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Cc: Chambers - Hatcher VP; Shaun Schmitke; Jane McCarty

Subject: Draft Determinations - (AM2016/23)

Dear Parties,

Please find attached draft determinations regarding the Construction Awards proceeding.

The documents are:

- Draft determination setting out variations to the Joinery Award;
- Draft determination setting out variations to the On-Site Award (that remove WHS clauses per our primary position); and
- Draft determination setting out variations to the On-Site Award dealing with remaining claims (and incorporating an alternate position to the WHS primary position.)

Kind regards,

Rebecca Sostarko
Lawyer



DRAFT DETERMINATION

Fair Work Act 2009

s.156 – 4 yearly review of modern awards

4 yearly review of modern awards – Construction Awards (AM2016/23)

JOINERY AND BUILDING TRADES AWARD 2010

[MA000029]

Building and construction industry

VICE PRESIDENT HATCHER
SENIOR DEPUTY PRESIDENT HAMILTON
SENIOR DEPUTY PRESIDENT GOSTENCNIK
COMMISSIONER GREGORY
COMMISSIONER HARPER GREENWELL

MELBOURNE XX XX 2017

A. Further to the decision issued by the Fair Work Commission on [XXXX], the above award is varied as follows:

1. By inserting clause 30.9 as follows:

30. Overtime

30.9 Time off instead of payment for overtime

Insert model TOIL clause

2. By deleting clause 3.1 and replacing it as follows:

3. Definitions and interpretation

3.1 In this award, unless the contrary intention appears:

joinery work means work performed by the classifications contained in this award in a joinery shop, and includes the preparation, decoration and assembling of joinery or building components principally in timber or similar material, and the on-site installation of joinery or building components

prepared, decorated or assembled off-site by classifications contained in this Award.

joinery shop means the employers principal or main establishment that is not located on an 'on-site' construction project

3. By deleting clause 23.3.

4. By deleting clause 24.5(a)(ii) and replacing it as follows:

24. Allowances and special rates

24.5 Transfers, travelling and working away from usual place of work

(a) Living away from home for a distant job

(ii) *An employee directed by their employer to proceed to a distant job and who complies with such direction is entitled to either:*

- *payment of an allowance of \$478.44 per full working week (of seven days), or where the job is for less than a full working week, \$68.45 per day, or if the employee satisfies the employer that a greater outlay than that prescribed was reasonably incurred, reimbursement for the expenses outlayed; or*
- *reasonable lodging provided by the employer, where reasonable lodging means accommodation in either a single room or twin room if a single room is not available with adequate furnishings, good bedding, good floor coverings, good lighting and good heating/cooling and with hot and cold running water, all in a well-kept hotel/motel type establishment, and*
- *reasonable board provided by the employer, where reasonable board means three adequate meals each day.*

4. By deleting clause 31.1(a) and replacing it as follows:

31. Alternative working arrangement

31.1 *By written agreement between the employer and the employees, the ordinary hours of work may be altered from those allowed under clauses 28 – Ordinary hours of work and rostering, 29 – Breaks or 30-Overtime to suit the needs of a particular enterprise, factory, workshop or section, provided that:*

- (a)** *the agreement must be made by at least a majority of employees in the enterprise, factory, workshop, or section affected by the alteration; and*

B. This determination comes into operation from XXXX.

VICE PRESIDENT

DRAFT DETERMINATION

Fair Work Act 2009

s.156 – 4 yearly review of modern awards

4 yearly review of modern awards – Construction Awards

(AM2016/23)

BUILDING AND CONSTRUCTION GENERAL ON-SITE AWARD 2010

[MA000020]

Building and construction industry

VICE PRESIDENT HATCHER

SENIOR DEPUTY PRESIDENT HAMILTON

SENIOR DEPUTY PRESIDENT GOSTENCNIK

COMMISSIONER GREGORY

COMMISSIONER HARPER GREENWELL

MELBOURNE XX XX 2017

A. Further to the decision issued by the Fair Work Commission on [XXXX], the above award is varied as follows:

1. By deleting clause 20.1 (b) (vi)
2. By deleting clause 20.1 (b) (vii)
3. By deleting clause 20.1 (b) (viii)
4. By deleting clause 20.1 (c)
5. By deleting clause 20.1 (d)
6. By deleting clause 20.3 (a)
7. By deleting clause 21.3
8. By deleting clause 21.9

9. By deleting clause 22.2 (a)
10. By deleting clause 22.2 (b)
11. By deleting clause 22.2 (c)
12. By deleting clause 22.2 (d)
13. By deleting clause 22.2 (f)
14. By deleting clause 22.2 (g)
15. By deleting clause 22.2 (h)
16. By deleting clause 22.2 (i)
17. By deleting clause 22.2 (j)
18. By deleting clause 22.2 (k)
19. By deleting clause 22.2 (m)
20. By deleting clause 22.2 (n)
21. By deleting clause 22.2 (o)
22. By deleting clause 22.2 (p)
23. By deleting clause 22.2 (q)
24. By deleting clause 22.3 (a) (ii)
25. By deleting clause 22.3 (b)
26. By deleting clause 22.3 (h)
27. By deleting clause 22.3 (i) (ii)
28. By deleting clause 22.3 (l) (i)
29. By deleting clause 22.3 (n)
30. By deleting clause 22.3 (o)

31. By deleting clause 22.4 (b)
32. By deleting clause 22.4 (d)
33. By deleting clause 33.1 (c)
34. By deleting clause 33.1 (d)
35. By deleting clause 35.4
36. By deleting clause 35.5; and
37. By making consequential adjustments, such as clause renumbering and references, arising from items 1 to 36 above.

B. This determination comes into operation from XXXX.

VICE PRESIDENT

DRAFT DETERMINATION

Fair Work Act 2009

s.156 – 4 yearly review of modern awards

4 yearly review of modern awards – Construction Awards

(AM2016/23)

BUILDING AND CONSTRUCTION GENERAL ON-SITE AWARD 2010

[MA000020]

Building and construction industry

VICE PRESIDENT HATCHER

SENIOR DEPUTY PRESIDENT HAMILTON

SENIOR DEPUTY PRESIDENT GOSTENCNIK

COMMISSIONER GREGORY

COMMISSIONER HARPER GREENWEELL

MELBOURNE XX XX 2017

A. Further to the decision issued by the Fair Work Commission on [XXXX], the above award is varied as follows:

1. By deleting clause 17.2 and replacing it as follows:

17.2 Definition

(a) For the purpose of this clause, redundancy means a situation where an employee is dismissed, other than for reasons of misconduct or refusal of duty:

(i) At the initiative of the employer because they no longer require the work performed by the employee to be done by anyone;

(ii) At the initiative of the employer because operational or similar circumstances at the project or site on which the employee is working are such that the employer no longer requires the employee to perform work and there is not an agreement between the employer and the employee for future employment on an alternative site or project; or

(iii) The employer ceases to exist and/or no longer requires the engagement of employees.

(b) Redundant has a corresponding meaning to redundancy as expressed in clause 17.2(a).

2. By deleting clause 17.3 and replacing it as follows:

17.3 Redundancy Pay

(a) A redundant employee will receive redundancy/severance payments, calculated as follows, in respect of all continuous service with the employer:

<i>Period of continuous service with an employer</i>	<i>Redundancy/severance pay</i>
<i>Less than 2 years</i>	<i>Nil</i>
<i>2 years or more but less than 3 years</i>	<i>4.8 weeks' pay plus, for all service in excess of 2 years, 1.6 hours pay per completed week of service up to a maximum of 7 weeks' pay</i>
<i>3 years or more than but less than 4 years</i>	<i>7 weeks' pay plus, for all service in excess of 3 years, 0.73 hours pay per completed week of service up to a maximum of 8 weeks' pay</i>
<i>4 years or more</i>	<i>8 weeks' pay</i>

(b) Week's pay means the ordinary time hourly rate at the time of termination multiplied by 38. Hour's pay means the ordinary time hourly rate at the time of termination.

(c) Redundancy/severance entitlements under clause 17.3(a) do not apply if, immediately before the time of the termination due to redundancy, or at the time when the person was given notice of the termination due to redundancy:

(i) the employee's period of continuous service with the employer is less than 24 months; or

(ii) the employer employs fewer than 5 employees.

3. By inserting a new clause 19.1A as follows:

19.1A Junior employees

Where the law permits junior employees to perform work in the construction industry, the junior employee (other than an apprentice or trainee) will be entitled to the percentage of the applicable adult weekly wage (in the case of part-time or casual employees the hourly rate) for their classification as set out in the table below:

<i>Age</i>	<i>% of adult rate</i>
<i>Under 16 years</i>	<i>36.8</i>
<i>At 16 years</i>	<i>47.3</i>
<i>At 17 years</i>	<i>57.8</i>
<i>At 18 years</i>	<i>68.3</i>
<i>At 19 years</i>	<i>82.5</i>
<i>At 20 years</i>	<i>97.7</i>

4. By deleting clause 19.5 and replacing it as follows:

19.5 Mobile cranes capacity adjustment formula

- (a) For each additional 40 tonnes over a maximum lifting capacity of 100 tonnes, an amount of 2.4% of the weekly standard rate must be added to the base rate for Level 5 (CW/EW5) and above.
- (b) The weekly rate, inclusive of the mobile cranes capacity adjustment formula, is calculated as an hourly rate in accordance with clause 13.2.

5. By deleting clause 20 and replacing it as follows:

20. Expense related allowance

20.1 Tool and employee protection allowance

- (a) A tool allowance must be paid for all purposes of the award in accordance with the following table:

Classification	Tool allowance \$ per week
<i>Artificial stoneworker, carpenter and/or joiner, carpenter-diver, carver, bridge and wharf carpenter, floor sander, letter cutter, marble and slate worker, stonemason or tile layer</i>	<i>30.45</i>
<i>Caster, fixer, floor layer specialist or plasterer</i>	<i>25.17</i>
<i>Refractory bricklayer or bricklayer</i>	<i>21.61</i>
<i>Roof tiler, slate-ridger or roof fixer, tradespersons in the metals and engineering construction sector</i>	<i>15.95</i>
<i>Signwriter, painter or glazier</i>	<i>7.31</i>

The above allowance does not include the provision of the following tools. Where the following tools are provided by the employee then the employee must be reimbursed for the cost of such tools by the employer, or alternatively the employer may elect to provide such tools:

(i) Bricklayers:

- scutch comb;
- hammers (excepting mash and brick hammers);

- *rubber mallets; and/or*
- *T squares.*

(ii) *Carpenters and joiners:*

- *dogs and cramps of all descriptions;*
- *bars of all descriptions;*
- *augers of all sizes;*
- *star bits and bits not ordinarily used in a brace;*
- *hammers, except claw hammers;*
- *glue pots and glue brushes,*
- *dowell plates;*
- *trammels;*
- *hand and thumb screws;*
- *spanners; and/or*
- *soldering irons.*

(iii) *Stonemasons:*

- *all cutting tools, except mash hammers, squares, pitching tools and straight edges up to four feet (1.2 metres) in length. On completion of engagement the cost of having all cutting tools sharpened; and/or*
- *jet sprays or some other suitable device for keeping the stone wet when using pneumatic surfacing machines and lathes.*

(iv) *Plasterers:*

- *all floating rules, trammels, centres, buckets and sieves. Stands for plasterers' mortar boards not less than 76 centimetres from the ground or where practicable and safe from a scaffold level; and/or*
- *overalls and the approved brush and roller to perform the work when required to brush on to walls and ceilings, bondcrete, plasterweld or similar substances.*

(v) *Tradespersons in the metals and engineering construction sector:*

- *power tools, special purpose tools, and precision measuring instruments for the use of tradespersons and for sheetmetal workers, snips used in the cutting of stainless steel, monel metal and similar hard metals.*

A tradesperson will replace or pay for any tools supplied by their employer if lost through their negligence.

(vi) All employees:

All power tools and steel tapes over six metres.

(c) Special conditions to apply to bricklayers engaged on construction or repairs to refractory brickwork

The following special conditions will apply to bricklayers engaged on construction or repairs to refractory brickwork:

- (i)** *Where an employer does not provide appropriate footwear to ensure work can be carried out safely and an employee has provided their own the employee may request an allowance of \$86.09 to reimburse the employee for the cost of purchasing that footwear and this must be provided by the employer for employees who have been employed for six weeks.*
- (ii)** *The allowance set in (i) above must be provided to cover the cost of replacement boots, provided that the allowance need not be paid more than once in any six month period dating from the time the allowance is first provided.*
- (iii)** *An employee who receives the allowance under this clause shall accrue credit at the rate of \$4.30 per week from the date of the request. If an employee leaves or is dismissed before 20 weeks' employment after the date of the request, they will repay the difference between the credit accrued and the \$86.09.*

20.2 Meal allowance

- (a)** *An employee required to work overtime for at least two hours after working ordinary hours inclusive of time worked for accrual purposes as prescribed in clauses 34 - Shiftwork, or 38 – Annual Leave must be paid by the employer an amount of \$14.54 to meet the cost of a meal, save where an employee was given 24 hours' notice of the requirement to work.*
- (b)** *This subclause will not apply to an employee who is provided with reasonable board and lodging or who is receiving a distant job allowance as provided for in clause 24 – Living away from home- distant work, and is provided with a suitable meal.*
- (c)** *An operator employee will be entitled to be paid \$14.54 for each meal after the completion of each four hours from the commencement of overtime.*

20.3 Compensation for tools

- (a)** *An employee must be reimbursed by the employer to a maximum of \$1766.00 for loss of tools by fire or breaking and entering*

whilst securely stored at the employer's direction in a room or building on the employer's premises, job or workshop or if the tools are lost or stolen while being transported by the employee at the employer's direction, or if the tools are accidentally lost over water or if tools are lost or stolen during an employee's absence after leaving the job because of injury or illness, or where the employee does not report for work because of illness or accident and has advised the employer of such absence.

- (b)** *An employee transporting their own tools must take all reasonable care to protect those tools and prevent theft or loss.*
- (c)** *For the purposes of this clause:*
 - (i)** *only tools used by the employee in the course of their employment will be covered by this clause;*
 - (ii)** *the employee will, if requested to do so, furnish the employer with a list of tools so used;*
 - (iii)** *reimbursement will be at the current replacement value of new tools of the same or comparable quality; and*
 - (iv)** *the employee will report any theft to the police prior to making a claim on the employer for replacement of stolen tools.*

20.4 Adjustment of expense related allowances

- (a)** *At the time of any adjustment to the [standard rate](#), each expense related allowance will be increased by the relevant adjustment factor. The relevant adjustment factor for this purpose is the percentage movement in the applicable index figure most recently published by the Australian Bureau of Statistics since the allowance was last adjusted.*
- (b)** *The applicable index figure is the index figure published by the Australian Bureau of Statistics for the Eight Capitals Consumer Price Index (Cat No. 6401.0), as follows:*

<i>Allowance</i>	<i>Applicable Consumer Price Index figure</i>
<i>Tool and employee protection allowance</i>	<i>Eight Capitals Consumer Price Index</i>
<i>Compensation for clothes and tools</i>	<i>Eight Capitals Consumer Price Index</i>
<i>Meal allowance</i>	<i>Meals out and take away foods sub-group</i>
<i>Living away from home—distant work</i>	<i>Domestic holiday travel and accommodation sub-group</i>
<i>Camping</i>	<i>Average of Food and non-alcoholic beverages, housing and transport groups</i>
<i>Fares and travel patterns allowance</i>	<i>Transport group</i>

<i>Allowance</i>	<i>Applicable Consumer Price Index figure</i>
<i>Weekend return home</i>	<i>Transport group</i>
<i>Transport and transporting tools</i>	<i>Transport group</i>

6. By deleting clause 21 and inserting the following:

21. Site and general wage related allowances

21.1 Special allowance

- (a) *Employees must be paid a special allowance of \$7.70 per week to compensate for the following matters:*
- (i) *excess travelling time incurred by employees in the on-site building and construction industry; and*
 - (ii) *the removal of loadings from the various building awards in this industry.*
- (b) *This allowance will not be adjusted.*

21.2 Industry allowance

In addition to the rates prescribed in clause 19 – Minimum wages, an employee must be paid an allowance at the rate of 3.7% of the weekly [standard rate](#) per week to compensate for the following disabilities associated with construction work:

- (a) *climatic conditions when working in the open on all types of work;*
- (b) *the physical disadvantage of having to climb stairs or ladders;*
- (c) *the disability of dust blowing in the wind, brick dust and drippings from newly poured concrete;*
- (d) *sloppy and muddy conditions associated with the initial stages of the erection of a building;*
- (e) *the disability of working on all types of scaffolds or ladders, other than a swing scaffold, suspended scaffold, or a bosun's chair;*
- (f) *the lack of the usual amenities associated with factory work, (e.g. meal rooms, change rooms, lockers).*

21.3 Underground allowance

- (a) *An employee, other than an employee in an Operator classification, who is required to work underground must be paid an additional allowance of 1.8% of the weekly standard rate per week for all purposes of the award in addition to the allowance prescribed in clause 21.2.*

- (b) *Clause (a) above does not apply to employees who work underground for 4 days or shifts in any ordinary week and they shall instead be paid an additional 0.4% of the weekly standard rate per day or shift and in addition the allowance prescribed in clause 21.2.*
- (c) *Where a shaft is to be sunk to a depth greater than six metres, the payment of the underground allowance will commence from the surface.*
- (d) *These allowances will not be payable to employees engaged upon pot and drive work at a depth of 3.5 metres or less.*

21.4 Multistorey allowance

- (a) *A multistorey allowance must be paid to all employees on-site whilst engaged in construction or renovation of a multistorey building to compensate for the disabilities experienced in, and which are peculiar to construction or renovation of a multistorey building.*
- (b) *Provided that for the purposes of this clause renovation work is work performed on existing multistorey buildings and such work involves structural alterations which extend to more than two storey levels in a building, and at least part of the work to be performed is above the fourth floor storey level in accordance with the scale of payments appropriate for the highest floor level affected by such work.*

- (c) ***In this clause:***

multistorey building means a building which will, when complete, consist of five or more storey levels

complete means the building is fully functional and all work which was part of the principal contract is complete

storey level means structurally completed floor, walls, pillars or columns, and ceiling (not being false ceilings) of a building and will include basement levels and mezzanine or similar levels (but excluding **half floors** such as toilet blocks or store rooms located between floors)

floor level means that stage of construction which in the completed building would constitute the walking surface of the particular floor level referred to in the table of payments.

- (d) *Any buildings or structures which do not have regular storey levels but which are not classed as towers (e.g. grandstands, aircraft hangars, large stores, etc.) and which exceed 15 metres in height may be covered by this subclause, or by clause 22.3(a) by agreement between the employer and an employee.*
- (e) ***Plant room:*** *a plant room situated on the top of a building will constitute a further storey level if the plant room occupies 25%*

of the total roof or an area of 100 square metres whichever is the lesser.

(f) Rates

- (i) Except as provided for in clause 21.4(g), an allowance in accordance with the following table must be paid to all employees on the building site. The higher allowances presented in respect of work on the 16th and subsequent floors will be paid to all employees when one of the following components of the building—structural steel, reinforcing steel, boxing or walls—rises above the floor level first designated in the allowance scale:

Storeys	Allowance per hour
From the commencement of building to 15th floor level	2.6% of the hourly <u>standard rate</u>
From the 16th floor level to 30th floor level	3.1% of the hourly <u>standard rate</u>
From the 31st floor level to 45th floor level	4.8% of the hourly <u>standard rate</u>
From the 46th floor level to 60th floor level	6.2% of the hourly <u>standard rate</u>
From the 61st floor level onward	7.6% of the hourly <u>standard rate</u>

- (ii) The allowances payable at the highest point of the building will continue until completion of the building.

(g) Service cores

- (i) All employees employed on a service core at more than 15 metres above the highest point of the main structure must be paid the multistorey rate appropriate for the main structure plus the allowance prescribed in clause 22.3(a), calculated from the highest point reached by the main structure to the highest point reached by the service core in any one day period. (i.e. For this purpose, the highest point of the main structure will be regarded as though it were the ground in calculating the appropriate Towers allowance prescribed in clause 22.3(a)).

- (ii) *Employees employed on a service core no higher than 15 metres above the main structure must be paid in accordance with the multistorey allowance prescribed herein.*
- (iii) *Provided that any section of a service core exceeding 15 metres above the highest point of the main structure will be disregarded for the purpose of calculating the multistorey allowance application to the main structure.*

21.5 Laser operation allowance

(a) Application

This subclause applies when laser equipment is utilised for work within the scope of this award.

(b) Definitions

- (i) *Laser means any device excepting a Class 1 device which can be made to produce or amplify electromagnetic radiation in the wave length range from 100 nanometres to one millimetre primarily by the process of controlled stimulation emission.*
- (ii) *Laser safety officer or LSO is an employee who in addition to the employees ordinary work is qualified to perform duties associated with laser safety and is appointed as such.*

21.6 Laser safety officer allowance

An employee appointed by the employer to carry out the duties of a laser safety officer must be paid an additional 13.4% of the hourly [standard rate](#) per day or part thereof whilst carrying out such duties, paid as a flat amount without attracting any premium or penalty.

21.7 Carpenter-diver allowance

Employees undertaking work normally performed by a carpenter-diver must be paid an additional 4.5% of the hourly [standard rate](#) per hour extra which will be regarded as part of the ordinary time hourly rate for all purposes of the award.

21.8 Refractory bricklaying allowance

- (a) *A special allowance to compensate for disabilities associated with the work of refractory bricklaying must be paid as follows:*

Classification	Per hour % of the hourly standard rate
<i>Refractory bricklayer</i>	<i>10.0</i>
<i>Refractory bricklayer's assistant</i>	<i>8.5</i>

- (b) *This allowance must be paid instead of all special rates prescribed in clause 22—Special rates, except clauses 22.2(b) and 22.2(c) and will be regarded as part of the ordinary time hourly rate.*
- (c) *An apprentice Refractory bricklayer must be paid the allowance on a proportionate basis reflecting the appropriate percentage of the adult wage in clause 19.1.*

21.9 First aid allowance

- (a) *An employee who:*
 - (i) *is appointed by the employer to be responsible for carrying out first aid duties as they may arise;*
 - (ii) *holds a recognised first aid qualification (as set out hereunder) from the Australian Red Cross Society, St John Ambulance or similar body;*
 - (iii) *is required by their employer to hold a qualification at that level;*
 - (iv) *the qualification satisfies the relevant statutory requirement pertaining to the provision of first aid services at the particular location where the employee is engaged; and*
 - (v) *those duties are in addition to the employees normal duties, recognising what first aid duties encompass by definition;*

will be paid at the following additional rates to compensate that person for the additional responsibilities, skill obtained, and time spent acquiring the relevant qualifications:

- (vi) *an employee who holds the minimum qualifications recognised under the relevant State or Territory Occupational Health and Safety legislation (or, in Western Australia, a Senior First Aid certificate of Industrial First Aid certificate or equivalent qualification from the St John Ambulance Association or similar body)—0.36% of the weekly [standard rate](#) per day; or*
 - (vii) *an employee who holds a higher first aid certificate recognised under the relevant State or Territory Occupational Health and Safety legislation (or, in Western Australia, a Senior First Aid certificate or Industrial First Aid certificate or equivalent qualification from the St John Ambulance Association or similar body)—0.57% of the weekly [standard rate](#) per day.*
- (b) *An employee will be paid only for the level of qualification required by their employer to be held, and there will be no*

double counting for employees who hold more than one qualification.

21.10 Air-conditioning industry and refrigeration industry allowances

- (a) *In addition to the appropriate minimum wage prescribed in clause 19.1, an air-conditioning tradesperson and a refrigeration mechanic must be paid a weekly allowance of 7.9% of the weekly [standard rate](#) as compensation for the various disabilities and peculiarities associated with on-site air-conditioning work or on-site refrigeration work.*
- (b) *An employee in receipt of this allowance will not be entitled to special rates in:*
- *clause 22.2(a)—Insulation;*
 - *clause 22.2(b)—Hot work;*
 - *clause 22.2(c)—Cold work;*
 - *clause 22.2(d)—Confined space;*
 - *clause 22.2(g)—Unusually dirty work;*
 - *clause 22.2(j)—Asbestos eradication; and*

21.11 Electrician's licence allowance

- (a) *An employee engaged and working as an electrical tradesperson and who holds an appropriate electrician's licence must be paid a weekly allowance of 3.2% of the weekly [standard rate](#) for all purposes of this award.*
- (b) *An appropriate electrician's licence for the purpose of this subclause will be:*
- *New South Wales—a NSW Electrician's Licence;*
 - *Victoria—an A Grade Electrician's Licence;*
 - *South Australia—an A Grade Electrical Worker's Licence;*
 - *Tasmania—an A Grade Electrician's Licence; and*
 - *Queensland—an Electrical Mechanic's or Electrical Fitter/Mechanic's Licence.*

21.12 In charge of plant

- (a) *In charge of plant means:*
- (i) *when two or more employees are employed at the plant at the one time, the employee who is invested with the superintendence and responsibility or who has to accept the superintendence and responsibility;*

- (ii) *an employee who is invested with the superintendence and responsibility or who has to accept the superintendence and responsibility over one or more other employees;*
 - (iii) *when the employee is the only person of that class employed on the plant the employee who does the general repair work of the plant in addition to the work of operating, but not when the employee merely assists a fitter or engineer to do such work; or*
 - (iv) *where shifts are worked, the employee who is directed to carry out the general repair work of the plant in addition to the work of operating, but not when the employee merely assists a fitter or engineer to do such work.*
- (b) *An employee who is in charge of plant must be paid an additional 4.7% of the weekly [standard rate](#) per week.*

7. By deleting clause 22 and replacing it as follows:

22. Special rates

22.1 Conditions in respect of special rates

- (a) *To avoid doubt, the special rates are allowances for the purpose of clause 7.1(d).*
- (b) *The special rates prescribed in this award must be paid irrespective of the times at which work is performed and will not, except where specified, be subject to any premium or penalty conditions.*
- (c) *This limitation does not apply to the all-purpose special rates prescribed hereunder with applicable to furnace work and acid work.*
- (d) *Where more than one of the special rates provides payments for disabilities of substantially the same nature, then only the highest of such rates will be payable unless otherwise provided.*
- (e) *Payments contained in this subclause are in recognition of the disabilities associated with the relevant types of work, including the use of equipment that may be necessary to undertake the relevant types of work, that are not otherwise covered elsewhere in this award, and the use of equipment that may be required to undertake such work.*
- (f) *Except for where specifically stated in this subclause, each payment shall only be payable for the time spent undertaking such work and using related equipment.*

- (g) *An employee entitled to receive the lift industry allowance in clause 42.2(a), or an allowance based on the lift industry allowance, shall not be entitled to any special rate in clause 22.*

22.2 Special rates applicable to all sectors

(a) Insulation

Employees must be paid an additional 4.0% of the hourly standard rate per hour or part thereof for the disabilities associated with the use of charcoal, pumice, granulated cork, silicate of cotton, insulwool, slag wool, limpet fibre, vermiculite, or other recognised insulating material of a like nature.

(b) Hot work

(i) *An employee who works in a place where the temperature has been raised by artificial means to between 46 degrees and 54 degrees Celsius must be paid an additional 3.2% of the hourly standard rate per hour or part thereof. In temperatures exceeding 54 degrees Celsius, an employee must be paid an additional 4.0% of the hourly standard rate per hour or part thereof.*

(ii) *Where such work continues for more than two hours, the employee will be entitled to 20 minutes rest after every two hours work without loss of pay, not including the special rate provided by this subclause.*

(c) Cold work

An employee who works in a place where the temperature is lowered by artificial means to less than 0 degrees Celsius must be paid an additional 3.2% of the hourly standard rate per hour. Where such work continues for more than two hours, the employee will be entitled to 20 minutes rest after every two hours work without loss of pay, not including the special rate provided by this subclause.

(d) Confined space

An employee required to work in a confined space must be paid an additional 4.0% of the hourly standard rate per hour or part thereof

(e) Swing scaffold

(i) *An employee required to work from any type of swing scaffold or any scaffold suspended by rope or cable, or a suspended scaffold requiring the use of steel or iron hooks or angle irons must be paid the appropriate allowance set out below corresponding to the storey level at which the anchors or bracing, from which the stage is suspended, have been erected. The allowance must be paid for a*

minimum of four hours' work or part thereof until construction work has been completed.

Height of bracing	First four hours	Each additional hour
	<u>% of the hourly standard rate</u>	<u>% of the hourly standard rate</u>
<i>0–15 storeys</i>	23.3	4.8
<i>16–30 storeys</i>	30.1	6.3
<i>31–45 storeys</i>	35.6	7.2
<i>46–60 storeys</i>	58.3	12.0
<i>greater than 60 storeys</i>	74.3	15.4

(ii) *Solid plasterers when working off a swing scaffold must receive an additional 0.7% of the hourly standard rate per hour.*

(iii) *For the purposes of this clause:*

- **completed** means the building is fully functional and all work which is part of the principal contract is complete;
- **storeys** will be given the same meaning as a storey level in clause 21.4.

(f) Explosive powered tools

An operator of explosive powered tools, who is required to use an explosive powered tool, must be paid an additional 7.6% of the hourly standard rate during which the employee uses such a tool.

(g) Unusually dirty work

An employee engaged on unusually dirty work must be paid an additional 3.2% of the hourly standard rate per hour.

(h) Toxic substances

(i) *Employees using toxic substances or materials of a like nature must be paid an additional 4.0% of the hourly standard rate per hour.*

(i) Asbestos

Employees required to wear protective equipment (i.e. combination overalls and breathing equipment or similar apparatus) as part of the necessary safeguards as required by the appropriate occupational health authority for the use of materials containing asbestos or to work in close proximity to employees using such materials, must be paid an additional 4.0% of the hourly standard rate per hour whilst wearing such equipment.

(j) Asbestos eradication

Employees engaged in the process of asbestos eradication (defined as work on or about buildings involving the removal or any other method of neutralisation of any materials which consist of or contain asbestos) on the performance of work within the scope of this award, must receive an additional 10.8% of the hourly [standard rate](#) per hour worked, but will not be paid special rates prescribed in this clause with the exception of:

- *clause 22.2(b)—Hot work;*
- *clause 22.2(c)—Cold work;*
- *clause 22.2(e)—Swing scaffold;*
- *clause 22.3(d)—Plaster or composition spray;*
- *clause 22.3(h)—Second-hand timber; and*
- *clause 22.2(l)—Acid work.*

(k) Furnace work

An employee engaged in the construction of, or alteration or repairs to, boilers, flues, furnaces, retorts, kilns, ovens, ladels, and similar refractory work must be paid an additional 8.5% of the hourly [standard rate](#) per hour. This additional rate will be regarded as part of the ordinary time hourly rate for all purposes.

(l) Acid work

An employee required to work on the construction of or repairs to acid furnaces, acid stills, acid towers and all other acid resisting brickwork must be paid an additional 8.5% of the hourly [standard rate](#) per hour. This additional rate will be part of the ordinary time hourly rate for all purposes.

(m) Heavy blocks—employees laying other than standard bricks

(i) *Employees employed laying blocks (other than concrete blocks for plugging purposes) must be paid the following additional rates, unless provided with mechanical means for the handling, lifting and placing of heavy blocks:*

- *where the blocks weigh over 5.5 kg and under 9 kg—3.2% of the hourly [standard rate](#) per hour;*
- *where the blocks weigh 9 kg to 18 kg—5.8% of the hourly [standard rate](#) per hour;*
- *where the blocks weigh over 18 kg—8.2% of the hourly [standard rate](#) per hour.*

(ii) *This special rate will not apply to employees being paid the extra rate for refractory work.*

(n) Bitumen work

An employee handling hot bitumen or asphalt or dipping materials in creosote, must be paid an additional 4.0% of the hourly [standard rate](#) per hour.

(o) Suspended perimeter work platform

(i) *This allowance applies to employees engaged on construction work (including renovation or refurbishment work) performed on a suspended perimeter work platform (other than a swinging stage) which uses a mechanical, hydraulic or other form of propulsion (not being rope or cable suspended) to relocate the work platform at different levels on the perimeter of a building or structure. An example of this type of system includes the Lubeca Façade System.*

(ii) *The allowance payable is an additional 4.9% of the hourly [standard rate](#) per hour and is to be paid instead of swing scaffold and multistorey allowance for all employees working on suspended perimeter work platform systems.*

(p) Employee carrying fuels, oils and greases

An employee required by the employer to carry any fuels, oils and/or greases in the employees own vehicle for use in the employer's plant must be paid an additional 1.4% of the weekly [standard rate](#) per day in addition to any amount payable under clause 25 – Fares and travel patterns allowance, for each day the employee is so required by the employer to carry such materials.

(q) Pile driving

Where a mobile crane in excess of 15 tonnes is required to perform pile driving at any site or installation, or is required to be involved in the extraction process, the operator must receive an additional 2.0% of the weekly [standard rate](#) per day or part thereof.

(r) Dual lift allowance

Where two or more forklifts or cranes are engaged on any lift the drivers thereof must be paid an additional 16.2% of the hourly [standard rate](#) for each day or part thereof so occupied.

(s) Stonemasons—cutting tools

If cutting tools are not provided the employer must pay an additional 0.2% of the hourly [standard rate](#) per hour.

22.3 **Special rates applicable only to the general building and construction sector**

(a) Towers allowance

- (i)** *An employee working on a chimney stack, spire, tower, radio or television mast or tower, air shaft (other than above ground in a multistorey building), cooling tower, water tower or silo, where the construction exceeds 15 metres in height must be paid for all work above 15 metres, an additional 3.2% of the hourly [standard rate](#) per hour with 3.2% of the hourly [standard rate](#) per hour additional for work above each additional 15 metres.*
- (ii)** *Stonemasonry employees not provided with mechanical means for the handling, lifting and placing of heaving blocks must be paid the rates prescribed in clause 22.2(m).*

(b) Cleaning down brickwork

An employee required to clean down bricks using acids or other corrosive substances must be paid an additional 2.9% of the hourly [standard rate](#) per hour.

(c) Bagging

Employees engaged upon bagging brick or concrete structures must be paid an additional 2.9% of the hourly [standard rate](#) per hour.

(d) Plaster or composition spray

An employee using a plaster or composition spray must be paid an additional 3.2% of the hourly [standard rate](#) per hour whilst so engaged.

(e) Slushing

An employee engaged in slushing must be paid an additional 3.2% of the hourly [standard rate](#) per hour.

(f) Dry polishing of tiles

Employees engaged on dry polishing of tiles where machines are used must be paid an additional 4.0% of the hourly [standard rate](#) per hour or part thereof.

(g) Cutting tiles

An employee engaged at cutting tiles by electric saw must be paid an additional 4.0% of the hourly [standard rate](#) per hour whilst so engaged.

(h) Second-hand timber

Where, whilst working with second-hand timber, an employee's tools are damaged by nails, dumps or other foreign matter on the timber the employee will be entitled to an allowance of 12.6% of the hourly standard rate per day on each day upon which the employee's tools are so damaged. No allowance will be payable under this clause unless it is reported immediately to the employer's representative on the job in order that they may prove the claim.

(i) Roof repairs

Employees engaged on repairs to roofs must be paid an additional 4.0% of the hourly standard rate per hour, provided that instead of this rate roof slaters and tilers must be paid to employees who work on a roof at a height of over 15 metres measured at the loading point of the tiles at ground level to the eaves, must be paid an additional 2.9% of the hourly standard rate per hour.

(j) Computing quantities

Employees who are regularly required to compute or estimate quantities of materials in respect of the work performed by other employees must be paid an additional 23.3% of the hourly standard rate per day or part thereof. This allowance will not apply to an employee classified as a leading hand and receiving an allowance prescribed in clause 19.2.

(k) Grindstone allowance

An allowance of 0.9% of the weekly standard rate per week must be paid to each carpenter or joiner where a grindstone or wheel is not made available.

(l) Brewery cylinders—painters

(i) *The rate for working in brewery cylinders or stout tuns will be at the rate of time and a half. When an employee is working overtime and is required to work in brewery cylinders and stout tuns the employee must, in addition to the overtime rates payable, be paid one half of the ordinary time hourly rates.*

(m) Certificate allowance

(i) *A tradesperson who is the holder of a scaffolding certificate or rigging certificate issued by the appropriate certifying authority and is required to act on that certificate whilst engaged on work requiring a certificated person must be paid an additional 3.2% of the hourly standard rate per hour.*

(ii) *This allowance is not cumulative on the allowance for swing scaffolds.*

(n) Pneumatic tool operation

A stonemason using pneumatic tools of 2.75 kilograms or over in weight must be paid an additional 17.6% of the hourly [standard rate](#) each day on which the employee uses such a tool.

(o) Bricklayer operating cutting machine

One bricklayer on each site is to operate the cutting machine and must be paid an additional 4.0% of the hourly [standard rate](#) per hour or part thereof while so engaged.

(p) Hydraulic hammer

An operator of a hydraulic hammer attached to an excavator must be paid an additional 5.4% of the hourly [standard rate](#) per hour for all purposes.

(q) Waste disposal

Plant operators working in landfill and garbage tips must be paid an additional 6.7% of the hourly [standard rate](#) per hour for each hour worked with a minimum payment of three hours each day. The allowance will be paid for each hour the employees are suffering the disabilities and will not form part of the ordinary wage for all purposes of the award.

22.4 Special rates applicable only to the civil construction sector

(a) Pipe enamelling

An employee engaged on the enamelling of pipe joints by hand, on-site, must be paid an additional 0.9% of the weekly [standard rate](#) per day or part thereof.

(b) Sand blasting

An employee required to use a sand blasting machine must be paid an additional 0.4% of the hourly [standard rate](#) per hour or part of an hour whilst so engaged.

(c) Live sewer work

An employee who works in a situation where there is direct aerial connection with a sewer through which sewerage is flowing, must be paid an additional 2.9% of the hourly [standard rate](#) per hour.

(d) Timbering

Any sinker required to timber any shaft, drive or trench must be paid an additional 3.6% of the hourly [standard rate](#) per hour or part thereof.

(e) Special work

A driver operating a tractor fitted with a blade and using such blade in breaking trail in heavy sidling country must be paid an additional

0.4% of the hourly standard rate per hour for each day or part of a day when so occupied.

(f) Compressed air work

Employees engaged in construction work in compressed air must be paid the following special rates:

Gauge reading	Rate per hour worked and spent in compression and decompression
	% of the hourly <u>standard rate</u>
0 to 35 kPa	6.9
Over 35 and up to 65 kPa	8.7
Over 65 and up to 100 kPa	17.6
Over 100 and up to 170 kPa	35.0
Over 170 and up to 225 kPa	58.3
Over 225 and up to 275 kPa	111.7

(g) Cutting stone

An employee engaged at cutting stone, blocks and bricks by power saw will be paid an additional 4.0% of the hourly standard rate per hour or part thereof.

8. By deleting clause 24.3(a)(ii) and replacing it as follows:

24.3 Entitlement

(a) Where an employee qualifies under clause 24.1 the employer will:

(ii) provide the worker with reasonable lodging in a well kept establishment and with reasonable board of three adequate meals each day; or

9. By deleting clause 24.7(d) and replacing it as follows:

24.7 Travelling expenses

(d) Daily fares allowance

An employee engaged on a job who qualifies under the provisions of this clause and who is required to reside elsewhere than on the site (or adjacent to the site **or** supplied with transport) must be paid the allowance prescribed by clause 25—Fares and travel patterns allowance.

10. By deleting clause 25.2 and replacing it as follows:

25.2 Metropolitan radial areas

- (a) *An employee must be paid an allowance of \$17.43 per day for each day worked when employed in construction work at a construction site located away from the employers establishment and:
 - (i) *within a radius of 75 kilometres of the GPO in a capital city of a State or Territory; or*
 - (ii) *within a radius of 75 kilometres of the principal post office in a regional city or town in a State or Territory.**
- (b) *Clause 25.2(a) does not apply to employees in the metal and engineering sector who begin and cease work at the employer's workshop, yard or depot.*

11. By deleting clause 25.3 and replacing it as follows:

25.3 Distant work

The allowance prescribed in clause 25.2 must be paid to employees employed on distant work (as defined in clause 24.), when the work is carried out within a radius of 75 kilometres from the place where, with the employer's approval, the employee is accommodated.

12. By deleting clause 25.4(a) and replacing it as follows:

25.4 Country radial areas

- (a) *An employer with a business or branch or section thereof (for the purpose of engagement) that is established in any place (other than on a construction site) outside the areas mentioned in clause 25.2, must pay their employees the allowances prescribed in clause 25.2 for the work located within a radius of 75 kilometres from the post office nearest the employer's establishment.*

13. By deleting clause 25.8(b) and replacing it as follows:

25.8 Provision of transport

- (b) *The allowance prescribed in this clause will be payable on any day for which the employer provides a vehicle free of charge to the employee for a purpose related to their contract of employment, and the employee is required by the employer to drive this vehicle from the employee's home to their place of work and return and for no other private use.*

14. By deleting clause 28 and replacing it as follows:

28. National training wage

- 28.1** *Schedule E to the Miscellaneous Award 2010 sets out minimum wage rates and conditions for employees undertaking traineeships.*

28.2 *This award incorporates the terms of Schedule E to the Miscellaneous Award 2010 as at 1 July 2016.*

15. By deleting clause 31.2 and replacing it with reference to the decision in AM2016/8.

16. By deleting clause 33.1(a)(ii) and replacing it as follows:

33. Ordinary hours of work

(a) Hours of work and rostered days off

(ii) Agreement on alternate RDOs

Where an employer and a majority of employees at an enterprise agree, another day may be substituted for the rostered days off as established by clause 33.1(a)(i).

17. By deleting clause 33.1(a)(iii) and replacing it as follows:

33. Ordinary hours of work

(a) Hours of work and rostered days off

(iii) Agreement on banking of RDOs

An employer and majority of employees employed at an enterprise or on a particular site may agree to accrue rostered days off for the purpose of creating a bank to be drawn upon by an employee at times agreed with the employer.

18. By deleting clause 33.1(a)(vi) and replacing it as follows:

33. Ordinary hours of work

(a) Hours of work and rostered days off

(vi) *Except where agreement has been reached in accordance with clauses 33.1(a)(ii) and 33.1(a)(iii), the rostered day off or any substituted day may be worked where it is required by the employer and such work is necessary:*

- *to allow other employees to be employed productively; or*
- *to carry out out-of-hours maintenance; or*
- *in the case of unforeseen delays to a particular project or a section of it or other reasons arising from unforeseen or emergency circumstances on a project;*

in which case the employee is entitled to:

- *be paid penalty rates and provisions as prescribed for Saturday work in clause 37 – Penalty rates or;*
- *cash-out the prescribed rostered day off or any substituted day; or*
- *bank the prescribed rostered day off or any substituted day, to be taken at a later date as agreed between the parties.*

19. By deleting clause 33.1(d).

20. By deleting clause 34.1(a) and replacing it as follows:

34. Shiftwork

Where work is performed in shifts the provisions of this clause shall apply.

34.1 *General building and construction and metal and engineering construction sectors*

(a) Definitions

For the purposes of this clause:

afternoon shift *means a shift commencing at or after 1.00 pm and before 3.00 pm*

night shift *means a shift commencing at or after 3.00 pm and before 11.00 pm*

early morning shift *means a shift starting at 11.00 pm and before 4.30 am*

morning shift *means a shift commencing at or after 4.30 am and before 6.00 am*

early afternoon shift *means a shift commencing on or after 11.00 am and before 1.00 pm.*

21. By deleting clause 34.1(b) and replacing it as follows:

34. Shiftwork

34.1 *General building and construction and metal and engineering construction sectors*

(b) *When an employee is employed continuously (inclusive of public holidays) for five shifts Monday to Friday, the following rates will apply:*

(i) *afternoon, night and early morning shift – ordinary time hourly rate plus 50%;*

- (ii) *morning and early afternoon shifts – ordinary time hourly rate plus 25%.*

22. By deleting clause 36.7 and replacing it as follows:

36. Overtime

- 36.7** *Except in an emergency, no trainee or apprentice will work or be required to work overtime or shiftwork at times which would prevent the employee's attendance at a Registered Training Organisation, as required by any statute, award or regulation.*

23. By deleting clause 38.1 and replacing it as follows:

38. Annual leave

38.1 Leave entitlement

- (a) *Annual leave is provided for in the NES. Provided that continuous service for purposes of this clause is as defined in clause 3.1 of this award.*

24. By making consequential adjustments, such as clause renumbering and references, arising from items 1 to 23 above.

B. This determination comes into operation from XXXX.

VICE PRESIDENT