

**Fair Work Commission**

*Fair Work Act 2009*

s.156 4 yearly review of modern awards

**AM 2016/5**

**Seagoing Industry Award 2010**

**Outline of Submissions**

**of**

**Australian Institute of Marine & Power Engineers**

1. This outline of submission is made on behalf of the Australian Institute of Marine & Power Engineers (“AIMPE”).
2. On 2<sup>nd</sup> March 2015 AIMPE advised the Fair Work Commission of a number of issues that AIMPE sought to address in the Modern Award Review.
3. On 15<sup>th</sup> July 2015 AIMPE advised the Fair Work Commission of the issues that AIMPE intended to pursue in relation to the *Seagoing Industry Award 2010* and the *Ports, Harbours and Enclosed Water Vessels Award 2010*. This submission advances the issues that AIMPE seeks to press in the current s.156 4 yearly review of modern awards.
4. AIMPE supports the existing coverage clauses in each Maritime Award as per the exposure drafts for the 2016 Awards.

**Electrician/Electro Technical Officer**

5. AIMPE seeks an amendment to the schedules contained in Part 4 Wages and Allowances by way of the inclusion of “Electrician/Electro Technical Officer” into each schedule at the same level as “Second Mate/Second Engineer”.
6. None of the existing schedules contain a classification for Electricians or Electro Technical Officers.
7. New technologies in relation to the propulsion, electronic, navigation and communications systems on vessels are resulting in the need for advanced electrical skills on vessels. As an example the *RV Investigator* utilises advanced modern diesel

electric propulsion engines and power distribution systems on-board. The role of the electrician is a critically important position on the vessel.

8. In 2010 the International Maritime Organisation (IMO) adopted a revision to the International Convention on Standards of Training Certification and Watchkeeping for Seafarers (STCW). The 2010 amendments included for the first time new training and certification requirements for Electro Technical Officers. These amendments came into force on 1 January 2012. Whilst the inclusion of Electro Technical Officers is not a mandatory requirement for every vessel, the Australian Maritime Safety Authority has taken steps to comply with the 2010 amendments and has approved a course for Electro Technical Officers at the Australian Maritime College in Launceston, Tasmania.
9. As well as new and future vessels existing vessels such as the *Spirit of Tasmania I and II* currently require electricians as part of the ships manning requirements. The *Spirit of Tasmania* vessels carry two electricians.
10. Smaller vessels such as transshipment vessels often have an electrician as a manning requirement.
11. AIMPE submits that the Classifications in Part B of the *Seagoing Industry Award 2010* include a classification for Electrical Engineer with the Second Mate/ Second Engineer grading level and that the Classifications within Part A of the Award require a requisite designation.
12. AIMPE further submits that for the purposes of BOOT tests the Classifications within the schedules of the *Seagoing Industry Award* should have a designated classification of Electrician/Electro Technical officer.
13. AIMPE submits that the inclusion of an Electrician/Electro Technical Officer would be consistent with the Modern Award Objective at section 134 of the *Fair Work Act 2009* by ensuring that a relevant minimum safety net applies to seagoing Electricians and Electro Technical Officers.
14. Attached to this submission and marked “AIMPE 1” are attached schedules including the proposed “Electrician/Electro Technical Officer” schedule.

### **Small Ships Schedule**

15. AIMPE submits that upon the making of the *Seagoing Industry Award 2010*, the *Self-Propelled Barges and Small Ships Award 2001*, was terminated. This Award applied to self-propelled barges and small ships which in the course of such trade proceeded to sea. Attached to this submission and marked “AIMPE 2” is a copy of the *Self-Propelled Barges and Small Ships Award 2001*.

16. The termination of the *Self-Propelled Barges and Small Ships Award 2001* resulted in the smallest category of vessels being up to 19,000 tonnes. This has resulted in an anomaly for vessels which are much smaller, vessels such as self-propelled barges, and vessels described as transshipment vessels. There are also vessels described as Ferries that perform cargo operations beyond the limits of any Port or Harbour, often operating between the Australian mainland and Australia's Islands. Examples of these types of vessels are the Kangaroo Island Ferries and transshipment vessels operating in the Gulf of Capricornia and Spencer Gulf.
17. AIMPE submits that there has been confusion between the operation of the *Ports, Harbours and Enclosed Water Vessels Award 2010* and the *Seagoing Industry Award 2010* that has resulted in disputes such as the *Sea Swift* matter (*MUA & Ors v Sea Swift & Ors [2016]* FWCFB 651), because there has been a misconceived perception that the *Seagoing Industry Award 2010* only applies to "big ships", rather than to all vessels that operate wholly or substantially at Sea beyond the limits of Ports, Rivers, Bays and Harbours.
18. AIMPE submits that the Full Bench Decision *MUA & Ors v Sea Swift & Ors [2016]* FWCFB 651 has clarified the coverage and operation of these awards. However the insertion of a Small Ships schedule into the *Seagoing Industry Award 2010*, would rectify the anomaly created when the *Self-Propelled Barges and Small Ships Award 2001* was terminated.
19. AIMPE submits that the appropriate schedule to cover these smaller vessels would be "up to and including 6000 tonnes."
20. AIMPE submits that the Salaries for this new up to 6000 tonne schedule should be based on the Annual Salaries contained in the *Self-Propelled Barges and Small Ships Award 2001* at Clause 14.3 Annual Salary – Vessels more than 500 tonnes dead weight. These salary figures would need to be adjusted from the last variation in 2005.
21. Attached to this submission and marked "AIMPE 1" are attached schedules including a new "up to 6000 tonne" schedule.



**Nathan Niven**  
**AIMPE Senior National Organiser**

**10<sup>th</sup> May 2016**

## Seagoing Industry Award 2010

### 10.3 Relief employment

A relief employee is an employee who is specifically engaged as such and receives, on a pro rata basis, equivalent pay and conditions to those of full-time employees.

## 11. Termination of employment

11.1 Notice of termination is provided for in the NES.

### 11.2 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.

## 12. Redundancy

12.1 Redundancy arrangements are provided for in the NES.

### 12.2 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 ordinary time rate of pay for the number of weeks of notice still owing.

### 12.3 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 is 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 is not entitled to payment instead of notice.

## Part 4—Minimum Wages and Related Matters

### 13. Classifications and minimum wage rates

[Varied by [PR997966](#), [PR509153](#), [PR522984](#), [PR536787](#), [PR551329](#), [PR551710](#), [PR566802](#)]

13.1 An employee under this award, except as otherwise stated, will be paid at the rate of the aggregate annual salary prescribed in accordance with this clause appropriate to that employee's classification. For the purposes of the following tables, **18** means vessels manned at 18 or below.

Seagoing Industry Award 2010

**(a) Dry Cargo Vessels of up to 6000 tonnes**

<u>Classification</u>	<u>Manning</u>	<u>Minimum salary</u>	<u>Aggregate overtime component</u>	<u>Aggregate annual salary</u>
<u>Master</u>				
<u>Chief Engineer</u>				
<u>First mate/First engineer</u>				
<u>Second mate/Second engineer/ Electrician/ Electro Technical Officer</u>				
<u>Third mate/Third engineer</u>				
<u>Chief integrated rating/ Chief cook/Chief steward/ Second cook</u>				
<u>Integrated rating/Assistant steward/ Catering attendant</u>				

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**(a)(b) Dry cargo vessels of up to 19 000 tonnes (D.C. Cat 1)**

[13.1(a) varied by [PR997966](#), [PR509153](#), [PR522984](#), [PR536787](#), [PR551710](#), [PR566802](#) ppc 01Jul15]

<b>Classification</b>	<b>Manning</b>	<b>Minimum salary</b>	<b>Aggregate overtime component</b>	<b>Aggregate annual salary</b>
		\$	\$	\$
Master	18	65,576	24,815	90,391
	AOV	64,008	24,221	88,229

Seagoing Industry Award 2010

Classification	Manning	Minimum salary	Aggregate overtime component	Aggregate annual salary
		\$	\$	\$
Chief engineer	18	64,500	24,407	88,907
	AOV	62,963	23,826	86,789
First mate/First engineer	18	55,891	21,150	77,041
	AOV	54,607	20,664	75,271
Second mate/Second engineer/ <b>Electrician/ Electro Technical Officer</b>	18	51,705	19,566	71,271
	AOV	50,546	19,128	69,674
Third mate/Third engineer	18	49,553	18,751	68,304
	AOV	48,456	18,336	66,792
Chief integrated rating/Chief cook/Chief steward	18	46,864	17,734	64,598
	AOV	45,844	17,347	63,191
Second cook	AOV	42,817	16,202	59,019
Integrated rating/Assistant steward/Catering attendant	18	42,680	16,150	58,830
	AOV	41,772	15,806	57,578*

\*standard rate

(b)(c) Dry cargo vessels of between 19 000 and 39 000 tonnes (D.C. Cat 2)

[13.1(b) varied by [PR997966](#), [PR509153](#), [PR522984](#), [PR536787](#), [PR551710](#), [PR566802](#) ppc 01Jul15]

Classification	Manning	Minimum salary	Aggregate overtime component	Aggregate annual salary
		\$	\$	\$
Master	18	67,594	25,578	93,172
	AOV	65,968	24,961	90,929
Chief engineer	18	66,478	25,157	91,635
	AOV	64,884	24,552	89,436
First mate/First engineer	18	57,545	21,776	79,321
	AOV	56,210	21,271	77,481
Second mate/Second engineer/ <b>Electrician/ Electro Technical Officer</b>	18	53,079	20,086	73,165
	AOV	51,997	19,675	71,672
Third mate/Third engineer	18	50,966	19,286	70,252
	AOV	49,827	18,856	68,683

Seagoing Industry Award 2010

Classification	Manning	Minimum salary	Aggregate overtime component	Aggregate annual salary
		\$	\$	\$
Chief integrated rating/Chief cook/Chief steward	18 AOV	47,617 46,577	18,020 17,625	65,637 64,202
Second cook	AOV	43,450	16,442	59,892
Integrated rating/Assistant steward/Catering attendant	18 AOV	43,292 42,366	16,381 16,032	59,673 58,398

(e)(d) Dry cargo vessels over 39 000 tonnes (D.C. Cat 3)

[13.1(c) varied by [PR997966](#), [PR509153](#), [PR522984](#), [PR536787](#), [PR551710](#), [PR566802](#) ppc 01Jul15]

Classification	Manning	Minimum salary	Aggregate overtime component	Aggregate annual salary
		\$	\$	\$
Master	18 AOV	69,965 68,272	26,475 25,834	96,440 94,106
Chief engineer	18 AOV	68,802 67,143	26,035 25,408	94,837 92,551
First mate/First engineer	18 AOV	59,490 58,101	22,511 21,986	82,001 80,087
Second mate/Second engineer/ <b>Electrician/ Electro Technical Officer</b>	18 AOV	54,835 53,581	20,750 20,276	75,585 73,857
Third mate/Third engineer	18 AOV	52,044 50,876	19,694 19,252	71,738 70,128
Chief integrated rating/Chief cook/Chief steward	18 AOV	47,970 46,919	18,153 17,755	66,123 64,674
Second cook	AOV	44,243	16,743	60,986
Integrated rating/Assistant steward/Catering attendant	18 AOV	43,482 42,548	16,453 16,101	59,935 58,649

Seagoing Industry Award 2010

**(d)(e) Crude tankers**

[13.1(d) varied by [PR997966](#), [PR509153](#), [PR522984](#), [PR536787](#), [PR551710](#), [PR566802](#) ppc 01Jul15]

Classification	Manning	Minimum salary	Aggregate overtime component	Aggregate annual salary
		\$	\$	\$
Master	18	79,290	30,004	109,294
	AOV	76,692	29,021	105,713
Chief engineer	18	77,942	29,493	107,435
	AOV	75,396	28,531	103,927
First mate/First engineer	18	66,463	25,150	91,613
	AOV	64,361	24,354	88,715
Second mate/Second engineer/ <b>Electrician/ Electro Technical Officer</b>	18	61,735	23,362	85,097
	AOV	59,815	22,634	82,449
Third mate/Third engineer	18	57,686	21,828	79,514
	AOV	55,919	21,160	77,079
Chief integrated rating/Chief cook/Chief steward	18	51,728	19,572	71,300
	AOV	50,195	18,994	69,189
Second cook	AOV	46,947	17,764	64,711
Integrated rating/Assistant steward/Catering attendant	18	46,325	17,530	63,855
	AOV	44,584	16,872	61,456

**(e)(f) Other (product) tankers**

[13.1(e) varied by [PR997966](#), [PR509153](#), [PR522984](#), [PR536787](#), [PR551710](#), [PR566802](#) ppc 01Jul15]

Classification	Manning	Minimum salary	Aggregate overtime component	Aggregate annual salary
		\$	\$	\$
Master	18	82,382	31,174	113,556
	AOV	79,020	29,902	108,922
Chief engineer	18	80,971	30,639	111,610
	AOV	77,673	29,393	107,066
First mate/First engineer	18	68,261	25,830	94,091
	AOV	65,570	24,813	90,383
Second mate/Second engineer/ <b>Electrician/</b>	18	63,316	23,959	87,275
	AOV	60,860	23,030	83,890

Seagoing Industry Award 2010

Classification	Manning	Minimum salary	Aggregate overtime component	Aggregate annual salary
		\$	\$	\$
<b>Electro Technical Officer</b>				
Third mate/Third engineer	18	59,787	22,624	82,411
	AOV	57,499	21,758	79,257
Chief integrated rating/Chief cook/Chief steward	18	53,429	20,218	73,647
	AOV	51,567	19,513	71,080
Second cook	AOV	48,205	18,241	66,446
Integrated rating/Assistant steward/Catering attendant	18	48,608	18,395	67,003
	AOV	46,859	17,731	64,590

(f)(g) Gas carriers

[13.1(f) varied by [PR997966](#), [PR509153](#), [PR522984](#), [PR536787](#), [PR551710](#), [PR566802](#) ppc 01Jul15]

Classification	Manning	Minimum salary	Aggregate overtime component	Aggregate annual salary
		\$	\$	\$
Master	18	80,527	30,471	110,998
	AOV	79,542	30,098	109,640
Chief engineer	18	80,180	30,339	110,519
	AOV	78,188	29,587	107,775
First mate/First engineer	18	67,614	25,586	93,200
	AOV	65,988	24,971	90,959
Second mate/Second engineer/ <b>Electrician/ Electro Technical Officer</b>	18	62,730	23,738	86,468
	AOV	61,244	23,175	84,419
Third mate/Third engineer	18	60,283	22,812	83,095
	AOV	58,872	22,277	81,149
Chief integrated rating/Chief cook/Chief steward	18	55,048	20,831	75,879
	AOV	53,787	20,353	74,140
Second cook	AOV	51,198	19,375	70,573

Seagoing Industry Award 2010

Classification	Manning	Minimum salary	Aggregate overtime component	Aggregate annual salary
		\$	\$	\$
Integrated rating/Assistant steward/Catering attendant	18	50,281	19,027	69,308
	AOV	49,163	18,605	67,768

(g)(h) **Research vessels**

[13.1(g) inserted by [PR551329](#) ppc 14Feb14; varied by [PR551710](#), [PR566802](#) ppc 01Jul15]

Classification	Minimum salary	Aggregate overtime component	Aggregate annual salary
	\$	\$	\$
Master	60,843	21,380	82,223
Chief engineer	59,747	20,993	80,740
First mate/First engineer	50,893	17,881	68,774
Second mate/Second engineer/ Electrical engineer / <b>Electro Technical Officer</b>	46,561	16,359	62,920
Third mate/Third engineer	44,652	15,689	60,341
Bosun/Chief steward/Chief cook/Chief integrated rating	42,668	14,908	57,576
Integrated rating/ AB/Greaser/Second cook	39,347	13,824	53,171

**13.2** The training, qualifications, roles and responsibilities of the classification of employees included in the tables above are incorporated in Australian Marine Orders—Part 3, the *Navigation Act 1912* (Cth) and other relevant State Flag requirements.

**13.3** The annual salaries have been fixed on an aggregate basis taking into account all aspects and conditions of employment. The aggregate salaries are based on work for 10 hours per day (70 hours per week) for 27 weeks per year over seven days a week with:

- (a) eight hours per day at ordinary time;
- (b) two hours per day at double time; and
- (c) the balance of hours above 38 ordinary hours per week (56 hours less 38 ordinary hours) at double time.

AP810149 [Pre-Reform FWA Consolidation]

AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION  
*Workplace Relations Act 1996*

Review of award pursuant to Item 51 of Part 2 of Schedule 5 of the  
*Workplace Relations and Other Legislation Amendment Act 1996*  
(C No. 00777 of 1999)

**SELF-PROPELLED BARGE AND SMALL SHIPS INDUSTRY AWARD 1991**  
(ODN C No. 20701 of 1991)  
[Print K0700 [S0013]]

Seagoing Employees

Northern Territory

COMMISSIONER EAMES

MELBOURNE, 31 AUGUST 2001

*Award simplification.*

**ORDER**

A. Further to the decision issued by the Commission on 31 August 2001, [[PR908398](#)] the above award is varied as follows:

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

**PART 1 - APPLICATION AND OPERATION OF AWARD**

**1. AWARD TITLE**

This award will be known as the Self-Propelled Barge and Small Ships Industry Award 2001.

## **2. ARRANGEMENT**

This award is arranged as follows:

### **Part 1 - Application and operation of award**

1. Award title
2. Arrangement
3. Definitions
4. Coverage of the award
5. Commencement date of award and period of operation
6. Relationship with other awards

### **Part 2 - Employment relationship**

7. Anti-discrimination
8. Procedure for prevention and settlement of disputes
9. Employee duties
10. Types of employment
11. Transfer of employees
12. Termination of employment

### **Part 3 - Remuneration and related matters**

13. Payment of salary and allowances
14. Minimum rates of pay [PR974387]
15. Calculation of earnings
16. Deductions for refusal to carry out duties
17. Accident pay

### **Part 4 - Allowances**

18. Allowances
19. Vessels wrecked or stranded allowance [PR979202]
20. Personal effects allowance [PR979202]
21. Study allowance [PR979202]
22. Meal and accommodation allowance [PR979202]
23. Travel expenses
24. Reimbursement of expenses
25. Protective and industrial clothing allowance
26. Insurance [PR979202]
27. Sailing shorthanded
28. Darwin travel

### **Part 5 - Hours of work**

29. Hours of work

**Part 6 - Leave entitlements**

30. Leave

31. Parental leave

32. Leave for consultation meetings

**Schedule 1 - List of employer respondents**

### 3. DEFINITIONS

- 3.1 **Act** means the *Workplace Relations Act 1996*, as amended.
- 3.2 **Cargo** includes all freight carried in a vessel but does not include bunker fuel and other articles carried for the vessel's use.
- 3.3 **Day** means the 24 hours from midnight to midnight.
- 3.4 **Employee** means any person engaged or employed by an employer respondent in the classification or capacity of Master, Deck Officer, Chief Engineer, Engineer Officer, Bosun, AB, Seaman/cook and Ordinary Seaman.
- 3.5 **Homeport** means the port at which the employee is originally engaged or the port mutually agreed upon between the employer and the employee concerned.
- 3.6 **Month** means a calendar month.
- 3.7 **Salary** means an annual salary.
- 3.8 **Union** means the Australian Institute of Marine and Power Engineers, the Australian Maritime Officers Union, or the Maritime Union of Australia.

## **4. COVERAGE OF THE AWARD**

### **4.1 Who does this award apply to?**

This award applies to:

- The employers named as respondents in Schedule 1; and
- The Australian Institute of Marine and Power Engineers, the Australian Maritime Officers Union, and the Maritime Union of Australia; and
- Persons engaged or employed by a respondent employer in the classification or capacity of Master, Deck Officer, Chief Engineer, Engineer Officer, Bosun, Able Seaman, Ordinary Seamen or Seaman/Cook.

### **4.2 Where does this award apply?**

This award applies in or in connection with the operation of self-propelled barges and small ships, which in the course of such trade proceed to sea (on voyages outside the limits of bays, harbours or rivers).

**5. COMMENCEMENT DATE OF AWARD AND PERIOD OF OPERATION**

This award will operate from midnight on 31 August 2001 and will remain in full force and effect thereafter for a period of two years.

## **6. RELATIONSHIP WITH OTHER AWARDS**

The provisions of this award supersede the Self Propelled Barge and Small Ships Award 1991 [Print K0700 [S0013]] but no right, obligation or liability accrued or incurred under previous awards or agreements will be affected.

## **PART 2 - EMPLOYMENT RELATIONSHI**

### **7. ANTI-DISCRIMINATION**

- 7.1** It is the intention of the respondents to this award to achieve the principal object in s.3(j) of the Act through respecting and valuing the diversity of the workforce by helping to prevent and eliminate discrimination on the basis of race, colour, sex, sexual preference, age, physical or mental disability marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin.
- 7.2** Accordingly, in fulfilling their obligations under the dispute settlement procedure in this award, the respondents must make every endeavour to ensure that neither the award provisions nor their operation are directly or indirectly discriminatory in their effects.
- 7.3** Nothing in this clause is taken to affect:
- 7.3.1** any different treatment (or treatment having different effects) which is specifically exempted under the Commonwealth anti-discrimination legislation;
  - 7.3.2** an employee, employer or registered organisation, pursuing matters of discrimination in any State or federal jurisdiction, including by application to the Human Rights and Equal Opportunity Commission.
  - 7.3.3** the exemptions in s.170CK(3) and (4) of the Act.

## **8. PROCEDURE FOR PREVENTION AND SETTLEMENT OF DISPUTES**

- 8.1** An employee on a vessel who is duly appointed, or ceases to be duly appointed, as an employee representative or union delegate, must advise the master accordingly.
- 8.2** Where a grievance, complaint, claim or any matter (other than an operational matter), which is likely to result in an industrial dispute, arises between the employer and an employee or group of employees, the following procedure will be applied:
- 8.2.1** The employee/s concerned will first meet and confer with the Master of the vessel (or in the absence of the Master, the employer's next most senior shipboard representative) to communicate the specific nature of the problem or request. The employee/s may appoint another person to act on their behalf, including a duly appointed delegate of their union.
- 8.2.2** If the matter is unable to be resolved by discussion at shipboard level, then the Master will expeditiously refer the matter to company management and/or the employee representative may refer the matter to a relevant union official.
- 8.2.3** Should the above process be unsuccessful, or a matter arises of significant importance to the operation of the employer's fleet as a whole, senior management and the relevant union Federal/National Secretary (or his/her respective authorised representatives) or other employee representative will confer as expeditiously as possible, and will attempt to settle the matter.
- 8.3** If any matter cannot be settled at senior level under 8.2, it will be referred to the Australian Industrial Relations Commission for conciliation and, if appropriate, determination.
- 8.4** Employees will continue to work in accordance with this award, whilst the matters in dispute are resolved or determined in accordance with the above procedures.
- 8.5** These provisions will not affect in any way any other rights and duties of either party pursuant to the *Workplace Relations Act* or any other Act or at common law in relation to any matter.
- 8.6** Site union delegates / employee representatives will, upon the request of the union and subject to the operational requirements of the employer, be granted paid time off work up to five days in a twelve month period to undertake training which is necessary to assist the delegate / representative in his or her dispute resolution role. Such leave shall be at the rate of 75% of his/her salary rate for the classification for the period of attendance. Attendance shall be limited to one employee member of each union respondent to this award in any one year.

## **9. EMPLOYEE DUTIES**

- 9.1** An employee will be required to carry out all duties which are within the employee's skills, certification, competence, training and applicable legislation.
- 9.2** When requested by the employer, ships' crew will assist with the loading and unloading operations including loader operations, attendance to stowage, lashing and unloading fuel.
- 9.3** The engineer will repair, maintain and service the ships' loader and cargo handling equipment, subject to his/her prime responsibility being to maintain the ships' machinery and equipment.

## **10. TYPES OF EMPLOYMENT**

Employees under this award may be employed under one of the categories described below:

### **10.1 Probationary employees**

- 10.1.1** A probationary employee is a full-time employee who is engaged or employed for a probationary period for the purpose of determining the employee's suitability for permanent employment.
- 10.1.2** The employee must be advised in advance that the employment is probationary and the duration of the probation which can be up to three months (excluding periods of leave).
- 10.1.3** Probationary employment forms part of an employee's period of continuous service for all purposes of the award.

### **10.2 Permanent employees**

For all purposes of this award, a permanent employee is an employee not specifically engaged as a casual/relief employee.

### **10.3 Casual/relief employees**

- 10.3.1** A casual/relief employee is an employee specifically engaged as such.

## 11. TRANSFER OF EMPLOYEES

11.1 An employer may direct the transfer of an employee, from one classification to another classification whether of a higher or lower classification and/or from one vessel to another vessel whether on a higher or lower category and such employee will transfer in accordance with such direction and work as required.

11.2 Subject to 11.1, an employee who is transferred to another position will be paid at the rate appropriate to that position provided that if he/she is transferred to a position carrying a lower rate of pay he/she will be given seven days notice of such transfer or be paid at the higher rate for the first seven days following such transfer. Provided further, that in cases of temporary transfer a deck officer or engineer officer who has attained a grade in the service of an employer will retain such grade during service on a lower category vessel.

11.3 Where an officer is transferred other than at his/her election from a higher rank in which he/she has served continuously for the preceding six months (other than in a temporary, relieving or probationary capacity) to a lower rank carrying a lesser rate of pay and the transfer is due solely to redundancies in the employer's service arising out of a reduction in the number of vessels in the employer's fleet, that officer will, whilst in the employer's service in that lower rank, continue to be paid at the rate of pay he/she received immediately prior to such transfer:

- until the rate of pay for the lower rank exceeds the said prior rate; or
- until the employer offers him/her a position carrying a higher rate of pay than that which he/she received immediately prior to transfer and he/she fails to accept such position; or
- for a period of six months from the date of such transfer;

whichever first occurs.

11.3.1 **Rank** means the classification in which the officer is employed but does not include the category of vessel in respect of which he/she is graded or serving.

11.4 Nothing in clause 11 will require an employee to transfer to a position the duties of which he/she is not able or competent to perform.

11.5 The provisions of this clause will not be enforced if the sole purpose of the transfer is to guarantee continuity of employment for the employee following the decommissioning or sale of an employer's vessel.

## 12. TERMINATION OF EMPLOYMENT

### 12.1 Termination by the employer

#### 12.1.1 Notice - permanent employees

**12.1.1(a)** A permanent employee whose employment is to be terminated will be given in writing the period of notice specified below, or in lieu of such notice will be paid the appropriate amount of the employee's prescribed salary specified below, and employment will terminate on expiration of the notice or the making of the payment.

<b>Continuous period of service with employer</b>	<b>Notice</b>	<b>Payment in lieu of notice</b>
Less than fifteen days	-	12-1/2% of salary earned during employment*
Fifteen days and less than three months	-	10% of salary earned during employment*
Three months and less than one year	20 days	11 days
One year and less than four years	60 days	28 days
Four years or more	90 days	46 days

\* Includes payment for leave taken but not payment in lieu of leave on termination.

**12.1.1(b)** The provisions of 12.1.1(a) will in no case be applied cumulatively.

**12.1.1(c)** Despite 12.1.1(a), a maximum 28 days notice applies in all cases if an employee is terminated arising from the decommissioning of a vessel owing to any strike, ban, limitation, or restriction upon the performance of work.

**12.1.1(d)** An employee may be given notice pursuant to this clause at any time, including when the employee is on or is about to go on leave of any kind, and the period of notice will in such case run during the period of leave.

**12.1.1(e)** The period of notice in this clause will not apply in the case of Dismissal for conduct that justifies instant dismissal.

#### 12.1.2 Casual/relief employees

Provided that where the employer specifically engages an officer for a period of not more than 30 days and such employment is terminated by the employer at any time prior to 30 days, the officer will be paid in lieu of notice at the date of termination the sum of 15% of the salary earned by him/her during such period of employment.

### **12.1.3 Repatriation to homeport after termination**

Except in cases of summary dismissal, termination of employment elsewhere than at the homeport will be subject to the following conditions:

**12.1.3(a)** Conveyance to Homeport - see clause 23 - Travel expenses.

**12.1.3(b)** Provision of keep and meals and accommodation before arrival in homeport - see clause 22 - Meal and accommodation allowance.

### **12.2 Termination by the employee**

**12.2.1** An employee who desires to terminate his/her employment will unless the employer otherwise agrees:

**12.2.1(a)** where he/she has had not more than three months continuous service, give the employer one week's notice in writing;

**12.2.1(b)** where he/she has had more than three months continuous service, give the employer four weeks notice in writing.

### **12.3 Redundancy pay**

An employee whose services are terminated because of the decommissioning and sale off the coast of a vessel will be paid one and a half weeks salary at the rate to which the employee was entitled at the time of termination for each completed year of continuous service and pro rata for completed months with the employer.

## **PART 3 - REMUNERATION AND RELATED MATTERS**

### **13. PAYMENT OF SALARY AND ALLOWANCES**

**13.1** Payment of wages will be by direct deposit to an employee's nominated bank or credit union account. An employee will on commencement of employment nominate a bank or credit union account for the purpose of payment of salary and/or allowances.

**13.2** The prescribed wage or salary accrued may be paid by the employer fortnightly at the fortnightly rate in respect of each completed fortnightly period of employment, or monthly in respect of each completed monthly period of employment, if agreed between an employer and a majority of employees of the same classification.

**13.3** In respect of the days not comprising a complete pay period, payment accrued will be made for each day at the daily rate.

**13.4** Any monetary allowance payable to an employee under this award will be paid at the same time and may by agreement be paid in the same manner as the payment under 13.1.

#### **13.5 Payment on termination**

**13.5.1** Where an employee's employment is terminated in accordance with this award the balance of the amount due to the employee under this award (if any) may be remitted to the employee's nominated bank or credit union account within seven days of the date of termination.

**13.5.2** If, through no fault of the employee, the payment is not made in accordance within this time frame, the employer will pay one day's pay at the employee's daily rate for each 24 hours that payment is delayed beyond the prescribed time.

## 14. MINIMUM RATES OF PAY

14.1 Employees must be paid a minimum of the applicable total salaries in the schedules at 14.2 or 14.3. The overtime component includes all overtime and disabilities. The categorisation of vessel weight at schedules 14.2 and 14.3 hereunder are for the express purpose of differentiating pay rates.

### 14.2 Annual salary – Vessels less than 500 tonnes dead weight

[14.2 varied by [PR956653](#); corrected by [PR957510](#); substituted by [PR966747](#); [PR967348](#) ppc 20Dec05; corrected by [PR974387](#) ppc 20Dec05]

<b>Classification</b>	<b>Total salary</b>
	\$
Master	56,158
Chief Engineer	54,154
Chief Officer	52,586
AB	44,743

Note, these rates shall continue to apply to employees engaged on the vessel MV Coral Bay, MV Caledon Bay and MV Hyland Bay and include an allowance of \$5,543 per annum for the loading, discharge or lashing of cargo.”

### 14.3 Annual salary – Vessels more than 500 tonnes dead weight

[14.3 varied by [PR956653](#); corrected by [PR957510](#); substituted by [PR966747](#); [PR967348](#) ppc 20Dec05; corrected by [PR974387](#) ppc 20Dec05]

<b>Classification</b>	<b>Total salary</b>
	\$
Master	60,555
Chief Officer	56,547
Second Officer	52,242
Chief Engineer	58,601
Second Engineer	56,547
Bosun	47,630
AB	46,297
Ordinary Seaman	46,297
Seaman/Cook	46,297

Note, these rates shall continue to apply to employees engaged on the vessels MV Fourcroy, and MV Francis Bay. The rates also include an allowance of \$7,218 per annum for working cargo and lashing.

14.4 Each employee will receive payments for 190 days of duty in each year and pro rata payments for periods of less than one year. Such payments will cover periods of duty, travelling to and from a vessel and periods of standby to join a vessel

14.5 On days of crew changeover only the employee joining the vessel will be credited with that days' duty.

[14.6 substituted by [PR956653](#); corrected by [PR957510](#); substituted by [PR966747](#); [PR967348](#) ppc 20Dec05]

**14.6** The rates of pay in this award include the arbitrated safety net adjustment payable under the *Safety Net Review – Wages June 2005* decision [PR002005]. This arbitrated safety net adjustment may be offset against any equivalent amount in rates of pay received by employees whose wages and conditions of employment are regulated by this award which are above the wage rates prescribed in the award. Such above-award payments include wages payable pursuant to certified agreements, currently operating enterprise flexibility agreements, Australian workplace agreements, award variations to give effect to enterprise agreements and overaward arrangements. Absorption which is contrary to the terms of an agreement is not required.

Increases made under previous National Wage Case principles or under the current Statement of Principles, excepting those resulting from enterprise agreements, are not to be used to offset arbitrated safety net adjustments.

## **15. CALCULATION OF EARNINGS**

**15.1** Monthly earnings are calculated by dividing the total annual salary by 12.

**15.2** Daily earnings for monthly paid employees are calculated by dividing monthly earnings by 30.

**15.3** Fortnightly earnings are calculated by dividing the total annual salary by 26.

**15.4** Daily earnings for fortnightly paid employees are calculated by dividing fortnightly earnings by 14.

## **16. DEDUCTIONS FOR REFUSAL TO CARRY OUT DUTIES**

An employee will not be entitled to payment of any wages or salary or any other allowance or payment for any period during which a refusal or failure to work as required continues. The non-entitlement will be at the hourly rate of each hour or part of an hour that the employee so refuses or fails to work. The hourly rate for the purposes of this clause will be 1/24<sup>th</sup> of the appropriate daily rate.

## **17. ACCIDENT PAY**

Where weekly compensation rates are less than the employee's minimum rate of pay prescribed by this award, the employer will pay such difference to the employee for the period of his/her incapacity up to a maximum of 52 weeks.

## **PART 4 - ALLOWANCES**

### **18. ALLOWANCES**

The allowances in this Part will be the only allowances to apply in addition to the total salaries specified in clause 14 - Minimum rates of pay.

## 19. VESSELS WRECKED OR STRANDED ALLOWANCE

[19 varied by [PR956653](#); corrected by [PR957510](#); varied by [PR966747](#) [PR967348](#) [PR975135](#); [PR979202](#) ppc 01Oct07]

If a vessel in the course of a voyage becomes wrecked or stranded and an employee is called upon for special efforts while the vessel is still wrecked or stranded, the employee will for the time during which the employee so assists be paid at the rate of \$10.83 per hour in addition to any other entitlement under this award.

## **20. PERSONAL EFFECTS ALLOWANCE**

[20 varied by [PR956653](#); corrected by [PR957510](#); varied by [PR966747](#) [PR967348](#) [PR975135](#); [PR979202](#) ppc 01Oct07]

If by fire, explosion, foundering, shipwreck, collision or stranding, an employee should sustain damage to or loss of his/her personal effects or equipment, the employer will compensate him/her for such damage or loss by a payment equivalent to the value thereof not exceeding \$3,107.00.

## **21. STUDY ALLOWANCE**

**21.1** An employee deck officer who goes ashore to study and sit for a Certificate of Competency prescribed by the *Navigation Act* or regulations made there under qualifying such employee as a first mate or master of a ship, will, subject to the conditions set out here under, be entitled to the period of leave and to the rates of pay specified hereunder:

**21.1.1** If he/she so studies and sits at any time other than during his/her accrued leave - to payment at the rate of 75% of his/her salary rate of pay for such certificate which is conducted by the Australian Maritime College or an approved technical institution or academy, provided that each such period will include the prescribed examination times and vacation times or holidays occurring therein but will not include vacation times or holidays therein of at least seven or more consecutive days duration (including Saturdays, Sundays and holidays).

**21.1.2** If he/she so studies and sits during accrued leave - to a period of additional leave (immediately following the sitting of such certificate) equal to three quarters of the respective period of leave specified in 21.1 hereof for each of which respective periods he/she will be paid the same total amount of money as that to which he/she would have been entitled under the said paragraph.

**21.2** An employee engineer officer who goes ashore to study and sit for a maritime engineer's Certificate of Competency will, subject to the conditions set out herein, be entitled to the periods of leave and to the rates of pay specified hereunder:

**21.2.1** If he/she so studies and sits at any time other than during his/her accrued leave, to payment at the rate of 75% of his/her aggregate prescribed rate of pay for the following periods whilst studying:

**21.2.1(a)** for the purpose of Part B of the Engineer Watch keeping Certificate and Part B of the Engineer Class 2 Certificate and Part A and Part B of the Engineer Class 1 Certificate - a period of leave equal to the respective period of attendance by him/her at the courses of study for each such part certificate which is conducted by the Australian Maritime College or an approved technical institution or academy provided that each such period will include examination times and vacation times or holidays occurring therein but will not include vacation times or holidays occurring therein of at least seven or more consecutive days duration (including Saturdays, Sundays and holidays);

**21.2.1(b)** for the purpose of steam or motor endorsement of the first class certificate - to four weeks.

**21.2.2** If he/she so studies and sits during his/her paid leave - to a period of additional leave (immediately following the sitting for any such part certificate or endorsement) equal to three quarters of the respective period of leave specified in 21.1 hereof for each of which respective periods he/she will be paid the same total amount of money as that which he/she would have been entitled under the said paragraph.

**21.3** Where an employee whose application to go ashore and sit for a Certificate of Competency referred to in 21.1 or 21.2 has been approved by his/her employer and such employee is subsequently retrenched he/she will be entitled to payment at the rate of 75% of his/her salary rate (as at the date of termination) for the respective period of attendance, as defined herein, by him/her at the course of study for such certificate as defined herein and provided also that he/she furnishes the employer with reasonable proof of satisfactory attendance by him/her at the course and examination.

**21.4** The allowances prescribed in 21.1.1 and 21.2.1 will be subject to the following conditions:

**21.4.1** that the employee has been in the employment of the employer for the twelve months prior to commencing the period of study;

**21.4.2** that if the employee will enter into a written undertaking that he/she will remain in its employment for a period of at least one year after he/she has sat for the certificate in question, provided that if the employee remain in the employment of the employer such employment may be terminated either by the employer or subject to the approval of the Commission by the employee; and

**21.4.3** that the entitlement will be confined to the first attempt to obtain the certificate prior to 1 January 1982, and who received paid study leave entitlement under clause 6 of schedule III or clause 7 of schedule IV of the Maritime Industry Seagoing Award 1999 as varied, in respect of such attempt and who subsequently studies for a certificate which is prescribed after that date and which replaces the first mentioned certificate, then the period of leave and payments specified in 21.1 hereof for the replacement certificate will be correspondingly reduced by the respective periods of leave and payments already granted in respect of the aforesaid failure.

[21.5 varied by [PR966747](#) [PR967348](#) [PR975135](#); [PR979202](#) ppc 01Oct07]

**21.5** Where the homeport of an employee is situated at a place other than that at which the course is conducted and it is necessary for the employee when studying and sitting to take up temporary residence away from his/her homeport, he/she will be entitled to an allowance of \$76.77 per week (if single) and \$108.24 per week (if married) for each week that he/she so resides away from his/her homeport.

## **22. MEAL AND ACCOMMODATION ALLOWANCE**

**22.1** An employee will be entitled to the relevant meal or accommodation allowance set out in 22.3, in the following circumstances:

**22.1.1** where an employee in a vessel is required by the employer to take a meal ashore and/or be accommodated ashore at a port other than at the employee's homeport; or

**22.1.2** subject to 22.2, where an employee is directly travelling to their homeport at the employer's expense.

### **22.2 Employees in their homeport**

Employees in a vessel in their homeport will only be entitled to the accommodation allowance set out in 22.3, when:

**22.2.1** their usual place of residence is not actually located in their homeport; and

**22.2.2** accommodation is not provided; and

**22.2.3** they produce evidence to the reasonable satisfaction of the employer that they properly incurred the particular expenditure.

### **22.3 Entitlement**

[22.3 substituted by [PR956653](#); corrected by [PR957510](#); varied by [PR966747](#) [PR967348](#) [PR975135](#); [PR979202](#) ppc 01Oct07]

An employee's entitlement under the above clauses will be as follows:

<b>Daily Rates</b>	<b>Entitlement</b>
	<b>\$</b>
Breakfast meal CPI	14.46
Lunch meal CPI	17.46
Dinner meal CPI	28.92
Accommodation and all meals	161.13
<b>Weekly Rates</b>	
Meals CPI	304.01
Accommodation	505.69

**22.4** This clause will not apply where the employer provides meals and accommodation.

## **23. TRAVEL EXPENSES**

**23.1** The employer will reimburse reasonable travel expenses of an employee, when the employee is travelling:

**23.1.1** as required by and for the purposes of the employer;

**23.1.2** to and/or from the employee's homeport in the following circumstances:

**23.1.2(a)** incidentally to the taking of leave as required by the employer;

**23.1.2(b)** pursuant to the application of the *Navigation Act*.

**23.1.3** This clause will not apply where the employer provides free travel.

**23.2** Meals and accommodation entitlements during travel will be in accordance with clause 22 - Meal and accommodation allowance.

## **24. REIMBURSEMENT OF EXPENSES**

- 24.1** The employer will reimburse an employee any expenses reasonably incurred by the employee in the performance of their duties and on behalf of the employer.
- 24.2** The entitlement under this clause will extend to:
- 24.2.1** expenses in respect of fees incurred by a Master or Deck Officer in obtaining or renewing a pilot age exemption certificate in the course of his/her service with the employer;
  - 24.2.2** expenses associated with enquiries as to casualties or as to the conduct of employees and to proceedings for any alleged breach of any maritime or port or other regulations;
  - 24.2.3** reimbursement of reasonable legal costs incurred or fines imposed by a competent tribunal under any applicable environmental legislation, provided that the expenses incurred were not due to, or arise from, the employee's personal default or misconduct.
- 24.3** In order to claim a reimbursement under this clause, an employee will produce evidence to the reasonable satisfaction of the employer that the expenditure claimed was properly incurred by the employee.
- 24.4** If the employer disputes his liability under this clause the question shall be dealt with in accordance with the settlement of disputes procedure.

## **25. PROTECTIVE AND INDUSTRIAL CLOTHING ALLOWANCE**

### **25.1 Uniforms**

Where the employer requires an employee to wear a uniform, the employer must reimburse the employee for the cost of purchasing such clothing.

### **25.2 Trappings**

Where an employer requires an employee to purchase any trappings, the employer must reimburse the employee for the full cost of purchasing such items. Any such items will remain the property of the employer.

### **25.3 Safety shoes, and protective clothing**

Where an employer requires an employee to purchase any safety shoes and protective clothing (including overalls), the employer must reimburse the employee for the full cost of purchasing such items. Any such clothing will remain the property of the employer.

**25.4** This clause will have no application where the industrial clothing is supplied to the employee wholly at the employer's expense.

## 26. INSURANCE

[26 varied by [PR966747](#) [PR967348](#) [PR975135](#); [PR979202](#) ppc 01Oct07]

The employer will provide and pay for each employee in addition to any superannuation entitlement or benefit from the Seafarers Retirement Fund, additional insurance coverage of \$84,260.00 to cover in the case of death or total and permanent incapacity arising out of an accident in the course of duty.

## **27. SAILING SHORTHANDED**

Where a vessel sails shorthanded, the salary prescribed for the classification of the position not filled will be divided amongst those crew members of the same union for the period the vessel is so shorthanded at sea.

**28. DARWIN TRAVEL**

- 28.1** An employee and his/her family will be entitled to a travelling allowance for each two years of continuous service. The allowance will be the payment of economy return air fares from Darwin to Melbourne, or its equivalent in ticket form only. Family will mean employee's spouse or common law spouse and dependent children over three years of age and attending school who reside or usually reside at the employees normal place of residence. This allowance will not be payable to an employees estranged family.
- 28.2** This allowance only applies to employees who have Darwin as their homeport.

## **PART 5 - HOURS OF WORK**

### **29. HOURS OF WORK**

#### **29.1 Hours of work**

- 29.1.1** All employees will work such hours as may be necessary for the safe and efficient navigation and operation of the vessel including that for cargo operations and maintenance in accordance with the ordinary practise on each of the employers' vessels.
- 29.1.2** The watch keeping hours at sea will not exceed twelve hours per day and the ordinary hours of duty in port will be eight hours per day, however an employee may be required to work hours in excess of these hours especially when a vessel arrives and departs a port in the same day.
- 29.1.3** Where an employee has been on duty continuously inclusive of meal breaks for sixteen hours he/she will not be required to commence duty again before an eight hour break except for essential work that cannot reasonably be deferred.

#### **29.2 Meal breaks**

- 29.2.1** An employee will, where practical, be allowed 60 consecutive minutes for each meal. Employees may be required to curtail their meal breaks where operational requirements of the vessel dictate.
- 29.2.2** No employee will be required to work (other than ship keeping) for more than six hours without being allowed a break for a meal.
- 29.2.3** Meal breaks will be provided to employees, with the exception of a seaman/cook, during the following span of hours:

<b>Meal breaks</b>	<b>Span of hours</b>
Breakfast	between 0700 and 0900 hours
Midday meal	between 1200 and 1400 hours
Evening meal	between 1700 and 1900 hours

- 29.2.4** **Seaman/cook** will take their meal breaks, so far as is practical, within the spread of hours in 29.2.3. Meal breaks may only be curtailed or altered where the master or officer-in-charge deems it necessary to meet the operational requirements of the vessel.
- 29.2.5** By arrangement between the crew and the master, meal breaks will be taken at mutually agreed staggered times in such a way as to provide the necessary flexibility to ensure that cargo operations are continuous.

## **PART 6 - LEAVE ENTITLEMENTS**

### **30. LEAVE**

#### **30.1 Entitlement to leave**

Each employee will receive 175 days paid leave in each year and pro rata for periods less than a year.

#### **30.2 Calculation of leave entitlement**

The leave entitlement in 30.1 gives effect to, amongst other things:

- leave with pay for weekends and public holidays worked;
- annual leave with pay of six weeks per annum.

#### **30.3 Taking of leave**

Leave granted by the employer and taken by the employee will be taken in the manner and at such times as agreed between the employer and union concerned.

#### **30.4 Leave in advance**

Any leave in advance to a maximum of fourteen days will be recoverable from any payment due to the employee.

#### **30.5 Payment of leave on termination of employment**

Upon termination of employment, an employee's leave entitlement under this clause will be paid at the salary rate for the last position in which the employee served.

## **31. PARENTAL LEAVE**

The provision of this clause applies to full-time employees, but does not apply to casual employees. Subject to the terms of this clause employees are entitled to maternity, paternity and adoption leave.

### **31.1 Definitions**

**31.1.1** For the purpose of this clause **child** means a child of the employee under the age of one year except for adoption of a child where 'child' means a person under the age of five years who is placed with the employee for the purposes of adoption, other than a child or step-child of the employee or of the spouse of the employee or a child who has previously lived continuously with the employee for a period of six months or more.

**31.1.2** Subject to 31.1.3, in this clause **spouse** includes a de facto or former spouse.

**31.1.3** In relation to 31.5, **spouse** includes a de facto spouse but does not include a former spouse.

### **31.2 Basic entitlement**

**31.2.1** After twelve months continuous service, parents are entitled to a combined total of 52 weeks unpaid parental leave on a shared basis in relation to the birth or adoption of their child. For females, maternity leave may be taken and for males, paternity leave may be taken. Adoption leave may be taken in the case of adoption.

**31.2.2** Subject: to 31.5.6, parental leave is to be available to only one parent at a time, in a single unbroken period, except that both parents may simultaneously take:

**31.2.2(a)** for maternity and paternity leave, an unbroken period of one week at the time of the birth of the child;

**31.2.2(b)** for adoption leave, an unbroken period of up to three weeks at the time of placement of the child.

### **31.3 Maternity leave**

**31.3.1** An employee must provide notice to the employer in advance of the expected date of commencement of parental leave. The notice requirements are:

**31.3.1(a)** of the expected date of confinement (included in a certificate from a registered medical practitioner stating that the employee is pregnant) – at least ten weeks;

**31.3.1(b)** of the date on which the employee proposes to commence maternity leave and the period of leave to be taken – at least four weeks.

- 31.3.2** When the employee gives notice under 31.3.1(a) the employee must also provide a statutory declaration stating particulars of any period of paternity leave sought or taken by her spouse and that for the period of maternity leave she will not engage in any conduct inconsistent with her contract of employment.
- 31.3.3** An employee will not be in breach of this clause if failure to give the stipulate notice is occasioned by confinement occurring earlier than the presumed date.
- 31.3.4** Subject to 31.2.1 and unless agreed otherwise between the employer and employee, an employee may commence parental leave at any time within six weeks immediately prior to the expected date of the birth.
- 31.3.5** Where an employee continues to work within the six week period immediately prior to the expected date of birth, or where the employee elects to return to work within six weeks after the birth of the child, an employer may require the employee to provide a medical certificate stating that she is fit to work on her normal duties.
- 31.3.6 Special maternity leave**
- 31.3.6(a)** Where the pregnancy of an employee terminates after 28 weeks and the employee has not commenced maternity leave, the employee may take unpaid special maternity leave of such period as a registered medical practitioner certifies as necessary before her return to work.
- 31.3.6(b)** Where an employee not then on maternity leave suffers illness related to her pregnancy, she may take such period of unpaid leave as a registered medical practitioner certifies as necessary before her return to work. The aggregate of special maternity leave and maternity leave may not exceed the period to which the employee is entitled under 31.2.1.
- 31.3.7** Where leave is granted under 31.3.4, during the period of leave an employee may return to work at any time, as agreed between the employer and the employee provided that time does not exceed four weeks from the recommencement date desired by the employee.

#### **31.4 Paternity leave**

- 31.4.1** An employee will provide to the employer at least ten weeks prior to each proposed period of paternity leave:
- 31.4.1(a)** a certificate from a registered medical practitioner which names his/her spouse, states that she is pregnant and the expected dated of confinement, or states the date on which the birth took place; and
- 31.4.1(b)** written notification of the dates on which he/she proposes to start and finish the period of paternity leave; and

**31.4.1(c)** a statutory declaration stating;

- he/she will take that period of paternity leave to become the primary caregiver of a child;
- particulars of any period of maternity leave sought or taken by his/her spouse; and
- that for the period of paternity leave he/she will not engage in any conduct inconsistent with his/her contract of employment.

**31.4.2** The employee will not be in breach of 31.4.1 if the failure to give the required period of notice is because of the birth occurring earlier than expected, the death of the mother of the child, or other compelling circumstances. The employee will immediately notify the employer of any change in the information provided to the employer pursuant to 31.4.1.

### **31.5 Adoption leave**

**31.5.1** The employee will notify the employer at least ten weeks in advance of the date of commencement of adoption leave and the period of leave to be taken. An employee may commence adoption leave prior to providing such notice, where through circumstances beyond the control of the employee, the adoption of a child takes place earlier.

**31.5.2** Before commencing adoption leave, an employee will provide the employer with a statutory declaration stating:

**31.5.2(a)** the employee is seeking adoption leave to become the primary caregiver of the child;

**31.5.2(b)** particulars of any period of adoption leave sought or taken by the employee's spouse; and

**31.5.2(c)** that for the period of adoption leave the employee will not engage in any conduct inconsistent with his/her contract of employment.

**31.5.3** An employer may require an employee to provide confirmation from the appropriate government authority of the placement.

**31.5.4** Where the placement of child for adoption with an employee does not proceed or continue, the employee will notify the employer immediately and the employer will nominate a time not exceeding four weeks from receipt of notification for the employee's return to work.

**31.5.5** An employee will not be in breach of this clause as a consequence of failure to give the stipulated periods of notice if such failure results from a requirement of an adoption agency to accept earlier or later placement of a child, the death of a spouse, or other compelling circumstances.

**31.5.6** An employee seeking to adopt a child is entitled to take unpaid leave for the purpose of attending any compulsory interviews or examinations as are necessary as part of the adoption procedure. The employee and the employer should agree on the length of the unpaid leave. Where agreement cannot be reached, the employee is entitled to take up to two days unpaid leave. Where paid leave is available to the employee, the employer may require the employee to take such paid leave instead.

### **31.6 Variation of period of parental leave**

Unless agreed otherwise between the employer and employee, an employee may apply to his/her employer to change the period of parental leave on one occasion. Any such change is to be notified to least four weeks prior to the commencement of the changed arrangements.

### **31.7 Parental leave and other entitlements**

An employee may in lieu of or in conjunction with parental leave, access other paid leave entitlements which they have accrued, such as leave pursuant to 30.1 or long service leave, subject to the total amount of leave not exceeding 52 weeks.

### **31.8 Transfer to a safe job**

**31.8.1** Where an employee is pregnant and, in the opinion of a registered medical practitioner, illness or risks arising out of the pregnancy or hazards connected with the work assigned to the employee make it inadvisable for the employee to continue at her present work, the employee will, if the employer deems it practicable, be transferred to a safe job at the rate and on the conditions attaching to that job until the commencement of maternity leave.

**31.8.2** If the transfer to a safe job is not practicable, the employee may elect, or the employer may require the employee to commence parental leave.

### **31.9 Returning to work after a period of parental leave**

**31.9.1** An employee will notify of his/her intention to return to work after a period of parental leave at least four weeks prior to the expiration of the leave.

**31.9.2** An employee will be entitled to the position, which he/she held immediately before proceeding on parental leave. In the case of an employee transferred to a safe job pursuant to 31.8, the employee will be entitled to return to the position he/she held immediately before such transfer.

**31.9.3** Where such position no longer exists but there are other positions available which the employee is qualified for and is capable of performing, the employee will be entitled to a position as nearly comparable in status and pay to that of his/her former position.

### **31.10 Replacement employees**

- 31.10.1** A replacement employee is an employee specifically engaged or temporarily promoted or transferred, as a result of an employee proceeding on parental leave.
- 31.10.2** A replacement employee will be informed of the temporary nature of the employment and of the rights of the employee who is being replaced.

## **32. LEAVE FOR CONSULTATION MEETINGS**

**32.1** An employee in a vessel in port will be allowed to attend authorised consultation meetings, which have been mutually agreed between the employer and union, without loss of pay, provided the following conditions are observed:

**32.1.1** the Master of a vessel does not require the employee to be present for the safety, proper running and operation of the vessel; and

**32.1.2** the employee's attendance will not interfere with the cargo operations of the employee's vessel.

**32.2** This clause will not apply where the vessel is due to sail or where the safety of the ship might be affected.

**SCHEDULE 1 - LIST OF EMPLOYER RESPONDENTS**

Perkins Shipping Group

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