the need for retraining or transfer of employees to other work or locations; and the restructuring of jobs. Provided that:
 - where this award makes provision for alteration of any of the matters referred to herein an alteration is deemed not to have significant effect; and
 - an event or change which is a normal incidence of the seasonal nature of operating an alpine resort will not be considered a "significant effect".

8.2 Employer to discuss change

- (a) The employer must discuss with the employees affected and their representatives, if any, the introduction of the changes referred to in clause 8.1, the effects the changes are likely to have on employees and measures to avert or mitigate the adverse effects of such changes on employees and must give prompt consideration to matters raised by the employees and/or their representatives in relation to the changes.
- (b) The discussions must commence as early as practicable after a definite decision has been made by the employer to make the changes referred to in clause 8.1.

Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010

- (c) For the purposes of such discussion, the employer must provide in writing to the employees concerned and their representatives, all relevant information about the changes including the nature of the changes proposed, the expected effects of the changes on employees and any other matters likely to affect employees provided that no employer is required to disclose confidential information the disclosure of which would be contrary to the interests of the employer.

9. Dispute resolution

- 9.1 In the event of a dispute in relation to a matter arising under this award, or the NES, in the first instance the parties will attempt to resolve the matter at the workplace by discussions between the employee or employees concerned and the relevant supervisor. If such discussions do not resolve the dispute, the parties will endeavor to resolve the dispute in a timely manner by discussions between the employee or employee's concerned and more senior levels of management as appropriate, or in accordance with the dispute resolution procedure operating at the employer (provided that any such procedure should not be taken to be incorporated into this award).
- 9.2 If a dispute in relation to a matter arising under this award or the NES is unable to be resolved at the workplace, and all appropriate steps under clause 9.1 have been taken, a party to the dispute may refer the dispute to the Commission.
- 9.3 The parties may agree on the process to be utilised by the Commission including mediation, conciliation and consent arbitration.
- 9.4 Where the matter in dispute remains unresolved the Commission may exercise any method of dispute resolution permitted by the Act which it considers appropriate to ensure the settlement of the dispute.
- 9.5 An employer or employee may appoint another person, organisation or association to accompany and/or represent them for the purposes of this clause.
- 9.6 While the dispute resolution procedure is being conducted, work must continue in accordance with this award and the Act. Subject to applicable occupational health and safety legislation, as well as other safety legislation, an employee must not unreasonably fail to comply with a direction by the employer to perform other available work, whether at the same or another workplace, that is safe and appropriate for the employee to perform.

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

10. Employment categories

- 10.1 Employees under this award will be employed in one of the following categories:
- (a) permanent employees;
 - (b) seasonal employees;

Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010

- (c) casual employees, or
- (d) Snowsports Instructors.

10.2 At the time of engagement an employer will inform each employee of the terms of their engagement and in particular whether they are to be a permanent, seasonal, casual, or Snowsports Instructor employee.

11. Permanent employment

11.1 A permanent employee may be engaged on either a full-time or part-time basis in any classification in this award. This may be on an ongoing or fixed term basis.

11.2 A full-time permanent employee is a permanent employee who is engaged to work 38 ordinary hours (or an average of 38 ordinary hours over a period of up to 12 months) per week.

11.3 A part-time permanent employee is a permanent employee who is engaged to work less than 38 ordinary hours (or an average of less than 38 ordinary hours over a period of up to 12 months) per week.

12. Seasonal employment

12.1 An employer may employ seasonal employees in any classification in this award.

12.2 A seasonal employee may be engaged on either a full-time or part-time basis.

12.3 A full-time seasonal employee is a seasonal employee who is engaged to work 38 ordinary hours (or an average of 38 ordinary hours over the anticipated length of their employment) per week.

12.4 A part-time seasonal employee is a seasonal employee who is engaged to work less than 38 ordinary hours (or an average of less than 38 ordinary hours over the anticipated length of their employment) per week.

12.5 The hourly rate of seasonal employees will include a 1/12th loading in lieu of annual leave.

13. Casual employment

13.1 A casual employee is an employee engaged as such in any classification in this award and must be paid a casual loading as provided in this award. This loading is paid as compensation for annual leave, paid personal/carer's leave, paid compassionate leave, notice of termination, redundancy benefits and the other entitlements from which they are excluded by the terms of this award and the NES.

14. Snowsports Instructor employment

14.1 A Snowsports Instructor means an employee who is employed as a Snowsports Instructor (as defined at Clause 3.1) on an hourly basis, and so who is a specific category of casual employee under this award. The hourly rate includes a casual loading paid as compensation for annual leave, paid personal/carer's leave, paid compassionate leave, work undertaken on public holidays, notice of termination, redundancy benefits and the other

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

entitlements from which they are excluded by the terms of this award and NES.

15. Apprentices

- 15.1 Apprentices will be engaged in accordance with relevant apprenticeship legislation and be paid in accordance with clause 21.2.
- 15.2 An apprentice under the age of 18 years must not, without their consent, be required to work overtime or shift work.
- 15.3 An apprentice will be engaged for a minimum of 4 hours per shift.

16. Junior employees

- 16.1 Junior employees will be paid in accordance with clause 21.3.
- 16.2 Junior employees, on reaching the age of 18 years, may be employed in the bar or other places where liquor is sold. Junior employees working in roles that undertake liquor service must be paid at the adult rate of pay in clause 21 for the work being performed.
- 16.3 An employer may at any time demand the production of a birth certificate or other satisfactory proof for the purpose of ascertaining the correct age of an employee. If a birth certificate is required, the cost of it must be borne by the employer.
- 16.4 No employee under the age of 18 years will be required to work more than 10 hours in a shift.

17. Termination of employment

- 17.1 Notice of termination is provided for in the NES.
- 17.2 Termination of employment by the employer for permanent employees will be as per the NES as set out below:

Employee's period of continuous service with the employer at the end of the day the notice is given

Period

Not more than 1 year	1 week
More than 1 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

The period of notice will be increased by one week if the employee is over 45 years old and has completed at least two years of continuous service with the employer at the end of the day the notice is given.

- 17.3 Seasonal employees are required to be given one week's notice of termination of employment.
- 17.4 Casual employees and Snowsports Instructors are required to be given one hour's notice of termination of employment.
- 17.5 An employer may elect, at its discretion, to make a payment to an employee in lieu of some or all of an employee's notice period, of at least the amount

This award does not come into force until 1 January 2010

Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010

the employer would have been liable to pay the employee for the hours he or she would have worked had the employment continued until the end of the notice period.

- 17.6 Notwithstanding the provisions of clauses 17.1 to 17.4 an employer shall have the right to dismiss any employee summarily and without notice if an employee is (in the employer's reasonable opinion) guilty of misconduct or dishonesty (which may include, without limitation, fraud, theft, sexual or other harassment or discrimination, misappropriation of company funds or resources or serious breaches of company policy) or gross negligence or if the employee acts in a way which, in the reasonable opinion of the employer, may injure or be likely to injure the business, affairs or reputation of the company or cause serious risk to the safety of any person or the environment.

17.7 **Rolling Notice**

In some cases a seasonal employee may be provided with notice as set out in clause 17.2 and then, because of an extension to operations (due to favorable business and/or weather conditions) the opportunity arises for the employee to be provided with further work. In such cases where notice has already been given and the employee works beyond the date on which the notice period would have expired, a further one hour's notice shall be given by either side, or one hour's pay in lieu of such notice of termination.

17.8 **Notice of termination by an employee**

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

17.9 **Job search entitlement**

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

18. **Redundancy**

- 18.1 This clause only applies to permanent employees. If the employment of permanent employees is terminated due to genuine redundancy such an employee will be entitled, in respect of continuous service, to a payment calculated in accordance with the following table:

Employee's period of continuous service with the employer on termination

Redundancy pay period:

At least 1 year but less than 2 years

4 weeks

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

At least 2 years but less than 3 years	6 weeks
At least 3 years but less than 4 years	7 weeks
At least 4 years but less than 5 years	8 weeks
At least 5 years but less than 6 years	10 weeks
At least 6 years but less than 7 years	11 weeks
At least 7 years but less than 8 years	13 weeks
At least 8 years but less than 9 years	14 weeks
At least 9 years but less than 10 years	16 weeks
At least 10 years	12 weeks

Without limiting what will be a “genuine redundancy”, it is not a genuine redundancy if a position ceases to exist due to the seasonal nature of the operations of an alpine resort.

18.2 Redundancy pay – Exclusions

Clause 18.1 does not apply:

- (a) to those employees who are excluded from the entitlement to a redundancy payment in the NES; or
- (b) if the employer is a small business employer as defined in the NES.

18.3 Transfer to lower paid duties

Where an employee is transferred to lower paid duties by reason of redundancy, the same period of notice must be given as the employee would have been entitled to if the employment had been terminated, and the employer may, at the employer's option, make payment instead of an amount equal to the difference between the former ordinary rate of pay and the new ordinary time rate for the number of weeks of notice still owing.

18.4 Employee leaving during notice period

An employee who has been given notice of termination in circumstances of redundancy may terminate their employment during the period of notice. The employee will be entitled to receive the benefits and payments they would have received under this clause had they remained in employment until the expiry of the notice that they have been given, but will not be entitled to payment instead of notice.

18.5 Job search entitlement

- (a) An employee given notice of termination in circumstances of redundancy will 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 will, at the request of the employer, be required to produce proof of attendance at an interview or they will not receive

This award does not come into force until 1 January 2010

Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010

payment for the time absent. For this purpose a statutory declaration will be sufficient.

- (c) This entitlement applies instead of clause 17.9.

Part 4— Classifications and Minimum Wage Rates

19. Work Organisation

Employees must undertake duties as directed within the limits of their competence and undertake duties across the different streams contained in the classification definitions in Schedule A.

20. Classifications

The definitions of the classification levels in clause 21, Minimum hourly wages, are contained in Schedule A.

21. Minimum hourly wages

21.1 General

- (a) An adult employee within a level specified in the following table (other than an apprentice or an employee in respect of whom a certificate under s.123 of the Act is in force) will be paid not less than the rate per hour assigned to the classification, as defined in Schedule A but subject, for casual employees, to Schedule D, for the classification in which such employee is working. An employee's rate of pay is inclusive of the award rate set out in this clause:

Level Classification Minimum hourly wage

Alpine Resort Worker Classifications

Category	Full-time	Seasonal*	Casual**
Training	\$ 14.3500	\$ 15.5458	\$ 17.9375
Resort Worker Level 1	\$ 14.5000	\$ 15.7083	\$ 18.1250
Resort Worker Level 2	\$ 15.0000	\$ 16.2500	\$ 18.7500
Resort Worker Level 3	\$ 16.0000	\$ 17.3333	\$ 20.0000
Resort Worker Level 4	\$ 16.5000	\$ 17.8750	\$ 20.6250
Resort Worker Level 5	\$ 17.5000	\$ 18.9583	\$ 21.8750
Resort Worker Level 6	\$ 18.0000	\$ 19.5000	\$ 22.5000
Resort Worker Level 7	\$ 19.0000	\$ 20.5833	\$ 23.7500

This award does not come into force until 1 January 2010

Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010

Snowsports Instructor Classifications

Category	Snowsports Instructor***
Instructor - Category A	\$ 29.0000
Instructor - Category B	\$ 26.0000
Instructor - Category C	\$ 23.0000
Instructor - Category D	\$ 20.0000
Instructor - Category E	\$ 19.0000

(b) Notes:

* Rate of pay for seasonal employees includes a 1/12th loading in lieu of annual leave.

** Rate of pay for casual employees includes a 25% casual loading, and is subject to Schedule D.

*** Rate of pay for Snowsports Instructors includes a 25% casual loading.

(c) Transitional provisions dealing with casual loadings for casual employees are contained in **Schedule D**.

21.2 Apprentice wages

(a) All percentages prescribed in this clause will be calculated to the nearest 10 cents. Any broken part of 10 cents in the result being less than five cents will be disregarded—five cents and over will go to the higher 10 cents.

(b) A person who has completed a full apprenticeship must not be paid less than their applicable hourly rate.

(c) An apprentice will be paid a percentage of their applicable hourly rate, as follows:

- First Year: 55%;
- Second Year: 65%;
- Third Year: 80%; and
- Fourth Year: 95%.

This award does not come into force until 1 January 2010

Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010

21.3 Juniors

Junior employees

The minimum rates of wages for junior employees are the under mentioned percentages of the rates prescribed for the appropriate adult classification for the work performed for the area in which such junior is working:

Age	%
17 years and under	70%
18 years	80%

22. Allowances

22.1 Meal allowance

An employee required to work overtime for more than two hours per shift without being notified on the previous day or earlier that they will be so required to work must either be supplied with a meal by the employer or paid an allowance equal to 40% of the standard hourly rate per instance.

22.2 Sewerage Treatment Plant Allowance

Employees working at designated sewerage treatment plants shall be paid an additional amount of 45% of their applicable hourly rate, for each shift they are engaged in work at a designated sewerage treatment plant.

22.3 Duty Controllers Allowance

An employee who is an accredited rail safety worker and required to act as a Duty Controller on a railway and who has been deemed competent in this capacity will be paid an additional allowance of 12% of their applicable hourly rate, for each hour they work in this capacity.

22.4 Track Inspector Allowance

An employee who is an accredited rail safety worker and who is responsible for the inspection and maintenance of track, tunnels and general rail infrastructure to ensure the safe running of the railway ("Track Inspector"), and who works within the Skitube Tunnels (but not including the Perisher Skitube Terminal, Blue Cow Terminal, Bullocks Terminal and platform areas) shall be paid an allowance of 3.5% of their applicable hourly rate, for each hour they work in this location.

22.5 Boot Allowance

Where the employee is directed to wear specific outdoor footwear as part of their employment and this footwear is not supplied by the employer the employee will be paid an allowance of 1% of the standard hourly rate for each hour worked. This does not include items such as black shoes for service staff.

22.6 Equipment Allowance

Where an employee is required to provide ski / board equipment as part of their employment, and this equipment is not supplied by the employer, the

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

employee will be paid an allowance of 2% of the standard hourly rate for each hour worked. An employee entitled to the Equipment Allowance will be entitled to this instead of the Boot Allowance.

23. Supported wage system

See Schedule B.

24. Mixed functions and dual-role employment

24.1 It is recognised that employees in the Snowsports Industry generally have a limited period of employment, due to the seasonality of the businesses that they are employed by, and therefore in the main have a limited period in which to maximize their earnings. To facilitate this process, employees may work a variety of roles with one employer to increase their earning potential.

24.2 To this end employees shall be paid as a minimum the appropriate rate (including any terms and conditions on a pro-rata basis) for each role undertaken by them as defined by clause 21 and as set out by Schedule A.

24.3 Dual-role employment

(a) Due to the unique nature of most positions under this award, in that they are generally only available during that part of the year when alpine lifting is being provided, employees may be offered dual-role employment (where operational requirements allow) in which the employee may have two distinct roles.

(b) In these circumstances any offer of employment will set out the terms and conditions for each role and these will be mutually agreed between the two parties prior to the commencement of this type of employment.

24.4 Multi-hiring arrangement

(a) As an alternative, or in addition to, dual-role employment, an employee may by agreement be engaged on a multi-hiring arrangement.

(b) If an employer and an employee enter into a multi-hiring arrangement, the parties must agree on the primary role of the employee.

(c) The employer may then offer the employee, and the employee may undertake, a non-primary role (or roles) in any level or classification within Schedule A that he or she is qualified for, provided that:

- any non-primary role is to be undertaken, and paid for, on a casual basis; and
- any hours worked by an employee in a non-primary role do not count toward ordinary hours or overtime in the employee's primary role.

25. Payment of wages

An employer may pay an employee his/her wages either weekly, fortnightly, or monthly by payment into the employee's bank account by electronic funds transfer, without cost to the employee.

Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010

26. Annualised salary arrangements
- 26.1 This clause applies to permanent employees and seasonal employees.
- 26.2 An employer and an employee may agree to enter into an annualised salary arrangement instead of all or any of the following provisions of this award:
- (a) Clause 21 – Minimum hourly wages;
 - (b) Clause 22 – Allowances;
 - (c) Clause 31 – Penalty rates;
 - (d) Clause 32 – Overtime.
- 26.3 If the employee is engaged on a dual-role employment arrangement pursuant to clause 24.3, the annual salary is to be pro-rated across each role according to the number of ordinary hours the employee is engaged to perform in each role over the year.
- 26.4 The employer and the individual employee must genuinely make the agreement without coercion or duress.
- 26.5 The annual salary must be no less than the amount the employee would have been entitled to receive under the rates and allowances prescribed by this award, in light of the employee's anticipated hours and working arrangements. The annual salary is paid in full satisfaction of any obligation to otherwise make payments to the employee under this award and may be relied upon to set off any such obligation, whether of a different character or not.
- 26.6 Any written agreement under this clause must specify the annual salary that is payable, what provisions of this award will not apply as a result of the annualised salary arrangement and any hours, overtime or penalty assumptions and calculations commuted into the annualised arrangement.
- 26.7 The employer must give the employee a copy of the agreement and keep the agreement as a time and wages record.
- 26.8 The agreement may be terminated:
- (a) for permanent employees, by the employer or the employee giving six months' notice of termination, in writing, to the other party and the agreement ceasing to operate at the end of the notice period;
 - (b) for seasonal employees, by the employer or the employee giving two weeks' notice of termination, in writing, to the other party and the agreement ceasing to operate at the end of the notice period; or
 - (c) at any time, by written agreement between the employer and the individual employee.

27. Superannuation

27.1 Superannuation legislation

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

27.2 Employer contributions

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

27.3 Voluntary employee contributions

- (a) Subject to the governing rules of the relevant superannuation fund, an employee may, in writing, authorise their employer to pay on behalf of the employee a specified amount from the post-taxation wages of the employee into the same superannuation fund as the employer makes the superannuation contributions provided for in clause 27.2.
- (b) An employee may adjust the amount the employee has authorised their employer to pay from the wages of the employee from the first of the month following the giving of two weeks' written notice to their employer.
- (c) The employer must pay the amount authorised under paragraph clauses 27.3(a) or 27.3(b) at the same time as the employer makes the superannuation contributions provided for in clause 27.2.

27.4 Superannuation fund

Unless, to comply with superannuation legislation, the employer is required to make the superannuation contributions provided for in clause 27.2 to another superannuation fund that is chosen by the employee, the employer must make the superannuation contributions provided for in clause 27.2 and pay the amount authorised under clauses 27.3(a) and 27.3(b) to at least one of the following superannuation funds:

- (a) The Hospitality Industry Portable Liquor Union Superannuation Trust Deed (HOST-PLUS);
- (b) Australian Super; or

Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010

- (c) any other superannuation fund which complies with the *Superannuation Industry (Supervision) Act 1993* as amended from time to time to which an employer was contributing, in compliance with the *Alpine Resorts (The Australian Workers' Union) Award 2001*, before 12 September 2008.

27.5 Absence from work

Subject to the governing rules of the relevant superannuation fund, the employer must also make the superannuation contributions provided for in clause 27.2 and pay the amount authorised under clauses 27.3(a) and 27.3(b) while the employee is on any paid leave.

Part 5—Hours of Work and Related Matters

28. Hours of work

28.1 Ordinary hours of work

- (a) Ordinary hours of work for permanent employees and seasonal employees will be as set out at clauses 11 and 12 above, and due to operational requirements of the business will be on an any five in seven basis.
- (b) Hours of work for employees engaged on either a casual or Snowsport Instructor basis will be determined by business demand.

29. Rostering

29.1 If the hours and/or days of work for any permanent, seasonal or casual employees, or Snowsport Instructors, are variable, the employer must prepare rosters showing the name of each employee and their days of work and starting and finishing times. An employer may also (but is not required to) prepare a roster for any other employees.

29.2 The roster will be posted on a notice board which is conveniently located at or near the workplace or through electronic means, which ever makes it more accessible.

29.3 The roster will be alterable:

- (a) at any time by mutual consent; and
- (b) by the employer on the day prior to when the rostered shift was originally scheduled to be worked, or where notice is unable to be given of the roster change on the previous day, with as much notice as is reasonably practicable in the circumstances.

30. Breaks

30.1 If an employee, including a casual employee, is required to work for five or more hours in a day they must be given an unpaid meal break of no less than 30 minutes. The break must be given no earlier than one hour after starting work and no later than six hours after starting work.

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

- 30.2** Where operational requirements do not allow time for an unpaid meal break in accordance with clause 30.1, the employee will be given a paid meal break of 20 minutes.
- 30.3** If the unpaid meal break is rostered to be taken after five hours of starting work, the employee must be given an additional 20-minute paid meal break. The employer must allow the employee to take this additional meal break no earlier than two hours after starting work and no later than five hours after starting work.
- 30.4** If an employee is not given a meal break in accordance with clause 30.1 or 30.2 the employer must pay the employee an extra hourly or part thereof payment at the rate of 50% of the applicable hourly rate from the end of six hours until either the meal break is given or the shift ends.
- 30.5** An employee is entitled to receive an additional 30 minute unpaid meal break for each additional 5 hours worked by them in a day. The taking of any additional meal breaks is to be as per clauses 30.3 and 30.4 above.
- 30.6** Employees who are engaged on an annualised salary arrangement pursuant to clause 26, above are entitled to unpaid meal breaks in accordance with clauses 30.1 and 30.5, but will not be entitled to any additional paid breaks or penalty rates under clauses 30.3 and 30.4.

31. Penalty rates

31.1 Application of clause

This clause 31 does not apply to employees who are engaged on an annualised salary arrangement pursuant to clause 26.

31.2 Payment for work performed on public holidays

- (a) This clause 31.2 does not apply to employees engaged as Snowsports Instructors.
- (b) All time worked by a permanent employee or seasonal employee on a public holiday must be paid for at the rate of double time and one half for the hours worked.
- (c) All time worked by a casual employee on a public holiday must be paid for at the rate of double time and one fifth for the hours worked.
- (d) As an alternative to clause 31.2(b), such employees who worked on a prescribed holiday may, by agreement within a two week period after working on the public holiday, perform an equivalent number of hours work as they worked on the public holiday at ordinary rates plus an additional 50% for those hours, provided that equivalent paid time is added to the employee's annual leave or equivalent hours in lieu of such public holiday will be allowed to the employee.

31.3 Casual Loading

- (a) As per the hourly wage rates in clause 21.1 all casual employees and Snowsport Instructors will receive a 25% loading included into their hour rate, unless their loading percentage is less than 25% as per

Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010

Schedule D, in which case their applicable hourly rate in clause 21 will be reduced proportionately to accord with the applicable loading percentage in Schedule D.

32. Overtime

32.1 Application of clause

This clause 32 does not apply to:

- (a) Casual employees;
- (b) Snowsports Instructors;
- (c) employees engaged on an annualised salary arrangement pursuant to clause 26; or
- (d) employees paid a casual rate under clause 24.

32.2 Entitlement to overtime rates

Subject to clause 32.1(c) and (d) above, a permanent employee or seasonal employee is paid at overtime rates for:

- (a) any hours in excess of the ordinary hours per week that the employee is engaged to work; or
- (b) where the employee's hours of work are averaged over a period of time in accordance with clauses 11 or 12, hours in excess of their ordinary hours of work per week, assessed as an average over that period of time.

32.3 Overtime rates

(a) Employees whose hours of work are not averaged

The following overtime rates are payable to a permanent employee or seasonal employee:

- first two hours at ordinary time; and
- all time worked in excess of the first two hours each week shall be paid for at the rate of time and one half for the next two hours and then double time for all work thereafter.

(b) Employees working on an averaged hours arrangement

Any hours banked by an employee under an averaged hours arrangement will be banked at the rate that would have been payable for the time worked, had the employee not been on an averaging arrangement.

32.4 Reasonable Overtime

- (a) Subject to clause 32.4(b), 16.4 and the NES, an employer may require an employee to work reasonable overtime in accordance with the provisions of this clause.

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

- (b) An employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working hours which are unreasonable having regard to
 - (i) any risk to employee health and safety;
 - (ii) the employees personal circumstances, including any family responsibilities;
 - (iii) the requirements of the employer;
 - (iv) the notice (if any) given by the employer of the overtime and by the employee of their intention to refuse such work; and
 - (v) any other related matter.

Part 6—Leave and Public Holidays

33. Annual leave

33.1 Annual leave is provided for in the NES.

33.2 Application

- (a) This clause applies to all permanent employees.
- (b) Casual employees, seasonal employees and Snowsports Instructors are compensated for annual leave in their hourly rate of pay, and are not entitled to accrue annual leave under this clause 33.

33.3 Annual leave entitlement

Employees to whom this clause applies will be entitled to annual leave in accordance with the NES. Without derogating from this requirement, employees' entitlements to annual leave may be summarised as follows:

- (a) an employee is entitled to four weeks of paid annual leave (pro rata for part-time employees), which accrues based on ordinary hours worked by the employee for the employer during each four week period of continuous service (capped at 38 hours per week) and is credited to the employee at no greater than monthly intervals. Annual leave accrues on a pro-rata basis.
- (b) annual leave is cumulative.
- (c) an employee may be directed to take one quarter of his or her accumulated annual leave if the employee has accrued more than 30 days' leave at the time at which the direction is given.
- (d) shift workers (as defined) may be entitled to up to an additional one week's annual leave each year, depending on the proportion of time spent working as a shift worker and the particular shift patterns within the business.
- (e) an employee's annual leave is generally to be taken at a time that is convenient for both the employer and the employee. Employees are encouraged to take their annual leave at times of low demand on the business. Annual leave for longer than two days will generally not be

This award does not come into force until 1 January 2010

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

approved by the employer when alpine lifting is being provided by the employer for snowsports activities, due to operational requirements. The employer will not unreasonably refuse to authorise an employee to take annual leave that is credited to the employee.

- (f) an employee must take an amount of annual leave during a particular period if:
 - the employee is directed to do so by the employee's employer because, during that period, the employer shuts down the business, or any part of the business, in which the employee works; and
 - at least that amount of annual leave is credited to the employee.

33.4 Cashing out annual leave

- (a) Permanent employees are entitled to forego up to two weeks of accrued annual leave credited to them by giving the employer a written election of the decision to do so. Employees may request to cash out up to a maximum of two weeks of their accrued annual leave once in any 12 month period.
- (b) The employer may authorise, or decline to authorise, any request made by an employee to cash out annual leave, at its discretion.
- (c) If an employee elects to forego annual leave, he or she must be paid the full amount that would have been payable to the employee had the employee taken the leave he or she elected to forego. The employer will pay this amount to the employee in the next pay period following the date it authorises the cashing out of annual leave by the employee.
- (d) Any leave cashed out will result in the necessary adjustment being made to the employee's annual leave accrual so that the employee has no further entitlement to take, or receive pay in lieu of, the period of leave foregone.
- (e) Employers are prohibited from exerting undue influence or undue pressure on an employee to cash out his or her annual leave.

33.5 Paid leave in advance of accrued entitlement

An employer may allow an employee to take annual leave either wholly or partly in advance before the leave has accrued. Where paid leave has been granted to an employee in excess of the employee's accrued entitlement, and the employee subsequently leaves or is discharged from the service of the employer before completing the required amount of service to account for the leave provided in advance, the employer is entitled to deduct the amount of leave in advance still owing from any remuneration payable to the employee upon termination of employment.

33.6 Requirement to take leave notwithstanding terms of the NES

An employer may require an employee to take annual leave by giving at least four weeks' notice in the following circumstances:

Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010

- (a) as part of a close down of its operations; or
- (b) where more than 30 days' leave is accrued.

34. Personal/carer's leave and compassionate leave

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

34.2 Application

- (a) This clause applies to all permanent employees and seasonal employees.
- (b) Clauses 34.3 and 34.5(b) do not apply to employees engaged on a casual basis or as Snowsports Instructors. Casual employees and Snowsports Instructors are compensated for paid personal/carer's leave and compassionate leave in their hourly rate of pay.

34.3 Paid personal/carer's leave entitlement

Employees will be entitled to personal/carer's leave in accordance with the NES. Without derogating from this requirement, the entitlements of employees to personal/carer's leave are summarised below:

- (a) permanent employees and seasonal employees are entitled to 10 days of paid personal/carer's leave per year (pro-rated for part-time employees and seasonal employees) provided the employee complies with the notice and evidence requirements required by the employer.
- (b) personal/carer's leave may be taken as sick leave or carer's leave (provided that only 10 days paid carer's leave days may be taken in a 12 month period, pro-rated for part-time employees).
- (c) paid personal leave is cumulative, but not from season to season (in the case of seasonal employees).

34.4 Unpaid personal & carer's leave entitlement

- (i) A permanent or seasonal employee who has exhausted his or her paid personal/carer's leave entitlement under clause 34.3; or
- (ii) A casual employee or Snowsport Instructor who is not entitled to paid personal/carer's leave;

may, provided he or she complies with the notice and evidence requirements of the employer, take unpaid carer's leave of up to two days where a member of the employee's household or immediate family requires care or support due to an illness, injury or unexpected emergency. Additional absence is by agreement.

34.5 Compassionate Leave

- (a) Employees will be entitled to compassionate leave in accordance with the NES. Without derogating from this requirement, employees will be entitled to up to two days of compassionate leave for each occasion on which a member of the employee's immediate family or household:

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

- contracts or develops a personal illness that poses a serious threat to his or her life; or
- sustains a personal injury that poses a serious threat to his or her life; or
- dies.

(b) Compassionate leave taken by permanent and seasonal employees will be paid leave.

(c) Compassionate leave taken by casual employees and Snowsports Instructors will be unpaid leave.

35. Community service leave

Community service leave is provided for in the NES. Consistent with the NES entitlement, only permanent and seasonal employees are entitled to be paid their base rate of pay for their ordinary hours of work in respect of any period of community service leave required to be taken to complete jury service.

36. Parental leave

Parental leave is provided for in the NES.

37. Public holidays

37.1 Public holidays are provided for in the NES.

37.2 Substitution of public holidays by agreement

By agreement between the employer and the majority of employees in the relevant enterprise or section of the enterprise, an alternative day may be taken as the public holiday in substitution of any of the days prescribed in s.54 of the NES.

37.3 Additional arrangements for permanent and seasonal employees

A permanent or seasonal employee whose rostered day off falls on a public holiday must, subject to clause 31.2, either:

- (a) be paid an extra day's pay; or
- (b) be provided with an alternative day off within 28 days; or
- (c) receive an additional day's annual leave.

37.4 A permanent or seasonal employee who works on a public holiday which is subject to substitution as provided for by the NES will be entitled to the benefit of the substitute day.

PART 7 – Industry specific provisions

38. Stand down arrangements

38.1 This clause applies to permanent employees and seasonal employees.

38.2 The employer shall have the right to withhold or deduct payment for any part of a day or shift during which an employee cannot usefully be employed

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

because of any industrial action, breakdown of machinery, weather or bushfire conditions or any other stoppage of work for any reason which the employer cannot reasonably be held responsible.

Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010

Schedule A— Classification Definitions

Training Level is for when staff are undergoing training prior to being deemed competent to undertake their substantive role at the appropriate Resort Worker Level, excluding those who are being trained in Plant Operators role. It is also the rate to be paid to staff while attending orientation or induction programs.

The maximum period of time on which an employee may be engaged at the Training Level is seven weeks.

Resort Worker Level 1 means an employee who is engaged in a role that requires no previous experience, on the job training and work under supervision such as the following roles:

- Carparking duties
- Outdoor and Indoor Assistant roles including Race Event Workers, Snowsports Assistants, Painters and Lift Attendants whose roles are primarily focused on specific Labouring tasks
- General unskilled labour tasks
- Bar Assistant who is employed primarily in non-service duties
- Food Service Assistant - duties including removing food plates, setting and/or wiping down tables, cleaning and tidying of associated areas
- Kitchenhand duties
- Housekeeping duties assisting under supervision in the servicing of resort property and cleaning thereof
- Laundry duties assisting in laundry service

Resort Worker Level 2 means an employee who is engaged in a role that requires some previous relevant experience or qualifications, detailed on the job training for the specific employers requirements and work under supervision. The following roles are examples:

- An employee who is engaged in general clerical or office duties.
- Guest Service roles including Ticket and Pass sales, Hire sales and service, Retail Sales, Concourse Attendants and Tour Guides.
- Trainee Plant Operator roles (including Trainee Train Drivers) who are undergoing training and assessment and are yet to be deemed competent.
- A person involved in the coordination and instruction of other staff involved in Carparking operations.
- Unqualified Child Care Workers
- Municipal Services (garbage collection etc)
- Pool attendants with lifeguard qualifications
- Ticket Checkers, Uniform Room Attendants and Mountain Awareness staff
- Snowsports administrative staff who are responsible for the booking of lessons
- Bar duties including service, cellar and bottle sales.
- Food Service duties including service, cashier and waiting duties.
- Housekeeping involved in the servicing and cleaning of resort property.
- A Cook being an unqualified person involved in the preparation butchering or cooking of food.

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

- An employee who is engaged in reception / reservations duties including night auditing, telephonist, receptionist, cashier, information services, portering or reservations.
- Laundry duties involved in laundry production duties such as machine operation

Resort Worker Level 3 means an employee who is engaged in role that requires significant previous experience in the field in which they are to be employed or will be involved in roles that require specialist training by the employer. The following roles are examples:

- A Lift Operator who is responsible for the safe operation of aerial and surface lifting, the loading and unloading of guests, maintaining the lift station and reporting of mechanical faults to appropriate trades and supervisory staff.
- An employee involved in Mountain operation roles such as Assistant Ski Patrol and Trail Crew
- Trades Assistants in Electrical, Mechanical, Fitting & Machinery and Building disciplines including (but not limited to) Electrical Assistants, Track Maintenance Assistants, Fitters and Machinists, Carpentry Assistants and Leading Hand Labourers.
- Beauty Therapist and Spa Attendant.
- Stores Person or Cellar person with forklift qualifications and who is engaged as such.
- Food Service & Bar staff who supervise staff of a lower grade and who work without supervision.
- A Kitchen attendant who has the responsibility for the supervision, training and coordination of kitchen attendants of a lower grade.
- An employee in a Housekeeping, Porter or Laundry role who has the appropriate level of training and who is employed to supervise employees of a lower grade.
- An employee who is engaged in night auditing, Hotel reception or reservations who has more than three years experience in a similar role in a Hotel or Travel Reservations business.

Resort Worker Level 4 means an employee who is engaged in a role that requires specialist skills built on previous experience and qualifications or provide direction for staff at a lower level. The following roles are examples:

- An employee who is engaged in the supervision of other staff involved in reception / reservations duties including night auditing, telephonist, receptionist, cashier, information services or reservations.
- An employee who is engaged in the supervision of Guest Service roles including Ticket and Pass sales, Hire sales and service, Retail Sales, Concourse Attendants Information and Tour Guides.
- An employee engaged in Cashroom, Treasury or other similar back office cash reconciliation roles.
- Experienced Painters.
- Qualified Fitness Instructor with lifeguard qualifications.

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

- Bar and Food Service staff who supervise staff of a lower grade in running a particular section, restaurant or bar.
- A Qualified Chef, who has completed an apprenticeship in this discipline.
- An employee who is engaged as an Inventory Controller or Uniform Room Coordinators.

Resort Worker Level 5 means an employee who has the appropriate level of training and who is employed to supervise and/or train employees of a lower grade. The following roles are an example of such positions:

- An employee who is engaged in the supervision of Lift Operators or Treasury / Cashroom staff.
- A Hospitality supervisor in any area of hospitality including but not limited to food & beverage, housekeeping, front office and reservations, laundry, stores, duty supervisors and the like.

Resort Worker Level 6 means an employee who is engaged in a role that requires the completion of a recognized qualification in the field in which they are employed and have been deemed competent to fulfill the following roles:

- A Plant Operator who has been deemed competent in the operation of plant and equipment including (but not limited to) Transport vehicles, Groomers, Excavators, Cranes, Trains, Snowmaking or Sewerage Plant equipment.
- Railway Track Inspectors.
- A Child Care Worker who has completed as a minimum an AQF Certificate 3 or 4 in Children's Services (or equivalent).
- A qualified Ski Patroller
- Trade qualified staff who have completed an apprenticeship in an Electrical, Fitting, Mechanical, Painting, Spray Painting, Carpentry or Building discipline and are undertaking work in their relevant discipline.
- An employee who is employed to Supervise staff undertaking Trail Crew or Snowsports Reservations duties.
- Qualified Beauty Therapist
- Media Staff such as Reporters, Editors and Camera Operators.
- A Qualified Chef who supervises or trains other kitchen staff, undertakes ordering and stock control and is solely responsible for other cooks and other kitchen employees in a single kitchen establishment.

Resort Worker Level 7 means an employee who is engaged in any of the following roles:

- A Child Care Worker who is engaged as a supervisor and who has completed as a minimum an AQF Diploma in Children's Services.
- An employee who is engaged in the supervision of other staff involved in Plant Operation.

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

Instructors Category A means an employee who is engaged as a Snowsports Instructor (as defined) is a fully certified Instructor, and has obtained their APSI Level 3 Qualification or international equivalent (as can be seen in Table 5.1 of Schedule C) and has a minimum of 10 full-time seasons of practical experience. Full-time season for the purposes of this category of employment will be a minimum of 12 successive weeks at a recognized Snowsports School.

Instructors Category B means an employee who is engaged as a Snowsports Instructor (as defined) and has an intermediate level of certification, being their APSI Level 2 Qualification or international equivalent (as can be seen in Table 4.1 of Schedule C) and has full-time practical teaching experience.

Instructors Category C means an employee who is engaged as a Snowsports Instructor (as defined) and has a fundamental level of certification, being the APSI Level 1 Qualification or international equivalent (as can be seen in Table 3.1 of Schedule C) and has full-time practical teaching experience.

Instructors Category D means an employee who is engaged as a Snowsports Instructor (as defined) and has some teaching experience with an entry level qualification (as per Table 2.1 in Schedule C)

Instructors Category E means an employee who is engaged as a Snowsports Instructor (as defined) and has either no experience or a low level qualification (as per Table 1.1 in Schedule C).

Schedule B—Supported wage system

1. This clause defines the conditions which will apply to employees who because of the effects of a disability are eligible for a supported wage under the terms of this agreement/award. In the context of this clause, the following definitions will apply:

1.1 Supported wage system means the Commonwealth Government system to promote employment for people who cannot work at full award wages because of a disability, as documented in Supported Wage System: Guidelines and Assessment Process.

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

1.3 Disability support pension means the Commonwealth pension scheme to provide income security for persons with a disability as provided under the *Social Security Act 91*, as amended from time to time, or any successor to that scheme.

1.4 Assessment instrument means the form provided for under the supported wage system that records the assessment of the productive capacity of the person to be employed under the supported wage system.

2. Eligibility criteria

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

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

2.3 This clause does not apply to employers in respect of their facility, programme, undertaking, service or the like which receives funding under the *Disability Services Act 1986* and fulfils the dual role of service provider and sheltered employer to people with disabilities who are in receipt of or are eligible for a disability support pension, except with respect to an organisation which has received recognition under s.10 or under s.12A of the *Disability Services Act*, or if a part only has received recognition, that part.

3. Supported wage rates

3.1 Employees to whom this clause applies will be paid the applicable percentage of the minimum rate of pay prescribed by this award/agreement for the class of work which the person is performing according to the following schedule:

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

Assessed capacity(clause 4)	Prescribed award rate
%	%
10*	10
20	20
30	30
40	40
50	50
60	60
70	70
80	80
90	90

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

3.3 * Where a person's assessed capacity is 10%, they must receive a high degree of assistance and support.

4. Assessment of capacity

For the purpose of establishing the percentage of the award rate to be paid to an employee under this award/agreement, the productive capacity of the employee will be assessed in accordance with the supported wage system and documented in an assessment instrument by either:

4.1 The employer and a union party to the award/agreement, in consultation with the employee or, if desired by any of these;

4.2 The employer and an accredited assessor from a panel agreed by the parties to the award and the employee.

5. Lodgement of assessment instrument

5.1 All assessment instruments under the conditions of this clause, including the appropriate percentage of the award wage to be paid to the employee, must be lodged by the employer with the Registrar of the Australian Industrial Relations Commission.

5.2 All assessment instruments must be agreed and signed by the parties to the assessment, provided that where a union which is party to the award/agreement, is not a party to the assessment, it will be referred by the Registrar to the union by certified mail and will take effect unless an objection is notified to the Registrar within 10 working days.

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

6. Review of assessment

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

7. Other terms and conditions of employment

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

8. Workplace adjustment

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

9. Trial period

9.1 In order for an adequate assessment of the employee's capacity to be made, an employer may employ a person under the provisions of this clause for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding four weeks) may be needed.

9.2 During that trial period the assessment of capacity will be undertaken and the proposed wage rate for a continuing employment relationship will be determined.

9.3 The minimum amount payable to the employee during the trial period must be no less than \$69 per week.

9.4 Work trials should include induction or training as appropriate to the job being trialled.

9.5 Where the employer and employee wish to establish a continuing employment relationship following the completion of the trial period, a further contract of employment will be entered into based on the outcome of assessment under clause 4 hereof.

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

Schedule C—Equivalency of Snowsports Qualifications

Table 1.1

Country	Association	Certification Level
Australia	APSI (Ski & SB)	Instructor Training Course/ Recruitment Clir
Austria	ÖSSV (Ski & SB)	Anwärter
Canada	CSIA (Ski)	CSIA Level 1
Canada	CASI (SB)	CASI Level 1
Canada	CSCF (Coaching)	Entry Level (1)
New Zealand	NZSIA (Ski & SB)	C.S.I
Poland	SITN-PZN	Childrens Level
Switzerland	SSSA	Kinderlehrer
United Kingdom	BASI (Ski)	Alpine Level 1
United Kingdom	BASI (SB)	SB Level 1
USA	PSIA (Ski)	PSIA Level 1
USA	AASI (SB)	AASI Level 1

Table 2.1

Country	Association	Certification Level
Australia	APSI (Ski & SB)	Childrens Certificate
Canada	CSCF (Coaching)	Level 1 Advanced Certification

Table 3.1

Country	Association	Certification Level
Australia	APSI (Ski & SB)	APSI Level 1
Austria	ÖSSV (Ski & SB)	Anwärter
Canada	CSIA (Ski)	CSIA Level 2
Canada	CASI (SB)	CASI Level 2
Canada	CSCF (Coaching)	Development Level (2)
Czech Republic	APUL	APUL C
Japan	SIA	IT I (Bronze Medal)
Netherlands	NVVS	A-Diploma
New Zealand	NZSIA (Ski & SB)	Stage One
Poland	SITN-PZN	Level Basic
Slovakia	SAPUL	C Qualification
Slovenia	SIAS	Level 1
Switzerland	SSSA	Stufe 1
United Kingdom	BASI (Ski)	Alpine L2

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**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

United Kingdom	BASI (SB)	SB L2
USA	AASI (SB)	AASI Level 2
USA	PSIA (Ski)	PSIA Level 2

Table 4.1

Country	Association	Certification Level
Australia	APSI (Ski & SB)	APSI Level 2
Austria	ÖSSV (Ski & SB)	Landesschilehrer
Canada	CSIA (Ski)	CSIA Level 3
Canada	CASI (SB)	CASI Level 3
Canada	CSCF (Coaching)	Performance Level (3)
Czech Republic	APUL	APUL B
Japan	SIA	IT II (Silver Medal)
Netherlands	NVVS	B-Diploma
Poland	SITN-PZN	Assistant PZN
Slovakia	SAPUL	B Qualification
Slovenia	SIAS	Level 2
Switzerland	SSSA	Stufe 2
United Kingdom	BASI (Ski)	Ski Teacher
United Kingdom	BASI (SB)	SB Teacher
USA	PSIA (Ski)	PSIA Level 3
USA	AASI (SB)	AASI Level 3
USA	USSA (Coaching)	Level 200 State Coach

Table 5.1

Country	Association	Certification Level
Australia	APSI (Ski & SB)	APSI Level 3
Austria	ÖSSV (Ski & SB)	Staatlich geprüfter Schilehrer
Canada	CSIA (Ski)	CSIA Level 4
Canada	CASI (SB)	CASI Level 4
Canada	CSCF (Coaching)	Program Director (4)
Czech Republic	APUL	APUL A
Italy	AMSI	Maestro di Sci (Gold Level)
Japan	SIA	IT III (Gold Medal)
Netherlands	NVVS	C-Diploma
New Zealand	NZSIA (Ski & SB)	Stage Two
Poland	SITN-PZN	PZN-ISIA
Slovakia	SAPUL	A Qualification
Slovenia	SIAS	Level 3
Sweden	ESS	Examinerad Svensk Skidlarare (Level 3)
Switzerland	SSSA	Stufe 3

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

United Kingdom	BASI (Ski)	Diploma
USA	PSIA (Ski)	PSIA Level 3
USA	AASI (SB)	AASI Trainer

This award does not come into force until 1 January 2010

Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010

Schedule D – Transitional Provisions – Casual Loadings

The following transitional arrangements apply in respect to the casual loading for casual employees of employers who operate alpine resorts in New South Wales:

- for 2010, the casual loading is 15%;
- for 2011, the casual loading is 17.5%;
- for 2012, the casual loading is 20%;
- for 2013, the casual loading is 22.5%; and
- for 2014, the casual loading is 25%.

The casual hourly rate set out in clause 21 is therefore to be reduced proportionately on the basis of the above casual loading percentage being applicable, rather than 25%.

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SUBMISSIONS BY HARMERS WORKPLACE LAWYERS

ON BEHALF OF THE

AUSTRALIAN SKI AREAS ASSOCIATION

IN RELATION TO THE

ALPINE RESORTS MODERN AWARD

8 APRIL 2009

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1 Introduction

- 1.1 We refer to the public consultation held on 18 March 2009, before his Honour Senior Deputy Richards in relation to the award modernisation process for the Tourism Industry, into which grouping the Snowsports Industry has been included.
- 1.2 We also refer to our submissions dated 6 March 2008, on behalf of the Australian Ski Areas Association (“ASAA”), in relation to the creation of a draft *Alpine Resorts Modern Award*, with which was enclosed the ASAA’s proposed draft of that Award (“ASAA Draft Award”).
- 1.3 Since that date, the following submissions have been made in relation to the ASAA’s Draft Award:
- (a) on 18 March 2009 during the public consultation, the Liquor Hospitality and Miscellaneous Workers Union (“LHWU”) submitted that there should in fact be no specific award made for the Snowsports Industry, as the occupations falling under that award are largely encompassed by other industries, and also suggested that the Snowsports Industry could be covered by the Media, Entertainment and Arts Alliance (“MEAA”) draft *Amusement, Events and Recreation Award 2010* (“MEAA Draft Amusement Award”);
 - (b) on 18 March 2009, the Australian Workers Union (“AWU”) lodged written submissions with the Australian Industrial Relations Commission (“AIRC”) supporting the making of an award for the Snowsports Industry, however disagreeing with the ASAA’s submissions as to which awards the ASAA Draft Award should be benchmarked against; and
 - (c) on 26 March 2009, the AWU lodged further submissions with the AIRC regarding the award for the Snowsports Industry, with which was enclosed the AWU’s proposed draft of that Award (“AWU Draft Award”).
- 1.4 While we have written to both the LHWU and AWU advising that we wish to meet to discuss their submissions and confer on the issues raised, we have received no response to that offer from either union. However, on 7 April 2009 we received a copy of written submissions that we understand the LHWU will be providing to the AIRC in relation to the ASAA’s Draft Award. These further submissions were prepared by us, on behalf of the ASAA, prior to receipt of those LHWU submissions. Therefore, after the ASAA has had a further opportunity to review and consider the LHWU’s submissions, and while the ASAA considers these submissions already respond to the primary submission of the LHWU that there should not be a specific Alpine Resorts Modern Award (or that its coverage should be limited), if the ASAA deems it necessary, we propose to provide the Commission with a specific response from the ASAA to the written submissions of the LHWU.
- 1.5 In this context, we set out below, on behalf of the ASAA, further submissions regarding the creation of a modern award for the Snowsports Industry.

2 Response to Submissions of the LHWU

- 2.1 The ASAA strongly disagrees with the LHWU's submission that there should be no specific award for the Snowsports Industry.
- 2.2 In outlining the ASAA's reasons for this below, we note, in any event, that:
- (a) the AWU, being the main union with members covered by the Snowsports Industry, supports the creation of a modern award for the Snowsports Industry;
 - (b) the LHWU's coverage only extends, in terms of employees in the Snowsports Industry, to those in hospitality or childcare roles; and
 - (c) notwithstanding the LHWU's limited coverage, we provide submissions below as to the broader objection made by the LHWU in respect to other classifications of employees.
- 2.3 Given the unique nature of the Snowsports Industry, the award applying to the industry needs to have tailored terms and conditions to cater to the unique nature of the industry, including ensuring a number of flexibilities in the employment arrangement which are in the interests of both employers and employees.
- 2.4 These tailored terms and conditions have been negotiated, over a number of years, primarily with the Australian Workers Union (both state and federal branches) and are reflected in the terms of the:
- (a) *Victorian Alpine Resorts (Australian Workers Union) Award 2001* ("Victorian (AWU) Award");
 - (b) *NSW Ski Industry (State) Award* (now a Preserved Collective State Agreement ("PCSA")) ("NSW Ski Industry Award");
 - (c) *NSW Ski Instructors (State) Award* (now a PCSA) ("NSW Ski Instructors Award"); and
 - (d) *NSW Ski Tube (State) Award* (now a PCSA) ("NSW Skitube Award").
- (together the "Snowsports Industry Awards").
- 2.5 The tailored terms and conditions are now reflected in the ASAA's Draft Award.
- 2.6 The ASAA's Draft Award is consistent with the objects of Award Modernisation, as outlined in section 576A of the *Workplace Relations Act* – in particular it:
- (a) is simple to understand and easy to apply, and reduces the regulatory burden that would otherwise apply to employers that operate Alpine Resorts – if the LHWU's submission were to be accepted, the Alpine Resorts would have in excess of 15 different awards they would have to apply to their workforce; and

- (b) it promotes flexible work practices and so contributes to the efficient and productive performance of work.

2.7 Prior to the introduction of the Snowsports Industry Awards, the Snowsports Industry was largely award-free. Further, even though some occupations were, or were potentially, covered by other awards it was agreed with the AWU to be appropriate to include those occupations within the Snowsports Industry Awards.

Victorian Alpine Award

2.8 The Victorian (AWU) Award currently covers a range of classifications, which are listed in our submissions of 6 March, and which do not fall within other awards. However, there are also classifications that cover roles that otherwise may fall within other "occupations" or "industries", including:

- (a) shop or retail employees;
- (b) clerical employees; and
- (c) mechanical employees.

2.9 It was considered appropriate to include such employees in the Victorian (AWU) Award, given the unique nature of the Snowsports Industry and the tailored terms and conditions therefore required.

NSW Snowsports Awards

2.10 The NSW Ski Industry Award, Ski Instructors Award and Skitube Award (together the "NSW Snowsports Awards") currently cover employees classified as Ski Instructors; Lift Operators; Lift Attendants; Parking Attendants; Ski Patrol; Ticket Sellers; Courtesy Staff; Snow Groomer Operators; Snow Makers; Drivers; Resort Workers; Trail Crew; Ski Outlet Staff; and Train Drivers.

2.11 The majority of these roles are unique to the Snowsports Industry. However, there are also employees in a range of roles that would otherwise fall within other "occupations" or "industries", including:

- (a) shop and retail employees;
- (b) clerical employees; and
- (c) transport industry.

2.12 Prior to the NSW Ski Industry Award being made in 1989, the employment of employees to be covered by the NSW Ski Industry Award was regarded as being largely award-free.

2.13 For a long period, prior to the introduction of the NSW Ski Industry Award, the primary mode of regulation in the industry was by way of unregistered agreements between the AWU and the various Alpine Resorts.

- 2.14 On making the NSW Ski Industry Award, the clear intention was to create what was in effect an "island" of uniform award coverage by way of an award to cover the whole alpine resort area.
- 2.15 As part of this, while it was generally agreed that the employees to be subject to the NSW Ski Industry Award were award free, numerous exemptions were sought in relation to other awards potentially capable of application. In this respect, it was noted in the decision of Watson J of the Industrial Commission of New South Wales on 31 July 1989 in respect to Matter Nos 100 of 1987 and 609 of 1988), in which reasons were given for the making of the NSW Ski Industry Award, that (emphasis added):
- "...various discussions have occurred between the AWU and other unions which have resolved differences. In certain cases, exemption orders from other awards have been made in Matter No.312 of 1989, on the basis of agreements recorded in correspondence exhibited or in transcript. That there are any parallels in other awards, is an aspect which in general is disputed by the employers, a view now accepted by the AWU. Under the agreement since reached with the employers, the AWU has joined in submitting that the work is essentially award free although the exemptions sought in Matter No.312 of 1989 were pressed to avoid the possibility of confusion as to obligations for the seasonal employment for which a separate ski industry award has been claimed".
- 2.16 On 25 July 1989, Watson J (Matter No. 312 of 1989) granted exemptions to the:
- (a) *General Construction & Maintenance, Civil & Mechanical Engineering & c (State) Award;*
 - (b) *Landscape Gardeners & c of Building & General Construction and Maintenance, Civil & Mechanical Engineering & c (State) Award;*
 - (c) *Golf Club Employees (Country) Award;*
 - (d) *Transport Industry (State) Award;*
 - (e) *Transport Industry Motor Bus Drivers & Conductors (State) Award;*
 - (f) *Transport Industry Retail Industry (State) Award;*
 - (g) *Miscellaneous Workers Kindergartens & Child Care Centres & c. (State) Award;*
 - (h) *Miscellaneous Gardeners & c (State) Award;*
 - (i) *Miscellaneous Workers General Service (State) Award; and*
 - (j) *Parking Attendants, Motor Car Washers & c (State) Award.*
- 2.17 On 26 July 1989, Watson J made further orders to grant the employer respondents to the *Ski Industry Award* exemption from the:
- (a) *Plant Operators on Construction (State) Award; and*
 - (b) *Engine Drivers & c General (State) Award.*

-
- 2.18 The exemptions took effect from the first pay period commencing on or after 20 July 1989.
- 2.19 It should be emphasised that the starting point was that an agreement was reached in 1989 that employees to be covered by the NSW Ski Industry Award were in fact largely award free. Exemptions were sought only in abundant caution.
- 2.20 We also note that the Shop, Distributive and Allied Employees Association, in proceedings before Hungerford J on 22 June 1990 (Matter No 495 of 1990) (being an application by the AWU for variation regarding an increase to all wage rates and all work or wage related allowances for the Ski Industry (State) Award), indicated they had a "happy relationship in the Ski Industry Award and [were] keen to preserve that". [Page 20]
- 2.21 In light of the above exemptions, the classification of "resort worker" in the NSW State Award is broad, and is utilised by certain alpine resorts in NSW to cover a range of occupations/roles not specifically listed, including childcare workers and hospitality employees.

Requirement for Tailored Terms and Conditions

- 2.22 It was the unique nature of the Snowsports Industry that was considered when the NSW Ski Industry Award was first made by his Honour Justice Watson in 1989 based on the first principles for awards, which took into account:
- (a) the seasonal nature of the industry – with the majority of employees being engaged only during the ski season (which runs from early June to early October, depending on the snow conditions);
 - (b) the amount of work depending on the snow conditions on any particular day;
 - (c) that weekends are the busiest times at the resorts; and
 - (d) that the work is often undertaken by snowsports enthusiasts who wish to have the flexibility to work on weekends (when it is busiest) and ski on weekdays.

- 2.23 Such considerations remain relevant today.

Increase of Costs to Employers

- 2.24 If the Snowsports Industry was no longer covered by a specific award, but rather if Alpine Resorts were required to provide terms and conditions outlined in over 15 different awards, there would be a significant increase in costs for the Alpine Resorts.

Summary of Response to LHWU

- 2.25 For the above reasons, the ASAA submits that:

-
- (a) the AIRC should make, as part of the award modernisation process, a modern award for the Snowsports Industry; and
 - (b) that Award should cover all occupation types that are engaged to perform work in the Snowsports Industry and who are employed by Alpine Resorts.
- 2.26 If the LHWU seeks changes to the ASAA's Draft Award in respect to terms and conditions for hospitality or childcare workers, the ASAA is prepared to review and consider any such changes requested.

3 Response to Submissions of the Australian Workers Union

- 3.1 In the AWU's submissions of 18 March 2009, the AWU contend that the *Victorian Alpine Resort Award* ("VAR Award") is the primary award for the Snowsports Industry.
- 3.2 In the AWU's submissions of 26 March 2009, the AWU contends that the VAR Award should appear, in its entirety, as a Schedule to the modern award ultimately made for the Snowsports Industry, as per the AWU's Draft Award.

Status of Victorian Alpine Resorts Award

- 3.3 The ASAA does not support the contention that the VAR Award is the primary award for the Snowsports Industry, and further says that the VAR Award should not be inserted as a Schedule to the Draft Award, nor in fact be considered at all when reviewing the Draft Award, for the following key reasons:
- (a) The VAR Award only applies to employees of "Alpine Management Boards" established under the *Alpine Resorts (Management) Act 1997* (Vic) ("ARM Act").
 - (b) Alpine Management Boards ("ARMBs") are closely aligned with the Victorian Public Service. Part 4 of the ARM Act imparts a number attributes and authorities to, and obligations on, ARMBs, including the following:
 - (i) that, in carrying out its functions and powers, each ARMB acts on behalf of the Crown; and
 - (ii) that each ARMB must comply with any direction or guidelines issued by the Minister on the performance, discharge or exercise by the ARMB of its functions, duties or powers – with may include directions to the ARMB to expend or apply revenue of the ARMB for any purpose.
 - (c) Consistent with the above, the Alpine Resorts 2020 Strategy issued by the Department of Sustainability and Environment in 2004 states as follows: "The alpine resorts are owned by the Crown and managed for and on half of all Victorians to grow the common wealth of Victoria by the optimal management of the Crown Asset" (at p 34). The ARMBs are responsible for achieving that objective.

- (d) In contrast to the VAR Award, the Victorian (AWU) Award applies only to the companies that operate the resorts and provide alpine lifting for snowsports activities, being commercial entities.
- (e) Historically, therefore, the VAR Award and the Victorian (AWU) Award have been dealt with separately, with hearings in relation to the VAR Award being dealt with at different times from hearings in relation to the Victorian (AWU) Award.
- (f) Further, the significant difference in the objectives of ARMBs as compared to the commercial entities covered by the Victorian (AWU) Award has resulted in a number of specific terms, conditions and flexibilities being negotiated between the AWU and those commercial entities, and incorporated into the Victorian (AWU) Award.
- (g) Those specifically negotiated terms are not reflected in the VAR Award, and to benchmark the Draft Award against the VAR Award, would result in a significant detriment being suffered by the commercial entities covered by the Victorian (AWU) Award and NSW Snowsports Awards.
- (h) In this context, we draw the AIRC's attention to the following statistics (which are approximate employee numbers) for the resorts identified in response to the AWU's submission that the VAR Award is the primary award for the industry:

ARMB	Summer	Winter
Falls Creek	45	170
Mount Buller	30	50
Mount Hotham	42	85
<i>Total</i>	<i>118</i>	<i>305</i>

Commercial Entity	Summer	Winter
Falls Creek	50	400
Mount Buller	100	760
Mountain Hotham	48	442
Perisher	180	1200
Selwyn	6	120
Thredbo	125	678

Commercial Entity	Summer	Winter
<i>Total</i>	<i>509</i>	<i>3600</i>

- (i) It is readily apparent even from reviewing the above employee numbers, even though it does not include all resorts in NSW or Victoria, that the VAR Award is clearly not the primary award for the alpine industry.

3.4 For the above reasons, the ASAA submits that the AIRC should not have regard to the VAR Award when considering the relevant terms and conditions (including rates of pay) to be contained in the Draft Award, nor should the VAR Award be included as a Schedule to the Draft Award. To do so would be imposing terms and conditions of employment on the employers operating the Alpine Resorts none of which are currently subject to the VAR Award.

3.5 We provided a letter to the effect of the above to the AWU.

4 Response to AWU's Draft Award

4.1 By way of general comment, the ASAA submits that if the AIRC were to agree to the variations proposed by the AWU to the ASAA's Draft Award, there would be a significant cost increase to the Alpine Resorts.

4.2 This cost increase would be inconsistent with the objectives of the award modernisation process.

4.3 The ASAA's Draft Award has attempted to provide a balance between the different awards applying to the Alpine Resorts to date. The AWU, in contrast, has identified the most favourable award terms in each of the Snowsports Industry Awards and has sought to include them in the AWU Draft Award. Such an approach is not financially sustainable for the Alpine Resorts.

4.4 Annexure A to these submissions is a table outlining the ASAA's response to, and comments on, certain of the changes sought by the AWU.

4.5 To avoid misinterpretation, we confirm that while the table does not address all changes sought by the AWU, in respect to changes not identified or addressed the ASAA does not support the inclusion of those changes.

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8 April 2009

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- Industrial Relations
- Employment
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- Legal Risk Management

ANNEXURE A

ASAA'S RESPONSE TO AWU'S VARIATION TO DRAFT *ALPINE RESORTS (GENERAL)*
AWARD 2010

	Summary of AWU's Amendments	ASAA Response
1.	Deleted definition "any five in seven" (clause 3 and connected with the AWU's insertion of winter and summer season definitions in clause 28)	<p>The ASAA does not agree to the deletion of the definition.</p> <p>The ASAA considers the provision in the ASAA Draft Award that ordinary hours may be performed on an "any five in seven" basis all year around is a reasonable compromise between the Victorian (AWU) Award and the NSW Snowsports Awards. While the former provides that ordinary hours, during the winter season, may be performed on any six days in a week; the NSW Ski Industry Award provides that ordinary hours may be performed on any or all days of the week whether during the winter or summer season; and the NSW Skitube Award provides for ordinary hours to be any five in seven all year.</p> <p>In light of the above, the ASAA also considers that the inclusion of a definition of winter season and summer season in the Award, as proposed by the AWU, is not necessary.</p>
2.	Inserted definition of "continuous service" (clause 3)	<p>While a clause to this effect is included in the Victorian (AWU) Award), the NSW Snowsports Awards do not include a clause to a similar effect.</p> <p>Therefore, the ASAA does not consider it appropriate to include such a clause in the Draft Award, due to the significant increased cost it would impose on the NSW Alpine Resorts.</p>
3.	Deleted definition "spread of hours" (clause 3)	The ASAA does not object to the deletion of this definition.
4.	Award flexibility – agreed only to the extent this does not depart from standard clause (clause 7)	The ASAA objects to this change, and considers the variation the ASAA seeks to the standard clause is appropriate for the reasons set out in our submissions of 6 March at paragraphs 6.4 to 6.7.
5.	Deleted 8.1(b) second bullet point which stated that an event or change which is a normal incidence of the seasonal nature of operating an alpine resort is not considered a "significant event" (clause	The ASAA objects to this change, and considers the variation the ASAA seeks to the standard clause is appropriate for the reasons set out in our submissions of 6 March at paragraphs 6.8 to 6.9.

Summary of AWU's Amendments	ASAA Response
8.1)	
<p>6. Deleted "snowsports instructors" as an employment category (clause 10.1(d) and 14) and inserted new clause "seasonal employment for snowsport instructors" in relation to guaranteed weekly earnings (end of clause 12)</p>	<p>The ASAA does not agree to the deletion of "snowsports instructors" as a specific category, or the inclusion of the clause guaranteeing snowsports instructors 25 hours per week.</p> <p>The clause is based on the NSW Ski Instructors Award, and there is no equivalent provision in the Victorian (AWU) Award. As such, there would be a significant adverse impact on the Victorian Alpine Resorts if such a clause were to be included in the draft.</p> <p>The amount of work available for Snowsports Instructors varies day-by-day, and throughout the season, depending on the snow conditions and visitor numbers to the Alpine Resorts. Therefore, having a minimum requirement for 25 hours work is not sustainable for the resorts. Further, as Snowsports Instructors are generally only employed during the winter season, being only a period of approximately three months, it is more favourable to Snowsports Instructors to receive a loading in respect to annual leave in their hourly rate of pay.</p> <p>We are also instructed that the majority of Alpine Resorts in Victoria employ Snowsports Instructors on a casual basis, due to the variability in the level of work available for such instructors.</p>
<p>7. Changed definition of full-time permanent employee to provide for 38 ordinary hours per week averaged over a maximum work cycle of 4 weeks (clause 11.2)</p>	<p>The ASAA does not object to the ordinary hours being averaged over a maximum work cycle of four weeks.</p>
<p>8. Deleted definition of permanent part-time employee, requested AIRC standard clause be inserted and included a reference that ordinary hours be averaged over a maximum work cycle of 4 weeks (clause 11.3 and clause 14)</p>	<p>The part-time clauses the AIRC has been included in the Modern Awards has varied, as such the ASAA is not certain of which "standard clause" the AWU is referring to.</p> <p>However, the ASAA does not object to the ordinary hours for part-time employees being averaged over a maximum work cycle of four weeks.</p>
<p>9. Inserted new definition of seasonal employee, including utilising the terminology "winter season" and "summer season" (clause 12.1)</p>	<p>The ASAA objects to the new definition of seasonal employee proposed by the AWU. In particular the definition:</p> <p>(a) only provides for seasonal employees during the "winter season" – while certain Alpine Resorts have seasonal employees in both summer and winter;</p> <p>(b) includes a reference to "suspension" of employment during the summer season – the Alpine Resorts say the employment of seasonal employees is terminated at the end of the season, with</p>

Summary of AWU's Amendments	ASAA Response
	no guarantee of employment in the following season, and so no reference should be made to the suspension of their employment.
10. Inserted suspension of employment provisions for seasonal employees (clause 12)	The ASAA objects to the inclusion of a clause regarding "suspension" of the employment of seasonal employees. Such a notion is only included in the Victorian (AWU) Award and not in the NSW Snowsports Awards, and would significantly increase the costs for NSW Alpine Resorts.
11. Inserted new provision in casual employment clause providing that where a ski instructor is engaged outside of their "contract period" (undefined) they are entitled to their hourly rate and guaranteed a minimum of one hour per day if the employee reports for work when required (clause 13.2)	<p>The ASAA objects to the inclusion of this clause. The ASSA Draft Award does not include the notion of a "contract" period, and provides for Snowsports Instructors to be a unique category paid an hourly rate.</p> <p>However, if the AIRC determines to include a clause regarding minimum engagement for Snowsports Instructors, the ASAA considers that a clause such as the following:</p> <p><i>"A Snowsports Instructor is entitled to a minimum of one hour's work (or payment) if the employee reports for, and is provided with, work."</i></p> <p>The reason for this being one hour is because the shortest duration of a snowsports lesson offered to visitors to the Alpine Resorts by Snowsports Instructors is one hour.</p>
12. Inserted casual conversion clause (in clause 13)	The ASAA objects to the inclusion of a casual conversion clause. Such a clause is not included in the NSW Ski Industry Award or NSW Ski Instructors Award.
13. Inserted requirement that on each occasion a casual employee is required to attend work the employee is entitled to a minimum payment of 2 hours (in clause 13).	<p>The ASAA objects to such a clause, but would be prepared for a clause to the following effect to be inserted:</p> <p><i>"If a casual employee reports for, and is provided with, work the employee will be entitled to a minimum of one hour's work (or payment)".</i></p> <p>Under the NSW Ski Industry Award, casual employees are engaged by the hour, and so minimum payment is for one hour.</p>
14. Inserted definition of irregular casual employee (in clause 13)	As this is connected with the casual conversion clause sought by the AWU, to which the ASAA objects, the ASAA also objects to the inclusion of this definition.
15. Deleted Junior employees (clause 16 and 21.3)	The ASAA included clause 16 as it considered it advantageous to encouraging youth employment.
16. Amendment to redundancy clause and requesting AIRC	<p>The ASAA objects to the variation proposed by the AWU.</p> <p>The NSW Ski Industry Award and the Ski Instructors Award do</p>

Summary of AWU's Amendments	ASAA Response
standard clause (clause 18)	not have a redundancy clause. The Skitube Award has redundancy provisions which only apply to employers who employ 15 or more employees. The Victorian (AWU) Award has a clause providing for a reduced severance scale for small employers.
17. Deleting wording "redundancy is not a genuine redundancy if a position ceases to exist due to the seasonal nature of the operations of an Alpine resort" (clause 18.2)	The ASAA does not object to the deletion of this wording in clause 18.
18. AWU intend to provide a response to the proposed classification structure (clause 21)	The ASAA reserves the right to put on further submissions in response to the AWU's proposing regarding rates. In this context, if the AWU proposes to benchmark rates against the <i>Victorian Alpine Resorts Award</i> , the ASAA intends to object to that approach, given the matters address in the main body of these further submission by the ASAA.
19. AWU do not agree with the Apprentice wage percentage rates (clause 21.2)	<p>The ASAA considers its proposed rates align with, or are more generous than, other Modern Awards. The ASAA's rates are: 1st year – 55%, 2nd year – 65%, 3rd year – 80%, 4th year – 95%.</p> <p>These percentages are replicated in the <i>Hospitality Industry (General) Award 2010</i>.</p> <p>The rates in the <i>General Retail Industry Award 2010</i> are as follows: 1st year – 50%, 2nd year – 60%, 3rd year – 80%, 4th year – 90% - 100%.</p> <p>Rates in the <i>Telecommunications Services Award 2010</i> are also lower than ASAA's proposed rates: 1st year – 42%, 2nd year – 55%, 3rd year – 75%, 4th year – 88%.</p> <p>Rates in the <i>Electrical, Electronic and Communications Contracting Award 2010</i> are also lower than ASAA's proposed rates: 1st year – 40%, 2nd year – 52%, 3rd year – 70%, 4th year – 82%.</p>
20. Inserted a protective clothing allowance and definition of protective clothing (after clause 22.6)	The ASAA does not object to the inclusion of a protective clothing clause that mirrors that already existing in the Snowsports Industry Awards (which do not provide for an allowance as such), as the majority of Alpine Resorts directly provide employees with such clothing / uniforms.
21. Inserted a relocation reimbursement (above clause 23)	The Victorian (AWU) Award does not impose and obligation on Victorian Alpine Resorts to provide a similar allowance to Snowsports Instructors. As such the ASAA does not consider it appropriate to include such a clause.

	Summary of AWU's Amendments	ASAA Response
22.	Inserted wording at mixed functions and dual-role employment clause (clause 24.2) and deleted dual role employment (clause 24.3)	The ASAA objects to this change, and maintains its request for inclusion of a clause for dual role employment for the reasons set out in our submissions of 6 March at paragraphs 6.21 to 6.23.
23.	Deleted annualised salary arrangements (clause 26) (AWU consider this a matter for enterprise bargaining)	The ASAA maintains that the inclusion of such a clause is appropriate, and says that it should not be a matter for enterprise bargaining.
24.	Inserted in superannuation fund clause the words "monthly" (clause 27.4)	The ASAA objects to this insertion, as not all Alpine Resorts currently pay superannuation monthly but rather but it quarterly in accordance with legislative requirements.
25.	Inserted in superannuation fund clause an additional superannuation fund (clause 27.4)	The ASAA does not object to the inclusion.
26.	Deleted ordinary hours of work (clause 28.1) and inserted a new ordinary hours of work clause	The ASAA rejects the deletion of clause 28.1, and the insertion of the AWU's clause.
27.	Inserted new clause stating maximum daily ordinary hours of 10 hours (below clause 28.1)	Given the volume of work in the winter season, the ASAA suggests that ordinary hours be 12 hours per day.
28.	Inserted new clause Rostered Days Off (below clause 28.1)	The ASAA objects to the insertion of this clause.
29.	Inserted new clause Notice and Rostered Days Off (below clause 28.1)	The ASAA objects to the insertion of this clause.
30.	Inserted new clause Rostered Days Off – substitute days (below clause 28.1)	The ASAA objects to the insertion of this clause.
31.	Inserted new clause – make up time (below clause 28.1)	The ASAA objects to the insertion of this clause.
32.	Deleted breaks (clause 30) inserted substitute wording	<p>The ASAA objections to the AWU's deletion, and new clause. The clause proposed by the AWU would impose significant additional costs on the Alpine Resorts.</p> <p>The ASAA considers its clause to be appropriate as certain roles – such as ski school instructors looking after children – while they have a break, do not leave the children unattended, and as</p>

Summary of AWU's Amendments	ASAA Response
	such this clause would provide those employees with an additional payment.
33. Deleted clause regarding breaks for employees on annualised salary arrangements (clause 30.6)	The ASAA objects to this deletion, given it considers an annualised salary arrangement clause should be retained in the Draft Award.
34. Deleted clause regarding penalty rates for employees on annualised salary arrangements (clause 31.1)	The ASAA objects to this deletion, given it considers an annualised salary arrangement clause should be retained in the Draft Award.
35. Deleted clause allowing negotiation regarding penalty payments or time off for public holidays (clause 31.2(d))	The ASAA objects to this deletion. The clause proposed by the ASAA is appropriate given the flexibilities required in the industry, and the ASAA considers that removing the flexibility will be less beneficial to employees.
36. Deleted transitional arrangements re casual loading (clause 31.3(a))	The ASAA objects to this deletion. There would be significant cost implications for NSW Alpine Resorts if they were required to implement a casual loading of 25% immediately, when their casual loading percentage is currently 15%. As such, transitional arrangements are required to provide for a graduated increase from the 15% to 25% loading as proposed in the ASAA's Draft Award.
37. Deleted clause 32.1 (application of clause (overtime)), 32.2 (Entitlement to overtime rates), 32.3 (Overtime rates), 32.4 (reasonable overtime) and inserted new provisions for overtime	<p>The ASAA objects to the deletion of clause 32.1 – those exclusions are required, given other clauses and loaded hourly rates in the Award.</p> <p>The ASAA is happy for the clause proposed by the AWU regarding "reasonable overtime" to be included.</p> <p>The ASAA objections to the deletion of clause 32.3 and 32.3. Clause 9.1 of the NSW Ski Industry Award provides that the first two hours of overtime per week are paid at ordinary time; and all overtime thereafter is at the rate of time and one half. This is mirrored in proposed clauses 32.3 and 33.3 of the ASAA's Draft Award. This was with the AWU in or about 1991, and has been included in the NSW Ski Industry Award since that time. To vary the clause, as now requested by the AWU, would impose a significant increase cost on NSW Alpine Resorts.</p>
38. Inserted new clause rest periods (below clause 32)	Due to the seasonal nature of employment in the Snowsports Industry, there can be short periods of intense work where a small number of employees do not have a minimum 10 hour break between shifts – for example, the periods of time when conditions are optimal for snowmaking can be limited and so, when the optimal conditions arise, employees may be required to work a longer shift. As a result, the ASAA does not agree to the

Summary of AWU's Amendments	ASAA Response
	inclusion of this clause.
39. Deleted seasonal employees as an exclusion from the annual leave clause 33.2(b)	The ASAA objects to this deletion, and notes that due to the short period for which seasonal employees are employed it is more favourable for their hourly rate to be higher (as proposed under the ASAA's Draft Award) and incorporate a loading for annual leave, as reflected in the ASAA's Draft Award.
40. Deleted cashing out of annual leave (clause 33.4)	The ASAA inserted this clause for the benefit of employees.
41. Inserted new personal/carer's leave and compassionate leave clause for casual employees (clause 34.2(b) and clause 34.4)	The ASAA considers that the clause in its Draft Award aligns with the clauses the AIRC is including in Modern Awards, so does not consider the change proposed by the AWU is necessary and so presses for its clause to be maintained.
42. Deleted stand down arrangements (clause 38)	The ASAA objects to the deletion of this clause. Clause 11 of the NSW Ski Industry Award provides for stand down/stand by arrangements.
43. Deleted Supported Wage System (Schedule B)	The ASAA says it only included this schedule, as the AIRC was including it in its Modern Awards.
44. Deleted Equivalency of Snowsports Qualifications (Schedule C)	The ASAA objects to the deletion of this schedule. It is critical to determine appropriate rates of pay, and recognition, of qualifications and experience of Snowsports Instructors – so is in the interests of Snowsports Instructors
45. Deleted Transitional Provisions – Casual Loadings (Schedule D)	The ASAA objects to the deletion of this clause, for the reasons outlined earlier.
46. Insertion of the <i>Victorian Alpine Resorts Award</i> , as Part 7 0 to apply only to employees of an Alpine Resort Management Board in Victoria until 31 December 2004.	The ASAA objects to the inclusion of this Award in the Draft Award, for the reasons outlined in the main body of our submissions.

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

Parties' Draft Award—Australian Ski Areas Association – 6 March 2009

Alpine Resorts (General) Award 2010

Table of Contents

Part 1— Application and Operation	2
Part 2— Consultation and Dispute Resolution	5
Part 3— Types of Employment and Termination of Employment.....	6
Part 4— Classifications and Minimum Wage Rates.....	11
Part 5— Hours of Work and Related Matters.....	17
Part 6— Leave and Public Holidays.....	20

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

Part 1—Application and Operation

1. Title

This award is the *Alpine Resorts (General) Award 2010*.

2. Commencement date

This award commences on 1 January 2010.

3. Definitions and interpretation

3.1 In this award, unless the contrary intention appears:

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

alpine resort means an establishment whose business, among other things, includes alpine lifting

any five in seven means any five ordinary working days worked between Monday and Sunday

applicable hourly rate means the relevant rate for the classification the employee is working under as set out in clause 21

Commission means the Australian Industrial Relations Commission or its successor

double time means double the applicable hourly rate

employee has the meaning in the Act

employer has the meaning in the Act

enterprise award has the meaning in the Act

junior employee means an employee who is less than 19 years old

NES means National Employment Standards

rostered day off (“RDO”) means any continuous 24 hour period between the completion of the last ordinary shift and the commencement of the next ordinary shift on which an employee is rostered for duty

seasonal employee means an employee engaged to perform work for the duration of a specified season

shift worker means an employee who:

- (i) is employed by an employer which has shifts continuously rostered 24 hours a day for seven days a week; and
- (ii) is regularly rostered to work those shifts; and
- (iii) regularly works on Sundays and public holidays

skitube tunnels are defined as the underground area between Portal 1 and Portal 2 (Bilston Tunnel) as well as between Portal 3 and Portal 4 (Blue Cow Tunnel)

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

Snowsports Instructor is an employee whose primary role is the teaching of skiing or boarding including race and specialist program coaches

spread of hours means the period of time elapsing from the time an employee commences duty to the time the employee ceases duty within any period of 24 hours

standard rate means the minimum hourly rate for a Resort Worker Level 2 (Seasonal) in clause 21

Time and one half means one and a half times the applicable hourly rate

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

4. Coverage

4.1 This industry award covers employers throughout Australia who operate an alpine resort and their employees in the classifications within Schedule A to the exclusion of any other modern awards.

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

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

5. Access to the award and the National Employment Standards

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

6. The National Employment Standards and this award

The NES and this award combine to contain the minimum conditions of employment for employees covered by this award.

7. Award flexibility

7.1 Notwithstanding any other provision of this award, an employer and an individual employee may agree to vary the application of certain terms of this award to meet the genuine individual needs of the employer and the individual employee. The terms the employer and the individual employee may agree to vary the application of are those concerning:

- (a) arrangements for when work is performed;
- (b) hours of work;
- (c) overtime rates;
- (d) penalty rates;
- (e) allowances;
- (f) leave loading;

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

- (g) how and when annual leave is taken; and
 - (h) public holidays.
- 7.2 The employer and the individual employee must have genuinely made the agreement without coercion or duress.
- 7.3 The agreement between the employer and the individual employee must:
- (a) be confined to a variation in the application of one or more of the terms listed in clause 7.1; and
 - (b) not disadvantage the individual employee in relation to the individual employee's terms and conditions of employment.
- 7.4 For the purposes of clause 7.3(b) the agreement will be taken not to disadvantage the individual employee in relation to the individual employee's terms and conditions of employment if:
- (a) the agreement does not result, on balance, in a reduction in the overall terms and conditions of employment of the individual employee under this award and any applicable agreement made under the Act, as those instruments applied as at the date the agreement commences to operate; and
 - (b) the agreement does not result in a reduction in the terms and conditions of employment of the individual employee under any other relevant laws of the Commonwealth or any relevant laws of a State or Territory.
- 7.5 The agreement between the employer and the individual employee must also:
- (a) be in writing, name the parties to the agreement and be signed by the employer and the individual employee and, if the employee is under 18 years of age, the employee's parent or guardian;
 - (b) state each term of this award that the employer and the individual employee have agreed to vary;
 - (c) detail how the application of each term has been varied by agreement between the employer and the individual employee;
 - (d) detail how the agreement does not disadvantage the individual employee in relation to the individual employee's terms and conditions of employment; and
 - (e) state the date the agreement commences to operate.
- 7.6 The employer must give the individual employee a copy of the agreement and keep the agreement as a time and wages record.
- 7.7 An employer seeking to enter into an agreement must provide a written proposal to the employee. Where the employee's understanding of written English is limited the employer must take measures, including translation into an appropriate language, to ensure that the employee understands the proposal.

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

- 7.8 The agreement may be terminated:
- (a) by the employer or the individual employee giving one week's notice of termination, in writing, to the other party and the agreement ceasing to operate at the end of the notice period; or
 - (b) at any time, by written agreement between the employer and the individual employee.
- 7.9 The right to make an agreement pursuant to this clause is in addition to, and is not intended to otherwise affect, any provision for an agreement between an employer and an individual employee contained in any other term of this award.

Part 2—Consultation and Dispute Resolution

8. Consultation regarding major workplace change

8.1 Employer to notify

- (a) Where an employer has made a definite decision to introduce major changes in production, program, organisation, structure or technology that are likely to have significant effects on employees, the employer must notify the employees who may be affected by the proposed changes and their representative or representatives, if any.
- (b) **Significant effects** include termination of employment, major changes in the composition, operation or size of the employer's workforce or in the skills required; the elimination or diminution of job opportunities, promotion opportunities or job tenure; the alteration of hours of work; the need for retraining or transfer of employees to other work or locations; and the restructuring of jobs. Provided that:
 - where this award makes provision for alteration of any of the matters referred to herein an alteration is deemed not to have significant effect; and
 - an event or change which is a normal incidence of the seasonal nature of operating an alpine resort will not be considered a "significant effect".

8.2 Employer to discuss change

- (a) The employer must discuss with the employees affected and their representatives, if any, the introduction of the changes referred to in clause 8.1, the effects the changes are likely to have on employees and measures to avert or mitigate the adverse effects of such changes on employees and must give prompt consideration to matters raised by the employees and/or their representatives in relation to the changes.
- (b) The discussions must commence as early as practicable after a definite decision has been made by the employer to make the changes referred to in clause 8.1.

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

- (c) For the purposes of such discussion, the employer must provide in writing to the employees concerned and their representatives, all relevant information about the changes including the nature of the changes proposed, the expected effects of the changes on employees and any other matters likely to affect employees provided that no employer is required to disclose confidential information the disclosure of which would be contrary to the interests of the employer.

9. Dispute resolution

- 9.1** In the event of a dispute in relation to a matter arising under this award, or the NES, in the first instance the parties will attempt to resolve the matter at the workplace by discussions between the employee or employees concerned and the relevant supervisor. If such discussions do not resolve the dispute, the parties will endeavor to resolve the dispute in a timely manner by discussions between the employee or employee's concerned and more senior levels of management as appropriate, or in accordance with the dispute resolution procedure operating at the employer (provided that any such procedure should not be taken to be incorporated into this award).
- 9.2** If a dispute in relation to a matter arising under this award or the NES is unable to be resolved at the workplace, and all appropriate steps under clause 9.1 have been taken, a party to the dispute may refer the dispute to the Commission.
- 9.3** The parties may agree on the process to be utilised by the Commission including mediation, conciliation and consent arbitration.
- 9.4** Where the matter in dispute remains unresolved the Commission may exercise any method of dispute resolution permitted by the Act which it considers appropriate to ensure the settlement of the dispute.
- 9.5** An employer or employee may appoint another person, organisation or association to accompany and/or represent them for the purposes of this clause.
- 9.6** While the dispute resolution procedure is being conducted, work must continue in accordance with this award and the Act. Subject to applicable occupational health and safety legislation, as well as other safety legislation, an employee must not unreasonably fail to comply with a direction by the employer to perform other available work, whether at the same or another workplace, that is safe and appropriate for the employee to perform.

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

10. Employment categories

- 10.1** Employees under this award will be employed in one of the following categories:
- (a) permanent employees;
 - (b) seasonal employees;

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

- (c) casual employees, or
- (d) Snowsports Instructors.

10.2 At the time of engagement an employer will inform each employee of the terms of their engagement and in particular whether they are to be a permanent, seasonal, casual, or Snowsports Instructor employee.

11. Permanent employment

11.1 A permanent employee may be engaged on either a full-time or part-time basis in any classification in this award. This may be on an ongoing or fixed term basis.

11.2 A full-time permanent employee is a permanent employee who is engaged to work 38 ordinary hours (or an average of 38 ordinary hours over a period of up to 12 months) per week.

11.3 A part-time permanent employee is a permanent employee who is engaged to work less than 38 ordinary hours (or an average of less than 38 ordinary hours over a period of up to 12 months) per week.

12. Seasonal employment

12.1 An employer may employ seasonal employees in any classification in this award.

12.2 A seasonal employee may be engaged on either a full-time or part-time basis.

12.3 A full-time seasonal employee is a seasonal employee who is engaged to work 38 ordinary hours (or an average of 38 ordinary hours over the anticipated length of their employment) per week.

12.4 A part-time seasonal employee is a seasonal employee who is engaged to work less than 38 ordinary hours (or an average of less than 38 ordinary hours over the anticipated length of their employment) per week.

12.5 The hourly rate of seasonal employees will include a 1/12th loading in lieu of annual leave.

13. Casual employment

13.1 A casual employee is an employee engaged as such in any classification in this award and must be paid a casual loading as provided in this award. This loading is paid as compensation for annual leave, paid personal/carer's leave, paid compassionate leave, notice of termination, redundancy benefits and the other entitlements from which they are excluded by the terms of this award and the NES.

14. Snowsports Instructor employment

14.1 A Snowsports Instructor means an employee who is employed as a Snowsports Instructor (as defined at Clause 3.1) on an hourly basis, and so who is a specific category of casual employee under this award. The hourly rate includes a casual loading paid as compensation for annual leave, paid personal/carer's leave, paid compassionate leave, work undertaken on public holidays, notice of termination, redundancy benefits and the other

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

entitlements from which they are excluded by the terms of this award and NES.

15. Apprentices

15.1 Apprentices will be engaged in accordance with relevant apprenticeship legislation and be paid in accordance with clause 21.2.

15.2 An apprentice under the age of 18 years must not, without their consent, be required to work overtime or shift work.

15.3 An apprentice will be engaged for a minimum of 4 hours per shift.

16. Junior employees

16.1 Junior employees will be paid in accordance with clause 21.3.

16.2 Junior employees, on reaching the age of 18 years, may be employed in the bar or other places where liquor is sold. Junior employees working in roles that undertake liquor service must be paid at the adult rate of pay in clause 21 for the work being performed.

16.3 An employer may at any time demand the production of a birth certificate or other satisfactory proof for the purpose of ascertaining the correct age of an employee. If a birth certificate is required, the cost of it must be borne by the employer.

16.4 No employee under the age of 18 years will be required to work more than 10 hours in a shift.

17. Termination of employment

17.1 Notice of termination is provided for in the NES.

17.2 Termination of employment by the employer for permanent employees will be as per the NES as set out below:

Employee's period of continuous service with the employer at the end of the day the notice is given

Period

Not more than 1 year	1 week
More than 1 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

The period of notice will be increased by one week if the employee is over 45 years old and has completed at least two years of continuous service with the employer at the end of the day the notice is given.

17.3 Seasonal employees are required to be given one week's notice of termination of employment.

17.4 Casual employees and Snowsports Instructors are required to be given one hour's notice of termination of employment.

17.5 An employer may elect, at its discretion, to make a payment to an employee in lieu of some or all of an employee's notice period, of at least the amount

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

the employer would have been liable to pay the employee for the hours he or she would have worked had the employment continued until the end of the notice period.

- 17.6** Notwithstanding the provisions of clauses 17.1 to 17.4 an employer shall have the right to dismiss any employee summarily and without notice if an employee is (in the employer's reasonable opinion) guilty of misconduct or dishonesty (which may include, without limitation, fraud, theft, sexual or other harassment or discrimination, misappropriation of company funds or resources or serious breaches of company policy) or gross negligence or if the employee acts in a way which, in the reasonable opinion of the employer, may injure or be likely to injure the business, affairs or reputation of the company or cause serious risk to the safety of any person or the environment.

17.7 Rolling Notice

In some cases a seasonal employee may be provided with notice as set out in clause 17.2 and then, because of an extension to operations (due to favorable business and/or weather conditions) the opportunity arises for the employee to be provided with further work. In such cases where notice has already been given and the employee works beyond the date on which the notice period would have expired, a further one hour's notice shall be given by either side, or one hour's pay in lieu of such notice of termination.

17.8 Notice of termination by an employee

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

17.9 Job search entitlement

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

18. Redundancy

- 18.1** This clause only applies to permanent employees. If the employment of permanent employees is terminated due to genuine redundancy such an employee will be entitled, in respect of continuous service, to a payment calculated in accordance with the following table:

Employee's period of continuous service with the employer on termination

Redundancy pay period:

At least 1 year but less than 2 years

4 weeks

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

At least 2 years but less than 3 years	6 weeks
At least 3 years but less than 4 years	7 weeks
At least 4 years but less than 5 years	8 weeks
At least 5 years but less than 6 years	10 weeks
At least 6 years but less than 7 years	11 weeks
At least 7 years but less than 8 years	13 weeks
At least 8 years but less than 9 years	14 weeks
At least 9 years but less than 10 years	16 weeks
At least 10 years	12 weeks

Without limiting what will be a “genuine redundancy”, it is not a genuine redundancy if a position ceases to exist due to the seasonal nature of the operations of an alpine resort.

18.2 Redundancy pay – Exclusions

Clause 18.1 does not apply:

- (a) to those employees who are excluded from the entitlement to a redundancy payment in the NES; or
- (b) if the employer is a small business employer as defined in the NES.

18.3 Transfer to lower paid duties

Where an employee is transferred to lower paid duties by reason of redundancy, the same period of notice must be given as the employee would have been entitled to if the employment had been terminated, and the employer may, at the employer's option, make payment instead of an amount equal to the difference between the former ordinary rate of pay and the new ordinary time rate for the number of weeks of notice still owing.

18.4 Employee leaving during notice period

An employee who has been given notice of termination in circumstances of redundancy may terminate their employment during the period of notice. The employee will be entitled to receive the benefits and payments they would have received under this clause had they remained in employment until the expiry of the notice that they have been given, but will not be entitled to payment instead of notice.

18.5 Job search entitlement

- (a) An employee given notice of termination in circumstances of redundancy will 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 will, at the request of the employer, be required to produce proof of attendance at an interview or they will not receive

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

payment for the time absent. For this purpose a statutory declaration will be sufficient.

- (c) This entitlement applies instead of clause 17.9.

Part 4— Classifications and Minimum Wage Rates

19. Work Organisation

Employees must undertake duties as directed within the limits of their competence and undertake duties across the different streams contained in the classification definitions in Schedule A.

20. Classifications

The definitions of the classification levels in clause 21, Minimum hourly wages, are contained in Schedule A.

21. Minimum hourly wages

21.1 General

- (a) An adult employee within a level specified in the following table (other than an apprentice or an employee in respect of whom a certificate under s.123 of the Act is in force) will be paid not less than the rate per hour assigned to the classification, as defined in Schedule A but subject, for casual employees, to Schedule D, for the classification in which such employee is working. An employee's rate of pay is inclusive of the award rate set out in this clause:

Level Classification Minimum hourly wage

Alpine Resort Worker Classifications

Category	Full-time	Seasonal*	Casual**
Training	\$ 14.3500	\$ 15.5458	\$ 17.9375
Resort Worker Level 1	\$ 14.5000	\$ 15.7083	\$ 18.1250
Resort Worker Level 2	\$ 15.0000	\$ 16.2500	\$ 18.7500
Resort Worker Level 3	\$ 16.0000	\$ 17.3333	\$ 20.0000
Resort Worker Level 4	\$ 16.5000	\$ 17.8750	\$ 20.6250
Resort Worker Level 5	\$ 17.5000	\$ 18.9583	\$ 21.8750
Resort Worker Level 6	\$ 18.0000	\$ 19.5000	\$ 22.5000
Resort Worker Level 7	\$ 19.0000	\$ 20.5833	\$ 23.7500

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

Snowsports Instructor Classifications

Category	Snowsports Instructor***
Instructor - Category A	\$ 29.0000
Instructor - Category B	\$ 26.0000
Instructor - Category C	\$ 23.0000
Instructor - Category D	\$ 20.0000
Instructor - Category E	\$ 19.0000

(b) Notes:

* Rate of pay for seasonal employees includes a 1/12th loading in lieu of annual leave.

** Rate of pay for casual employees includes a 25% casual loading, and is subject to Schedule D.

*** Rate of pay for Snowsports Instructors includes a 25% casual loading.

(c) Transitional provisions dealing with casual loadings for casual employees are contained in **Schedule D**.

21.2 Apprentice wages

(a) All percentages prescribed in this clause will be calculated to the nearest 10 cents. Any broken part of 10 cents in the result being less than five cents will be disregarded—five cents and over will go to the higher 10 cents.

(b) A person who has completed a full apprenticeship must not be paid less than their applicable hourly rate.

(c) An apprentice will be paid a percentage of their applicable hourly rate, as follows:

- First Year: 55%;
- Second Year: 65%;
- Third Year: 80%; and
- Fourth Year: 95%.

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

21.3 Juniors

Junior employees

The minimum rates of wages for junior employees are the under mentioned percentages of the rates prescribed for the appropriate adult classification for the work performed for the area in which such junior is working:

Age	%
17 years and under	70%
18 years	80%

22. Allowances

22.1 Meal allowance

An employee required to work overtime for more than two hours per shift without being notified on the previous day or earlier that they will be so required to work must either be supplied with a meal by the employer or paid an allowance equal to 40% of the standard hourly rate per instance.

22.2 Sewerage Treatment Plant Allowance

Employees working at designated sewerage treatment plants shall be paid an additional amount of 45% of their applicable hourly rate, for each shift they are engaged in work at a designated sewerage treatment plant.

22.3 Duty Controllers Allowance

An employee who is an accredited rail safety worker and required to act as a Duty Controller on a railway and who has been deemed competent in this capacity will be paid an additional allowance of 12% of their applicable hourly rate, for each hour they work in this capacity.

22.4 Track Inspector Allowance

An employee who is an accredited rail safety worker and who is responsible for the inspection and maintenance of track, tunnels and general rail infrastructure to ensure the safe running of the railway (“**Track Inspector**”), and who works within the Skitube Tunnels (but not including the Perisher Skitube Terminal, Blue Cow Terminal, Bullocks Terminal and platform areas) shall be paid an allowance of 3.5% of their applicable hourly rate, for each hour they work in this location.

22.5 Boot Allowance

Where the employee is directed to wear specific outdoor footwear as part of their employment and this footwear is not supplied by the employer the employee will be paid an allowance of 1% of the standard hourly rate for each hour worked. This does not include items such as black shoes for service staff.

22.6 Equipment Allowance

Where an employee is required to provide ski / board equipment as part of their employment, and this equipment is not supplied by the employer, the

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

employee will be paid an allowance of 2% of the standard hourly rate for each hour worked. An employee entitled to the Equipment Allowance will be entitled to this instead of the Boot Allowance.

23. Supported wage system

See Schedule B.

24. Mixed functions and dual-role employment

24.1 It is recognised that employees in the Snowsports Industry generally have a limited period of employment, due to the seasonality of the businesses that they are employed by, and therefore in the main have a limited period in which to maximize their earnings. To facilitate this process, employees may work a variety of roles with one employer to increase their earning potential.

24.2 To this end employees shall be paid as a minimum the appropriate rate (including any terms and conditions on a pro-rata basis) for each role undertaken by them as defined by clause 21 and as set out by Schedule A.

24.3 Dual-role employment

(a) Due to the unique nature of most positions under this award, in that they are generally only available during that part of the year when alpine lifting is being provided, employees may be offered dual-role employment (where operational requirements allow) in which the employee may have two distinct roles.

(b) In these circumstances any offer of employment will set out the terms and conditions for each role and these will be mutually agreed between the two parties prior to the commencement of this type of employment.

24.4 Multi-hiring arrangement

(a) As an alternative, or in addition to, dual-role employment, an employee may by agreement be engaged on a multi-hiring arrangement.

(b) If an employer and an employee enter into a multi-hiring arrangement, the parties must agree on the primary role of the employee.

(c) The employer may then offer the employee, and the employee may undertake, a non-primary role (or roles) in any level or classification within Schedule A that he or she is qualified for, provided that:

- any non-primary role is to be undertaken, and paid for, on a casual basis; and
- any hours worked by an employee in a non-primary role do not count toward ordinary hours or overtime in the employee's primary role.

25. Payment of wages

An employer may pay an employee his/her wages either weekly, fortnightly, or monthly by payment into the employee's bank account by electronic funds transfer, without cost to the employee.

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

- 26. Annualised salary arrangements**
- 26.1** This clause applies to permanent employees and seasonal employees.
- 26.2** An employer and an employee may agree to enter into an annualised salary arrangement instead of all or any of the following provisions of this award:
- (a) Clause 21 – Minimum hourly wages;
 - (b) Clause 22 – Allowances;
 - (c) Clause 31 – Penalty rates;
 - (d) Clause 32 – Overtime.
- 26.3** If the employee is engaged on a dual-role employment arrangement pursuant to clause 24.3, the annual salary is to be pro-rated across each role according to the number of ordinary hours the employee is engaged to perform in each role over the year.
- 26.4** The employer and the individual employee must genuinely make the agreement without coercion or duress.
- 26.5** The annual salary must be no less than the amount the employee would have been entitled to receive under the rates and allowances prescribed by this award, in light of the employee's anticipated hours and working arrangements. The annual salary is paid in full satisfaction of any obligation to otherwise make payments to the employee under this award and may be relied upon to set off any such obligation, whether of a different character or not.
- 26.6** Any written agreement under this clause must specify the annual salary that is payable, what provisions of this award will not apply as a result of the annualised salary arrangement and any hours, overtime or penalty assumptions and calculations commuted into the annualised arrangement.
- 26.7** The employer must give the employee a copy of the agreement and keep the agreement as a time and wages record.
- 26.8** The agreement may be terminated:
- (a) for permanent employees, by the employer or the employee giving six months' notice of termination, in writing, to the other party and the agreement ceasing to operate at the end of the notice period;
 - (b) for seasonal employees, by the employer or the employee giving two weeks' notice of termination, in writing, to the other party and the agreement ceasing to operate at the end of the notice period; or
 - (c) at any time, by written agreement between the employer and the individual employee.

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

27. Superannuation

27.1 Superannuation legislation

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

27.2 Employer contributions

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

27.3 Voluntary employee contributions

- (a) Subject to the governing rules of the relevant superannuation fund, an employee may, in writing, authorise their employer to pay on behalf of the employee a specified amount from the post-taxation wages of the employee into the same superannuation fund as the employer makes the superannuation contributions provided for in clause 27.2.
- (b) An employee may adjust the amount the employee has authorised their employer to pay from the wages of the employee from the first of the month following the giving of two weeks' written notice to their employer.
- (c) The employer must pay the amount authorised under paragraph clauses 27.3(a) or 27.3(b) at the same time as the employer makes the superannuation contributions provided for in clause 27.2.

27.4 Superannuation fund

Unless, to comply with superannuation legislation, the employer is required to make the superannuation contributions provided for in clause 27.2 to another superannuation fund that is chosen by the employee, the employer must make the superannuation contributions provided for in clause 27.2 and pay the amount authorised under clauses 27.3(a) and 27.3(b) to at least one of the following superannuation funds:

- (a) The Hospitality Industry Portable Liquor Union Superannuation Trust Deed (HOST-PLUS);
- (b) Australian Super; or

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

- (c) any other superannuation fund which complies with the *Superannuation Industry (Supervision) Act 1993* as amended from time to time to which an employer was contributing, in compliance with the *Alpine Resorts (The Australian Workers' Union) Award 2001*, before 12 September 2008.

27.5 Absence from work

Subject to the governing rules of the relevant superannuation fund, the employer must also make the superannuation contributions provided for in clause 27.2 and pay the amount authorised under clauses 27.3(a) and 27.3(b) while the employee is on any paid leave.

Part 5—Hours of Work and Related Matters

28. Hours of work

28.1 Ordinary hours of work

- (a) Ordinary hours of work for permanent employees and seasonal employees will be as set out at clauses 11 and 12 above, and due to operational requirements of the business will be on an any five in seven basis.
- (b) Hours of work for employees engaged on either a casual or Snowsport Instructor basis will be determined by business demand.

29. Rostering

29.1 If the hours and/or days of work for any permanent, seasonal or casual employees, or Snowsport Instructors, are variable, the employer must prepare rosters showing the name of each employee and their days of work and starting and finishing times. An employer may also (but is not required to) prepare a roster for any other employees.

29.2 The roster will be posted on a notice board which is conveniently located at or near the workplace or through electronic means, which ever makes it more accessible.

29.3 The roster will be alterable:

- (a) at any time by mutual consent; and
- (b) by the employer on the day prior to when the rostered shift was originally scheduled to be worked, or where notice is unable to be given of the roster change on the previous day, with as much notice as is reasonably practicable in the circumstances.

30. Breaks

30.1 If an employee, including a casual employee, is required to work for five or more hours in a day they must be given an unpaid meal break of no less than 30 minutes. The break must be given no earlier than one hour after starting work and no later than six hours after starting work.

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

- 30.2** Where operational requirements do not allow time for an unpaid meal break in accordance with clause 30.1, the employee will be given a paid meal break of 20 minutes.
- 30.3** If the unpaid meal break is rostered to be taken after five hours of starting work, the employee must be given an additional 20-minute paid meal break. The employer must allow the employee to take this additional meal break no earlier than two hours after starting work and no later than five hours after starting work.
- 30.4** If an employee is not given a meal break in accordance with clause 30.1 or 30.2 the employer must pay the employee an extra hourly or part thereof payment at the rate of 50% of the applicable hourly rate from the end of six hours until either the meal break is given or the shift ends.
- 30.5** An employee is entitled to receive an additional 30 minute unpaid meal break for each additional 5 hours worked by them in a day. The taking of any additional meal breaks is to be as per clauses 30.3 and 30.4 above.
- 30.6** Employees who are engaged on an annualised salary arrangement pursuant to clause 26, above are entitled to unpaid meal breaks in accordance with clauses 30.1 and 30.5, but will not be entitled to any additional paid breaks or penalty rates under clauses 30.3 and 30.4.

31. Penalty rates

31.1 Application of clause

This clause 31 does not apply to employees who are engaged on an annualised salary arrangement pursuant to clause 26.

31.2 Payment for work performed on public holidays

- (a) This clause 31.2 does not apply to employees engaged as Snowsports Instructors.
- (b) All time worked by a permanent employee or seasonal employee on a public holiday must be paid for at the rate of double time and one half for the hours worked.
- (c) All time worked by a casual employee on a public holiday must be paid for at the rate of double time and one fifth for the hours worked.
- (d) As an alternative to clause 31.2(b), such employees who worked on a prescribed holiday may, by agreement within a two week period after working on the public holiday, perform an equivalent number of hours work as they worked on the public holiday at ordinary rates plus an additional 50% for those hours, provided that equivalent paid time is added to the employee's annual leave or equivalent hours in lieu of such public holiday will be allowed to the employee.

31.3 Casual Loading

- (a) As per the hourly wage rates in clause 21.1 all casual employees and Snowsport Instructors will receive a 25% loading included into their hour rate, unless their loading percentage is less than 25% as per

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

Schedule D, in which case their applicable hourly rate in clause 21 will be reduced proportionately to accord with the applicable loading percentage in Schedule D.

32. Overtime

32.1 Application of clause

This clause 32 does not apply to:

- (a) Casual employees;
- (b) Snowsports Instructors;
- (c) employees engaged on an annualised salary arrangement pursuant to clause 26; or
- (d) employees paid a casual rate under clause 24.

32.2 Entitlement to overtime rates

Subject to clause 32.1(c) and (d) above, a permanent employee or seasonal employee is paid at overtime rates for:

- (a) any hours in excess of the ordinary hours per week that the employee is engaged to work; or
- (b) where the employee's hours of work are averaged over a period of time in accordance with clauses 11 or 12, hours in excess of their ordinary hours of work per week, assessed as an average over that period of time.

32.3 Overtime rates

(a) Employees whose hours of work are not averaged

The following overtime rates are payable to a permanent employee or seasonal employee:

- first two hours at ordinary time; and
- all time worked in excess of the first two hours each week shall be paid for at the rate of time and one half for the next two hours and then double time for all work thereafter.

(b) Employees working on an averaged hours arrangement

Any hours banked by an employee under an averaged hours arrangement will be banked at the rate that would have been payable for the time worked, had the employee not been on an averaging arrangement.

32.4 Reasonable Overtime

- (a) Subject to clause 32.4(b), 16.4 and the NES, an employer may require an employee to work reasonable overtime in accordance with the provisions of this clause.

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

- (b) An employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working hours which are unreasonable having regard to
 - (i) any risk to employee health and safety;
 - (ii) the employees personal circumstances, including any family responsibilities;
 - (iii) the requirements of the employer;
 - (iv) the notice (if any) given by the employer of the overtime and by the employee of their intention to refuse such work; and
 - (v) any other related matter.

Part 6—Leave and Public Holidays

33. Annual leave

33.1 Annual leave is provided for in the NES.

33.2 Application

- (a) This clause applies to all permanent employees.
- (b) Casual employees, seasonal employees and Snowsports Instructors are compensated for annual leave in their hourly rate of pay, and are not entitled to accrue annual leave under this clause 33.

33.3 Annual leave entitlement

Employees to whom this clause applies will be entitled to annual leave in accordance with the NES. Without derogating from this requirement, employees' entitlements to annual leave may be summarised as follows:

- (a) an employee is entitled to four weeks of paid annual leave (pro rata for part-time employees), which accrues based on ordinary hours worked by the employee for the employer during each four week period of continuous service (capped at 38 hours per week) and is credited to the employee at no greater than monthly intervals. Annual leave accrues on a pro-rata basis.
- (b) annual leave is cumulative.
- (c) an employee may be directed to take one quarter of his or her accumulated annual leave if the employee has accrued more than 30 days' leave at the time at which the direction is given.
- (d) shift workers (as defined) may be entitled to up to an additional one week's annual leave each year, depending on the proportion of time spent working as a shift worker and the particular shift patterns within the business.
- (e) an employee's annual leave is generally to be taken at a time that is convenient for both the employer and the employee. Employees are encouraged to take their annual leave at times of low demand on the business. Annual leave for longer than two days will generally not be

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

approved by the employer when alpine lifting is being provided by the employer for snowsports activities, due to operational requirements. The employer will not unreasonably refuse to authorise an employee to take annual leave that is credited to the employee.

- (f) an employee must take an amount of annual leave during a particular period if:
- the employee is directed to do so by the employer because, during that period, the employer shuts down the business, or any part of the business, in which the employee works; and
 - at least that amount of annual leave is credited to the employee.

33.4 Cashing out annual leave

- (a) Permanent employees are entitled to forego up to two weeks of accrued annual leave credited to them by giving the employer a written election of the decision to do so. Employees may request to cash out up to a maximum of two weeks of their accrued annual leave once in any 12 month period.
- (b) The employer may authorise, or decline to authorise, any request made by an employee to cash out annual leave, at its discretion.
- (c) If an employee elects to forego annual leave, he or she must be paid the full amount that would have been payable to the employee had the employee taken the leave he or she elected to forego. The employer will pay this amount to the employee in the next pay period following the date it authorises the cashing out of annual leave by the employee.
- (d) Any leave cashed out will result in the necessary adjustment being made to the employee's annual leave accrual so that the employee has no further entitlement to take, or receive pay in lieu of, the period of leave foregone.
- (e) Employers are prohibited from exerting undue influence or undue pressure on an employee to cash out his or her annual leave.

33.5 Paid leave in advance of accrued entitlement

An employer may allow an employee to take annual leave either wholly or partly in advance before the leave has accrued. Where paid leave has been granted to an employee in excess of the employee's accrued entitlement, and the employee subsequently leaves or is discharged from the service of the employer before completing the required amount of service to account for the leave provided in advance, the employer is entitled to deduct the amount of leave in advance still owing from any remuneration payable to the employee upon termination of employment.

33.6 Requirement to take leave notwithstanding terms of the NES

An employer may require an employee to take annual leave by giving at least four weeks' notice in the following circumstances:

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

- (a) as part of a close down of its operations; or
- (b) where more than 30 days' leave is accrued.

34. Personal/carer's leave and compassionate leave

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

34.2 Application

- (a) This clause applies to all permanent employees and seasonal employees.
- (b) Clauses 34.3 and 34.5(b) do not apply to employees engaged on a casual basis or as Snowsports Instructors. Casual employees and Snowsports Instructors are compensated for paid personal/carer's leave and compassionate leave in their hourly rate of pay.

34.3 Paid personal/carer's leave entitlement

Employees will be entitled to personal/carer's leave in accordance with the NES. Without derogating from this requirement, the entitlements of employees to personal/carer's leave are summarised below:

- (a) permanent employees and seasonal employees are entitled to 10 days of paid personal/carer's leave per year (pro-rated for part-time employees and seasonal employees) provided the employee complies with the notice and evidence requirements required by the employer.
- (b) personal/carer's leave may be taken as sick leave or carer's leave (provided that only 10 days paid carer's leave days may be taken in a 12 month period, pro-rated for part-time employees).
- (c) paid personal leave is cumulative, but not from season to season (in the case of seasonal employees).

34.4 Unpaid personal & carer's leave entitlement

- (i) A permanent or seasonal employee who has exhausted his or her paid personal/carer's leave entitlement under clause 34.3; or
- (ii) A casual employee or Snowsport Instructor who is not entitled to paid personal/carer's leave;

may, provided he or she complies with the notice and evidence requirements of the employer, take unpaid carer's leave of up to two days where a member of the employee's household or immediate family requires care or support due to an illness, injury or unexpected emergency. Additional absence is by agreement.

34.5 Compassionate Leave

- (a) Employees will be entitled to compassionate leave in accordance with the NES. Without derogating from this requirement, employees will be entitled to up to two days of compassionate leave for each occasion on which a member of the employee's immediate family or household:

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

- contracts or develops a personal illness that poses a serious threat to his or her life; or
- sustains a personal injury that poses a serious threat to his or her life; or
- dies.

- (b) Compassionate leave taken by permanent and seasonal employees will be paid leave.
- (c) Compassionate leave taken by casual employees and Snowsports Instructors will be unpaid leave.

35. Community service leave

Community service leave is provided for in the NES. Consistent with the NES entitlement, only permanent and seasonal employees are entitled to be paid their base rate of pay for their ordinary hours of work in respect of any period of community service leave required to be taken to complete jury service.

36. Parental leave

Parental leave is provided for in the NES.

37. Public holidays

37.1 Public holidays are provided for in the NES.

37.2 Substitution of public holidays by agreement

By agreement between the employer and the majority of employees in the relevant enterprise or section of the enterprise, an alternative day may be taken as the public holiday in substitution of any of the days prescribed in s.54 of the NES.

37.3 Additional arrangements for permanent and seasonal employees

A permanent or seasonal employee whose rostered day off falls on a public holiday must, subject to clause 31.2, either:

- (a) be paid an extra day's pay; or
- (b) be provided with an alternative day off within 28 days; or
- (c) receive an additional day's annual leave.

37.4 A permanent or seasonal employee who works on a public holiday which is subject to substitution as provided for by the NES will be entitled to the benefit of the substitute day.

PART 7 – Industry specific provisions

38. Stand down arrangements

38.1 This clause applies to permanent employees and seasonal employees.

38.2 The employer shall have the right to withhold or deduct payment for any part of a day or shift during which an employee cannot usefully be employed

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

because of any industrial action, breakdown of machinery, weather or bushfire conditions or any other stoppage of work for any reason which the employer cannot reasonably be held responsible.

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

Schedule A— Classification Definitions

Training Level is for when staff are undergoing training prior to being deemed competent to undertake their substantive role at the appropriate Resort Worker Level, excluding those who are being trained in Plant Operators role. It is also the rate to be paid to staff while attending orientation or induction programs.

The maximum period of time on which an employee may be engaged at the Training Level is seven weeks.

Resort Worker Level 1 means an employee who is engaged in a role that requires no previous experience, on the job training and work under supervision such as the following roles:

- Carparking duties
- Outdoor and Indoor Assistant roles including Race Event Workers, Snowsports Assistants, Painters and Lift Attendants whose roles are primarily focused on specific Labouring tasks
- General unskilled labour tasks
- Bar Assistant who is employed primarily in non-service duties
- Food Service Assistant - duties including removing food plates, setting and/or wiping down tables, cleaning and tidying of associated areas
- Kitchenhand duties
- Housekeeping duties assisting under supervision in the servicing of resort property and cleaning thereof
- Laundry duties assisting in laundry service

Resort Worker Level 2 means an employee who is engaged in a role that requires some previous relevant experience or qualifications, detailed on the job training for the specific employers requirements and work under supervision. The following roles are examples:

- An employee who is engaged in general clerical or office duties.
- Guest Service roles including Ticket and Pass sales, Hire sales and service, Retail Sales, Concourse Attendants and Tour Guides.
- Trainee Plant Operator roles (including Trainee Train Drivers) who are undergoing training and assessment and are yet to be deemed competent.
- A person involved in the coordination and instruction of other staff involved in Carparking operations.
- Unqualified Child Care Workers
- Municipal Services (garbage collection etc)
- Pool attendants with lifeguard qualifications
- Ticket Checkers, Uniform Room Attendants and Mountain Awareness staff
- Snowsports administrative staff who are responsible for the booking of lessons
- Bar duties including service, cellar and bottle sales.
- Food Service duties including service, cashier and waiting duties.
- Housekeeping involved in the servicing and cleaning of resort property.
- A Cook being an unqualified person involved in the preparation butchering or cooking of food.

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

- An employee who is engaged in reception / reservations duties including night auditing, telephonist, receptionist, cashier, information services, portering or reservations.
- Laundry duties involved in laundry production duties such as machine operation

Resort Worker Level 3 means an employee who is engaged in role that requires significant previous experience in the field in which they are to be employed or will be involved in roles that require specialist training by the employer. The following roles are examples:

- A Lift Operator who is responsible for the safe operation of aerial and surface lifting, the loading and unloading of guests, maintaining the lift station and reporting of mechanical faults to appropriate trades and supervisory staff.
- An employee involved in Mountain operation roles such as Assistant Ski Patrol and Trail Crew
- Trades Assistants in Electrical, Mechanical, Fitting & Machinery and Building disciplines including (but not limited to) Electrical Assistants, Track Maintenance Assistants, Fitters and Machinists, Carpentry Assistants and Leading Hand Labourers.
- Beauty Therapist and Spa Attendant.
- Stores Person or Cellar person with forklift qualifications and who is engaged as such.
- Food Service & Bar staff who supervise staff of a lower grade and who work without supervision.
- A Kitchen attendant who has the responsibility for the supervision, training and coordination of kitchen attendants of a lower grade.
- An employee in a Housekeeping, Porter or Laundry role who has the appropriate level of training and who is employed to supervise employees of a lower grade.
- An employee who is engaged in night auditing, Hotel reception or reservations who has more than three years experience in a similar role in a Hotel or Travel Reservations business.

Resort Worker Level 4 means an employee who is engaged in a role that requires specialist skills built on previous experience and qualifications or provide direction for staff at a lower level. The following roles are examples:

- An employee who is engaged in the supervision of other staff involved in reception / reservations duties including night auditing, telephonist, receptionist, cashier, information services or reservations.
- An employee who is engaged in the supervision of Guest Service roles including Ticket and Pass sales, Hire sales and service, Retail Sales, Concourse Attendants Information and Tour Guides.
- An employee engaged in Cashroom, Treasury or other similar back office cash reconciliation roles.
- Experienced Painters.
- Qualified Fitness Instructor with lifeguard qualifications.

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

- Bar and Food Service staff who supervise staff of a lower grade in running a particular section, restaurant or bar.
- A Qualified Chef, who has completed an apprenticeship in this discipline.
- An employee who is engaged as an Inventory Controller or Uniform Room Coordinators.

Resort Worker Level 5 means an employee who has the appropriate level of training and who is employed to supervise and/or train employees of a lower grade. The following roles are an example of such positions:

- An employee who is engaged in the supervision of Lift Operators or Treasury / Cashroom staff.
- A Hospitality supervisor in any area of hospitality including but not limited to food & beverage, housekeeping, front office and reservations, laundry, stores, duty supervisors and the like.

Resort Worker Level 6 means an employee who is engaged in a role that requires the completion of a recognized qualification in the field in which they are employed and have been deemed competent to fulfill the following roles:

- A Plant Operator who has been deemed competent in the operation of plant and equipment including (but not limited to) Transport vehicles, Groomers, Excavators, Cranes, Trains, Snowmaking or Sewerage Plant equipment.
- Railway Track Inspectors.
- A Child Care Worker who has completed as a minimum an AQF Certificate 3 or 4 in Children's Services (or equivalent).
- A qualified Ski Patroller
- Trade qualified staff who have completed an apprenticeship in an Electrical, Fitting, Mechanical, Painting, Spray Painting, Carpentry or Building discipline and are undertaking work in their relevant discipline.
- An employee who is employed to Supervise staff undertaking Trail Crew or Snowsports Reservations duties.
- Qualified Beauty Therapist
- Media Staff such as Reporters, Editors and Camera Operators.
- A Qualified Chef who supervises or trains other kitchen staff, undertakes ordering and stock control and is solely responsible for other cooks and other kitchen employees in a single kitchen establishment.

Resort Worker Level 7 means an employee who is engaged in any of the following roles:

- A Child Care Worker who is engaged as a supervisor and who has completed as a minimum an AQF Diploma in Children's Services.
- An employee who is engaged in the supervision of other staff involved in Plant Operation.

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

Instructors Category A means an employee who is engaged as a Snowsports Instructor (as defined) is a fully certified Instructor, and has obtained their APSI Level 3 Qualification or international equivalent (as can be seen in Table 5.1 of Schedule C) and has a minimum of 10 full-time seasons of practical experience. Full-time season for the purposes of this category of employment will be a minimum of 12 successive weeks at a recognized Snowsports School.

Instructors Category B means an employee who is engaged as a Snowsports Instructor (as defined) and has an intermediate level of certification, being their APSI Level 2 Qualification or international equivalent (as can be seen in Table 4.1 of Schedule C) and has full-time practical teaching experience.

Instructors Category C means an employee who is engaged as a Snowsports Instructor (as defined) and has a fundamental level of certification, being the APSI Level 1 Qualification or international equivalent (as can be seen in Table 3.1 of Schedule C) and has full-time practical teaching experience.

Instructors Category D means an employee who is engaged as a Snowsports Instructor (as defined) and has some teaching experience with an entry level qualification (as per Table 2.1 in Schedule C)

Instructors Category E means an employee who is engaged as a Snowsports Instructor (as defined) and has either no experience or a low level qualification (as per Table 1.1 in Schedule C).

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

Schedule B—Supported wage system

1. This clause defines the conditions which will apply to employees who because of the effects of a disability are eligible for a supported wage under the terms of this agreement/award. In the context of this clause, the following definitions will apply:

1.1 Supported wage system means the Commonwealth Government system to promote employment for people who cannot work at full award wages because of a disability, as documented in Supported Wage System: Guidelines and Assessment Process.

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

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

1.4 Assessment instrument means the form provided for under the supported wage system that records the assessment of the productive capacity of the person to be employed under the supported wage system.

2. Eligibility criteria

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

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

2.3 This clause does not apply to employers in respect of their facility, programme, undertaking, service or the like which receives funding under the *Disability Services Act 1986* and fulfils the dual role of service provider and sheltered employer to people with disabilities who are in receipt of or are eligible for a disability support pension, except with respect to an organisation which has received recognition under s.10 or under s.12A of the Disability Services Act, or if a part only has received recognition, that part.

3. Supported wage rates

3.1 Employees to whom this clause applies will be paid the applicable percentage of the minimum rate of pay prescribed by this award/agreement for the class of work which the person is performing according to the following schedule:

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

Assessed capacity(clause 4)	Prescribed award rate
%	%
10*	10
20	20
30	30
40	40
50	50
60	60
70	70
80	80
90	90

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

3.3 * Where a person's assessed capacity is 10%, they must receive a high degree of assistance and support.

4. Assessment of capacity

For the purpose of establishing the percentage of the award rate to be paid to an employee under this award/agreement, the productive capacity of the employee will be assessed in accordance with the supported wage system and documented in an assessment instrument by either:

4.1 The employer and a union party to the award/agreement, in consultation with the employee or, if desired by any of these;

4.2 The employer and an accredited assessor from a panel agreed by the parties to the award and the employee.

5. Lodgement of assessment instrument

5.1 All assessment instruments under the conditions of this clause, including the appropriate percentage of the award wage to be paid to the employee, must be lodged by the employer with the Registrar of the Australian Industrial Relations Commission.

5.2 All assessment instruments must be agreed and signed by the parties to the assessment, provided that where a union which is party to the award/agreement, is not a party to the assessment, it will be referred by the Registrar to the union by certified mail and will take effect unless an objection is notified to the Registrar within 10 working days.

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

6. Review of assessment

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

7. Other terms and conditions of employment

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

8. Workplace adjustment

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

9. Trial period

9.1 In order for an adequate assessment of the employee's capacity to be made, an employer may employ a person under the provisions of this clause for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding four weeks) may be needed.

9.2 During that trial period the assessment of capacity will be undertaken and the proposed wage rate for a continuing employment relationship will be determined.

9.3 The minimum amount payable to the employee during the trial period must be no less than \$69 per week.

9.4 Work trials should include induction or training as appropriate to the job being trialled.

9.5 Where the employer and employee wish to establish a continuing employment relationship following the completion of the trial period, a further contract of employment will be entered into based on the outcome of assessment under clause 4 hereof.

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

Schedule C—Equivalency of Snowsports Qualifications

Table 1.1

Country	Association	Certification Level
Australia	APSI (Ski & SB)	Instructor Training Course/ Recruitment C
Austria	ÖSSV (Ski & SB)	Anwärter
Canada	CSIA (Ski)	CSIA Level 1
Canada	CASI (SB)	CASI Level 1
Canada	CSCF (Coaching)	Entry Level (1)
New Zealand	NZSIA (Ski & SB)	C.S.I
Poland	SITN-PZN	Childrens Level
Switzerland	SSSA	Kinderlehrer
United Kingdom	BASI (Ski)	Alpine Level 1
United Kingdom	BASI (SB)	SB Level 1
USA	PSIA (Ski)	PSIA Level 1
USA	AASI (SB)	AASI Level 1

Table 2.1

Country	Association	Certification Level
Australia	APSI (Ski & SB)	Childrens Certificate
Canada	CSCF (Coaching)	Level 1 Advanced Certification

Table 3.1

Country	Association	Certification Level
Australia	APSI (Ski & SB)	APSI Level 1
Austria	ÖSSV (Ski & SB)	Anwärter
Canada	CSIA (Ski)	CSIA Level 2
Canada	CASI (SB)	CASI Level 2
Canada	CSCF (Coaching)	Development Level (2)
Czech Republic	APUL	APUL C
Japan	SIA	IT I (Bronze Medal)
Netherlands	NVVS	A-Diploma
New Zealand	NZSIA (Ski & SB)	Stage One
Poland	SITN-PZN	Level Basic
Slovakia	SAPUL	C Qualification
Slovenia	SIAS	Level 1
Switzerland	SSSA	Stufe 1
United Kingdom	BASI (Ski)	Alpine L2

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

United Kingdom	BASI (SB)	SB L2
USA	AASI (SB)	AASI Level 2
USA	PSIA (Ski)	PSIA Level 2

Table 4.1

Country	Association	Certification Level
Australia	APSI (Ski & SB)	APSI Level 2
Austria	ÖSSV (Ski & SB)	Landesschilehrer
Canada	CSIA (Ski)	CSIA Level 3
Canada	CASI (SB)	CASI Level 3
Canada	CSCF (Coaching)	Performance Level (3)
Czech Republic	APUL	APUL B
Japan	SIA	IT II (Silver Medal)
Netherlands	NVVS	B-Diploma
Poland	SITN-PZN	Assistant PZN
Slovakia	SAPUL	B Qualification
Slovenia	SIAS	Level 2
Switzerland	SSSA	Stufe 2
United Kingdom	BASI (Ski)	Ski Teacher
United Kingdom	BASI (SB)	SB Teacher
USA	PSIA (Ski)	PSIA Level 3
USA	AASI (SB)	AASI Level 3
USA	USSA (Coaching)	Level 200 State Coach

Table 5.1

Country	Association	Certification Level
Australia	APSI (Ski & SB)	APSI Level 3
Austria	ÖSSV (Ski & SB)	Staatlich geprüfter Schilehrer
Canada	CSIA (Ski)	CSIA Level 4
Canada	CASI (SB)	CASI Level 4
Canada	CSCF (Coaching)	Program Director (4)
Czech Republic	APUL	APUL A
Italy	AMSI	Maestro di Sci (Gold Level)
Japan	SIA	IT III (Gold Medal)
Netherlands	NVVS	C-Diploma
New Zealand	NZSIA (Ski & SB)	Stage Two
Poland	SITN-PZN	PZN-ISIA
Slovakia	SAPUL	A Qualification
Slovenia	SIAS	Level 3
Sweden	ESS	Examinerad Svensk Skidlarare (Level 3)
Switzerland	SSSA	Stufe 3

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

United Kingdom	BASI (Ski)	Diploma
USA	PSIA (Ski)	PSIA Level 3
USA	AASI (SB)	AASI Trainer

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

Schedule D – Transitional Provisions – Casual Loadings

The following transitional arrangements apply in respect to the casual loading for casual employees of employers who operate alpine resorts in New South Wales:

- for 2010, the casual loading is 15%;
- for 2011, the casual loading is 17.5%;
- for 2012, the casual loading is 20%;
- for 2013, the casual loading is 22.5%; and
- for 2014, the casual loading is 25%.

The casual hourly rate set out in clause 21 is therefore to be reduced proportionately on the basis of the above casual loading percentage being applicable, rather than 25%.

AWU Draft *Alpine Resorts (General) Award 2010*

This draft indicates in track changes the areas of difference between the AWU and draft prepared by *Australian Ski Areas Association*. We apologise that the document has not been properly formatted.

Part 1—Application and Operation

1. Title

This award is the *Alpine Resorts (General) Award 2010*.

2. Commencement date

This award commences on 1 January 2010.

3. Definitions and interpretation

3.1 In this award, unless the contrary intention appears:

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

alpine resort means an establishment whose business, among other things, includes alpine lifting

~~**any five in seven** means any five ordinary working days worked between Monday and Sunday~~

applicable hourly rate means the relevant rate for the classification the employee is working under as set out in clause 21

Commission means the Australian Industrial Relations Commission or its successor

Continuous Service¹ ~~Unless otherwise provided in this Award, continuity of service will be calculated according to 15.2.~~ **15.2** The service of an employee will be deemed to be continuous notwithstanding:

~~**15.2.1** any annual leave or long service leave taken in the year of employment;~~

~~**15.2.2** any interruption or ending of the employment by the employer if such interruption or ending is made with the intention of avoiding obligations in respect of annual leave or long service leave;~~

~~**15.2.3** any absence from work of more than fourteen days in the year of employment on account of personal sickness or accident or personal/carer's leave;~~

~~**15.2.4** any absence on account of leave in the year of employment (other than annual leave, long service leave) granted or imposed or agreed to by the employer;~~

~~**15.2.5** any absence in the year of employment on any other account not involving termination of employment.~~

~~**15.3** In calculating continuity of service any absence of a kind mentioned in 15.2.1, 15.2.2 and 15.2.3 will be counted as part of a year of employment. But, in respect of absences of a kind mentioned in 15.2.4 and 15.2.5, it will be necessary for the employee to serve such additional period as equals the period of such absences to count as part of the year of employment.~~

double time means double the applicable hourly rate

employee has the meaning in the Act

employer has the meaning in the Act

enterprise award has the meaning in the Act

junior employee means an employee who is less than 19 years old

NES means National Employment Standards

rostered day off ("RDO") means any continuous 24 hour period between the completion of the last ordinary shift and the commencement of the next ordinary shift on which an employee is rostered for duty

seasonal employee means an employee engaged to perform work for the duration of a specified season

¹ Should be inserted from federal award (clause 15). Particularly important given itinerant nature of workforce.

shift worker means an employee who:

- (i) is employed by an employer which has shifts continuously rostered 24 hours a day for seven days a week; and
- (ii) is regularly rostered to work those shifts; and
- (iii) regularly works on Sundays and public holidays

skitube tunnels are defined as the underground area between Portal 1 and Portal 2 (Bilston Tunnel) as well as between Portal 3 and Portal 4 (Blue Cow Tunnel)

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

This award does not come into force until 1 January 2010 3

Snowsports Instructor is an employee whose primary role is the teaching of skiing or boarding including race and specialist program coaches

spread of hours means the period of time elapsing from the time an employee commences duty to the time the employee ceases duty within any period of 24 hours

standard rate means the minimum hourly rate for a Resort Worker Level 2 (Seasonal) in clause 21

Time and one half means one and a half times the applicable hourly rate

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

4. Coverage

4.1 This industry award covers employers throughout Australia who operate an alpine resort and their employees in the classifications within Schedule A to the exclusion of any other modern awards.

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

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

5. Access to the award and the National Employment Standards

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

6. The National Employment Standards and this award

The NES and this award combine to contain the minimum conditions of employment for employees covered by this award.

7. Award flexibility – agreed only to the extent this does not depart from standard clause.

7.1 Notwithstanding any other provision of this award, an employer and an individual employee may agree to vary the application of certain terms of this award to meet the genuine individual needs of the employer and the individual employee. The terms the employer and the individual employee may agree to vary the application of are those concerning:

- (a) arrangements for when work is performed;
- (b) hours of work;
- (c) overtime rates;
- (d) penalty rates;
- (e) allowances;
- (f) leave loading;

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

This award does not come into force until 1 January 2010 4

(g) how and when annual leave is taken; and

(h) public holidays.

7.2 The employer and the individual employee must have genuinely made the agreement without coercion or duress.

7.3 The agreement between the employer and the individual employee must:

(a) be confined to a variation in the application of one or more of the terms listed in clause 7.1; and

(b) not disadvantage the individual employee in relation to the individual employee's terms and conditions of employment.

7.4 For the purposes of clause 7.3(b) the agreement will be taken not to disadvantage the individual employee in relation to the individual employee's terms and conditions of employment if:

(a) the agreement does not result, on balance, in a reduction in the overall terms and conditions of employment of the individual employee under this award and any applicable agreement made under the Act, as those instruments applied as at the date the agreement commences to operate; and

(b) the agreement does not result in a reduction in the terms and conditions of employment of the individual employee under any other relevant laws of the Commonwealth or any relevant laws of a State or Territory.

7.5 The agreement between the employer and the individual employee must also:

(a) be in writing, name the parties to the agreement and be signed by the employer and the individual employee and, if the employee is under 18 years of age, the employee's parent or guardian;

(b) state each term of this award that the employer and the individual employee have agreed to vary;

(c) detail how the application of each term has been varied by agreement between the employer and the individual employee;

(d) detail how the agreement does not disadvantage the individual employee in relation to the individual employee's terms and conditions of employment; and

(e) state the date the agreement commences to operate.

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

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

Parties' Draft (Australian Ski Areas Association – 6 March 2009):

Alpine Resorts (General) Award 2010

This award does not come into force until 1 January 2010 5

7.8 The agreement may be terminated:

(a) by the employer or the individual employee giving one week's notice of termination, in writing, to the other party and the agreement ceasing to operate at the end of the notice period; or

(b) at any time, by written agreement between the employer and the individual employee.

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

Part 2—Consultation and Dispute Resolution

8. Consultation regarding major workplace change

8.1 Employer to notify

(a) Where an employer has made a definite decision to introduce major changes in production, program, organisation, structure or technology that are likely to have significant effects on employees, the employer must notify the employees who may be affected by the proposed changes and their representative or representatives, if any.

(b) **Significant effects** include termination of employment, major changes in the composition, operation or size of the employer's workforce or in the skills required; the elimination or diminution of job opportunities, promotion opportunities or job tenure; the alteration of hours of work; the need for retraining or transfer of employees to other work or locations; and the restructuring of jobs. Provided that:

- where this award makes provision for alteration of any of the matters referred to herein an alteration is deemed not to have significant effect; and

- an event or change which is a normal incidence of the seasonal nature of operating an alpine resort will not be considered a "significant effect".

8.2 Employer to discuss change

(a) The employer must discuss with the employees affected and their representatives, if any, the introduction of the changes referred to in clause 8.1, the effects the changes are likely to have on employees and measures to avert or mitigate the adverse effects of such changes on employees and must give prompt consideration to matters raised by the employees and/or their representatives in relation to the changes.

(b) The discussions must commence as early as practicable after a definite decision has been made by the employer to make the changes referred to in clause 8.1.

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

This award does not come into force until 1 January 2010 6

(c) For the purposes of such discussion, the employer must provide in writing to the employees concerned and their representatives, all relevant information about the changes including the nature of the changes proposed, the expected effects of the changes on employees and any other matters likely to affect employees provided that no employer is required to disclose confidential information the disclosure of which would be contrary to the interests of the employer.

9. Dispute resolution

9.1 In the event of a dispute in relation to a matter arising under this award, or the NES, in the first instance the parties will attempt to resolve the matter at the workplace by discussions between the employee or employees concerned and the relevant supervisor. If such discussions do not resolve the dispute, the parties will endeavor to resolve the dispute in a timely manner by discussions between the employee or employee's concerned and more senior levels of management as appropriate, or in accordance with the dispute resolution procedure operating at the employer (provided that any such procedure should not be taken to be incorporated into this award).

9.2 If a dispute in relation to a matter arising under this award or the NES is unable to be resolved at the workplace, and all appropriate steps under clause

9.1 have been taken, a party to the dispute may refer the dispute to the Commission.

9.3 The parties may agree on the process to be utilised by the Commission including mediation, conciliation and consent arbitration.

9.4 Where the matter in dispute remains unresolved the Commission may exercise any method of dispute resolution permitted by the Act which it considers appropriate to ensure the settlement of the dispute.

9.5 An employer or employee may appoint another person, organisation or association to accompany and/or represent them for the purposes of this clause.

9.6 While the dispute resolution procedure is being conducted, work must continue in accordance with this award and the Act. Subject to applicable occupational health and safety legislation, as well as other safety legislation, an employee must not unreasonably fail to comply with a direction by the employer to perform other available work, whether at the same or another workplace, that is safe and appropriate for the employee to perform.

Part 3—Types of Employment and Termination of Employment

10. Employment categories

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

- (a) permanent employees;
- (b) seasonal employees;

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

This award does not come into force until 1 January 2010 7

- (c) casual employees, or
- (d) ~~Snowsports Instructors.~~

10.2 At the time of engagement an employer will inform each employee of the terms of their engagement and in particular whether they are to be a permanent, seasonal, ~~or~~ casual, ~~or~~ Snowsports Instructor employee.

11. Permanent employment

11.1 A permanent employee may be engaged on either a full-time or part-time basis in any classification in this award. This may be on an ongoing or fixed term basis.

11.2 A full-time permanent employee is a permanent employee who is engaged to work 38 ordinary hours (or an average of 38 ordinary hours over a period of up to 12 months) per week. a maximum work cycle of four weeks²

11.3 ~~A part-time permanent employee is a permanent employee who is engaged to work less than 38 ordinary hours (or an average of less than 38 ordinary hours over a period of up to 12 months) per week. Insert AIRC standard clause (although~~
NOTE that clause 16.1.2 of federal award provides average hours for part time employees of at least 8 and no more than 35 hours per week over a four week cycle).

12. Seasonal employment

12.1 An employer may employ seasonal employees in any classification in this award.

² Federal award clause 16.1.2

A seasonal employee means an employee engaged by the week for the duration of a Winter season in the expectation that employment will cease or be suspended during the summer season.³

12.2 A seasonal employee may be engaged on either a full-time or part-time basis.

12.3 A full-time seasonal employee is a seasonal employee who is engaged to work 38 ordinary hours (or an average of 38 ordinary hours over the anticipated length of their employment) per week.

12.4 A part-time seasonal employee is a seasonal employee who is engaged to work less than 38 ordinary hours (or an average of less than 38 ordinary hours over the anticipated length of their employment) per week.

12.5 The hourly rate of seasonal employees will include a 1/12th loading in lieu of annual leave.

{insert remainder of clause 9.5 federal award} **9.5.4** In the event of adverse climatic conditions a seasonal employee may have their anticipated period of seasonal employment reduced.

9.5.5 The employer will advise each seasonal employee in writing prior to the end of the season whether that employee's employment will be terminated or suspended at the end of the season.

9.5.6 Notwithstanding the requirements of clauses 14 - Payment of Wages and 15 - Continuity of Service, the following provisions shall apply to the termination of employment of seasonal employees, in circumstances other than those which justify summary dismissal:

9.5.6(a) A seasonal employee whose employment is terminated at the completion of one season shall not be entitled to termination with notice or severance pay.

9.5.6(b) A seasonal employee whose employment is terminated at the completion of a second consecutive season where that employee's employment was suspended between seasons shall not be entitled to termination with notice or severance pay.

9.5.6(c) Subject to 9.5.6(d) below, only those seasonal employees whose employment has been suspended between three consecutive seasons shall be entitled to termination with notice and severance pay.

9.5.6(d) The employer may agree to a suspension of seasonal employment for more than one summer season, in which case their accrued entitlements shall be carried over into the next season in which they are employed.

9.5.6(e) For the purposes of calculating an entitlement to termination with notice and severance pay, work of three consecutive seasons shall constitute a period of service of one year.

9.5.6(f) Seasonal employees will be paid the hourly rate applicable to their classification as set out in 12.1.

Seasonal Employment for Snowsport Instructors⁴

A Snowsport Instructor shall be entitled to Guaranteed Weekly Earnings equivalent to 25 hours per week.

During times of poor snow conditions contract employees may be required to perform other duties related to Ski Area operations or improvements, as directed by the Ski School Director to make up the guaranteed weekly earnings.

Employment may be terminated by either party on one week's notice or by payment or forfeiture of one week's pay respectively (i.e. 25 hours x hourly rate) in lieu of notice, after contract guarantee has been met. Provided however, that if the employee leaves without the agreement of the Ski School Director, any outstanding relocation reimbursement will be forfeited.

³ Federal award clause 9.5.1

⁴ From NSW Ski Instructors Award at clauses 1(iii), 5 and 11.

The Snowsport Instructors defined season may be terminated early in case of disaster (other than lack of snow) such as fire, earthquake, acts of war, major equipment breakdowns, etc. as a result of which the scope of operation of the Company's facilities is reduced considerably and for a period of at least ten days or more. Where contracts have been terminated earlier, employees will be paid twenty-five times their hourly rate on termination.

13. Casual employment

13.1 A casual employee is an employee engaged as such in any classification in this award and must be paid a casual loading as provided in this award. This loading is paid as compensation for annual leave, paid personal/carer's leave, paid compassionate leave, notice of termination, redundancy benefits and the other entitlements from which they are excluded by the terms of this award and the NES.

13.2 Where a Ski Instructor is engaged outside of or the contract period, the casual hourly rate shall be the applicable hourly rate for his or her classification as defined in their contract. During such periods of casual employment the employee will be guaranteed a minimum of one hour per day if the employee reports for work when required.⁵

{insert clause 9.4 casual conversion from federal award}

9.4.1(a) A casual employee, other than an irregular casual employee as defined in clause 9.4.4, who has been engaged by a particular employer for a sequence of periods of employment under this Award during a period of twelve months shall thereafter have the right to elect to have his or her contract of employment converted to full-time employment or part-time employment if the employment is to continue beyond the conversion process.

9.4.1(b) Every employer of such an employee shall give the employee notice in writing of the provisions of this clause within four weeks of the employee having attained such period of twelve months.

The employee retains his or her right of election under this clause if the employer fails to comply with this paragraph.

9.4.1(c) Any such casual employee who does not within four weeks of receiving written notice elect to convert his or her contract of employment to a full-time employment or a part-time employment will be deemed to have elected against any such conversion.

9.4.1(d) Any casual employee who has a right to elect under clause 9.4.1(a), upon receiving notice under clause 9.4.1(b) or after the expiry of the time for giving such notice, may give four weeks notice in writing to the employer that he or she seeks to elect to convert his or her contract of employment to full-time or part-time employment, and within four weeks of receiving such notice the employer shall consent to or refuse the election but shall not unreasonably so refuse. Any dispute about a refusal of an election to convert a contract of employment shall be dealt with as far as practicable with expedition through the dispute settlement procedure.

9.4.1(e) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.

9.4.1(f) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with clause 9.4.1(d), the employer and employee in accordance with this subparagraph, and subject to clause 9.4.1(d), shall discuss and agree upon:

(1) which form of employment the employee will convert to, that is, full-time or part-time; and

(2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked, as set out in clause 9.4.2

⁵ NSW Ski Instructors Award clause 6

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed upon between the employer and employee.

Following such agreement being reached, the employee shall convert to full-time or part-time employment.

Where, in accordance with clause 9.4.1(d) an employer refuses an election to convert, the reasons for doing so shall be fully stated to and discussed with the employee concerned and a genuine attempt made to reach agreement.

Any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment shall be dealt with as far as practicable with expedition through the dispute settlement procedure.

9.4.2 An employer when engaging a person for casual employment must inform the employee then and there that the employee is to be employed as a casual, stating by whom the employee is employed, the job to be performed and the classification level, the actual or likely number of hours required, and the relevant rate of pay.

9.4.2(a) On each occasion a casual employee is required to attend work the employee is entitled to payment for a minimum of two hours work.

9.4.2(b) In order to meet his or her personal circumstances a casual employee may request and the employer may agree to an engagement for less than the minimum of four hours. Any dispute about a refusal to such a request is to be dealt with as far as practicable with expedition through the dispute settlement procedure.

9.4.3 An employee must not be engaged and re-engaged to avoid any obligation under this Award.

9.4.3(a) An **irregular casual employee** is one who has been engaged to perform work on an occasional or non-systematic or irregular basis.

9.4.3(b) The provisions of clause 9.4 do not apply to irregular casual employees.

14. insert standard AIRC part time employees clause

14. Snowsports Instructor employment

~~14.1 A Snowsports Instructor means an employee who is employed as a Snowsports Instructor (as defined at Clause 3.1) on an hourly basis, and so who is a specific category of casual employee under this award. The hourly rate includes a casual loading paid as compensation for annual leave, paid personal/carer's leave, paid compassionate leave, work undertaken on public holidays, notice of termination, redundancy benefits and the other~~

~~**Parties' Draft (Australian Ski Areas Association—6 March 2009):
Alpine Resorts (General) Award 2010**~~

~~**This award does not come into force until 1 January 2010**~~

~~entitlements from which they are excluded by the terms of this award and
NES: Not a separate employment type.~~

15. Apprentices

15.1 Apprentices will be engaged in accordance with relevant apprenticeship legislation and be paid in accordance with clause 21.2.

15.2 An apprentice under the age of 18 years must not, without their consent, be required to work overtime or shift work.

15.3 An apprentice will be engaged for a minimum of 4 hours per shift.

16. Junior employees

~~16.1 Junior employees will be paid in accordance with clause 21.3.~~

~~16.2 Junior employees, on reaching the age of 18 years, may be employed in the bar or other places where liquor is sold. Junior employees working in roles that undertake liquor service must be paid at the adult rate of pay in clause 21 for the work being performed.~~

~~16.3 An employer may at any time demand the production of a birth certificate or other satisfactory proof for the purpose of ascertaining the correct age of an employee. If a birth certificate is required, the cost of it must be borne by the employer.~~

~~16.4 No employee under the age of 18 years will be required to work more than 10 hours in a shift. Not currently available~~

17. Termination of employment

17.1 Notice of termination is provided for in the NES.

17.2 Termination of employment by the employer for permanent employees will be as per the NES as set out below:

Employee's period of continuous service with the employer at the end of the day the notice is given

Period

Not more than 1 year 1 week

More than 1 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

The period of notice will be increased by one week if the employee is over 45 years old and has completed at least two years of continuous service with the employer at the end of the day the notice is given.

17.3 Seasonal employees are required to be given one week's notice of termination of employment.

17.4 Casual employees and Snowsports Instructors are required to be given one hour's notice of termination of employment.

17.5 An employer may elect, at its discretion, to make a payment to an employee in lieu of some or all of an employee's notice period, of at least the amount

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

This award does not come into force until 1 January 2010 9

the employer would have been liable to pay the employee for the hours he or she would have worked had the employment continued until the end of the notice period.

17.6 Notwithstanding the provisions of clauses 17.1 to 17.4 an employer shall have the right to dismiss any employee summarily and without notice if an employee is (in the employer's reasonable opinion) guilty of misconduct or dishonesty (which may include, without limitation, fraud, theft, sexual or other harassment or discrimination, misappropriation of company funds or resources or serious breaches of company policy) or gross negligence or if the employee acts in a way which, in the reasonable opinion of the employer, may injure or be likely to injure the business, affairs or reputation of the company or cause serious risk to the safety of any person or the environment.

17.7 Rolling Notice

In some cases a seasonal employee may be provided with notice as set out in clause 17.2 and then, because of an extension to operations (due to favorable

business and/or weather conditions) the opportunity arises for the employee to be provided with further work. In such cases where notice has already been given and the employee works beyond the date on which the notice period would have expired, a further one hour's notice shall be given by either side, or one hour's pay in lieu of such notice of termination.

17.8 Notice of termination by an employee

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

17.9 Job search entitlement

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

18. Redundancy – replace with standard clause (NOTE includes redundancy for employees of small employers⁶)

18.1 This clause only applies to permanent employees. If the employment of permanent employees is terminated due to genuine redundancy such an employee will be entitled, in respect of continuous service, to a payment calculated in accordance with the following table:

Employee's period of continuous service with the employer on termination

Redundancy pay period:

At least 1 year but less than 2 years 4 weeks

Parties' Draft (Australian Ski Areas Association – 6 March 2009):

Alpine Resorts (General) Award 2010

This award does not come into force until 1 January 2010

At least 2 years but less than 3 years 6 weeks

At least 3 years but less than 4 years 7 weeks

At least 4 years but less than 5 years 8 weeks

At least 5 years but less than 6 years 10 weeks

At least 6 years but less than 7 years 11 weeks

At least 7 years but less than 8 years 13 weeks

At least 8 years but less than 9 years 14 weeks

At least 9 years but less than 10 years 16 weeks

At least 10 years 12 weeks

~~Without limiting what will be a "genuine redundancy", it is not a genuine redundancy if a position ceases to exist due to the seasonal nature of the operations of an alpine resort.~~

18.2 Redundancy pay – Exclusions

Clause 18.1 does not apply:

(a) to those employees who are excluded from the entitlement to a redundancy payment in the NES; or

(b) if the employer is a small business employer as defined in the NES.

⁶ Federal award clause 10

18.3 Transfer to lower paid duties

Where an employee is transferred to lower paid duties by reason of redundancy, the same period of notice must be given as the employee would have been entitled to if the employment had been terminated, and the employer may, at the employer's option, make payment instead of an amount equal to the difference between the former ordinary rate of pay and the new ordinary time rate for the number of weeks of notice still owing.

18.4 Employee leaving during notice period

An employee who has been given notice of termination in circumstances of redundancy may terminate their employment during the period of notice. The employee will be entitled to receive the benefits and payments they would have received under this clause had they remained in employment until the expiry of the notice that they have been given, but will not be entitled to payment instead of notice.

18.5 Job search entitlement

(a) An employee given notice of termination in circumstances of redundancy will 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 will, at the request of the employer, be required to produce proof of attendance at an interview or they will not receive

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

This award does not come into force until 1 January 2010 11

payment for the time absent. For this purpose a statutory declaration will be sufficient.

(c) This entitlement applies instead of clause 17.9.

Part 4— Classifications and Minimum Wage Rates

19. Work Organisation

Employees must undertake duties as directed within the limits of their competence and undertake duties across the different streams contained in the classification definitions in Schedule A.

20. Classifications

The definitions of the classification levels in clause 21, Minimum hourly wages, are contained in Schedule A.

21. Minimum hourly wages

21.1 General

(a) An adult employee within a level specified in the following table (other than an apprentice or an employee in respect of whom a certificate under s.123 of the Act is in force) will be paid not less than the rate per hour assigned to the classification, as defined in Schedule A but subject, for casual employees, to Schedule D, for the classification in which such employee is working. An employee's rate of pay is inclusive of the award rate set out in this clause:

Level Classification Minimum hourly wage

Alpine Resort Worker Classifications

Category Full-time Seasonal* Casual**

NOTE – the AWU has yet to review the proposed classification structure. It represents a departure from existing provisions. We will provide a response ASAP.

Training \$ 14.3500 \$ 15.5458 \$ 17.9375
Resort Worker Level 1 \$ 14.5000 \$ 15.7083 \$ 18.1250
Resort Worker Level 2 \$ 15.0000 \$ 16.2500 \$ 18.7500
Resort Worker Level 3 \$ 16.0000 \$ 17.3333 \$ 20.0000
Resort Worker Level 4 \$ 16.5000 \$ 17.8750 \$ 20.6250
Resort Worker Level 5 \$ 17.5000 \$ 18.9583 \$ 21.8750
Resort Worker Level 6 \$ 18.0000 \$ 19.5000 \$ 22.5000
Resort Worker Level 7 \$ 19.0000 \$ 20.5833 \$ 23.7500

Parties' Draft (Australian Ski Areas Association – 6 March 2009):

Alpine Resorts (General) Award 2010

This award does not come into force until 1 January 2010 12

Snowsports Instructor Classifications

Category

Snowsports

Instructor***

Instructor - Category A \$ 29.0000

Instructor - Category B \$ 26.0000

Instructor - Category C \$ 23.0000

Instructor - Category D \$ 20.0000

Instructor - Category E \$ 19.0000

(b) Notes:

* Rate of pay for seasonal employees includes a 1/12th loading in lieu of annual leave.

** Rate of pay for casual employees includes a 25% casual loading, and is subject to Schedule D.

*** Rate of pay for Snowsports Instructors includes a 25% casual loading.

(c) Transitional provisions dealing with casual loadings for casual employees are contained in **Schedule D**.

21.2 Apprentice wages

(a) All percentages prescribed in this clause will be calculated to the nearest 10 cents. Any broken part of 10 cents in the result being less than five cents will be disregarded—five cents and over will go to the higher 10 cents.

(b) A person who has completed a full apprenticeship must not be paid less than their applicable hourly rate.

(c) An apprentice will be paid a percentage of their applicable hourly rate, as follows: the source of these percentage rates are not clear. They are lower than expected and as such are not agreed.

- First Year: 55%;
- Second Year: 65%;
- Third Year: 80%; and
- Fourth Year: 95%.

Parties' Draft (Australian Ski Areas Association – 6 March 2009):

Alpine Resorts (General) Award 2010

This award does not come into force until 1 January 2010 13

21.3 Juniors

Junior employees

The minimum rates of wages for junior employees are the under mentioned percentages of the rates prescribed for the appropriate adult classification for the work performed for the area in which such junior is working:

Age-%

17 years and under 70%

18 years 80%

22. Allowances

22.1 Meal allowance

An employee required to work overtime for more than two hours per shift without being notified on the previous day or earlier that they will be so required to work must either be supplied with a meal by the employer or paid an allowance equal to 40% of the standard hourly rate per instance.

22.2 Sewerage Treatment Plant Allowance

Employees working at designated sewerage treatment plants shall be paid an additional amount of 45% of their applicable hourly rate, for each shift they are engaged in work at a designated sewerage treatment plant.

22.3 Duty Controllers Allowance

An employee who is an accredited rail safety worker and required to act as a Duty Controller on a railway and who has been deemed competent in this capacity will be paid an additional allowance of 12% of their applicable hourly rate, for each hour they work in this capacity.

22.4 Track Inspector Allowance

An employee who is an accredited rail safety worker and who is responsible for the inspection and maintenance of track, tunnels and general rail infrastructure to ensure the safe running of the railway (“**Track Inspector**”), and who works within the Skitube Tunnels (but not including the Perisher Skitube Terminal, Blue Cow Terminal, Bullocks Terminal and platform areas) shall be paid an allowance of 3.5% of their applicable hourly rate, for each hour they work in this location.

22.5 Boot Allowance

Where the employee is directed to wear specific outdoor footwear as part of their employment and this footwear is not supplied by the employer the employee will be paid an allowance of 1% of the standard hourly rate for each hour worked. This does not include items such as black shoes for service staff.

22.6 Equipment Allowance

Where an employee is required to provide ski / board equipment as part of their employment, and this equipment is not supplied by the employer, the **Parties’ Draft (Australian Ski Areas Association – 6 March 2009):**

Alpine Resorts (General) Award 2010

This award does not come into force until 1 January 2010 14

employee will be paid an allowance of 2% of the standard hourly rate for each hour worked. An employee entitled to the Equipment Allowance will be entitled to this instead of the Boot Allowance.

Also to include:

Protective Clothing Allowance –

Protective clothing means, in relation to outdoor employees, other than Ski Instructors, a suitable parka, raincoat, wet weather gloves, overpants, gloves and Sorel type snow boots, and in relation to Ski Instructors, a suitable parka, raincoat, wet weather gloves, overpants.

25.2 Where an outdoor employee is required to wear protective clothing, the employer will reimburse the employee for the cost of purchasing such clothing. The provisions of this clause do not apply where the employer provides the protective clothing.

25.3 Where protective clothing, uniforms and/or other tools and equipment are supplied without cost to the employee, it will remain the property of the employer and will be returned by the employee to the employer when requested on termination of the employee's employment.⁷

Snowsport Instructors are to be supplied, free of charge, with an appropriate waterproof Ski School Uniform as determined by the employer.

Where uniforms, protective clothing and/or other tools and equipment are issued on a personal basis, such items shall remain the property of the Company and must be produced by the employee to the employer when requested on termination of employment. Loss due to any cause or damage through misuse by the employee shall be charged against the wages of the employee. A deduction at a reasonable rate may be made by the Company from the wages of the employee, provided that no deduction shall be made for reasonable wear and tear.

The Company retains the right to involve sponsor/s of the Ski School from time to time and to specify that employees will not display or promote in any way any sponsor name without prior approval of the Ski School Director.

The Company reserves the right to supply promotional pins, badges, decals, etc. to be worn and equipment to be used by employees for the exclusive benefit of the said sponsors.⁸

Relocation Reimbursement – Snowsport Instructors are entitled to a relocation reimbursement of \$700 where⁹:

(a) engaged overseas as part of an exchange programme or who work as a full time instructor for a full season at a Snow Sports School approved by prior arrangement with the Ski School Director;

(b) engaged overseas and enter Australia as temporary non-residents.

In order to qualify for a relocation reimbursement the employee will be required to prove that a minimum of 8 weeks has been worked on a full time basis at an approved snow sports school and will also be required to produce the original airline ticket in order to prove that the expense has been incurred.

23. Supported wage system

See Schedule B.

24. Mixed functions and dual-role employment

24.1 It is recognised that employees in the Snowsports Industry generally have a limited period of employment, due to the seasonality of the businesses that they are employed by, and therefore in the main have a limited period in which to maximize their earnings. To facilitate this process, employees may work a variety of roles with one employer to increase their earning potential.

24.2 To this end employees shall be paid as a minimum the appropriate rate (including any terms and conditions on a pro-rata basis) for each role

⁷ clause 25 federal award & 20 of Ski Award (NSW) and Uniform Allowance – clause 9 Ski Award

⁸ Ski Instructors Award clause 9

⁹ NSW Ski Instructor award See Appendix A – range of rates \$330 to 4 categories of \$1,500.

undertaken by them as defined by clause 21 and as set out by Schedule A.

24.3 Dual role employment

~~(a) Due to the unique nature of most positions under this award, in that they are generally only available during that part of the year when alpine lifting is being provided, employees may be offered dual role employment (where operational requirements allow) in which the employee may have two distinct roles.~~

~~(b) In these circumstances any offer of employment will set out the terms and conditions for each role and these will be mutually agreed between the two parties prior to the commencement of this type of employment.~~

An employee engaged on any 1 day or shift for a time exceeding 2 hours in the aggregate on work carrying a higher rate than his or her ordinary classification will be paid the higher rate for such day or shift. If so engaged for 2 hours or less in the aggregate on any 1 day or shift, the employee will be paid the higher rate for the time so worked.¹⁰

24.4 Multi-hiring arrangement

(a) As an alternative, or in addition to, dual-role employment, an employee may by agreement be engaged on a multi-hiring arrangement.

(b) If an employer and an employee enter into a multi-hiring arrangement, the parties must agree on the primary role of the employee.

(c) The employer may then offer the employee, and the employee may undertake, a non-primary role (or roles) in any level or classification within Schedule A that he or she is qualified for, provided that:

- any non-primary role is to be undertaken, and paid for, on a casual basis; and
- any hours worked by an employee in a non-primary role do not count toward ordinary hours or overtime in the employee's primary role.

25. Payment of wages

An employer may pay an employee his/her wages either weekly, fortnightly, or monthly by payment into the employee's bank account by electronic funds transfer, without cost to the employee.

Parties' Draft (Australian Ski Areas Association – 6 March 2009):

Alpine Resorts (General) Award 2010

This award does not come into force until 1 January 2010 15

26. Annualised salary arrangements

~~26.1 This clause applies to permanent employees and seasonal employees.~~

~~26.2 An employer and an employee may agree to enter into an annualised salary arrangement instead of all or any of the following provisions of this award:~~

- ~~(a) Clause 21 — Minimum hourly wages;~~
- ~~(b) Clause 22 — Allowances;~~
- ~~(c) Clause 31 — Penalty rates;~~
- ~~(d) Clause 32 — Overtime.~~

~~26.3 If the employee is engaged on a dual role employment arrangement pursuant to clause 24.3, the annual salary is to be pro-rated across each role according to the number of ordinary hours the employee is engaged to perform in each role over the year.~~

~~26.4 The employer and the individual employee must genuinely make the agreement without coercion or duress.~~

~~26.5 The annual salary must be no less than the amount the employee would have~~

¹⁰ Federal award clause 13, also mixed functions clause in Ski NSW Award at clause 5

been entitled to receive under the rates and allowances prescribed by this award, in light of the employee's anticipated hours and working arrangements. The annual salary is paid in full satisfaction of any obligation to otherwise make payments to the employee under this award and may be relied upon to set off any such obligation, whether of a different character or not.

~~26.6 Any written agreement under this clause must specify the annual salary that is payable, what provisions of this award will not apply as a result of the annualised salary arrangement and any hours, overtime or penalty assumptions and calculations commuted into the annualised arrangement.~~

~~26.7 The employer must give the employee a copy of the agreement and keep the agreement as a time and wages record.~~

~~26.8 The agreement may be terminated:~~

~~(a) for permanent employees, by the employer or the employee giving six months' notice of termination, in writing, to the other party and the agreement ceasing to operate at the end of the notice period;~~

~~(b) for seasonal employees, by the employer or the employee giving two weeks' notice of termination, in writing, to the other party and the agreement ceasing to operate at the end of the notice period; or~~

~~(c) at any time, by written agreement between the employer and the individual employee.~~

~~Parties' Draft (Australian Ski Areas Association—6 March 2009):~~

~~Alpine Resorts (General) Award 2010~~

~~This award does not come into force until 1 January 2010 16~~

Above is a matter for enterprise bargaining (not an existing provision)

27. Superannuation

27.1 Superannuation legislation

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

(b) The rights and obligations in these clauses supplement those in superannuation legislation.

27.2 Employer contributions

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

27.3 Voluntary employee contributions

(a) Subject to the governing rules of the relevant superannuation fund, an employee may, in writing, authorise their employer to pay on behalf of the employee a specified amount from the post-taxation wages of the employee into the same superannuation fund as the employer makes the superannuation contributions provided for in clause 27.2.

(b) An employee may adjust the amount the employee has authorised their employer to pay from the wages of the employee from the first of the month following the giving of two weeks' written notice to their employer.

(c) The employer must pay the amount authorised under paragraph clauses 27.3(a) or 27.3(b) at the same time as the employer makes the superannuation contributions provided for in clause 27.2.

27.4 Superannuation fund

Unless, to comply with superannuation legislation, the employer is required to make the monthly¹¹ superannuation contributions provided for in clause 27.2 to another superannuation fund that is chosen by the employee, the employer must make the superannuation contributions provided for in clause 27.2 and pay the amount authorised under clauses 27.3(a) and 27.3(b) to at least one of the following superannuation funds:

(a) The Hospitality Industry Portable Liquor Union Superannuation Trust Deed (HOST-PLUS);

(b) Australian Super; or

(c) Australian Superannuation Savings Employment Trust (ASSET)

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~~Alpine Resorts (General) Award 2010~~

~~This award does not come into force until 1 January 2010-17~~

~~(de) any other superannuation fund which complies with the *Superannuation Industry (Supervision) Act 1993* as amended from time to time to which an employer was contributing, in compliance with the *Alpine Resorts (The Australian Workers' Union) Award 2001*, before 12 September 2008.~~

27.5 Absence from work

Subject to the governing rules of the relevant superannuation fund, the employer must also make the superannuation contributions provided for in clause 27.2 and pay the amount authorised under clauses 27.3(a) and 27.3(b) while the employee is on any paid leave.

Part 5—Hours of Work and Related Matters

28. Hours of work

28.1 Ordinary hours of work

~~(a) Ordinary hours of work for permanent employees and seasonal employees will be as set out at clauses 11 and 12 above, and due to operational requirements of the business will be on an any five in seven basis.~~

~~(b) Hours of work for employees engaged on either a casual or Snowsport Instructor basis will be determined by business demand.~~

16. HOURS OF WORK¹²

16.1 Ordinary hours of work

16.1.1 The ordinary hours of work of full-time employees will average 38 hours per week over a maximum work cycle of four weeks.

¹¹ See clause 23 NSW Award and 18 of NSW Ski Instructors Award. Retaining this is particularly important given the itinerate nature of the workforce.

¹² Federal award clause 16. NOTE NSW award also contains average over 4 weeks but with cap ordinary hours of 8 per day.

16.1.2 The ordinary hours of work of part-time employees will average at least 8 and no more than 35 hours per week over a work cycle of four weeks.

16.2 Maximum daily ordinary hours

The maximum daily ordinary hours of full-time and part-time employees will be 10 hours¹³ per day excluding meal breaks.

16.3 Rostered days off

A rostered day off must not be on a Saturday, Sunday or public holiday except from May to October.

16.4 Notice and rostered days off

16.4.1 An employer will give at least one week's notice of a rostered day off.

16.4.2 An employee may agree to a lesser period of notice than that specified in 16.4.1.

16.5 Rostered days off - substitute days

16.5.1 An employer may require an employee to work on the employee's rostered day off in the event of an emergency.

16.5.2 In the circumstances addressed by 16.5.1, the employee will be paid for time and a half worked on the rostered day off and the employee will be granted another rostered day off.

16.6 Make-up time

16.6.1 Notwithstanding provisions elsewhere in this Award, the employer and the majority of employees at an enterprise may agree to establish a system of make-up time provided that:

16.6.1(a) An employee may elect, with the consent of the employer, to work **make-up time** under which the employee takes time off during ordinary hours, and works those hours at a later time, during the spread of ordinary hours provided in this Award.

16.6.1(b) An employee on shift work may elect, with the consent of their employer, to work "make-up time" under which the employee takes time off ordinary hours and works those hours at a later time, at the shift work rate which would have been applicable to the hours taken off.

16.7 Winter and summer seasons

16.7.1 The **winter season** is that time of the year where the employer determines that the resort/s is/are to be fully operational (usually between the Queen's Birthday weekend and the first or second Sunday in October).

16.7.2 The **summer season** is all those days not covered by the winter season.

16.7.3 During the winter season, the ordinary hours which will be worked by full-time employees are over any six days in a week.

16.7.4 For the summer season, the ordinary time hours which may be worked are between Monday to Friday except on occasions when a ski lift operates on Saturdays, Sunday or public holidays in which case ordinary hours may be worked on any day as set out in 16.1 and 16.2.

29. Rostering

29.1 If the hours and/or days of work for any permanent, seasonal or casual employees, or Snowsport Instructors, are variable, the employer must prepare rosters showing the name of each employee and their days of work and

¹³ 8 in NSW award.

starting and finishing times. An employer may also (but is not required to) prepare a roster for any other employees.

29.2 The roster will be posted on a notice board which is conveniently located at or near the workplace or through electronic means, which ever makes it more accessible.

29.3 The roster will be alterable:

(a) at any time by mutual consent; and

(b) by the employer on the day prior to when the rostered shift was originally scheduled to be worked, or where notice is unable to be given of the roster change on the previous day, with as much notice as is reasonably practicable in the circumstances.

30. Breaks

30.1 If an employee, including a casual employee, is required to work for five or more hours in a day they must be given an unpaid meal break of no less than 30 minutes. The break must be given no earlier than one hour after starting work and no later than six hours after starting work.

~~Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010~~

~~This award does not come into force until 1 January 2010 18~~

~~**30.2** Where operational requirements do not allow time for an unpaid meal break in accordance with clause 30.1, the employee will be given a paid meal break of 20 minutes.~~

30.3 If the unpaid meal break is rostered to be taken after five hours of starting work, the employee must be given an additional 20-minute paid meal break. The employer must allow the employee to take this additional meal break no earlier than two hours after starting work and no later than five hours after starting work.

30.4 If an employee is not given a meal break in accordance with clause 30.1 or 30.2 the employer must pay the employee an extra hourly or part thereof payment at the rate of 50% of the applicable hourly rate overtime rates¹⁴ from the end of six hours until either the meal break is given or the shift ends.

30.5 An employee is entitled to receive an additional 30 minute unpaid meal break for each additional 5 hours worked by them in a day. The taking of any additional meal breaks is to be as per clauses 30.3 and 30.4 above.

~~**30.6** Employees who are engaged on an annualised salary arrangement pursuant to clause 26, above are entitled to unpaid meal breaks in accordance with clauses 30.1 and 30.5, but will not be entitled to any additional paid breaks or penalty rates under clauses 30.3 and 30.4.~~

31. Penalty rates

31.1 Application of clause

~~This clause 31 does not apply to employees who are engaged on an annualised salary arrangement pursuant to clause 26.~~

31.2 Payment for work performed on public holidays

(a) This clause 31.2 does not apply to employees engaged as Snowsports

¹⁴ All awards provide overtime rates of x1.5 for first 2 hours then double time. See fed award 17, NSW Award 10 and Ski Award 3.

Instructors.

(b) All time worked by a permanent employee or seasonal employee on a public holiday must be paid for at the rate of double time and one half for the hours worked.

(c) All time worked by a casual employee on a public holiday must be paid for at the rate of double time and one fifth for the hours worked.

~~(d) As an alternative to clause 31.2(b), such employees who worked on a prescribed holiday may, by agreement within a two week period after working on the public holiday, perform an equivalent number of hours work as they worked on the public holiday at ordinary rates plus an additional 50% for those hours, provided that equivalent paid time is added to the employee's annual leave or equivalent hours in lieu of such public holiday will be allowed to the employee.~~

~~(not an existing provision, matter for enterprise bargaining)~~

31.3 Casual Loading

(a) As per the hourly wage rates in clause 21.1 all casual employees and Snowsport Instructors will receive a 25% loading included into their hour rate, unless their loading percentage is less than 25% as per

~~Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010~~

~~This award does not come into force until 1 January 2010 19~~

~~Schedule D, in which case their applicable hourly rate in clause 21 will be reduced proportionately to accord with the applicable loading percentage in Schedule D.~~

32. Overtime

32.1 Application of clause

This clause 32 does not apply to:

- (a) Casual employees;
- (b) Snowsports Instructors;
- (c) employees engaged on an annualised salary arrangement pursuant to clause 26; or
- (d) employees paid a casual rate under clause 24.

Requirement to work reasonable overtime¹⁵

Subject to clause { } an employer may require an employee to work reasonable overtime at overtime rates.

An employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working hours which are unreasonable having regard to:

18.1.2(a) any risk to employee health and safety;

18.1.2(b) the employees personal circumstances including any family responsibilities;

18.1.2(c) the needs of the workplace or enterprise;

18.1.2(d) the notice (if any) given by the employer of the overtime and by the employee of his or her intention to refuse it; and

¹⁵ Contained in both federal award and NSW general NAPSA

18.1.2(e) any other relevant matter.

18.2 When is an employee paid at overtime rates?

An employee, other than a casual employee or Snowsport Instructor, must be paid overtime rates for any time worked greater than the ordinary hours of work, or for any time worked greater than the maximum daily ordinary hours.

18.3 What are overtime rates?

18.3.1 The overtime rates payable to an employee are as follows:

18.3.1(a) one and a half times the employee's normal rate of pay for the first 2 hours; and

18.3.1(b) twice the employee's normal rate of pay for the rest of the over time.

Rest Periods

All employees shall have a rest period of at least ten hours between ceasing work on one day and recommencing work on the same or the next day. If employees do not receive this rest period they will be paid overtime rates until released from such duty for such rest period.¹⁶

32.2 Entitlement to overtime rates

Subject to clause 32.1(c) and (d) above, a permanent employee or seasonal employee is paid at overtime rates for:

(a) any hours in excess of the ordinary hours per week that the employee is engaged to work; or

(b) where the employee's hours of work are averaged over a period of time in accordance with clauses 11 or 12, hours in excess of their ordinary hours of work per week, assessed as an average over that period of time.

32.3 Overtime rates

(a) Employees whose hours of work are not averaged

The following overtime rates are payable to a permanent employee or seasonal employee:

- first two hours at ordinary time; and
- all time worked in excess of the first two hours each week shall be paid for at the rate of time and one half for the next two hours and then double time for all work thereafter.

(b) Employees working on an averaged hours arrangement

Any hours banked by an employee under an averaged hours arrangement will be banked at the rate that would have been payable for the time worked, had the employee not been on an averaging arrangement.

32.4 Reasonable Overtime

(a) Subject to clause 32.4(b), 16.4 and the NES, an employer may require an employee to work reasonable overtime in accordance with the provisions of this clause.

**Parties' Draft (Australian Ski Areas Association—6 March 2009):
Alpine Resorts (General) Award 2010**

This award does not come into force until 1 January 2010 20

¹⁶ NSW Award

- ~~(b) An employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working hours which are unreasonable having regard to~~
- ~~(i) any risk to employee health and safety;~~
 - ~~(ii) the employees personal circumstances, including any family responsibilities;~~
 - ~~(iii) the requirements of the employer;~~
 - ~~(iv) the notice (if any) given by the employer of the overtime and by the employee of their intention to refuse such work; and~~
 - ~~(v) any other related matter.~~

Part 6—Leave and Public Holidays

33. Annual leave

33.1 Annual leave is provided for in the NES.

33.2 Application

- (a) This clause applies to all permanent employees.
- (b) Casual employees, ~~seasonal employees~~¹⁷ and Snowsports Instructors are compensated for annual leave in their hourly rate of pay, and are not entitled to accrue annual leave under this clause 33.

33.3 Annual leave entitlement

Employees to whom this clause applies will be entitled to annual leave in accordance with the NES. Without derogating from this requirement, employees' entitlements to annual leave may be summarised as follows:

- (a) an employee is entitled to four weeks of paid annual leave (pro rata for part-time employees), which accrues based on ordinary hours worked by the employee for the employer during each four week period of continuous service (capped at 38 hours per week) and is credited to the employee at no greater than monthly intervals. Annual leave accrues on a pro-rata basis.
 - (b) annual leave is cumulative.
 - (c) an employee may be directed to take one quarter of his or her accumulated annual leave if the employee has accrued more than 30 days' leave at the time at which the direction is given.
 - (d) shift workers (as defined) may be entitled to up to an additional one week's annual leave each year, depending on the proportion of time spent working as a shift worker and the particular shift patterns within the business.
 - (e) an employee's annual leave is generally to be taken at a time that is convenient for both the employer and the employee. Employees are encouraged to take their annual leave at times of low demand on the business. Annual leave for longer than two days will generally not be
- Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**
This award does not come into force until 1 January 2010 21
approved by the employer when alpine lifting is being provided by the employer for snowsports activities, due to operational requirements. The employer will not unreasonably refuse to authorise an employee to take annual leave that is credited to the employee.
- (f) an employee must take an amount of annual leave during a particular period if:
 - the employee is directed to do so by the employee's

¹⁷ Not true -- see clause 9.5 of federal award

employer because, during that period, the employer shuts down the business, or any part of the business, in which the employee works; and

- at least that amount of annual leave is credited to the employee.

33.4 Cashing out annual leave

~~(a) Permanent employees are entitled to forego up to two weeks of accrued annual leave credited to them by giving the employer a written election of the decision to do so. Employees may request to cash out up to a maximum of two weeks of their accrued annual leave once in any 12 month period.~~

~~(b) The employer may authorise, or decline to authorise, any request made by an employee to cash out annual leave, at its discretion.~~

~~(c) If an employee elects to forego annual leave, he or she must be paid the full amount that would have been payable to the employee had the employee taken the leave he or she elected to forego. The employer will pay this amount to the employee in the next pay period following the date it authorises the cashing out of annual leave by the employee.~~

~~(d) Any leave cashed out will result in the necessary adjustment being made to the employee's annual leave accrual so that the employee has no further entitlement to take, or receive pay in lieu of, the period of leave foregone.~~

~~(e) Employers are prohibited from exerting undue influence or undue pressure on an employee to cash out his or her annual leave.~~

33.5 Paid leave in advance of accrued entitlement

An employer may allow an employee to take annual leave either wholly or partly in advance before the leave has accrued. Where paid leave has been granted to an employee in excess of the employee's accrued entitlement, and the employee subsequently leaves or is discharged from the service of the employer before completing the required amount of service to account for the leave provided in advance, the employer is entitled to deduct the amount of leave in advance still owing from any remuneration payable to the employee upon termination of employment.

33.6 Requirement to take leave notwithstanding terms of the NES

An employer may require an employee to take annual leave by giving at least four weeks' notice in the following circumstances:

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

This award does not come into force until 1 January 2010

- (a) as part of a close down of its operations; or
- (b) where more than 30 days' leave is accrued.

34. Personal/carer's leave and compassionate leave

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

34.2 Application

(a) This clause applies to all permanent employees and seasonal employees.

~~(b) Clauses 34.3 and 34.5(b) do not apply to employees engaged on a casual basis or as Snowsports Instructors. Casual employees and Snowsports Instructors are compensated for paid personal/carer's leave and compassionate leave in their hourly rate of pay.~~

Casual employees are entitled to not be available to attend work, or to leave work if they need to care for a person prescribed in subclause 16.1(c)(2) of this clause who are sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child.

(2) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.

(3) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.¹⁸

34.3 Paid personal/carer's leave entitlement

Employees will be entitled to personal/carer's leave in accordance with the NES. Without derogating from this requirement, the entitlements of employees to personal/carer's leave are summarised below:

- (a) permanent employees and seasonal employees are entitled to 10 days of paid personal/carer's leave per year (pro-rated for part-time employees and seasonal employees) provided the employee complies with the notice and evidence requirements required by the employer.
- (b) personal/carer's leave may be taken as sick leave or carer's leave (provided that only 10 days paid carer's leave days may be taken in a 12 month period, pro-rated for part-time employees).
- (c) paid personal leave is cumulative, but not from season to season (in the case of seasonal employees).

34.4 Unpaid personal & carer's leave entitlement

- ~~(i) A permanent or seasonal~~ An employee who has exhausted his or her paid personal/carer's leave entitlement under clause 34.3; or
- ~~(ii) A casual employee or Snowsport Instructor who is not entitled to paid personal/carer's leave;~~
may, provided he or she complies with the notice and evidence requirements of the employer, take unpaid carer's leave of up to two days where a member of the employee's household or immediate family requires care or support due to an illness, injury or unexpected emergency. Additional absence is by agreement.

34.5 Compassionate Leave

(a) Employees will be entitled to compassionate leave in accordance with the NES. Without derogating from this requirement, employees will be entitled to up to two days of compassionate leave for each occasion on which a member of the employee's immediate family or household:

**Parties' Draft (Australian Ski Areas Association – 6 March 2009):
Alpine Resorts (General) Award 2010**

This award does not come into force until 1 January 2010 23

- contracts or develops a personal illness that poses a serious threat to his or her life; or
- sustains a personal injury that poses a serious threat to his or her life;
- or
- dies.

¹⁸ From NSW Award

(b) Compassionate leave taken by permanent and seasonal employees will be paid leave.

(c) Compassionate leave taken by casual employees and Snowsports Instructors will be unpaid leave.

35. Community service leave

Community service leave is provided for in the NES. Consistent with the NES entitlement, only permanent and seasonal employees are entitled to be paid their base rate of pay for their ordinary hours of work in respect of any period of community service leave required to be taken to complete jury service.

36. Parental leave

Parental leave is provided for in the NES.

37. Public holidays

37.1 Public holidays are provided for in the NES.

37.2 Substitution of public holidays by agreement

By agreement between the employer and the majority of employees in the relevant enterprise or section of the enterprise, an alternative day may be taken as the public holiday in substitution of any of the days prescribed in s.54 of the NES.

37.3 Additional arrangements for permanent and seasonal employees

A permanent or seasonal employee whose rostered day off falls on a public holiday must, subject to clause 31.2, either:

- (a) be paid an extra day's pay; or
- (b) be provided with an alternative day off within 28 days; or
- (c) receive an additional day's annual leave.

37.4 A permanent or seasonal employee who works on a public holiday which is subject to substitution as provided for by the NES will be entitled to the benefit of the substitute day.

PART 7 – Industry specific provisions Specific Conditions **Applicable in Victorian local governments**

38. Stand down arrangements

~~38.1 This clause applies to permanent employees and seasonal employees.~~

~~38.2 The employer shall have the right to withhold or deduct payment for any part of a day or shift during which an employee cannot usefully be employed~~

~~Parties' Draft (Australian Ski Areas Association – 6 March 2009):~~

~~Alpine Resorts (General) Award 2010~~

~~This award does not come into force until 1 January 2010-24~~

~~because of any industrial action, breakdown of machinery, weather or bushfire conditions or any other stoppage of work for any reason which the employer cannot reasonably be held responsible.~~

~~Parties' Draft (Australian Ski Areas Association – 6 March 2009):~~

~~Alpine Resorts (General) Award 2010~~

~~This award does not come into force until 1 January 2010-25~~

This Part ceases to operate on 31 December 2014.

2. ARRANGEMENT (TO BE FINALISED)

Part 1 - Application and operation of award

1. Title
2. Arrangement [PR963821]
3. Anti-discrimination
4. Definitions
5. Awards superseded
6. Commencement date of award and period of operation
7. Coverage of award
8. Parties bound
9. Index of facilitative provisions

Part 2 - Consultation and dispute resolution

10. Consultative mechanism and procedures
11. Dispute resolution procedure

Part 3 - Employment relationship

12. Contract of employment [PR934767]
13. Notice of termination [PR963821]
14. Stand down

Part 4 - Rates of pay and related matters

15. Rates of pay [PR968401]
16. Allowances [PR977884]
17. Training
18. Supported wage system [PR968401]
19. Relationship to National Training Wage Award 1994
20. Payment of wages

Part 5 - Hours of work, meal breaks and overtime

- 21. Ordinary hours of work
- 22. Overtime
- 22A. Reasonable overtime [PR945801]
- 23. Meal breaks, allowances and rest pauses [PR977884]

Part 6 - Types of leave and public holidays

- 24. Annual leave
- 25. Personal leave [S8824]
- 25A. Parental leave [PR945801]
- 26. Public holidays

1. DEFINITIONS

4.1 General definitions

- 4.1.1 Alpine Resort for the purpose of this Part, an Alpine Resort means the area of the State of Victoria declared to be an Alpine Resort under Part IV of the *Alpine Resorts Act 1983* at either Falls Creek, Mt Buller, Mt Hotham, Mt Stirling, Mt Baw Baw or Lake Mountain.
- 4.1.2 Board means an Alpine Resort Management Board established under the *Alpine Resorts (Management) Act 1997*.
- 4.1.3 Casual employee means any person engaged and paid in accordance with 12.2.
- 4.1.4 Employer means the relevant Board.
- 4.1.5 Leading hand means an employee who is required to supervise or direct or be in charge of another employee or other employees.
- 4.1.6 Ordinary prescribed rate means the rate of pay as set out in clause 15 - Rates of pay of this award, applicable to the employee's classification.
- 4.1.7 Prescribed hours of work:
 - 4.1.7(a) during the snow season means the hours of work prescribed by the roster pursuant to 21.9 hereof. Such rostered hours, including those outside the spread of hours, shall be deemed for the purpose of this definition to be part of the normal hours of work. Normal hours shall not exceed eight in any one day;
 - 4.1.7(b) other than during the snow season, means the normal hours of work provided in 21.1 hereof.
- 4.1.8 Rostered work period means a period of work rostered in accordance with 21.9 hereof and for which not less than 48 hours notice is provided to the employee.
- 4.1.9 Snow season means any period in any year declared by the relevant Board to be the snow season for the Alpine Resort for which that Board is appointed.
- 4.2 **Labour classification definitions**
 - 4.2.1 Air compressor, employee in charge means an employee in charge of an air compressor, but who may be required to do other work than driving it.
 - 4.2.2 Batterworker or trimmer means an employee finally trimming off the slopes of cuttings, channels, banks or excavations.
 - 4.2.3 Boxer out means an employee doing the final trimming in road making.
 - 4.2.4 Car park attendant means a person engaged in the control and management of resort parking areas and traffic therein.
 - 4.2.5 Concrete or compo worker means an employee (other than a concrete floater) mixing by hand, handling or working concrete or compo but not a wite or bar worker in reinforced concrete.

- 4.2.6** Concrete floater means an employee engaged in concrete or cement work and using a wooden or rubber screeder or mechanical trowel or a wooden float or engaged in bagging off or broom finishing or patching.
- 4.2.7** Concrete finisher means an employee other than a concrete floater engaged in the hand finishing of concrete or cement work not being a finish in marble, mosaic or terrazzo.
- 4.2.8** Concrete mixer driver means an employee who operates a concrete mixer and who may be required to effect minor repairs on the machine.
- 4.2.9** Construction and maintenance carpenter's labourer means an employee generally assisting a construction and maintenance carpenter in erecting or repairing formwork or scaffolding or similar structure and in the course of such assistance doing work such as dressing timbers, tenoning, pointing, ringing, shoeing or topping piles, mortising head stocks, scribing down girders, walings and bracings, fitting fenders and fitting stay piles, but not doing timber squaring.
- 4.2.10** Fencer means an employee erecting fencing with material other than sawn timber such as post and rail or wire fencing.
- 4.2.11** Grader operator, with or without scarifier means an employee manually operating a mechanical appliance in connection with a grader.
- 4.2.12** Jointer means an employee engaged on the following types of work:
- Caulking joints for water service connections, branch and valve insertions, or reticulation and hydrant connections.
- 4.2.13** National ski patroller means a ski patroller accredited as a National Patroller by the Australian Ski Patrol Association.
- 4.2.14** Operator drilling machine means an employee who uses machines driven by hydraulic, electric, compressed air or other power to bore holes for explosive charges in shaft or trench sinking or tunnelling or quarry operations with hand or machine rigged drills. He must, when required, decide the best location and depths of holes to be bored with a view to the economy and safety of the operations.
- 4.2.15** Pitcher or beacher means an employee pitching or beaching on embankment or floor with stone or riprap.
- 4.2.16** Powder monkey's assistant means an employee employed (other than in connection with quarry) assisting under the direct supervision of a powder monkey in placing and firing explosive charges excluding the operation of an explosive powered tool. Direct supervision means that the powder monkey must be present on the job to guide the work during its progress.
- 4.2.17** Renderer means an employee who applies by hand a continuous coat of cement mortar to a brick, masonry or set concrete surface and finishes it to a true and smooth surface by means of a trowel or float.
- 4.2.18** Ski patrol assistant means a person not qualified as a ski patroller who assists in the ski patrol operations.
- 4.2.19** Ski patroller means a person employed for accident prevention and casualty care, who is deemed by the employer to be a competent skier and who holds a first aid qualification issued by the Australian Ski Patrol Association, the St Johns Ambulance Association, the Red Cross Society, or an equivalent qualification.
- 4.2.20** Ski patrol leader means a person appointed to be in charge of a ski patrol and who is responsible for various on-slope responsibilities assigned by the employer.
- 4.2.21** Slurry refiller means an employee engaged on sewerage work who, by means of hand tools, mixes soil with water to a suitable consistency and shovels the resultant crap into an excavation.
- 4.2.22** Storeman means an employee who carries out continuous stores functions of receiving, storing, issuing or recording machine spare parts, tools, fuels or other items.

4.2.23 Ticket seller means a person responsible for the issuance of tickets or permits and the collection of monies receivable for this purpose.

4.2.24 Wall builder means an employee cutting and facing stone and placing stone in position and who is responsible for line and direction.

4.3 Labour classification grades

4.3.1 Resort Worker Grade 1 comprehends the following classes of work

- Air compressor, employee in charge (as defined)
- Axeworker
- Barrow worker
- Batterworker or trimmer (as defined)
- Boxer out (as defined)
- Bulldozer attendant (whose work includes marking out)
- Camp orderly
- Cement, employee loading, unloading or stacking
- Chainman
- Cleaner
- Concrete batching plant labourer
- Cross cut sawyer
- Driller
- Garbage attendant
- Grader operator, with or without scarifier, (as defined)
- Gravel spreader
- Labourer (for whom a rate is not elsewhere prescribed)
- Labourer grubbing trees
- Metal or gravel spreader
- Pick or shovel worker
- Plougher
- Sanitary or garbage attendant
- Ski patrol assistant (as defined)
- Slurry re-filler (as defined)

4.3.2 Resort Worker Grade 2 comprehends the following classes of work

- Bar bending machine - operator or rotary bender or similar machine
- Car park attendant (as defined)
- Concrete floater (as defined)
- Concrete mixer driver (as defined)
- Concrete or compo worker (as defined)
- Concrete saw operator
- Construction and maintenance carpenter's labourer (as defined)
- Crane chaser
- Fencer (as defined)
- Hammerworker or gadsworker or drillworker

- Jackhammerworker, pavement breaker, pneumatic pick user
- Kerb and gutter layer
- Pavement breaker (pneumatic)
- Paviour (including Segmental Paving)
- Pitcher or beacher (as defined)
- Pitcher setter
- Powder monkey's assistant (other than in connection with a quarry) (as defined)
- Tar worker
- Ticket seller (as defined)
- Windlass hand
- Wire or bar worker

4.3.3 Resort Worker Grade 3 comprehends the following classes of work

- Concrete gun or pump operator
- Jointer (as defined)
- Operator power driven portable saw
- Operator crawler tractor without power operated attachments up to and including Class M4
- Operator crawler tractor with power operated attachments Class M2
- Operator pneumatic tyred tractor without power operated attachments up to and including 60kW net engine power. (This includes tilting or one man hitch trailer)
- Operator pneumatic tyred tractor with power operated attachments up to and including 15kW net engine power
- Operator backhoe self powered (not self propelled)
- Operator roller powered, under eight tonnes
- Operator roller powered, vibrating, under four tonnes
- Operator trenching machine of the small Ditch-Witch type
- Operator bitumen sprayer
- Ski patroller (as defined)
- Storeman (as defined)
- Wall builder (as defined)

4.3.4 Resort Worker Grade 4 comprehends the following classes of work

- Concrete batching plant operator
- Concrete finisher (as defined)
- Dogman
- Manhole Builder
- Operator crawler tractor without power operated attachments Class M5 up to and including Class M10
- Operator crawler tractor with power operator attachments Class M3 up to and including Class M5
- Operator pneumatic tyred tractor without power operated attachments above 60kW up to and including 150kW net engine power

- Operator pneumatic tyred tractor with power operated attachments above 15kW up to and including 60kW net engine power (not including tilting or one man hitch trailer)
- Operator drawn grader
- Operator roadroller, powered eight tonnes and up to 25 tonnes
- Operator roadroller, powered, vibrating, four tonnes and over
- Operator drilling machine (as defined)
- Operator crawler loader (see Note) up to and including 30kW net engine power (Class 3) (see Note 2)
- Powder monkey
- Sewerage plant attendant

4.3.5 Resort Worker Grade 5 comprehends the following classes of work

- Construction and maintenance carpenter
- Operator crawler tractor without power operated attachments above Class M10 up to and including Class M30
- Operator crawler tractor with power operated attachments above Class M5 up to and including Class M15
- Operator grader power operated below 35kW net engine power
- Operator excavator up to and including 0.5 cubic metres
- Operator pneumatic tyred tractor with power operated attachments above 60kW up to and including 150kW net engine power
- Operator self power scraper up to and including ten cubic metres struck capacity
- Operator pneumatic tyred tractor without power operated attachments above 150kW up to and including 500kW net engine power
- Operator crawler loader above 5000kg mass up to and including 1500kg mass (see Note 3)
- Operator pneumatic tyred loader above 30kW up to and including 105kW net engine power
- Operator roadroller powered over 25 tonnes
- Ski patrol leader (as defined)

4.3.6 Resort Worker Grade 6 comprehends the following classes of work

- Operator crawler tractor with power operated attachments above Class M15
- Operator grader power operated above 35kW net engine power
- Operator pneumatic tyred tractor with power operated attachments above 150kW
- Operator self powered scraper above ten cubic metres struck capacity
- Operator excavator above 0.5 cubic metres. (This group including Gradall)
- Operator crawler loader above 15000kg mass
- Operator pneumatic tyred loader over 105kW net engine power
- Operator crawler tractor above Class M30

4.4 Note

- 4.4.1 Crawler Tractors are classified in accordance with the Australian Standard - "Metric Classification for Tractors".
- 4.4.2 Crawler Tractors above 50000kg mass are classified as indicated in the wages table of this clause.
- 4.4.3 The classification of pneumatic tyred tractors and pneumatic tyres loaders is based on the Australian Standard for "Metric Classification for Tractors".
- 4.4.4 Crawler Tractor front-end loaders are to be classified by using the mass of the tractor, including the loader attachment in lieu of the bare shipping mass.
- 4.4.5 Self propelled rollers are classified by mass complete, including maximum ballast.
- 4.4.6 Tractors without power operated attachment includes tractors:
 - 4.4.6(a) with power operated attachments not in use; and
 - 4.4.6(b) with items which although they have a power unit of their own are not controlled by the operator of the tractor except for starting and stopping (for example - Drawn vibrating roller).
- 4.4.7 Backhoe when attached to a tractor shall be considered as a power operated attachment to the tractor.

7. COVERAGE OF THIS PART

- 7.1 This Part shall apply to employees engaged to perform at an Alpine Resorts in the State of Victoria in or in connection with the following:
 - 7.1.1 The construction, alteration, repair and maintenance of roads, freeways, causeways, civil engineering works, drains, dams, weirs, bridges, overpasses, underpasses, channels, waterworks, pipe tracks, tunnels, water and sewerage works, conduits and all concrete work and preparation incidental thereto;
 - 7.1.2 Forestry;
 - 7.1.3 Land clearing and preparation;
 - 7.1.4 Soil conservation;
 - 7.1.5 Vermin and noxious weed control and eradication;
 - 7.1.6 General labouring work, including but not limited to the work of ticket sellers, Carpark attendants and ski patrollers.

- 7.2 This Part shall also apply to the Falls Creek, Mt Buller, Mt Hotham, Mt Stirling, Lake Mountain, and Mt Baw Baw Alpine Resort Management Boards in respect of the employment by such employers of all employees in work done in or in connection with the following:
 - 7.2.1 Mechanical engineering;
 - 7.2.2 Smithing;
 - 7.2.3 Boilermaking and erection and repairing;
 - 7.2.4 Steel fabrication, construction and erection and repairing;
 - 7.2.5 Welding;
 - 7.2.6 Sheet metal working;
 - 7.2.7 Agricultural implement making and repairing;
 - 7.2.8 Metal machining;
 - 7.2.9 Ironworking;
 - 7.2.10 Making, assembling, repairing and maintenance of vehicles;
 - 7.2.11 Generation and distribution of electric energy;

7.2.12 Sorting, packing, despatching, distribution and transport in connection with any of the foregoing.

7.3 This Part applies to Executing any plumbing, gasfitting, pipefitting or domestic engineering work whether prefabricated or not, or who execute any work in or in connection with:

7.3.1 sheet lead, galvanised iron or other classes of sheet metal or any other materials which supersede the materials usually fixed by plumbers;

7.3.2 lead, wrought, cast or sheet iron, copper, brass or other classes of pipework;

7.3.3 water (hot or cold), steam, gas, air, vacuum, air-conditioning, heating or ventilating appliances, fittings, services or installations [including fire services and sprinklers];

7.3.4 house, sanitary, chemical or general plumbing or drainage.

7.4 The scope of the award excludes persons who may be employed as officers or employees in the Victorian Public Service under the terms of the *Public Sector Management and Employment Act 1998*.

PART 2 - CONSULTATION AND DISPUTE RESOLUTION

10. CONSULTATIVE MECHANISM AND PROCEDURES

At each Alpine Resort covered by this award the employer and employees and, if appropriate an appropriate representative including a trade union bound by this award, may establish a mechanism and procedure which enables them to communicate and consult about matters arising out of this award which they agree would assist in achieving and maintaining cooperative workplace relations and mutually beneficial work practices.

11. DISPUTE RESOLUTION PROCEDURE

Subject to the provisions of the *Workplace Relations Act 1996* as operative from time to time, any dispute or claim about matters contained in this award shall be dealt with in the undermentioned manner:

- 11.1 The matter shall first be discussed by the employee with his/her supervisor.
- 11.2 If not settled the matter shall then be discussed between the employee's nominated representative and an appropriate officer of the employer.
- 11.3 A representative appointed by the employee shall be allowed the necessary time during working hours to interview the officer in charge of the relevant alpine resort on the matter in dispute affecting the employee whom they represent.
- 11.4 If not settled, and if the employee so chooses, the matter shall be further discussed between the Branch Secretary or other appropriate official of the union and the appropriate representative of the employer. Alternatively, if the employee so chooses, the matter may be discussed between a representative of the Federal Office of the union and the employer representative.
- 11.5 If the matter is still not settled it shall be submitted to the Australian Industrial Relations Commission and any decision shall be accepted subject to each party's rights under the *Workplace Relations Act 1996*.
- 11.6 Where the above procedures are being followed work shall continue normally. No party shall be prejudiced as to final settlement by the continuance of work in accordance with this subclause.
- 11.7 This clause shall not apply to any dispute as to a bona fide safety issue.

PART 3 - EMPLOYMENT RELATIONSHIP

12. CONTRACT OF EMPLOYMENT

Method of engagement

12.1 Weekly employment

12.1.1 Employment shall be by the week, unless an employee is specifically engaged as a casual. Where at least seventeen weeks' employment is available, an employee shall be engaged by the week and be paid and classified as such.

12.1.2 Full-time: A full-time employee is one who is engaged to work the prescribed working hours provided in clause 21 - Ordinary hours of work hereof.

12.1.3 Part-time: A part-time employee is one who, on a regular basis, is engaged to work less than the prescribed working hours provided in clause 21 - Ordinary hours of work hereof.

12.2 Casual employment

[12.2.1 substituted by PR934767 ppc 14Jul03]

12.2.1 A casual employee is one engaged by the hour and paid as such. A casual employee for working ordinary time shall be paid one thirty-eighth of the weekly wage and the industry allowance prescribed herein for each hour so worked, plus a loading of 25%, plus Alpine Resort site allowance.

12.2.2 Where a casual employee works overtime or on a public holiday the casual rate shall be the base upon which the appropriate overtime or public holiday penalty rate is applied.

[12.2.3 substituted by PR934767 ppc 14Jul03]

12.2.3 The 25% casual loading prescribed in clause 12.2.1 compensates casual employees for the non-receipt of annual leave, sick leave, bereavement leave, carer's leave, parental leave, jury service, public holidays not worked, severance pay and notice of termination.

12.2.4 Where a union member is involved the relevant union shall be informed by the Board of the decision to employ a casual for more than seventeen weeks and shall be given a reasonable opportunity to participate in the negotiations regarding such

extension. Union involvement in this process does not mean that the consent of the union is required.

13. NOTICE OF TERMINATION

[13 Termination of employment title changed by PR963821 ppc 24Aug05]

13.1 Notice of termination by employer

[13.1 varied by S8824; substituted by PR963821 ppc 24Aug05]

13.1.1 In order to terminate the employment of an employee the employer must give to the employee the period of notice specified in the table below:

<u>Period of continuous service</u>	<u>Period of notice</u>
<u>1 year or less</u>	<u>1 week</u>
<u>Over 1 year and up to the completion of 3 years</u>	<u>2 weeks</u>
<u>Over 3 years and up to the completion of 5 years</u>	<u>3 weeks</u>
<u>Over 5 years of completed service</u>	<u>4 weeks</u>

13.1.2 In addition to the notice in 13.1.1, employees over 45 years of age at the time of the giving of the notice with not less than two years continuous service, are entitled to an additional week's notice.

13.1.3 Payment in lieu of the prescribed notice in 13.1.1 and 13.1.2 must be made if the appropriate notice period is not required to be worked. Provided that employment may be terminated by the employee working part of the required period of notice and by the employer making payment for the remainder of the period of notice.

13.1.4 The required amount of payment in lieu of notice must equal or exceed the total of all amounts that, if the employee's employment had continued until the end of the required period of notice, the employer would have become liable to pay to the employee because of the employment continuing during that period. That total must be calculated on the basis of:

13.1.4(a) the employee's ordinary hours of work (even if not standard hours); and

13.1.4(b) the amounts ordinarily payable to the employee in respect of those hours, including (for example) allowances, loading and penalties; and

13.1.4(c) any other amounts payable under the employee's contract of employment.

13.1.5 The period of notice in this clause does not apply:

13.1.5(a) in the case of dismissal for serious misconduct;

13.1.5(b) to apprentices;

13.1.5(c) to employees engaged for a specific period of time or for a specific task or tasks;

13.1.5(d) to trainees whose employment under a traineeship agreement or an approved traineeship is for a specified period or is, for any other reason, limited to the duration of the agreement; or

13.1.5(e) to casual employees.

13.1.6 Notwithstanding the foregoing provisions trainees who are engaged for a specific period of time shall once the traineeship is completed and provided that the trainees' services are retained have all service including the training period counted in determining entitlements. In the event that a trainee is terminated at the end of his or her traineeship and is re-engaged by the same employer within six months of such termination the period of traineeship shall be counted as service in determining any future termination.

13.1.7 Continuous service is defined in clause 24.5.

13.2 Notice of termination by an employee

[13.2 substituted by PR963821 ppc 24Aug05]

13.2.1 The notice of termination required to be given by an employee is the same as that required of an employer, save and except that there is no requirement on the employee to give additional notice based on the age of the employee concerned.

13.2.2 If an employee fails to give the notice specified in 13.1.1 the employer has the right to withhold monies due to the employee to a maximum amount equal to the amount the employee would have received under 13.1.4.

13.3 Job search entitlement

[13.3 Time off during notice period title changed and substituted by PR963821 ppc 24Aug05]

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

13.4 Transmission of business

[new 13.4 substituted by PR963821 ppc 24Aug05]

Where a business is transmitted from one employer to another, as set out in clause 27 - Redundancy, the period of continuous service that the employee had with the transmittor or any prior transmittor is deemed to be service with the transmittee and taken into account when calculating notice of termination. However, an employee shall not be entitled to notice of termination or payment in lieu of notice for any period of continuous service in respect of which notice has already been given or paid for.

13.4 Casual employment

[13.4 renumbered as 13.5 by PR963821 ppc 24Aug05]

Terminations of all casual engagements whether the employee has commenced work or not, shall require one day's notice on either side or the payment or forfeiture of one day's pay as the case may be. For the purpose of this subclause notice given at or before the usual starting time of any ordinary working day shall be deemed to expire at the completion of that day's work.

13.5 Abandonment of employment

[13.5 renumbered as 13.6 by PR963821 ppc 24Aug05]

13.6.1 An employee who has been absent for a period of fourteen days, without the consent of the employer, and who during such time has not established to the satisfaction of the employer that the absence was for reasonable cause, shall be deemed to have abandoned his/her employment and therefore terminated his employment without notice.

Provided that the employer shall make a reasonable effort to contact the employee before the contract is terminated under this subclause.

13.6.2 Termination of employment in accordance with this subclause shall operate as from the date of the last attendance at work or the last day's absence in respect of which consent was granted.

13.7 Absence from duty

[13.6 renumbered as 13.7 by PR963821 ppc 24Aug05]

If an employee absents him/herself from work, his/her wages shall be subject to a deduction proportionate to the length of his/her absence except when absent on paid leave.

14. STAND DOWN

The employer may deduct payment for any day upon which an employee cannot be usefully employed because of any strike or because of any stoppage of work for any cause, including shortage of material or breakdown of machinery for which cause the employer cannot reasonably be held responsible.

Provided that any employer cannot deduct payment for any day which an employee cannot be usefully employed due to inclement weather.

PART 4 - RATES OF PAY AND RELATED MATTERS

15. RATES OF PAY

15.1 Minimum wage rates

15.1.1 Except as elsewhere provided in this award, an employee shall be paid as a minimum the wage rate prescribed for his/her classification.

<u>Wage group</u>	<u>Classification per week</u>	<u>Min rate¹⁹</u>
		<u>\$</u>
<u>1</u>	<u>Resort worker</u>	
	<u>Grade 1 (as defined)</u>	<u>499.90</u>
	<u>Grade 2 (as defined)</u>	<u>523.20</u>
	<u>Grade 3 (as defined)</u>	<u>534.80</u>
	<u>Grade 4 (as defined)</u>	<u>546.00</u>
	<u>Grade 5 (as defined)</u>	<u>562.20</u>
	<u>Grade 6 (as defined)</u>	<u>572.90</u>
<u>2</u>	<u>Plumbing Tradespeople</u>	
	<u>Plumber</u>	<u>581.10</u>
<u>3</u>	<u>Other Tradespeople</u>	<u>578.20</u>

15.3 Mixed functions

An employee engaged at the direction of the employer for more than two hours in the aggregate during one day or rostered work period on duties carrying a higher rate than his/her ordinary classification shall be paid the higher rate for such day or rostered work period. If so engaged for two hours or less during one day or rostered work period he/she shall be paid the higher rates only for the time so worked.

¹⁹ Need to be updated \$27.40 since 2006 rates

16. ALLOWANCES

16.1 Industry allowance

An employee shall in addition to the rates prescribed in 15.1 hereof be paid an allowance of \$22.45 per week to compensate for the following disabilities in the industry, namely, being subject to:

16.1.1 climatic conditions;

16.1.2 climbing stairs or ladders;

16.1.3 dust blowing;

16.1.4 sloppy or muddy conditions;

16.1.5 dirty conditions caused by use of form oil or green timber;

16.1.6 drippings from newly poured concrete;

16.1.7 the disability of working on all types of scaffold other than a single plank or a bosun's chair;

16.1.8 the lack of usual amenities associated with factory work.

Provided that this allowance shall not be paid in addition to the wage rate and allowance of a Plumber as specified in 15.1 and 16.4 hereof.

16.2 Leading hand allowance

An employee required to supervise, direct or be in charge of other employees shall have the following amounts above the rates of the highest classification supervised added to his/her weekly wage rate, or his/her own rate higher:

	<u>Per week</u>
	\$
<u>In charge of less than 3 other employees</u>	<u>17.20</u>
<u>In charge of 3 but not more than 6 other employees</u>	<u>29.35</u>

In charge of more than 6 other employees

37.05

16.3 Employee in charge of plant allowance

[16.3.1 substituted by PR925555; PR945801 ppc 30Mar04; varied by PR956298 PR968401; PR977884 ppc 03Aug07]

16.3.1 An employee who is invested with the superintendence and responsibility for an item of plant and who carries out the general repair, care and routine maintenance in addition to the work of operating that item of plant shall be paid an allowance of \$29.40 per week.

16.3.2 Only one employee per rostered work period shall be eligible for this allowance for each item of plant.

16.3.3 This allowance shall not be payable in respect of plant which has been stood down, nor for plant which is under the care or superintendence of a fitter or mechanic.

16.4 Plumbers additional weekly allowance

[16.4 substituted by PR925555; PR945801 ppc 30Mar04; varied by PR956298 PR968401; PR977884 ppc 03Aug07]

In addition to the minimum weekly wage rate specified in 15.1, Plumbers receive an all purpose allowance of \$99.10 per week.

16.5 Alpine resort site allowance

[16.5.1 substituted by PR925555; PR945801 ppc 30Mar04; varied by PR956298 PR968401; PR977884 ppc 03Aug07]

16.5.1 Employees shall be paid a flat allowance of \$2.85 per hour for each hour actually worked in lieu of all other special or additional allowances except for those specifically mentioned in this award.

16.5.2 This allowance is paid to compensate for all costs and disabilities associated with working in an alpine resort, including but not limited to:

16.5.2(a) living in or travelling to and from an alpine resort;

16.5.2(b) working in snow, extreme cold and rarefied air;

16.5.2(c) regularly changing into and out of protective clothing;

16.5.2(d) remoteness from large towns;

16.5.2(e) fitting chains to vehicles;

16.5.2(f) difficulty with mobility and visibility in the snow;

16.5.2(g) working in inclement weather or blizzard conditions.

16.5.3 Any dispute in respect to the operation of this subclause shall be dealt with in accordance with clause 11 - Dispute resolution procedure hereof.

16.6 National ski patroller allowance

[16.6 substituted by PR925555; PR945801 ppc 30Mar04; varied by PR956298 PR968401; PR977884 ppc 03Aug07]

A National ski patroller (as defined) shall be paid a flat allowance of \$13.85 per week for all weeks worked as a ski patroller.

16.7 Ski equipment allowance

[16.7 substituted by PR925555; PR945801 ppc 30Mar04; varied by PR956298 PR968401; PR977884 ppc 03Aug07]

16.7.1 An employee who is required to equip him/herself with alpine ski equipment shall be paid a flat allowance of \$109.70 per week up to a maximum of \$1092.50 per snow season.

16.7.2 An employee who is required to equip him/herself with cross country ski equipment shall be paid a flat allowance of \$58.65 per week up to a maximum of \$584.45 per snow season.

16.8 Camping allowance

[16.8 substituted by PR925555; PR945801; PR977884 ppc 03Aug07]

An employee who is required to live and work away from his/her usual alpine resort and is thereby required to camp shall be paid a camping allowance of \$20.20 per day up to a maximum of \$141.85 per week.

Provided that this allowance shall not apply if the employer provides the employee with board and lodging.

16.9 Mileage allowance

[16.9.1 varied by PR925555 PR945801 PR956298 PR968401; PR977884 ppc 03Aug07]

16.9.1 An employee who, with prior approval of the employer, uses his/her own vehicle for work duties shall be paid mileage allowance at the following rate:

<u>Vehicle up to 2 litres capacity</u>	<u>52 cents/km</u>
<u>Between 2 and 3 litres capacity</u>	<u>66 cents/km</u>
<u>Above 3 litres capacity</u>	<u>78 cents/km</u>

16.9.2 These rates may be adjusted from time to time in accordance with the private vehicle reimbursement rates calculated by the RACV.

16.10 First aid allowance

[16.10 varied by PR925555 PR945801 PR956298 PR968401; PR977884 ppc 03Aug07]

An employee appointed by the employer to perform first aid duty in addition to his/her usual duties shall be paid \$5.40 per week in addition to his/her ordinary rate.

Provided that any employee so appointed who holds first aid qualifications from St John Ambulance or a similar body shall be paid a further amount of \$5.40 per week.

16.11 Working away from work centre

16.11.1 Within each alpine resort there shall be a designated work centre, which shall be the depot, amenities room or administration centre, as nominated by the employer.

16.11.2 Employees shall commence and cease duty at the work centre unless otherwise directed.

16.11.3 An employee who is required to report direct to a job site, and who is thereby disadvantaged, shall be reimbursed mileage allowance as per subclause 16.9 for kilometres travelled in his/her private vehicle in excess of those normally travelled from his home to the work centre.

16.12 Protective clothing allowance

16.12.1 Where an employee is required to wear protective clothing, eye protection and hearing protection as is necessary for the type of work being performed by the employee, having regard to the prevailing climate in alpine areas, the employer must reimburse the employee for the cost of purchasing such clothing and protection. The provisions of this paragraph do not apply where the clothing and protection is provided by the employer.

16.12.2 Where an employee is required to provide an adequate supply of detergents and solvents for the removal of excessive dirt, bitumen, emulsions, paint and similar substances from the employee's person, the employer must reimburse the employee for the cost of purchasing such detergents and solvents. The provisions of this paragraph do not apply where the detergents and solvents are provided on site by the employer.

16.12.3 Any protective clothing provided by the employer shall remain the property of the employer. The loss of such protective clothing due to any cause arising out of neglect or misuse by the employee shall be a charge against the wages of the

employee, provided that no charge shall be made in respect of reasonable wear and tear.

16.13 Tools and equipment allowance

Where an employee is required to provide all necessary tools, including masks and goggles, the employer must reimburse the employee for the cost of purchasing such tools and equipment. The provisions of this paragraph do not apply where the tools and equipment are provided by the employer. Where the tools and equipment are provided by the employer the employee shall return them in good condition (fair wear and tear excepted).

16.14 Compensation for damage to clothing and spectacles

[16.14.1 substituted by PR925555; PR945801 ppc 30Mar04]

16.14.1 The employee shall be reimbursed up to a maximum of \$1131.00 for an employee's clothing which may be destroyed by fire in a changing house or other shelter. Provided that such destruction is not in any way caused by the employee's own act or neglect.

16.14.2 Where an employee during the course of his/her employment suffers loss or damage to his/her spectacles, caused by fire, molten metal or corrosive substances he/she shall be reimbursed by the employer to the extent of the loss or damage sustained. Provided further that this subclause shall not apply when an employee is entitled to accident compensation in respect to the damage.

16.15 Compensation for transfer of injured or sick employees in camp

Where an employee is suffering an illness or from an injury sustained on the job or in the camp, all expenses incurred by the employee's removal shall be reimbursed by the employer.

17. TRAINING

17.1 Following proper consultation in accordance with clause 10 - Consultative mechanism and procedures, which may include the establishment of a training committee, an employer shall develop a training program consistent with:

17.1.1 the current and future skill needs of the employer;

17.1.2 the size, structure and nature of the operations of the employer;

17.1.3 the need to develop vocational skills relevant to the employer through courses conducted by accredited educational institutions and providers.

17.2 Where, as a result of consultation in accordance with 17.1 and with the employee concerned, it is agreed that additional training should be undertaken by an employee, that training may be undertaken either on or off the job. If the training is undertaken during ordinary working hours the employee concerned shall not suffer any loss of pay. The employer shall not unreasonably withhold such paid training leave.

17.3 Any costs (excluding fees charged under Higher Education Contribution Scheme (HECS)) associated with standard fees for prescribed courses and prescribed textbooks incurred in connection with the undertaking of agreed training shall be reimbursed by the employer upon production of evidence of such expenditure. Provided that reimbursement of fees be on an annual basis subject to the presentation of reports of satisfactory progress.

17.4 Additional travel costs incurred by an employee undertaking training in accordance with this clause which exceed those normally incurred in travelling to and from work shall be reimbursed by the employer.

20. PAYMENT OF WAGES

20.1 Method of payment

Employees shall be paid their wages by cheque, or by payment into an account nominated by the employee, or by some other method agreed between the employer and employee.

20.2 Time of payment

20.2.1 Wages shall be paid during working hours on or before the nominated pay day, which shall be not more than three working days after the close of the pay period.

20.2.2 Any disagreements which arise concerning the method or timing of the payment of wages shall be resolved in accordance with the disputes settlement procedures in this award.

20.3 Payment on termination

When notice is given in accordance with clause 13 - Termination of employment, all monies due to the employee pursuant to this award shall be paid at the time of termination. Where this is not practicable the employer shall within two clear working days of the termination send to the employee's home address all monies due by registered post or if agreed between the employer and employee, the employer shall make the moneys available at a nominated depot. This clause shall not apply if an employee has abandoned his/her employment as per 13.5 hereof.

PART 5 - HOURS OF WORK, MEAL BREAKS AND OVERTIME

21. ORDINARY HOURS OF WORK

21.1 Except as provided elsewhere in this award the ordinary working hours shall be 38 per week worked as a twenty-day four-week cycle of eight hours each on Monday to Friday inclusive, between the hours of 7.00 a.m. and 6.00 p.m., with 0.4 of one hour of each day worked accruing as an entitlement to take the fourth Friday in each cycle as a day off paid for as though worked.

21.1.1 Provided that during the declared snow season the spread of hours shall be 7.00 a.m. to 7.00 p.m.

21.1.2 Provided further that where special circumstances exist and where the relevant employees and the employer agree that it is not practicable for the foregoing "four-week cycle" to operate then agreement may be reached between the relevant employees and the employer on such other method of arranging working hours so that the average ordinary hours worked in any one week do not exceed 38.

21.1.3 By agreement in writing between the employer and employees an alternate day in the four-week cycle may be substituted for the fourth Friday as the day off paid as though worked, and where such agreement is reached all provisions of this award shall apply as if such day was the prescribed fourth Friday.

21.2 Where an accrued day off occurs on a public holiday, the day taken off in lieu shall be either the previous or next following working day, unless an alternate day is chosen by mutual agreement.

21.3 Each day of paid leave taken and any public holiday occurring during any cycle of four-weeks shall be regarded as a day worked for accrual purposes.

21.4 An employee who has not worked, or is not regarded by reasons of 21.3 above as having worked, a complete twenty-day four-week cycle shall receive pro rata accrued entitlements for each day worked or regarded as having been worked in such cycle, payable for the rostered day off, or in the case of termination of employment, on termination.

21.5 Early start

Where it is agreed between the employer and its employees the working day may begin at 6.00 a.m. or at any other time between that hour and 8.00 a.m., the working time shall then begin to run from the time so fixed. In these circumstances the time of observing the normal meal break shall be agreed between the parties.

21.6 Where special circumstances exist and a majority of employees desire to work longer hours on any day they may, subject to the consent of the employer, be permitted to do so without payment of any penalty rate provided the longer hours so worked do not exceed two on any one day.

21.7 The relevant union(s) shall be given a reasonable opportunity to participate in discussions regarding the proposed implementation of changes to working hours arising from 21.1.2, 21.5 and 21.6. Union involvement does not mean that the consent of the union is required prior to the introduction of agreed arrangements.

21.8 Working on rostered day off

21.8.1 Where it is necessary for an employee to work on an accrued day off, other than during the snow season, he shall be paid, in addition to his accrued entitlement, the penalty rates prescribed in 22.1.

21.8.2 Provided that during the snow season, days will accrue and will be deferred until October and taken consecutively by arrangement between the employer and employee, or payment made in lieu upon termination as the case may be.

21.9 Rostered work

21.9.1 An employee may be required to work according to a roster during the declared snow season. The roster shall provide a minimum of eight hours work on each of any of five days per week.

21.9.2 The commencement of prescribed hours of work may vary in accordance with the roster. All time worked in accordance with the roster outside the spread of hours specified in 21.1 above or in excess of eight hours in any one day, shall be paid for at penalty rates.

21.9.3 Provided that no employee will be paid for hours not worked unless on approved paid leave.

22. OVERTIME

22.1 Except as otherwise provided within this award, time worked in excess of or after the prescribed hours of work as provided in 21.1 hereof shall be paid for at one and a half times the ordinary rate for the first two hours and at double the ordinary rate for all time thereafter.

22.1.1 All time worked prior to the commencement of the prescribed hours of work shall be paid for at one and a half times the ordinary rate for the first two hours and double the ordinary rate thereafter until the commencement of the normal hours of work.

22.2 For the purpose of computation of overtime under this clause:

22.2.1 Each day's work shall stand alone except where overtime is continuous with the previous day.

22.2.2 A day shall mean all time between the commencement of prescribed work time on any one day and the commencement of prescribed work time on the succeeding day.

22.2.3 The employer may require any employee to work reasonable overtime at overtime rates and such employee shall work overtime in accordance with such requirement.

22.3 Weekend work

22.3.1 All work on a Saturday shall be paid for at one and a half times the ordinary rate for the first two hours and double the ordinary rate thereafter.

22.3.2 All work on a Sunday shall be paid for at double the ordinary rate.

22.3.3 All work on a public holiday shall be paid for at two and a half times the ordinary rate.

22.4 Callouts

22.4.1 Monday to Friday

An employee called out to work on Monday to Friday after leaving the workplace for the day shall be paid for a minimum of four hours work calculated at the rate of time and a half for each time he/she is called out. Provided that the employee, if

required to work for two hours or more, shall be paid for a minimum of four hours work calculated at the rate of time and a half for the first two hours and double time thereafter.

22.4.2 Saturdays

An employee called out to work on a Saturday shall be paid for a minimum of three hours work calculated at the rate of time and a half for each time he/she is so called out. Provided that the employee, if required to work for two hours or more, shall be paid for a minimum of three hours work calculated at time and a half for the first two hours and double time thereafter.

22.4.3 Sundays

An employee called out to work on a Sunday shall be paid at the rate of double time for a minimum of three hours at the first callout and for the actual time worked at each subsequent callout.

22.4.4 Public holidays

22.4.4(a) An employee called out to work on a public holiday shall be paid at the rate of double time and a half for a minimum of three hours at the first callout and for the actual time worked at each subsequent callout.

22.4.4(b) This clause shall not apply in the case where the overtime is continuous (subject to meal breaks) with the completion or commencement of prescribed working time.

22.5 Rest break

22.5.1 When overtime work is necessary it shall, wherever reasonably practicable, be so arranged that employees have at least ten consecutive hours off duty between the work of successive days.

22.5.2 An employee who works so much overtime that he/she has not had at least ten consecutive hours off duty between the termination of his/her ordinary work on one day and the commencement of his/her ordinary work on the next day shall, subject to this subclause, be released after completion of such overtime until he/she has had ten consecutive hours off duty without loss of pay for prescribed working time occurring during such absence.

22.5.3 If on the instructions of the employer, such an employee resumes or continues to work without having had such ten consecutive hours off duty he/she shall be paid at the rate of double time until he/she is released from duty for such period and he/she shall then be entitled to be absent until he/she has had ten consecutive

hours off duty without loss of pay for prescribed working time occurring during such absence.

22.5.4 During the snow season the provisions of this clause shall apply in the case of prescribed rosters as if eight hours were substituted for ten hours when overtime is worked.

22.6 Call back and availability

22.6.1 Notwithstanding the provisions of 22.4.1 to 22.4.4 an employee recalled to work who is entitled to receive an allowance for availability duty pursuant to 22.6.3 of this subclause, shall be paid for a minimum of one hour's work and, in such circumstances, time reasonably spent in getting to and from work shall be regarded as time worked for the purpose of this subclause.

22.6.2 The minimum payments prescribed by 22.6.1 hereof, shall also apply to employees required to work on a Saturday, Sunday or public holiday and shall be paid at the appropriate penalty rates.

22.6.3 Availability duty means the employee will be continuously available outside normal working hours for recall to work.

22.6.4 An employee who is required to carry out availability duty, as defined herein, shall be paid an availability allowance at the rate of sixteen hours' pay at a rate calculated on the same rate as that applicable to a Metal tradesperson prescribed under clause 15 - Rates of pay and clause 16 - Allowances, where appropriate in this award as varied from time to time, for each week of availability duty, and may be payable on a pro rata daily basis. Such rate shall include industry allowance.

22A. REASONABLE OVERTIME

[22A inserted by PR945801 ppc 30Mar04]

22A.1 Requirement to work reasonable overtime

22A.1.1 Subject to clause 22A.1.2 an employer may require an employee to work reasonable overtime at overtime rates.

22A.1.2 An employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working hours which are unreasonable having regard to:

22A.1.2(a) any risk to employee health and safety;

22A.1.2(b) the employee's personal circumstances including any family responsibilities;

22A.1.2(c) the needs of the workplace or enterprise;

22A.1.2(d) the notice (if any) given by the employer of the overtime and by the employee of his or her intention to refuse it; and

22A.1.2(e) any other relevant matter.

23. MEAL BREAKS, ALLOWANCES AND REST PAUSES

23.1 Meal break

An unpaid meal break of not less than 30 minutes nor more than one hour shall be taken by each employee at or before five hours after commencement of work for the day. The timing and duration of meal breaks shall be determined by the employer after consultation with the employees concerned.

23.2 Rest pause on overtime

23.2.1 Where an employee is required to work overtime before or after the usual commencing or ceasing time on any day or shift for one and a half hours or more, he/she shall be allowed a rest pause of twenty minutes duration immediately before such commencing time or after such ceasing time. The rest pause shall be paid at ordinary rates.

23.2.1(a) An employer and employee may agree to any variation of 23.2.1 hereof to meet the circumstance of the work in hand, but no payment for any time allowed in excess of twenty minutes shall be required.

23.2.2 Thereafter, after each four hours of continuous overtime work, the employee shall be allowed a rest pause of twenty minutes without deduction of pay if the employee continues work after the rest pause.

23.2.3 For the purpose of this subclause, the usual commencing and ceasing time is at the start or the end of ordinary hours inclusive of time worked for accrual purposes.

23.3 Meal allowance

[23.3 varied by PR925555 PR945801 PR956298 PR968401; PR977884 ppc 03Aug07]

An employee required to work overtime for at least one and a half hours after working ordinary hours on any day or shift shall be paid by his employer an amount of \$9.65 to meet the cost of a meal, or shall at the option of the employer, be provided by the employer with an adequate and suitable meal.

Provided that this clause shall not apply to an employee who is provided with reasonable board and lodging and is provided with an adequate and suitable meal.

PART 6 - TYPES OF LEAVE AND PUBLIC HOLIDAYS

24. ANNUAL LEAVE – SEE NES

25. PERSONAL LEAVE – SEE NES

25A. PARENTAL LEAVE – SEE NES

26. PUBLIC HOLIDAYS

26.1 A weekly employee shall be entitled to holidays on the following days:

26.1.1 New Year's Day, Good Friday, Easter Saturday, Easter Monday, Christmas Day and Boxing Day; and

26.1.2 Australia Day, ANZAC Day, Queen's Birthday and Eight Hours' Day or Labour Day; and

26.1.3 One other day to be specified at each Alpine Resort.

26.2 When Christmas Day is a Saturday or a Sunday, a holiday in lieu thereof shall be observed on 27 December.

26.2.1 When Boxing Day is a Saturday or a Sunday, a holiday in lieu thereof shall be observed on 28 December.

26.2.2 When New Year's Day or Australia Day is a Saturday or a Sunday, a holiday in lieu thereof shall be observed on the next Monday.

26.3 Where in a locality, public holidays are declared or prescribed on days other than those set out above, those days shall constitute additional holidays for the purpose of this award.

26.4 An employer and his or her employees may agree to substitute another day for any prescribed in this clause. For this purpose, the consent of the majority of affected employees shall constitute agreement.

26.4.1 Such agreement shall be recorded in writing and be available to every affected employee.

26.4.2 The union(s) which is (are) party to this award shall be informed of an agreement pursuant to 26.4 within seven days.

26.5 The employer when terminating the employment of an employee except pursuant to 13.1.5 shall pay the employee a day's ordinary wage for each holiday prescribed which falls within ten consecutive days after the day of termination.

26.6 Where any or more of the holidays prescribed in this clause occur within a seven-day spread, such holidays shall for the purpose of this award be a group of holidays. If the first day of the group of public holidays falls within ten consecutive days after termination, the whole group shall be deemed to fall within the ten consecutive days.

26.6.1 Christmas Day, Boxing Day and New Year's Day shall be regarded as a group.

Schedule A— Classification Definitions

Training Level is for when staff are undergoing training prior to being deemed competent to undertake their substantive role at the appropriate Resort Worker Level, excluding those who are being trained in Plant Operators role. It is also the rate to be paid to staff while attending orientation or induction programs.

The maximum period of time on which an employee may be engaged at the Training Level is seven weeks.

Resort Worker Level 1 means an employee who is engaged in a role that requires no previous experience, on the job training and work under supervision such as the following roles:

- Carparking duties
- Outdoor and Indoor Assistant roles including Race Event Workers, Snowsports Assistants, Painters and Lift Attendants whose roles are primarily focused on specific Labouring tasks
- General unskilled labour tasks
- Bar Assistant who is employed primarily in non-service duties
- Food Service Assistant - duties including removing food plates, setting and/or wiping down tables, cleaning and tidying of associated areas
- Kitchenhand duties
- Housekeeping duties assisting under supervision in the servicing of resort property and cleaning thereof
- Laundry duties assisting in laundry service

Resort Worker Level 2 means an employee who is engaged in a role that requires some previous relevant experience or qualifications, detailed on the job training for the specific employers requirements and work under supervision. The following roles are examples:

- An employee who is engaged in general clerical or office duties.
- Guest Service roles including Ticket and Pass sales, Hire sales and service, Retail Sales, Concourse Attendants and Tour Guides.
- Trainee Plant Operator roles (including Trainee Train Drivers) who are undergoing training and assessment and are yet to be deemed competent.
- A person involved in the coordination and instruction of other staff involved in Carparking operations.
- Unqualified Child Care Workers
- Municipal Services (garbage collection etc)
- Pool attendants with lifeguard qualifications
- Ticket Checkers, Uniform Room Attendants and Mountain Awareness staff
- Snowsports administrative staff who are responsible for the booking of lessons
- Bar duties including service, cellar and bottle sales.
- Food Service duties including service, cashier and waiting duties.
- Housekeeping involved in the servicing and cleaning of resort property.
- A Cook being an unqualified person involved in the preparation butchering or cooking of food.

Parties' Draft (Australian Ski Areas Association – 6 March 2009):

Alpine Resorts (General) Award 2010

This award does not come into force until 1 January 2010 26

- An employee who is engaged in reception / reservations duties including night auditing, telephonist, receptionist, cashier, information services, portering or

reservations.

- Laundry duties involved in laundry production duties such as machine operation

Resort Worker Level 3 means an employee who is engaged in role that requires significant previous experience in the field in which they are to be employed or will be involved in roles that require specialist training by the employer. The following roles are examples:

- A Lift Operator who is responsible for the safe operation of aerial and surface lifting, the loading and unloading of guests, maintaining the lift station and reporting of mechanical faults to appropriate trades and supervisory staff.
- An employee involved in Mountain operation roles such as Assistant Ski Patrol and Trail Crew
- Trades Assistants in Electrical, Mechanical, Fitting & Machinery and Building disciplines including (but not limited to) Electrical Assistants, Track Maintenance Assistants, Fitters and Machinists, Carpentry Assistants and Leading Hand Labourers.
- Beauty Therapist and Spa Attendant.
- Stores Person or Cellar person with forklift qualifications and who is engaged as such.
- Food Service & Bar staff who supervise staff of a lower grade and who work without supervision.
- A Kitchen attendant who has the responsibility for the supervision, training and coordination of kitchen attendants of a lower grade.
- An employee in a Housekeeping, Porter or Laundry role who has the appropriate level of training and who is employed to supervise employees of a lower grade.
- An employee who is engaged in night auditing, Hotel reception or reservations who has more than three years experience in a similar role in a Hotel or Travel Reservations business.

Resort Worker Level 4 means an employee who is engaged in a role that requires specialist skills built on previous experience and qualifications or provide direction for staff at a lower level. The following roles are examples:

- An employee who is engaged in the supervision of other staff involved in reception / reservations duties including night auditing, telephonist, receptionist, cashier, information services or reservations.
- An employee who is engaged in the supervision of Guest Service roles including Ticket and Pass sales, Hire sales and service, Retail Sales, Concourse Attendants Information and Tour Guides.
- An employee engaged in Cashroom, Treasury or other similar back office cash reconciliation roles.
- Experienced Painters.
- Qualified Fitness Instructor with lifeguard qualifications.

Parties' Draft (Australian Ski Areas Association – 6 March 2009):

Alpine Resorts (General) Award 2010

This award does not come into force until 1 January 2010 27

- Bar and Food Service staff who supervise staff of a lower grade in running a particular section, restaurant or bar.
- A Qualified Chef, who has completed an apprenticeship in this discipline.
- An employee who is engaged as an Inventory Controller or Uniform Room

Coordinators.

Resort Worker Level 5 means an employee who has the appropriate level of training and who is employed to supervise and/or train employees of a lower grade. The following roles are an example of such positions:

- An employee who is engaged in the supervision of Lift Operators or Treasury / Cashroom staff.
- A Hospitality supervisor in any area of hospitality including but not limited to food & beverage, housekeeping, front office and reservations, laundry, stores, duty supervisors and the like.

Resort Worker Level 6 means an employee who is engaged in a role that requires the completion of a recognized qualification in the field in which they are employed and have been deemed competent to fulfill the following roles:

- A Plant Operator who has been deemed competent in the operation of plant and equipment including (but not limited to) Transport vehicles, Groomers, Excavators, Cranes, Trains, Snowmaking or Sewerage Plant equipment.
- Railway Track Inspectors.
- A Child Care Worker who has completed as a minimum an AQF Certificate 3 or 4 in Children's Services (or equivalent).
- A qualified Ski Patroller
- Trade qualified staff who have completed an apprenticeship in an Electrical, Fitting, Mechanical, Painting, Spray Painting, Carpentry or Building discipline and are undertaking work in their relevant discipline.
- An employee who is employed to Supervise staff undertaking Trail Crew or Snowsports Reservations duties.
- Qualified Beauty Therapist
- Media Staff such as Reporters, Editors and Camera Operators.
- A Qualified Chef who supervises or trains other kitchen staff, undertakes ordering and stock control and is solely responsible for other cooks and other kitchen employees in a single kitchen establishment.

Resort Worker Level 7 means an employee who is engaged in any of the following roles:

- A Child Care Worker who is engaged as a supervisor and who has completed as a minimum an AQF Diploma in Children's Services.
- An employee who is engaged in the supervision of other staff involved in Plant Operation.

Parties' Draft (Australian Ski Areas Association – 6 March 2009):

Alpine Resorts (General) Award 2010

This award does not come into force until 1 January 2010 28

Instructors Category A means an employee who is engaged as a Snowsports Instructor (as defined) is a fully certified Instructor, and has obtained their APSI Level 3 Qualification or international equivalent (as can be seen in Table 5.1 of Schedule C) and has a minimum of 10 full-time seasons of practical experience. Full-time season for the purposes of this category of employment will be a minimum of 12 successive weeks at a recognized Snowsports School.

Instructors Category B means an employee who is engaged as a Snowsports Instructor (as defined) and has an intermediate level of certification, being their APSI Level 2 Qualification or international equivalent (as can be seen in Table 4.1 of Schedule C) and has full-time practical teaching experience.

Instructors Category C means an employee who is engaged as a Snowsports

Instructor (as defined) and has a fundamental level of certification, being the APSI Level 1 Qualification or international equivalent (as can be seen in Table 3.1 of Schedule C) and has full-time practical teaching experience.

Instructors Category D means an employee who is engaged as a Snowsports Instructor (as defined) and has some teaching experience with an entry level qualification (as per Table 2.1 in Schedule C)

Instructors Category E means an employee who is engaged as a Snowsports Instructor (as defined) and has either no experience or a low level qualification (as per Table 1.1 in Schedule C).

J



Our ref: MDH: DJS: 20141371:
Please reply to: Sydney office

22 January 2015

Stephen Crawford
Senior National Legal Officer
The Australian Workers' Union

By email:

Dear Mr Crawford

AM 2014/198 – FOUR YEARLY REVIEW OF MODERN AWARDS – GROUP 2 AWARDS STAGE – ALPINE RESORTS AWARD 2010

We act for the Australian Ski Areas Association (“**Association**”) in relation to the Fair Work Commission’s Four Yearly Review of Modern Awards.

Pursuant to Justice Ross’ comments during the Group 2 Conference on 2 December 2014, that the Association is encouraged to obtain consent from the parties for its requested variations to “Schedule C – Equivalency of Snowsports Qualifications” of the *Alpine Resorts Award 2010* (“**Award**”), given that changes in certification levels should be a formality, we are seeking such consent.

Against this background, we note that at Schedule 1 of this letter we set out the variations to “Schedule C – Equivalency of Snowsports Qualifications” of the Award that are requested by the Association. The requested variations are marked up in track changes for ease of reference.

The variations to “Schedule C – Equivalency of Snowsports Qualifications” of the Award have been requested due to the recent name change of certification levels by the Australian Professional Snowsports Instructors (“**APSI**”). Please see Schedule 2 of this letter for a letter and equivalency table provided by the APSI in support of this variation.

The reason that the APSI have renamed the certification levels is to achieve uniformity with equivalent international qualifications and to standardise the nomenclature of the Australian certification system in line with international standards.

We kindly ask you to consider the Association’s requested variation and to indicate whether The Australian Workers’ Union consents to this variation by email or letter by 5pm on Tuesday 27 January 2015, if it is so inclined.

Please contact Harmers Workplace Lawyers if you wish to discuss the above.



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TRAINING

Yours faithfully

HARMERS WORKPLACE LAWYERS

A handwritten signature in black ink, appearing to read "Robertson".

Gregory Robertson

A handwritten signature in black ink, appearing to read "Shaw".

Daniel Shaw

Encl

SCHEDULE 1

Requested variations to *Alpine Resorts Award 2010* (marked up in tracked changes for ease of reference)

Schedule C—Equivalency of Snowsports Qualifications

Table 1 Country	Association Certification Level
Australia	APSI (Ski & SB) Instructor Training Course/Recruitment Clinic <u>Level 1</u>
Austria	ÖSSV (Ski & SB) Anwärter
Canada	CSIA (Ski) CSIA Level 1 CASI (SB) CASI Level 1 CSCF (Coaching) Entry Level (1)
<u>Korea</u>	<u>KSIA (Ski & SB) Level 1</u>
New Zealand	NZSIA (Ski) SBINZ <u>-&-(SB) Level 1-C.S.I</u>
<u>Poland</u>	<u>SITN-PZN Children's Level</u>
Switzerland	SSSA (Ski & SB) Kinderlehrer (Child Tutor)
United Kingdom	BASI (Ski) Alpine <u>Level 1 – Dry Slope Specific</u> BASI (SB) SB <u>Level 1 – Dry Slope Specific</u>
USA	PSIA (Ski) PSIA <u>Level 1</u> AASI (SB) AASI <u>Level 1</u>

Table 2 Country	Association Certification Level
Australia	APSI (Ski & SB) APSI <u>Level 1 (or equivalent certification prior to 2011 being Australia APSI (Ski & SB) Children's Certificate)</u>
Canada	CSCF (Coaching) Level 1 Advanced Certification
<u>USA</u>	<u>PSIA (Ski) AASI (SB) Level 1 plus PSIA children's specialist 1</u>

Table 3 Country	Association Certification Level
Australia	APSI (Ski & SB) APSI <u>Level 2 (or equivalent certification prior to 2011 being Australia APSI (Ski & SB) APSI Level 1)</u>
Austria	ÖSSV (Ski & SB) <u>Landeslehrer 1 (Aufnahmeprüfung) Anwärter</u>
Canada	CSIA (Ski) CSIA <u>Level 2</u> CASI (SB) CASI <u>Level 2</u> CSCF (Coaching) Development Level (2)
Czech Republic	APUL (Ski & SB) <u>APUL C</u>
Japan	SIA (Ski & SB) <u>IT I (Bronze Medal)</u>
<u>Korea</u>	<u>KSIA (Ski & SB) Level 2</u>
Netherlands	NVVS (Ski & SB) <u>A-Diploma</u>
New Zealand	NZSIA (Ski) SBINZ (-&SB) <u>Stage</u>

	<u>OneLevel 2</u>
<u>Poland</u>	<u>SITN-PZN Level Basic</u>
Slovakia	SAPUL (<u>Ski & SB</u>) C Qualification
Slovenia	<u>SIAS-ZUTS (Ski & SB) Level 1</u>
Switzerland	SSSA (<u>Ski & SB</u>) Stufe 1
United Kingdom	BASI (Ski) <u>Alpine LLevel 2</u> BASI (SB) <u>SB-Level 2</u>
USA	AASI (SB) <u>AASI-Level 2 plus children's specialist 1</u> PSIA (Ski) <u>PSIA-Level 2 plus children's specialist 1</u>

Table 4 Country	Association Certification Level
Australia	APSI (Ski & SB) <u>APSI-Level 3 (or equivalent certification prior to 2011 being Australia APSI (Ski & SB) APSI Level 2)</u>
Austria	ÖSSV (Ski & SB) Landessehilehrer (<u>completed</u>) or <u>Landeslehrer 2</u>
Canada	CSIA (Ski) <u>CSIA-Level 3</u> CASI (SB) <u>CASI-Level 3</u> CSCF (Coaching) Performance Level (3)
Czech Republic	APUL (<u>Ski & SB</u>) APUL B
Japan	SIA (<u>Ski & SB</u>) IT II (Silver Medal)
<u>Italy</u>	<u>AMSI (Ski & SB) Maestro di Sci / Snowboard</u>
<u>Korea</u>	<u>KSIA (Ski & SB) Level 3</u>
<u>New Zealand</u>	<u>NZSIA (Ski & SB) Level 3</u>
Netherlands	NVVS (<u>Ski & SB</u>) B-Diploma
<u>Poland</u>	<u>SITN-PZN Assistant PZN</u>
Slovakia	SAPUL (<u>Ski & SB</u>) B Qualification
Slovenia	<u>SIAS-ZUTS (Ski & SB) Level 2</u>
Switzerland	SSSA (<u>Ski & SB</u>) Stufe 2
United Kingdom	BASI (Ski) <u>Ski TeacherLevel 3</u> BASI (SB) <u>SB TeacherLevel 3</u>
USA	PSIA (Ski) <u>PSIA-AASI (SB) Level 23 plus PSIA children's specialist 2</u> <u>AASI PSIA (SB) AASI (SB) Level 3</u> USSA (Coaching) Level 200 State Coach

Table 5 Country	Association Certification Level
Australia	APSI (Ski & SB) <u>APSI-Level 4 (or equivalent certification prior to 2011 being Australia APSI (Ski & SB) APSI Level 3)</u>
Austria	ÖSSV (Ski & SB) Staatlich geprüfter Schilehrer
Canada	CSIA (Ski) <u>CSIA-Level 4</u> CASI (SB) <u>CASICSIA Level 4</u> CSCF (Coaching) Program Director (4)
Czech Republic	APUL (<u>Ski & SB</u>) APUL A
Italy	AMSI (<u>Ski & SB</u>) Maestro di Sci/ <u>Snowboard (Gold Level)</u>

Japan	SIA (<u>Ski & SB</u>) IT III (Gold Medal)
Netherlands	NVVS (<u>Ski & SB</u>) C-Diploma
New Zealand	NZSIA (Ski & SB) Stage Two <u>Level 3 plus Trainer</u>
<u>Poland</u>	SITN PZN PZN <u>ISIA</u>
Slovakia	SAPUL (<u>Ski & SB</u>) A Qualification
Slovenia	<u>SIAS-ZUTS (Ski & SB)</u> Level 3
Sweden	ESS (<u>Ski & SB</u>) Examinerad Svensk Skidlarare (Level 3)
Switzerland	SSSA (<u>Ski & SB</u>) Stufe 3 (<u>ISIA</u>)
United Kingdom	BASI (<u>Ski & SB</u>) (Ski) <u>Level 4 ISTD</u> <u>BASI (Ski Coach) Diploma-Level 4 Coach</u> <u>IVSI</u>
USA	PSIA (Ski) <u>PSIA-AASI (SB)</u> Level 3 <u>USA</u> <u>AASI (SB)-AASISIA plus Trainer Cert</u> <u>(Education Staff, i.e. DCL, TA)-Trainer</u>

SCHEDULE 2



21 January 2015

To whom it may concern

The Australian Professional Snowsports Instructors Inc. (APSI) are the industry leaders in snowsports instructor training within Australia and our Association employs appropriately qualified Australian instructors to train and examine all levels of the APSI qualification pathway.

The APSI instructor pathway has included 4 separate levels of qualification since 1994, leading to the fully qualified instructor. Each level within the pathway is the pre-requisite for the following qualification. Each qualification within the pathway includes a number of core units and mandatory work experience which must be obtained before eligibility is given to move to the next level. Additional elective units are available for separate international recognition (International Ski Instructor Association) these are optional, but each elective unit of competency must be achieved to obtain the ISIA stamp.

Level One - (previously Entry Level)...children's specialist

Level Two - (previously level 1)

Level Three - (previously level 2)...eligible for ISIA stamp

Level Four/Fully qualified – (previously level 3)

The names of these qualifications were changed to the above 1-4 number system effective as of January 2011, the content of our National pathway is continually assessed to meet the needs and demands of the snowsports instructing industry both locally and internationally.

The APSI supports the draft submission of the amendments to the Award as per the attached document which sets out the updated equivalence table.

Please contact this office if you have any questions regarding this letter.

Yours sincerely,

Andrew Rae
APSI General Manager
and National Training Coordinator

Appendices: Award Snowsports Instructor Equivalence Update 2014

Snowsports Instructor - Equivalence Table

Group E

Instructors Category E means an employee who is engaged as a Snowsports Instructor (as defined) and have either no experience or a low level qualification.

Country	Association	Certification Level
Australia	APSI (Ski & SB)	Level 1
Austria	ÖSSV (Ski & SB)	Anwärter
Canada	CSIA (Ski) CASI (SB)	Level 1
Canada	CSCF (Coaching)	Entry Level (1)
Korea	KSIA (Ski & SB)	Level 1
New Zealand	NZSIA (Ski) SBINZ (SB)	Level 1
Switzerland	SSSA (Ski & SB)	Kinderlehrer (Child Tutor)
United Kingdom	BASI (Ski & SB)	Level 1 - Dry Slope Specific
USA	PSIA (Ski) AASI (SB)	Level 1

Group D

Instructors Category D means an employee who is engaged as a Snowsports Instructor (as defined) and have some teaching experience with an entry level qualifications.

Teaching experience must amount to a minimum of 4 weeks and /or 65 hours of on-snow teaching experience

Australia	APSI (Ski & SB)	Level 1
Canada	CSCF (Coaching)	Level 1 Advanced Certification
USA	PSIA (Ski) AASI (SB)	Level 1 plus PSIA children's specialist 1

Group C

Instructors Category C means an employee who is engaged as a Snowsports Instructor (as defined) have a fundamental level of certification, being the APSI Level 2 Qualification or international equivalent and have fulltime practical teaching experience.

Full Time teaching experience must amount to 1 full time season or a minimum of 8 weeks and/ or 160 hours of on-snow teaching experience.

Country	Association	Certification Level
Australia	APSI (Ski & SB)	Level 2
Austria	ÖSSV (Ski & SB)	Landeslehrer 1 (Aufnahmsprüfung)
Canada	CSIA (Ski) CASI (SB)	Level 2
Canada	CSCF (Coaching)	Development Level (2)
Czech Republic	APUL (Ski & SB)	APUL C
Japan	SIA (Ski & SB)	IT I (Bronze Medal)
Korea	KSIA (Ski & SB)	Level 2
Netherlands	NVVS (Ski & SB)	A-Diploma
New Zealand	NZSIA (Ski) SBINZ (SB)	Level 2
Slovakia	SAPUL (Ski & SB)	C Qualification
Slovenia	ZUTS (Ski & SB)	Level 1
Switzerland	SSSA (Ski & SB)	Stufe 1
United Kingdom	BASI (Ski & SB)	Level 2
USA	PSIA (Ski) AASI (SB)	Level 2 plus children's specialist 1

Group B

Instructors Category B means an employee who is engaged as a Snowsports Instructor (as defined) have an intermediate level of certification, being their APSI Level 3 Qualification or international equivalent and have fulltime practical teaching experience.

Full time teaching experience must amount to a minimum of 2 full time seasons or 20 weeks and/or 400 hours of on-snow teaching experience.

Country	Association	Certification Level
Australia	APSI (Ski & SB)	Level 3
Austria	ÖSSV (Ski & SB)	Landeslehrer (completed) or Landeslehrer 2
Canada	CSIA (Ski) CASI (SB)	Level 3
Canada	CSCF (Coaching)	Performance Level (3)
Czech Republic	APUL (Ski & SB)	APUL B
Japan	SIA (Ski & SB)	IT II (Silver Medal)
Italy	AMSI (Ski & SB)	Maestro di Sci / Snowboard
Korea	KSIA (Ski & SB)	Level 3
New Zealand	NZSIA (Ski & SB)	Level 3
Netherlands	NVVS (Ski & SB)	B-Diploma
Slovakia	SAPUL (Ski & SB)	B Qualification
Slovenia	ZUTS (Ski & SB)	Level 2
Switzerland	SSSA (Ski & SB)	Stufe 2
United Kingdom	BASI (Ski & SB)	Level 3
USA	PSIA (Ski) AASI (SB)	Level 2 plus PSIA children's specialist 2
USA	PSIA (Ski) AASI (SB)	Level 3
USA	USSA (Coaching)	Level 200 State Coach

Group A

Instructors Category A means an employee who is engaged as a Snowsports Instructor (as defined) is a fully certified Instructor, having obtained their APSI Level 4 Qualification or international equivalent and have a minimum of 10 seasons full-time practical experience. Full-time season for the purposes of this category of employment will be a minimum of 12 successive weeks at a recognized Snowsports School.

Full time teaching experience over the 10 seasons must amount to a minimum of 100 weeks of on-snow teaching experience.

Country	Association	Certification Level
Australia	APSI (Ski & SB)	Level 4
Austria	ÖSSV (Ski & SB)	Staatlich geprüfter Schilehrer
Canada	CSIA (Ski) CASI (SB)	CSIA Level 4
Canada	CSCF (Coaching)	Program Director (4)
Czech Republic	APUL (Ski & SB)	APUL A
Italy	AMSI (Ski & SB)	Maestro di Sci/Snowboard (Gold Level)
Japan	SIA (Ski & SB)	IT III (Gold Medal)
Netherlands	NVVS (Ski & SB)	C-Diploma
New Zealand	NZSIA (Ski & SB)	Level 3 plus Trainer
Slovakia	SAPUL (Ski & SB)	A Qualification
Slovenia	ZUTS (Ski & SB)	Level 3
Sweden	ESS (Ski & SB)	Examinerad Svensk Skidlarare (Level 3)
Switzerland	SSSA (Ski & SB)	Stufe 3 (ISIA)
United Kingdom	BASI (Ski & SB)	Level 4 1STD
United Kingdom	BASI (Ski Coach)	Level 4 Coach IVSI
USA	PSIA (Ski) AASI (SB)	Level 3 ISIA plus Trainer Cert (Education Staff, i.e. DCL, TA)

Fair Work Commission

Section 160 – Application by Falls Creek Oversnow Pty Ltd and DPSI General Pty Ltd to vary the Alpine Resorts Award 2010

Matter Number: AM2014/189

OUTLINE OF SUBMISSIONS BY THE AUSTRALIAN SKI AREAS ASSOCIATION

1 Summary

- 1.1 These submissions are made by the Australian Ski Areas Associations (“Association”) pursuant to directions issued by Vice President Hatcher on 13 June 2014.
- 1.2 The application made by Falls Creek Oversnow Pty Ltd and DPSI General Pty Ltd relates to the variation of the *Alpine Resorts Award 2010* (“Award”). The applicants seek to vary the Award to “remove an ambiguity or uncertainty and/or to correct an error” contained in the coverage clause in the Award (clause 4).
- 1.3 The applicants contend that the coverage clause as currently drafted is ambiguous or uncertain as it limits the coverage of the Award to employers who “operate an alpine resort”, rather than to employers who operate businesses “in an alpine resort”. In the alternative, the applicants contend that the coverage clause “contains an error” because of this limitation.
- 1.4 The Association submits that the application should be dismissed as the application is fundamentally misconceived based on the following grounds:
 - (a) There is no ambiguity, uncertainty or error with respect to the coverage clause of the Award;
 - (b) The Award was deliberately drafted to limit the coverage of the Award to employers who “operate an alpine resort”;
 - (c) The definition of an “alpine resort” is very clearly set out in the Award, being “an establishment whose business, among other things, includes alpine lifting” (“Alpine Resort”), and it is well understood that the companies who are members of the Association are the only businesses that operate alpine lifting in Australia;
 - (d) The coverage of the Award was considered in great detail by a seven member bench of the then Australian Industrial Relations Commission (“AIRC”) during the award modernisation process; and
 - (e) In determining that the scope of the Award be limited to employers who operate an alpine resort, the AIRC deliberately excluded other employers from the Award (i.e. employers that did not carry out ski lifting activities).

-
- 1.5 The Association notes that there is significant written material (including submissions, transcripts, statements and decisions) available to the public on the Fair Work Commission's website in relation to the history behind the creation of the Award and the rationale behind the deliberate limitation of the coverage of the Award. The Association relies on that material in support of its objection to the application and will summarise it briefly below.

2 The nature of the snowsports industry

- 2.1 The Australian snowsports industry has always been, and continues to be, unique in its nature. The employees of Alpine Resorts (as defined by the Award) have historically fallen within a large range of occupational grounds, and have performed work that is generally highly variable due to prevailing snow and weather conditions and is seasonal in nature. This type of work mostly requires specialist skills and is undertaken in potentially extreme and variable climatic conditions within the snowsports industry.
- 2.2 The uniqueness of the companies operating Alpine Resorts is appropriately summarised in paragraph 2.2 of the Association's written submissions to the AIRC on 7 July 2009 in relation to the award modernisation process ("**July 2009 Submissions**"):

Alpine lifting is the key factor that makes Alpine Resorts unique from other businesses operating in alpine areas. It is also a key factor that determines the work levels available for employees. The creation of alpine lifting facilities requires major capital investment, whilst their operation and maintenance in snow conditions requires a unique range of classifications of work. In poor snow conditions, all work across the resorts need to be able to be flexibly allocated to accommodate reduced work levels.

- 2.3 Annexed and marked "A" is a copy of the July 2009 Submissions.

3 The history of the Award

- 3.1 The uniqueness of the Alpine Resorts has historically been reflected in the industrial instruments that have regulated the snowsport industry.
- 3.2 A detailed summary of the industrial regulation of the snowsports industry in Victoria and New South Wales prior to 2010 is set out at paragraphs 3.3 to 3.21 of the Association's written submissions to the AIRC on 6 March 2009 ("**March 2009 Submissions**"), and paragraphs 2.4 to 2.21 of the Association's written submissions to the AIRC dated 8 April 2009 ("**April 2009 Submissions**"). Annexed and marked "B" and "C" respectively are copies of these submissions.
- 3.3 The relevant industrial instruments contained unique conditions and flexibilities which reflected the unique nature of the snowsports industry, including relating to the payment of penalty rates; the ability to work on an "any five in seven" basis; and specific provisions for seasonal employees. Those tailored terms and conditions had

been negotiated, over a number of years, primarily with the Australian Workers Union¹.

- 3.4 Historically, the relevant industrial instruments included a broad range of classifications. For example, they included roles that may have otherwise fallen within other occupations or industries, including shop or retail employees; clerical employees; mechanical employees; and transport industry employees².
- 3.5 Annexed and marked “D”, “E”, “F” and “G” are copies of the relevant industrial instruments.
- 3.6 The rationale behind the inclusion of such a broad range of classifications in the historical industrial instruments is set out in the April 2009 Submissions³, namely, to enable the Alpine Resorts to utilise their employees across their resorts effectively and commercially, especially during times of extreme poor weather conditions.
- 3.7 The closure of ski lifts due to high winds and the closure of slopes due to poor snow cover has a decimating impact on the revenue generated by the Alpine Resorts as the vast majority of their revenue is generated from the operation of their ski lifting activities (see paragraphs 45, 47, 49 – 50 of the transcript of the proceedings in this matter dated 13 June 2014 (Annexure “H”)).
- 3.8 It has historically been recognised that the Alpine Resorts must have the ability to be flexible with their workforce during poor weather conditions to minimise the devastating financial impact on the resorts in poor weather conditions. This flexibility has been achieved by the Alpine Resorts transferring their employees between the different businesses operated by the Alpine Resorts. For example, during poor weather conditions when the ski slopes are closed, the Alpine Resorts have traditionally transferred employees working on alpine lifting and the ski slopes to perform roles in restaurants, hotels or shops operated by the same Alpine Resort. The Alpine Resorts could not be, and can still not be, viable purely through other parts of the resort that are unrelated to the activity of skiing (being restaurants, hotels and child care facilities).
- 3.9 Annexed and marked “I” is a spreadsheet that is representative of the vast difference in revenue generated by the Alpine Resorts that our client represents between alpine lifting related and non alpine lifting related business activities. It is clear from this spreadsheet that the Alpine Resorts continue to rely on their alpine lifting facilities for the vast majority of their revenue.
- 3.10 The considerations relevant to the uniqueness of the snowsports industry were highly relevant to the award modernisation process and the ultimate drafting of the coverage clause of the Award. Those considerations continue to remain relevant today.

¹ See paragraphs 2.3 and 2.4 of the April 2009 Submissions

² See paragraphs 2.8 to 2.11 of the April 2009 Submissions

³ See paragraphs 2.7 to 2.21 of the April 2009 Submissions

4 The award modernisation process

- 4.1 Several parties made submissions to the AIRC in relation to the award modernisation process relevant to the snowsports industry (including the LHMU, AWU, AMWU, SDA, ASU and the Association). There was also a lengthy hearing relevant to these proceedings in 2009.
- 4.2 The submissions of the parties, transcripts of the proceedings, statements and decisions issued by the AIRC are all available on the Fair Work Commission website.
- 4.3 The definition of an Alpine Resort was limited to companies involved in alpine lifting in all drafts of the Award throughout the entire award modernisation process. Annexed and marked “J1”, “J2” and “J3” are draft versions of the Award released by the AIRC on 22 May 2009, 4 September 2009 and 16 December 2009 respectively.
- 4.4 The issue of distinguishing between Alpine Resorts and businesses that did not operate alpine lifting facilities was debated in great detail during the award modernisation process⁴. The Association submits that there can be no ambiguity, uncertainty or error as to whether or not a business operates alpine lifting as part of its business. It is clear that the applicants do not operate alpine lifting as part of their businesses.
- 4.5 In addition to the written submissions of the Association, the Association also made oral submissions during the relevant hearings relevant to the issue of the need to limit the scope of the Award to Alpine Resorts only. Annexed and marked “K” is a transcript of the proceedings on 30 June 2009 in relation to the award modernisation process with respect to the tourism industry (“**30 June 2009 Transcript**”).
- 4.6 The uniqueness of the snowsports industry and the relevance of implementing unique terms and conditions in the Award are referred to in paragraphs 3616 to 3619 of the 30 June 2009 Transcript, and a summary of the historical aspects relating to coverage issues is referred to in paragraphs 3621 to 3625 of the 30 June 2009 Transcript.
- 4.7 The SDA also commented on the clear intention behind the scope of the Award when it commented at paragraph 3654 of the 30 June 2009 Transcript:

The key issue clearly in terms of whether or not the service workers are in this award or out is really determined by the issue of the coverage clause of the Alpine Resorts Award and the very coverage clause of the Alpine Resorts Award means that other industry awards will necessarily apply in the snow sports industry or in the ski field and that’s simply because the coverage clause of the Alpine Resorts Award is so specific, it actually should probably be renamed the Alpine Lifting award because the whole definition of the industry is dependent upon an establishment that includes alpine lifting which simply means that any establishment in the ski fields or in the snow sports industry that does not provide alpine lifting is simply not covered by the Alpine Resorts Award.

(Emphasis added).

⁴ See annexures A – C, K, L1-4, M1-4, N1-2, O1 -2 and P1

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- 4.8 While it is arguable that the Award may have been better called the ‘Alpine Lifting Award’, the Award clearly defines its applicability to an establishment whose business, among other things, includes alpine lifting (i.e. an Alpine Resort).
- 4.9 We note that the other parties involved in the debate relating to the coverage of the Award prepared written submissions on this issue. Annexed and marked “L1”, “L2”, “L3”, “L4”, “M1”, “M2”, “M3”, “M4”, “N1”, “N2”, “O1”, “O2” and “P1” are copies of the parties written submissions.
- 4.10 It is clear from a review of the 30 June 2009 Transcript, the submissions of the Association (which heavily rely on the historical industrial regulation of the snowsports industry and the reason why the unique coverage of those instruments should continue to be adopted in the Award) and the submissions of the other parties involved in the creation of the Award that there was considerable discussion and debate regarding the scope of the Award.
- 4.11 Taking into account the debate on this issue of coverage and the vast amount of materials filed in relation to this issue, the Award as finalised by the AIRC included a clear and unambiguous coverage clause which limited the coverage of the Award to Alpine Resorts (as defined by the Award) only.
- 4.12 The drafting of the coverage clause therefore deliberately excludes businesses that do not operate alpine lifting facilities.
- 4.13 In the circumstances, the issue of the coverage of the Award could therefore not be more transparent. The Association respectfully requests that the Commission dismiss the application.

Harmers Workplace Lawyers

24 June 2014