Racing Clubs Events Award 2010

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Part 1—Application and Operation

1. Title

This award is the Racing Clubs Events 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)

Commission means the Australian Industrial Relations Commission or its successor

employee has the meaning in the Act

employee in charge of tractor plant means:

(a) 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;

(b) an employee who is invested with the superintendence and responsibility or who has to accept the superintendence and responsibility over one or more employees; or

(c) when an employee is the only person of their 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

employer has the meaning in the Act

enterprise award has the meaning in the Act

leading hand means an employee who is required to supervise, direct or be in charge of another employee or employees

NAPSA means notional agreement preserving a State award and has the meaning in the Act

NES means National Employment Standards

standard rate means the minimum wage for a Grade 4 racecourse attendant in clause 19—Minimum wages

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 engaged in the staging of events at horse and greyhound racing venues, including but not limited to thoroughbred, harness, trotting and greyhound racing clubs, and their employees in the classifications listed in clauses 17 and 18 to the exclusion of any other modern award.

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 an employee who is covered by the enterprise award.

4.4 Where an employer is covered by more than one award, an employee of that employer is covered by the award classification which is most appropriate to the work performed by the employee and to the environment in which the employee normally performs the work.

NOTE: Where there is no classification for a particular employee in this award it is possible that the employer and that employee are covered by an award with occupational coverage.

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 noticeboard which is conveniently located at or near the workplace or through electronic means, whichever makes them more accessible.

6. **The National Employment Standards and this award**

The NES and this award 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:

- arrangements for when work is performed;
- overtime rates;
- penalty rates;
- allowances; and
- leave loading.

7.2 The employer and the individual employee must have genuinely made the agreement without coercion or duress.
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.

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.

The agreement between the employer and the individual employee must also:

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;

(a) state each term of this award that the employer and the individual employee have agreed to vary;

(b) detail how the application of each term has been varied by agreement between the employer and the individual employee;

(c) detail how the agreement does not disadvantage the individual employee in relation to the individual employee’s terms and conditions of employment; and

(d) state the date the agreement commences to operate.

The employer must give the individual employee a copy of the agreement and keep the agreement as a time and wages record.

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 the employee understands the proposal.

The agreement may be terminated:

(a) by the employer or the individual employee giving four weeks’ 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.
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.

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.

(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 endeavour to resolve the dispute in a timely manner by discussions between the employee or employees concerned and more senior levels of management as appropriate.

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, an employee must not unreasonably fail to comply with a direction by the employer to perform 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. **Types of employment**

10.1 Employees may be employed in one of the following categories:

   (a) full-time;
   
   (b) part-time; or
   
   (c) casual.

10.2 At the time of engagement an employer will inform each employee in writing of the terms of their engagement and in particular whether they are to be full-time, part-time or casual.

11. **Full-time employment**

A full-time employee is one who works an average of 38 hours per week.

12. **Part-time employment**

12.1 A part-time employee:
(a) works less than full-time hours of 38 per week;
(b) has predictable hours of work; and
(c) receives, on a pro rata basis, equivalent pay and conditions to full-time employees in the same classification.

12.2 At the time of engagement the employer and the part-time employee will agree in writing on a regular pattern of work including the hours to be worked and the starting and finishing times on each day. These hours once fixed can only be varied by mutual agreement.

12.3 Any agreed variation to the regular pattern of work will be recorded in writing.

12.4 An employer is required to roster a part-time employee for a minimum of four consecutive hours on any shift.

12.5 An employee who does not meet the definition of a part-time employee and who is not a full-time employee will be paid as a casual employee in accordance with clause 13 or 14.

12.6 All time worked in excess of the hours as mutually arranged will be overtime and paid for at the rates prescribed in clause 29—Overtime.

12.7 A part-time employee must be paid for ordinary hours worked at the minimum hourly rate prescribed for the relevant classification.

12.8 A part-time employee will receive a minimum of eight full days off for each four week period.

13. **Casual employment—other than liquor employees**

13.1 This clause applies to employees in the classifications in clause 17—Classifications—other than liquor employees. A casual employee is an employee engaged and paid as such.

13.2 Except as provided in clause 13.3, a casual employee is to be paid the minimum hourly wage for the relevant classification in clause 19—Minimum wages, plus a loading of 25%. Such loading is instead of all paid leave including annual leave, personal/carer’s leave and public holidays not worked whether prescribed in this award or the NES.

13.3

(a) For work on Sundays a casual employee is to be paid the minimum hourly wage prescribed in clause 19 for the relevant classification plus 100%.

(b) For work on a public holiday a casual employee is to be paid the minimum hourly wage prescribed in clause 19 for the relevant classification plus 150%.

13.4 Casual employees must be paid at the termination of each engagement, but may agree to be paid weekly, fortnightly or monthly.

13.5 A casual employee engaged on night cleaning duties between the hours of 11.00 pm and 7.00 am will be paid the casual loading of 25% and in addition a shift allowance.
of 30% for all time worked. The provisions of clauses 26—Ordinary hours of work and rostering and 29—Overtime, do not apply.

13.6 A casual employee who reports for work and is not allowed to start will be paid for four hours at the minimum wage for the relevant classification.

14. **Casual employment—liquor employees**

14.1 This clause applies to liquor employees in the classifications set out in clause 18—Classifications—liquor employees. A casual employee is an employee engaged and paid as such.

14.2 Casual employees must be paid the minimum hourly wages in clause 14.3, irrespective of age or experience, provided that an employee 19 years of age or over will be paid the adult rate. The formula set out in clause 14.8 is used to adjust the hourly rates.

14.3 Bar attendants, cashiers and adults picking up glasses must be paid the rate for work performed on any one day as follows:

(a) Weekdays and Saturdays—$20.62 per hour with a minimum payment of $82.48;

(b) Sundays—$27.94 per hour with a minimum payment of $111.76;

(c) Public Holidays—$34.94 per hour with a minimum payment of $139.76.

14.4 Employees 18 years of age or under picking up glasses must be paid the rates for work performed on any one day as follows:

(a) Weekdays and Saturdays—$16.50 per hour with a minimum payment of $66.00;

(b) Sundays—$22.35 per hour with a minimum payment of $89.41;

(c) Public Holidays—$27.95 per hour with a minimum payment of $111.81.

14.5 Employees in charge of, or supervising the work of, bar attendants or cashiers must be paid an allowance of 2.4% of the standard rate per day.

14.6 Employees working on a shop day, that is preparing for a function on the day before such function or cleaning up on the day after the function, must be paid as follows:

(a) Weekdays and Saturdays—$20.62 per hour;

(b) Sundays—$27.94 per hour;

(c) Public Holidays—$34.94 per hour.

14.7 Employees must be paid an allowance of 20% of the standard hourly rate per engagement for engagements finishing after 10.00 pm.
14.8 Where a general review of minimum wages results in an adjustment of a flat weekly amount:

(a) adult hourly rates in this clause will be adjusted by dividing the dollar amount by 38 and adding the following loadings:

(i) Monday to Saturdays—50%;

(ii) Sunday—100%;

(iii) Public Holidays—150%;

(b) The rates for employees 18 years of age and under picking up glasses will be 80% of the hourly rates set out in clause 14.3 with a minimum payment of four hours.

14.9 The foregoing rates of pay have been loaded to compensate employees for the casual nature of the work, weekend and holiday penalties and benefits otherwise available to full-time employees including annual leave, personal/carer’s leave, etc.

15. Termination of employment

15.1 Notice of termination is provided for in the NES.

15.2 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 required 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.

15.3 Job search entitlement

Where an employer has given notice of termination to an employee, an 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 must be taken at times that are convenient to the employee after consultation with the employer.

16. Redundancy

16.1 Redundancy pay is provided for in the NES.

16.2 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 instead 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.
16.3 Employee leaving during notice period

An employee 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, but will not be entitled to payment instead of notice.

16.4 Job search entitlement

(a) An employee given notice of termination in circumstances of redundancy must 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 must, at the request of the employer, produce proof of attendance at an interview or he or she will not be entitled to payment for the time absent. For this purpose a statutory declaration will be sufficient.

(c) This entitlement applies instead of clause 15.3.

16.5 Transitional provisions

(a) Subject to clause 16.5(b), an employee whose employment is terminated by an employer is entitled to redundancy pay in accordance with the terms of a NAPSA:

(i) that would have applied to the employee immediately prior to 1 January 2010, if the employee had at that time been in their current circumstances of employment and no agreement made under the Act had applied to the employee; and

(ii) that would have entitled the employee to redundancy pay in excess of the employee’s entitlement to redundancy pay, if any, under the NES.

(b) The employee’s entitlement to redundancy pay under the NAPSA is limited to the amount of redundancy pay which exceeds the employee’s entitlement to redundancy pay, if any, under the NES.

(c) This clause does not operate to diminish an employee’s entitlement to redundancy pay under any other instrument.

(d) This clause ceases to operate on 31 December 2014.

Part 4—Minimum Wages and Related Matters

17. Classifications—other than liquor employees

17.1 Introductory level employee means an employee who enters the industry and who has not demonstrated the competency requirements of a Grade 1 racecourse attendant. An employee at this level will undergo training for up to three months before progressing to grade 1. Progression to grade 1 may be delayed for a further period of up to three months where it is agreed that further training is required.
17.2 Grade 1 racecourse attendant includes the following classifications:

Cloakroom attendant (not handling cash), door attendant, gate person, general attendant, parking attendant (not handling cash), cleaning and utility person, catching pen attendant, kennel attendant, numbers room attendant, parade official, ticket examiner, ticket taker, turnstile attendant (not handling cash), usher.

17.3 Grade 2 racecourse attendant includes the following classifications:

Assistant judge (greyhound fixtures), jockey room attendant, parking attendant (handling cash), bookmakers’ price clerk, cloak room attendant (handling cash), programme seller, raceday office assistant, scratching board attendant, teleprint semaphore board operator, ticket/token seller, timekeeper (greyhound fixtures), turnstile attendant (handling cash), EFTPOS operator, general administration, general sales person, tour guide.

17.4 Grade 3 racecourse attendant includes the following classifications:

Assistant starter, banker, barrier attendant, crowd controller, hare driver, kennel supervisor, raceday office assistant handling acceptances or wages, early gates, raceday veterinary assistant, starter (greyhounds), swab attendant, ticket seller operating a computer terminal with advance bookings facilities, supervisor of one to nine employees.

17.5 Grade 4 racecourse attendant includes the following classifications:

Farrier, starter, mobile barrier driver, stewards patrol video camera operator, supervisor of ten or more employees.

17.6 Grade 1 raceday official includes the following classifications:

Ground announcer, bird cage attendant.

17.7 Grade 2 raceday official includes the following classifications:

Racecourse inspector, betting supervisor, assistant clerk of scales, identification official, assistant clerk of the course, timekeeper.

17.8 Grade 3 raceday official includes the following classifications:

Chief course inspector, clerk of scales, chief betting supervisor, clerk of the course, assistant judge.

17.9 Grade 4 raceday official includes the following classifications:

Raceday judge, raceday racecaller.

18. Classifications—liquor employees

Liquor employees in the classifications of bar attendant, cashier, adult picking up glasses and employees 18 years of age or under picking up glasses are engaged on a casual basis as set out in clause 14—Casual employment—liquor employees.
19. Minimum wages

19.1 Juniors

Junior employees in the classifications in clause 17—Classifications—other than liquor employees must be paid a percentage of the minimum wage introductory level determined according to this table:

<table>
<thead>
<tr>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>18 years of age and under</td>
</tr>
<tr>
<td>19 years of age and over</td>
</tr>
</tbody>
</table>

19.2 Adults

Employees engaged in the classifications set out in clause 17 are entitled to the following minimum wages:

<table>
<thead>
<tr>
<th>Classification</th>
<th>Weekly $</th>
<th>Hourly $</th>
</tr>
</thead>
<tbody>
<tr>
<td>Introductory level employee</td>
<td>543.90</td>
<td>14.31</td>
</tr>
<tr>
<td>Grade 1 racecourse attendant</td>
<td>560.50</td>
<td>14.75</td>
</tr>
<tr>
<td>Grade 2 racecourse attendant</td>
<td>583.00</td>
<td>15.34</td>
</tr>
<tr>
<td>Grade 3 racecourse attendant</td>
<td>603.90</td>
<td>15.89</td>
</tr>
<tr>
<td>Grade 4 racecourse attendant</td>
<td>637.60</td>
<td>16.78</td>
</tr>
<tr>
<td>Grade 1 raceday official</td>
<td>637.60</td>
<td>16.78</td>
</tr>
<tr>
<td>Grade 2 raceday official</td>
<td>658.50</td>
<td>17.33</td>
</tr>
<tr>
<td>Grade 3 raceday official</td>
<td>679.20</td>
<td>17.87</td>
</tr>
<tr>
<td>Grade 4 raceday official</td>
<td>698.20</td>
<td>18.37</td>
</tr>
</tbody>
</table>

19.3 Supported wage system for employees with a disability

See Schedule A.

19.4 School-based apprentices

See Schedule B.

19.5 National training wage

See Schedule C.
20. **Allowances**

20.1 **Footwear for wet work**

An employee required to work in the rain or in wet conditions underfoot at a race meeting must be paid an allowance of $6 per meeting to a maximum of $12 per week for the purpose of purchasing suitable footwear for such duties. This clause does not apply where waterproof footwear is supplied by the employer.

20.2 **Tractor plant**

An employee in charge of a tractor plant (as defined) must receive an additional payment of 3% of the standard rate, weekly or hourly as the case may be.

20.3 **Protective clothing and equipment**

Where an employee is required to wear protective clothing (e.g. oilskins, gumboots, overalls, goggles, safety boots, bowling shoes, etc.), the employer must reimburse the employee on proof of purchase for the cost of purchasing such special clothing and equipment. The employee is responsible for maintaining these items in a serviceable condition. The provisions of this paragraph do not apply where the clothing and equipment is paid for by the employer.

20.4 **Loss of clothing**

The employer must reimburse an employee up to a maximum of 95% of the standard rate for a single claim if an employee’s clothing is destroyed by fire in an employer’s changing house or other shelter, provided that such destruction is not caused in any way by the employee’s own wilful act or neglect.

20.5 **Accommodation**

Where an employee is required by the employer to live on the premises and is required to act as caretaker, the employee must be paid an allowance equal to the amount of the rental charged by the employer for the accommodation at the said premises.

20.6 **Meal allowance**

An employee who is required to work overtime for one and a half hours or more immediately after the completion of their ordinary hours of work on an ordinary working day or immediately after the completion of eight hours of work on a Saturday, Sunday or public holiday, must be paid a meal allowance of $8.80 unless the employer provides a meal.

20.7 **First aid attendant**

Any employee holding a first aid qualification from the St John Ambulance or a similar body and who is appointed by the employer to perform first aid duties must be paid an allowance of 2% of the standard rate calculated weekly or hourly as the case may be.

20.8 **Horse and saddlery**
(a) Where an employer requires a clerk of the course or an assistant clerk of the course to supply their own horses and saddlery, the employer must pay the employee for an additional two hours at the minimum rate per engagement.

(b) Where an employer requires a clerk of the course or an assistant clerk of the course to provide their own riding apparel, the employer must either reimburse the employee for the cost of providing and maintaining the riding apparel or pay the employee for an additional hour at the appropriate minimum wage per engagement.

20.9 Adjustment of expense-related allowances

At the time of any adjustment to the standard rate, each expense-related allowance in this clause must 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.

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:

<table>
<thead>
<tr>
<th>Allowance</th>
<th>Applicable Consumer Price Index figure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Meal allowance</td>
<td>Take-away and fast foods sub-group</td>
</tr>
<tr>
<td>Footwear allowance</td>
<td>Clothing and footwear group</td>
</tr>
</tbody>
</table>

21. District allowances

21.1 Northern Territory

An employee in the Northern Territory is entitled to payment of a district allowance in accordance with the terms of an award made under the Workplace Relations Act 1996 (Cth):

(a) that would have applied to the employee immediately prior to 1 January 2010, if the employee had at that time been in their current circumstances of employment and no agreement made under that Act had applied to the employee; and

(b) that would have entitled the employee to payment of a district allowance.

21.2 Western Australia

An employee in Western Australia is entitled to payment of a district allowance in accordance with the terms of a NAPSA or an award made under the Workplace Relations Act 1996 (Cth):

(a) that would have applied to the employee immediately prior to 1 January 2010, if the employee had at that time been in their current circumstances of employment and no agreement made under that Act had applied to the employee; and

(b) that would have entitled the employee to payment of a district allowance.

21.3 This clause ceases to operate on 31 December 2014.
22. Accident pay

22.1 Subject to clause 22.2, an employee is entitled to accident pay in accordance with the terms of:

(a) a NAPSA that would have applied to the employee immediately prior to 1 January 2010 or an award made under the *Workplace Relations Act 1996* (Cth) that would have applied to the employee immediately prior to 27 March 2006, if the employee had at that time been in their current circumstances of employment and no agreement made under the *Workplace Relations Act 1996* (Cth) had applied to the employee; and

(b) that would have entitled the employee to accident pay in excess of the employee’s entitlement to accident pay, if any, under any other instrument.

22.2 The employee’s entitlement to accident pay under the NAPSA or award is limited to the amount of accident pay which exceeds the employee’s entitlement to accident pay, if any, under any other instrument.

22.3 This clause does not operate to diminish an employee’s entitlement to accident pay under any other instrument.

22.4 This clause ceases to operate on 31 December 2014.

23. Mixed functions

An employee who is required to do work for which a higher rate is fixed than that provided for their ordinary duties must, if such work exceeds a total of four hours on any day, be paid at the higher rate for all work done on such day. In all other cases the employee must be paid the higher rate for the actual time worked.

24. Payment of wages

24.1 Period of payment

Wages may be paid weekly or fortnightly or monthly by agreement. Wages will be paid no later than Thursday of the agreed pay period, unless the employer and the majority of employees agree to later payment.

24.2 Method of payment

Where it is agreed between an employer and an employee, wages may be paid by cash, cheque or into a nominated bank or financial institution account. If payment is by cash or cheque, wages must be paid during ordinary working hours.

24.3 Late payment of wages

An employee not paid within the time required by clause 24.1 through circumstances beyond the reasonable control of the employer is entitled to a payment of $25 per day until the wages are paid.
25. Superannuation

25.1 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, any superannuation fund nominated in the award covering the employee applies.

(b) The rights and obligations in these clauses supplement those in superannuation legislation.

25.2 Employer contributions

An employer must make such superannuation contributions to a superannuation fund for the benefit of an employee as will avoid the employer being required to pay the superannuation guarantee charge under superannuation legislation with respect to that employee.

25.3 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 25.2.

(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 three months’ written notice to their employer.

(c) The employer must pay the amount authorised under clauses 25.3(a) or (b) no later than 28 days after the end of the month in which the deduction authorised under clauses 25.3(a) or (b) was made.

25.4 Superannuation fund

Unless, to comply with superannuation legislation, the employer is required to make the superannuation contributions provided for in clause 25.2 to another superannuation fund that is chosen by the employee, the employer must make the superannuation contributions provided for in clause 25.2 and pay the amount authorised under clauses 25.3(a) or (b) to one of the following superannuation funds:

(a) AustralianSuper;

(b) HOSTPLUS;

(c) SunSuper;

(d) Victorian Racing Industry Superannuation Plan;
(e) Custom Super Plan–AMP; or

(f) any superannuation fund to which the employer was making superannuation contributions for the benefit of its employees before 12 September 2008, provided the superannuation fund is an eligible choice fund.

Part 5—Hours of Work and Related Matters

26. Ordinary hours of work and rostering

26.1 Except as provided elsewhere in this award the ordinary working hours are 38 hours per week or an average of 38 hours per week over a four week period.

26.2 The commencing and finishing times of employees other than casuals when once fixed must not to be altered except by agreement or by the employer on 14 days notice.

26.3 All employees must be engaged for a minimum of four hours.

26.4 Where a casual employee is required by their employer to attend an inquiry conducted under the Rules of Racing on a day other than that of a racing fixture at which they are employed, they must be paid for the time of such attendance at ordinary rates with a minimum of two hours pay, plus reasonable expenses.

27. Breaks

27.1 Rest breaks—casual employees

(a) Casual employees engaged for a minimum of five hours must be allowed a rest break of 20 minutes without deduction of pay.

(b) Casual employees required to continue working for a further five hours must be allowed a further rest break of 20 minutes without deduction of pay.

(c) Both of the above rest breaks must be taken at a time convenient to the employer but not at the beginning or the end of the period of duty.

27.2 Meal breaks—other than casual employees

(a) An employee other than a casual employee must be allowed a meal break of not less than 30 minutes, not later than five hours after commencing work.

(b) An employee other than a casual employee required to work through their normal meal break must be paid at the rate of 150% of the relevant minimum wage until such time as they receive a meal break of the customary duration.

27.3 Tea breaks—other than casual employees

(a) An employee other than a casual employee must be allowed a tea break of 10 minutes duration without deduction of pay during the morning and afternoon periods of each working day at a time to be arranged by the employer.
(b) The afternoon tea break is not be taken in any establishment where the majority of employees agree to forego the break and cease normal work 10 minutes earlier each day.

28. Penalty rates

NOTE: Penalty rates for casual employees are dealt with in clauses 13—Casual employment—other than liquor employees and 14—Casual employment—liquor employees.

Full and part-time employees are entitled to the following penalty rates:

28.1 for all time worked between midnight Saturday and midnight Sunday – 200% of the relevant minimum wage;

28.2 for all time worked on a public holiday – 250% of the relevant minimum wage with a minimum of four hours pay. Alternatively, an employee who works on a public holiday may, by agreement, perform such work at ordinary rates plus half-time additional in that week provided that equivalent paid time is added to the employee’s annual leave or one day instead of such public holiday will be allowed to the employee during the week in which such holiday falls, provided that such holiday may be allowed to the employee within 28 days of such holiday falling due.

29. Overtime

29.1 All time worked in excess of 38 hours a week or in excess of eight hours per day must be paid for at the rate of 150% of the relevant minimum wage for the first two hours and 200% after the first two hours.

29.2 Except as provided in clause 29.3, in computing overtime each day’s work will stand alone.

29.3 Rest period after overtime

When overtime work is necessary it will be arranged so that employees have at least ten consecutive hours off duty between the work of successive days.

(a) Where an employee (other than a casual employee) works so much overtime that there is less than ten hours between finishing overtime from one day and the commencement of their ordinary work on the next day, the employee must be released, subject to clause 29.3(b) until he or she has had at least ten consecutive hours off without loss of pay for ordinary working time occurring during such absence.

(b) If, on the instructions of the employer, such an employee resumes work or continues work without having had such ten consecutive hours off duty he or she will be paid at 200% of the relevant minimum wage until the employee is released from duty for such period and the employee can then be absent until he or she has had ten consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.
29.4 Transport after overtime work

When an employee, after having worked overtime, finishes work at a time when reasonable means of transport are not available the employer must provide the employee with transportation to their home.

Part 6—Leave and Public Holidays

30. Annual leave

30.1 Annual leave is provided for in the NES. Annual leave does not apply to casual employees.

30.2 By agreement between an employer and an employee a period of annual leave may be taken in advance of the entitlement accruing. Provided that if leave is taken in advance and the employment terminates before the entitlement has accrued the employer may make a corresponding deduction from any money due to the employee on termination.

30.3 Temporary close-down

(a) Where an employer intends temporarily to close (or reduce to nucleus) the place of employment or a section of it for the purpose, amongst others, of allowing annual leave to the employees concerned or a majority of them, the employer may give those employees one month’s notice in writing of an intention to apply the provisions of this clause. In the case of any employee engaged after notice has been given, notice must be given to that employee on the date of their engagement.

(b) Any employee who has accrued annual leave at the date of closing must:

(i) be given annual leave commencing from the date of closing; and

(ii) be paid 1/12th of their ordinary pay for any period of employment between accrual of the employee’s right to the annual leave and the date of closing.

(c) Any employee who has no accrued annual leave at the date of closing must:

(i) be given leave without pay as from the date of closing; and

(ii) be paid for any public holiday during such leave for which the employee is entitled to payment.

30.4 Annual leave must be taken within 18 months of the entitlement accruing. For the purpose of ensuring accrued annual leave is taken within that period, and in the absence of agreement as provided for in s.33 of the NES, an employer may require an employee to take a period of annual leave from a particular date provided the employee is given at least 28 days notice.

30.5 Before the start of the employee’s annual leave the employer must pay the employee:
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(a) instead of the base rate of pay referred to in s.35(1) of the NES, the amount the employee would have earned for working their normal hours, exclusive of overtime, had they not been on leave; and

(b) an additional loading of 17.5% of the relevant minimum wage in clause 19—Minimum wages.

31. Personal/carer’s leave and compassionate leave

Personal/carer’s leave and compassionate leave are provided for in the NES.

32. Community service leave

Community service leave is provided for in the NES.

33. Public holidays

33.1 Public holidays are provided for in the NES.

33.2 Substitution of public holidays by agreement

By agreement between the employer and the majority of employees in an enterprise another day may be substituted for a public holiday provided for in the NES.