

FAIR WORK COMMISSION

4 yearly review of modern awards – Airline Operations Industry

Matter No. AM2018/15

RE *Airline Operations-Ground Staff Award 2010*

SUBMISSIONS FOR THE TRANSPORT WORKERS' UNION OF AUSTRALIA

INTRODUCTION

1. The Transport Workers' Union of Australia (TWU) makes these submissions pursuant to the Amended Directions for the *Airline Operations-Ground Staff Award 2010* (the Award) issued by the Fair Work Commission (the Commission) on 13 December 2018. The TWU is seeking a variation to the overtime provisions of the Award and makes the following submissions in support of the draft determination filed on 28 January 2019.
2. The TWU also seeks to rely on a number of witness statements in support of the variations set out in the attached draft determination marked TWU-1.

VARIATION TO THE OVERTIME PROVISIONS

3. The TWU proposes to insert a new subclause in the overtime provisions contained in clause 32.1 of the Award to ensure the Award provides for a payment of double time in circumstances where all employees performing shiftwork receive the same overtime rate.
4. The current provisions for overtime in the Award are set out in clause 32.1. Sub-clause 32.1(a) relevantly provides that:

all work done outside ordinary hours on any day or shift (except where the time is worked by arrangement between the employees themselves) must be paid at time and a half for the first two hours and double time thereafter until the completion of the overtime work. For a continuous shiftworker the rate for working overtime is double time.

5. The TWU proposes the overtime provisions be varied by adding an additional subclause to make provision for all shiftworkers to be paid the rate of double time

for working overtime. It is proposed that the existing subclause 32.1 be deleted and inserted with the following:

32.1 Payment for working overtime

- (a) *work done outside ordinary hours (except where the time is worked by arrangement between the employees themselves) must be paid at time and a half for the first two hours and double time thereafter until the completion of the overtime work.*
- (b) *Shift work – All time worked in excess of or outside ordinary hours or on a shift other than a rostered shift must be paid double time.*
- (c) *The hourly rate, when computing overtime, is determined by dividing the appropriate weekly rate by 38, even in cases when an employee works more than 38 ordinary hours in a week.*
- (d) *In computing overtime each day's work stands alone.*

6. The variation is necessary to give effect to the modern awards objective of ensuring that “modern awards, together with the National Employment Standards, provide a fair and relevant safety net of terms and conditions”: s 134(1). In particular, the variation will ensure that non-continuous shiftworkers are appropriately remunerated for all time worked outside ordinary hours.

Background

7. Like other modern awards, the Airline Operations Award makes provision for the payment of overtime to both employees performing day work and shift work. Those provisions provide that all work performed outside the ordinary hours are paid in accordance with clause 32.1.
8. The rate payable for work done outside ordinary hours on any day or shift is time and a half for the first two hours and double time thereafter. For continuous shiftworkers the rate payable is double time. Subclause 32.1(d) provides that in computing overtime each day's work will stand alone.

9. For the purposes of Clause 32.1 ordinary hours means the hours worked in accordance with clause 28.2(c). The ordinary hours of work in 28.2(c) refers to the ordinary hours of work for day work only. Clause 28.2(c) relevantly provides that:

28.2 Ordinary hours of work – day work

- (a) *The ordinary hours of work are 38 per week but not exceeding 152 hours in 28 days.*
- (b) *The ordinary hours of work may be worked on any day or all of the days of the week, Monday to Friday.*
- (c) *The ordinary hours of work are to be worked continuously, except for meal breaks, at the discretion of the employer between 7.00 am and 6 pm*
- (d) *.....*
- (e) *All work done outside the ordinary the agreed spread of hours must be paid for at overtime rates.*
- (f) *.....*
- (g) *.....*

10. The ordinary hours of work for shiftwork can be found in clause 28.3(b). There is no reference in clause 32.1 to the ordinary hours of work for shiftworkers. Clause 28.3(b) relevantly provides that:

28.3 Ordinary hours of work – shiftwork

- (a) **Continuous shiftwork** means work carried on with consecutive shifts of employees throughout the 24 hours of each of at least six consecutive days without interruption except for breakdown or meal breaks or due to the unavoidable causes beyond the control of the employer.
- (b) Subject to clause 28.3(c) the ordinary hours of shiftworkers are an average of 38 hours per week inclusive of meal breaks and must not exceed 152 hours in 28 consecutive days.
- (c) By arrangement between the employer and the majority of employees concerned, a roster system may operate on the basis that the weekly average of 38 ordinary hours is achieved

over a period which exceeds 28 consecutive days but does not exceed 12 months.

(d)

(e)

11. The overtime provisions in clause 32.1 were inserted into the Airline Operations Award as part of the Part 10A award modernisation. Those terms differ from the overtime provisions in the principal pre-reform awards¹ that form the basis of the modern award. The terms of the overtime provisions in the pre-reform awards prescribed a payment for shift work of double time for all time worked in excess of or outside ordinary hours. Clause 28.2.2 of the Airline Operations (Transport Workers') Award 1998 (Transport Workers' Award) relevantly provided that:

28.2 Payment for working overtime

28.2.1 Day work – *all work done outside ordinary hours must be paid for at the rate of time and a half for the first two hours and double time thereafter*

28.2.2 Shift work – *all time worked in excess of or outside ordinary hours or on a shift other than a rostered shift must be paid for at the rate of double time unless:*

28.2.2(a) *the time is worked by arrangement between the employees themselves; or*

28.2.2(b) *the time is worked for the purpose of effecting the customary rotation of shifts; or*

28.2.2(c) *the time worked*

Except as provided in 28.3 and 28.4 in computing overtime, each days work stands alone.

12. The insertion of the current overtime provisions into the Airline Operations reduced the overtime payable to shiftworkers who do not work on continuous

¹ Statement of Walton dated 29 January 2019, para 12

shiftwork as defined in the Airline Operations Award. Clause 28.3 defines continuous shiftwork as follows:

28.3 *Ordinary hours of work – shiftwork*

(a) **Continuous shiftwork** means work carried on with consecutive shifts of employees throughout the 24 hours of each of at least six consecutive days without interruption except for breakdowns or meal breaks or due to unavoidable causes beyond the control of the employer.

13. Whilst the overtime provisions refer to a continuous shiftworker, it is important to note that there is no definition of either a continuous or non-continuous shiftworker in the award, although the definition in paragraph 12 above defines the operations of an employer. The ordinary hours of work for shiftworkers are the same regardless of whether they perform continuous or non-continuous shiftwork.
14. The same shift loadings apply to shiftworkers performing continuous and non-continuous shiftwork², with the same shift penalty rates applying to weekends and public holidays.³
15. Other than the overtime provisions, the only other difference in conditions is in the time provided for a meal break and crib break.⁴ Whilst the meal break provisions are the same as those contained in the pre-reform Transport Workers' Award, the crib breaks⁵ in the modern Award only provide for a 10 minute break for continuous shiftworkers. This is in contrast to the Transport Workers' Award where all shiftworkers received a 10 minute rest break each shift which counted as time worked.
16. The TWU submits that the changes to the overtime provisions during the award modernisation were unintended by the parties and have resulted in a diminution of entitlements for employees working non continuous shiftwork. The difference in overtime rates is not fair and the changes made lack any logic or merit. The

² Clause 30.3 of the Award

³ Clause 30.7 of the Award

⁴ Clauses 29.2 and 29.3 of the Award.

⁵ Clause 30.3 Rest breaks in the Transport Worker's Award

variation will also correct the tension between the overtime rates payable to non continuous shiftworkers and the shift penalty rates for work on a Sunday.

17. Where ordinary hours are worked by day workers on a Sunday, the loading is double time.⁶ Similarly, the loading for shiftworkers for work on a Sunday is double time.⁷ If Clause 32.1 is interpreted to provide for overtime at time and half for the first two hours for non-continuous shiftworkers, this could result in the absurd situation where a shiftworker working non continuous shift work working ordinary hours on a Sunday would receive double time, then drop to time and a half if they go into overtime.

Award modernisation

18. The background to the procedural history of the Airline Operations Award is set out in the statement of Therese Walton.⁸ Ms Walton lists the principal pre-reform awards in airline operations as identified by the Australian Industrial Relations Commission (the Commission).⁹
19. In her statement Ms Walton refers to the overtime provisions as they applied to shiftworkers in the pre-reform awards.¹⁰ It is important to note that the overtime rate payable to shiftworkers was double time regardless of whether an employee performed in a continuous or non-continuous shiftwork roster.
20. The change to the overtime provisions appears to have come about as a result of the proposed drafts filed by both the ACTU and the TWU.¹¹ Those provisions only provided for overtime at double time for continuous shiftworkers. In contrast the Qantas Group and Ai Group proposed draft contained the overtime provisions contained in the pre-reform Transport Workers' Award, which provided for overtime at double time for all shiftworkers.¹²

⁶ Clause 28.2(g) Airline Operations Award

⁷ Clause 30.7(a) Airline Operations Award

⁸ Statement of Walton dated 29 January 2019.

⁹ Ibid para 12

¹⁰ Ibid paras 13 to 17

¹¹ Ibid paras 24 and 25

¹² Ibid para 21

21. A review of further drafts proposed by the various parties indicate the Qantas Group/Ai Group draft reflected that proposed by the ACTU and TWU, that is overtime at double time for continuous shiftworkers.¹³
22. Despite the insertion of the words “continuous shiftworkers” in the overtime clause in the various drafts proposed by the ACTU, TWU and then the Qantas/Ai Groups, there is no explanation for the change. Indeed it would appear that the parties never intended that shiftworkers would receive different overtime rates.
23. An examination of the drafting notes to the ACTU second draft award filed on 1 April 2009 shows a distinction between overtime rates for day work and shift work. There is no reference at all to continuous shiftworkers. The notes prescribe time and half for the first two hours then double time for day work but double time for shift work.¹⁴ The Qantas/Ai Groups revised draft filed on 1 April 2009 simply agreed to the draft overtime provisions proposed by the ACTU.¹⁵
24. In the various submissions and drafts filed by the parties, there is no reference or explanation for the insertion of the words “continuous shiftworkers”. Similarly, there is no reference at all in the transcripts to the changes made to the overtime provisions by either the parties or the Commission. During the award modernisation proceedings, no one appears to have turned their minds to the changes and the consequences of the changes for shiftworkers working non-continuous shifts.
25. It is appropriate that the award be varied to correct the anomalous treatment of non-continuous shiftworkers. The different treatment of shiftworkers performing non-continuous and continuous shiftwork is not justified and lacks any merit basis. The current award cannot be said to provide a fair and relevant minimum safety net of terms and conditions.

Exposure draft of the Airline Operations Award published by the Fair Work Commission

26. The proposed variation to Clause 32.1 in the draft determination filed by the TWU will correct the anomaly that exists in the overtime provisions in relation to overtime payments for non continuous shiftworkers. It will also correct the

¹³ Ibid para 33

¹⁴ Ibid para 31

¹⁵ Ibid para 31

tension between the overtime provisions and the Sunday rates which are highlighted in the Tables contained in Schedule B of the Exposure draft of the Airline Operations Award.

27. As part of the Four yearly review an exposure draft was published by the Commission. Schedule B in the Exposure draft contains a Summary of the Hourly Rates of Pay as set out in the various tables.¹⁶
28. The rates in the tables B.2.3, B.3.3, B.4.3 and B.5.3 provide for penalty rates at double time for shiftworker working on Sundays. However, the rates in tables B.2.4, B.3.4, B.4.4 and B.5.5 provide for overtime rates of time and a half for the first two hours and double time thereafter for shiftworkers working overtime on a Sunday.
29. The overtime provisions in clause 32.1 refer to all work done outside the ordinary hours on any day or shift. The Sunday penalty rates for shiftworkers for work on a Sunday should be read as for all time worked. The tension between these two provisions cannot stand and needs to be corrected.

Disutility associated with shiftwork and overtime

30. The Airline Operations Award contains a definition of continuous shiftwork as work that is carried on with consecutive shifts within a 24 hour period of at least six consecutive days.¹⁷ The definition is contained within the clause relating to the ordinary hours of work for shiftwork. There is no distinction in the ordinary hours of work between continuous shiftworkers or non-continuous shiftworkers.¹⁸
31. Clause 30 of the Award is entitled Special provisions for shiftworkers. Subclause 30.3 sets out the shift loadings for the various shift types that may be worked under the Award. Unlike other modern awards, the shift type includes an early morning shift and two night shifts. Subclause 30.3 relevantly provides:

30.3 Shift loadings

For all shifts worked between midnight Sunday to midnight Friday the following loadings must be paid in addition to ordinary rates:

¹⁶ Ibid para 4

¹⁷ Clause 28.3(a) of the Award

¹⁸ Clause 28.3 of the Award

Shift type		Loading
<i>Early morning shift</i>	<i>Commencing no earlier than 4.00 am but prior to 7.00 am</i>	15%
<i>Afternoon shift</i>	<i>Finishing after 6.00 pm and at or before midnight</i>	15%
<i>Night shift</i>	<i>Finishing after midnight and at or before 8.00 am</i>	22.5%
<i>Night shift</i>	<i>Commencing after midnight and before 4.00 am</i>	22.5%

32. The shift type of early morning shift (as applicable to employees other than Qantas) and the additional night shift commencing after midnight was first inserted into the award during award modernisation. It is not clear why the additional night shift was added, but it could have been to avoid an overlap between the early morning shift.
33. It would appear the overtime payment of double time for shiftworkers in the pre-reform Transport Workers Award was first inserted in the *Transport Workers (Airways) Award 1972*. Prior to that the overtime rate for shiftworkers was time and a half for the first two hours and double time thereafter.¹⁹
34. At the same time a definition of “continuous work”²⁰ was inserted into the award in essentially the same terms as the current definition in Clause 28.3(a) of the Airline Operations Award. The treatment of shiftworkers working continuous and non continuous work was the same, that is overtime rate increased to double time for both.
35. It is generally recognised that overtime penalty rates compensate employees for performing work in excess of ordinary hours. In the Casual employment and Part-time employment decision (the Casuals Case), the Full Bench identified 2 generally applicable propositions concluding that:

Casual employees who work in excess of ordinary hours in a single day, or over 38 hours per week in a particular week or on average over the course of a roster cycle, are subject to the same disabilities as full-time

¹⁹ 122 C.A.R. 681, Clause 12(f) *Transport Workers’ (Airways) Award 1968*

²⁰ 150 C.A.R. 110, Clause 13.1(v) *Transport Workers’ (Airways) Award 1972*

*employees – that is, fatigue and a general restriction of opportunities to engage in family, social, community and other activities.*²¹

36. It is submitted that shiftworkers experience a greater disutility than day workers when working in excess of ordinary hours. Under modern awards shiftworkers receive penalty rates for working different types of shifts at times different to that of day work. As the Full Bench observed in the *Penalty Rates Decision*, “penalty rates compensate for the disability (or disutility) associated with the time at which the work is performed”.²²
37. Shiftworkers are subject to a greater disability than day workers as a result of the time at which they commence and finish work on the different shift types.²³ When shiftworkers work in excess of or outside their ordinary hours they are subject to further disabilities such as fatigue, restriction of family, social and other activities. Shiftworkers performing continuous shiftwork and non continuous shiftwork are subject to these same disabilities, regardless of whether their roster pattern is over 24 hours or less than 24 hours.²⁴

Modern awards objective

38. The variation sought is consistent with the modern awards objective as set out in s 134 of the Act in that it would ensure that the modern award system, together with the National Employment Standards, provides a fair and relevant minimum safety net of terms and conditions of employment.
39. The Airport Operations Award fails to ensure a fair and relevant minimum safety net of terms and conditions of employment to the extent that it provides for different overtime rates for shiftworkers working non continuous and continuous shift work.
40. The TWU submits that the variation will assist in achieving the modern awards objective, in particular the objective of ensuring that the Award provides additional remuneration for employees working overtime, unsocial, irregular or unpredictable hours (s 134(1)(da)).

²¹ [2017] FWCFB 3541 at [667]

²² [2017] FWCFB 1001 at [1711]

²³ Statement of George Stella filed 29 January 2019 at paras 24 and 25

²⁴ Ibid at paras 27 and 28

41. The existing overtime rates for shiftworkers working non continuous shiftwork are not fair and are disproportionate to employees working continuous shiftwork. Shiftworkers working non continuous shiftwork experience the same disability as shiftworkers working continuous shiftwork.
42. As the Full Bench observed in the *Penalty Rates Decision*, when considering s.134(1)(da) and the need to provide additional remuneration, the Full Bench said,²⁵ “Ultimately, however, the issue is whether an award which prescribes a particular penalty rate provides ‘a fair and relevant minimum safety net’. The Full Bench went on to say:
- ‘A central consideration in this regard is whether a particular penalty rate provides employees with ‘fair and relevant’ compensation for the disutility associated with working at the particular times(s) to which the penalty attaches.’*²⁶
43. The anomalous treatment of shiftworkers working overtime who work non continuous shiftwork, compared to shiftworkers working continuous shiftwork would be addressed through the variation sought by the TWU.
44. The variation will also assist in achieving the objective of ensuring that the Award is simple and easy to understand (s 134(1)(g)). It is appropriate that persons reading a modern award be able to understand the penalty rates that apply to particular times of work.
45. In its current form the Award is ambiguous when it comes to the payment of ordinary hours on a Sunday and the payment of overtime for shiftworkers working non continuous shiftwork.
46. The variation will have minimal impact on business. Most employers in the airline operations industry covered by the Award have enterprise agreements in place that apply to their employees. Many of these agreements, in particular the major employers in the industry such as Qantas, Virgin and QGS have overtime provisions in their agreements that reflect the overtime provisions in the pre-reform Transport Workers’ Award.²⁷

²⁵ [2017] FWCFB 1001 at [202]

²⁶ Ibid at [202]

²⁷ Statement of Shane O’Brien dated 29 January 2019 at para 10

Conclusion

47. For the above reasons, the variation proposed by the TWU should be made by the Commission to ensure that the Award meets the modern awards objective and to correct what appears to be an unintended consequence of the award modernisation process.

ATTACHMENTS

48. The following draft determinations and witness statements are attached:
- TWU-1
 - Statement of Therese Walton
 - Statement of George Stella
 - Statement of Shane O'Brien

Transport Workers' Union of Australia

Dated: 29 January 2019

AMENDED TWU-1

<<FileNo>> <<PrintNo>>
FAIR WORK COMMISSION

DRAFT DETERMINATION

Fair Work Act 2009

Part 2-3, Div 4 – 4 Yearly reviews of modern awards

Airline Operations-Ground Staff Award 2010
(AM2018/15) MA000048

Airline Operations industry

VICE PRESIDENT CATANZARITI

DEPUTY PRESIDENT

COMMISSIONER SYDNEY, XX YYY 2019

Review of modern awards to be conducted.

- [1] Further to the Decision and Reasons for Decision <<DecisionRef>> in <<FileNo>>, it is determined pursuant to section 156(2)(b)(i) of the *Fair Work Act 2009*, that the *Airline Operations-Ground Staff Award 2010* be varied as follows.
- [2] Delete existing Clause 32.1 – Payment for Working Overtime and replace with the following:

32.1 Payment for working overtime

- (a) Day work – All work done outside ordinary hours (except where the time is worked by arrangement between the employees themselves) must be paid at time and a half for the first two hours and double time thereafter until the completion of the overtime work.
- (b) Shift work – All time worked in excess of or outside ordinary hours or on a shift other than a rostered shift must be paid double time.

- (c) For the purposes of this clause, **ordinary hours** means the hours worked in an enterprise, fixed in accordance with clauses 28.2 for a dayworker and 28.3 and 30.2 for a shiftworker.
- (d) The hourly rate, when computing overtime, is determined by dividing the appropriate weekly rate by 38, even in cases when an employee works more than 38 ordinary hours in a week.
- (e) In computing overtime each day's work stands alone.

[3] The determination shall operate on and from XX YYY 2019.

VICE PRESIDENT

IN THE FAIR WORK COMMISSION

Matter No. AM2018/15

4 Yearly Review of Modern Awards – Airline Operations-Ground Staff Award 2010

STATEMENT OF THERESE WALTON

I, Therese Walton, National Industrial Officer/Negotiator, of Level 2, 388-390 Sussex Street, Sydney in the State of New South Wales say as follows:

1. I am the National Industrial Officer/Negotiator for the Transport Workers' Union of Australia (**TWU**). I have been in this role since October 2010. My principal duties in the role are to represent the National Office of the TWU in negotiations with employers for enterprise agreements, provide support and advice to state branches of the TWU regarding enterprise agreements and awards, and to review all enterprise agreements made by the TWU and its branches.
2. In the course of my duties I was involved in both the Two Yearly review of awards and the Four Yearly review of awards on behalf of the Transport Workers' Union of Australia (the **TWU**).
3. During the Two Yearly review the *Airline Operations – Ground Staff Award 2010* (the **Airline Operations Award**) was the subject of an application to vary by the Australian Municipal Administrative and Clerical Services Union ("**ASU**"). The TWU did not participate in the proceedings for the Airline Operations Award due to resourcing issues.

Four yearly review

4. As part of the Four yearly review an exposure draft was published on 2 June 2016 for the Airline Operations Award. In Schedule B – Summary of Rates of Pay, there are a number of tables setting out ordinary rates of pay, overtime rates and penalty rates for employees covered by the Award. A copy of Schedule B is attached and marked as "**TW-1**".

5. Tables B.2.3, B.3.3, B.4.3 and B.5.3 set out the penalty rates for full-time and part-time shiftworkers in the aviation transport employees, clerical, administration and support employees, maintenance and engineering employees and storepersons and logistics employees classification streams.
6. The rates in the tables for work performed on a Sunday is 200%. This rate reflects the provisions of Clause 30.7(a) of the Award which says:

“Shiftworkers must be paid the following rates for work on weekends and public holidays:

<i>Shift type</i>	<i>Penalty rate</i>
<i>Saturday</i>	<i>Time and a half</i>
<i>Sunday</i>	<i>Double time</i>

7. Tables B.2.4, B.3.4, B.4.4 and B.5.4 set out the overtime rates for full-time and part-time employees including shiftworkers. The tables provide for an overtime rate of 200% on a Sunday for day workers and continuous shiftworkers but only 150% for Shiftworkers who are not continuous shiftworkers.
8. Clause 32 of the Award prescribes the overtime rates for employees under the award as follows:

“All work done outside ordinary hours on any day or shift (except where the time is worked by arrangement between the employees themselves) must be paid at time and a half for the first two hours and double time thereafter until the completion of the overtime work. For a continuous shiftworker the rate for working overtime is double time.”

9. The publication of the tables highlighted the tension between Clauses 30.7 and 32.1 in relation to the overtime rates and Sunday rates payable for non-continuous shiftworkers. This issue was brought to the attention of the Full Bench in various submissions as part of the Technical and Drafting proceedings for the Award.
10. The current provisions of the Airline Operations Award were inserted during award modernisation and do not reflect the provisions in the principal predecessor award, the Airline Operations (Transport Workers’) Award 1998 (**Transport Workers’ Award**).

Award modernisation

11. The Airline Operations Award was made during Stage 3 of the Part 10A Award Modernisation. On 30 January 2009 the Australian Industrial Relations Commission (AIRC) issued a statement¹ dealing with Stage 3. In its statement the AIRC published a list of industries and occupations. Attached and marked “TW-2” is a copy of the list of industries and occupations for Airline Operations.
12. The principal pre-reform awards (non-enterprise) in airline operations as identified in the list were:
 - *The Airline Operations (Transport Workers’) Award 1998 (Transport Workers’ Award);*
 - *Airline Operations – Clerical and Administrative Award 1999 (Clerical Award);*
 - *Airline Operations (Domestic Airlines) Award (Domestic Airlines Award);*
 - *Overseas Airlines (Interim) Award 1999 (Overseas Airlines Award); and*
 - *Aircraft Engineers (General Aviation) Award 1999 (GA Award).*
13. The overtime provisions in the Transport Workers’ Award prescribed a payment of double time for all employees performing shiftwork. Attached and marked “TW-3” is a copy of clause 28.2 of the Award.
14. The overtime provisions in the Clerical Award prescribed a payment of double time for all shiftworkers. Attached and marked “TW-4” is a copy of clause 25.1.2 of the Award.
15. The overtime provisions in the Domestic Airlines Award prescribed a payment of double time for shiftworkers. Attached and marked “TW-5” is a copy of clause 29.1 of the Award.
16. The overtime provisions in the Overseas Airlines Award prescribed a payment of double time for shiftworkers. Attached and marked “TW-6” is a copy of clause 21.1.2 of the Award.
17. The overtime provisions in the GA Award prescribed a payment of double time for shiftworkers. Attached and marked “TW-7” is a copy of clause 18.3 of the Award.

¹ [2009] AIRCFB 100

18. The Commission issued a timetable for parties to file written submissions, drafts and other proposals concerning the scope, content and transitional arrangements for Stage 3 modern awards.
19. I have reviewed the various submissions and draft awards presented by the various parties, as well as the transcripts of proceedings in the hearings for the Airline Operations Award.
20. In its submissions of 6 March 2009, Qantas indicated that they had used the Transport Workers' Award where possible when drafting their proposed draft award on the basis that the majority of employers in the airline operations industry were covered by that Award. Attached and marked "**TW-8**" is a copy of the relevant parts of the submissions made by Qantas.
21. A review of the proposed draft filed by Qantas shows the Overtime provisions at 25.2(a) and (b) were the same as those contained in the Transport Workers Award and reflected the double time payment in the awards listed at paragraph 12 above.
22. The draft filed by Qantas was a joint draft between the Qantas Group and the Ai Group/BARA, except for the areas of difference as highlighted throughout the Award. Attached and marked "**TW-9**" is a copy of Part 5 - Hours of Work of the draft Award filed by Qantas.
23. On 18 March 2009 the ACTU filed a proposed draft award on behalf of its affiliates in the Aviation Industry. The ACTU indicated in its covering letter that the draft had been developed by affiliates with the assistance of the ACTU. The ACTU indicated that the award endeavoured to maintain the existing safety nets of wages and conditions. Attached and marked **TW-10**" is a copy of the covering letter.
24. The overtime provisions in the proposed award were contained in clause 38.1(a) which restricted the payment of overtime rates at double time to "continuous shiftworkers". Attached and marked "**TW-11**" is a copy of Part 5 – Hours of Work from the draft award.

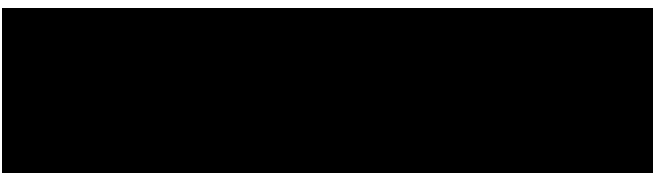
25. On 19 March 2009 the TWU filed a proposed draft award. The proposed overtime provisions at clause 24.1(a) reflected those contained in the ACTU draft and is attached and marked “**TW-12**”.
26. On 19 and 20 March 2009 pre-drafting consultations were held at which time various submissions were made in support of the parties’ draft awards. I have reviewed those transcripts and there is no reference at all to the overtime provisions of the various draft awards.
27. On 1 April 2009 the ACTU filed submissions and a revised draft award. The overtime provisions in the revised draft were contained in 36.1 which contained no reference to shiftworkers. Attached and marked as “**TW-13**” is a copy of clause 36.1.
28. The rate payable for overtime was set out in 36.1(a) and appears incomplete. 36.1(b) remained blank. The first sentence of 36.1(a) appears to reflect clause 28.2.1 of the Transport Workers’ Award, that is the payment for day work. The second sentence appears to reflect clause 28.2.2, that is payment for shift work.
29. The ACTU submissions attached a document indicating the source of the Award provisions in its draft which was marked as Attachment B. The ACTU made submissions at page 17 of its submissions that Attachment B showed that the provisions of the draft was “firmly based in the underpinning industry awards operating in the Aviation industry”. Attached and marked as “**TW-14**” is a copy of page 17 of the ACTU’s submissions of 1 April 2009.
30. Attachment B to the submissions stipulates the draft clauses in the draft award and the source of the information for each clause. The attachment lists Overtime as clause 37, which is not reflected as clause 37 in the draft or the earlier draft filed on 18 March 2009. However, the drafting notes indicate that the overtime provisions reflected the industry standard for day workers and that the standard provision covering shift workers had been added to the draft. Attached and marked as “**TW-15**” is a copy of the relevant section of the drafting notes.
31. Attachment C to the ACTU’s submissions contains an analysis of the Qantas/AiG draft and the ACTU draft. This document indicates that the drafts provided for double time for all shiftworkers. Attached and marked as “**TW-16**” is a copy of the relevant section of the ACTU analysis.

32. On 1 April 2009 Qantas filed submissions and a revised draft award. At Attachment 1 to the submissions contained a table comparing the Qantas Group/Ai Group draft filed on 6 March 2009 to the ACTU draft filed on 18 March 2009. Attachment 2 contained the revised draft.
33. In Attachment 1 at the comments section for the overtime clause, Qantas indicated that it agreed with the ACTU draft as set out in the second column. The revised clause is set out in clause 26 – Overtime in the revised draft. Attached and marked as “**TW-17**” is a copy of the relevant sections of Attachments 1 and 2 showing the redrafting of the Overtime provisions by Qantas in line with the ACTU draft provisions of 18 March 2009.
34. On 22 May 2009 the Commission issued a Statement [2009] AIRCFB 450 and published a draft Exposure Draft titled “Airline Operations-Ground Staff Award 2010. The overtime provisions were contained in clause 30 and reflected the current provisions of the modern Airline Operations Award. Attached and marked as “**TW-18**” is a copy of clause 30.
35. In the Statement the Commission said at par 18:
- “We have endeavoured to simplify and shorten the award. We have had regard to the draft award proposed by the unions who are party to the current award. The input from employers has been limited. We would be greatly assisted by comments from all affected parties on the draft. Further simplification of the award will make it simpler to understand and apply.”*
36. Following the above Statement, various submissions were made by the parties on the Exposure Draft. No reference was made to the overtime provisions in any of the submissions.
37. Further public consultations were held in relation to the Airline Operations Award on 3 July 2009. Again, there was no reference or submissions made in relation to the changed overtime provisions.
38. On 4 September the Commission issued a decision [2009] AIRCFB 826 in relation to the Stage 3 Awards. The decision in relation to the Airline Operations Award was limited to the following paragraph:

[15] Various modifications have been made to the exposure draft as a result of the submissions of the parties. The clauses affected relate to the definition of the airline industry the exclusion of planning, drafting and technical officer classifications, the insertion of stores classification definitions, the limitation of indemnity provisions to maintenance engineering classifications, grouping of allowances along classification lines, allowing 12 hour shifts by agreement and various other simplifications and corrections.

[16] We have decided not to amend the classification structure to reflect the structure of the Manufacturing and Associated Industries and Occupations Award 2010 (Manufacturing Modern Award).⁵ The structure in the modern award is consistent with existing airline industry structure

39. There is nothing in the draft proposals, in the evidence of any of the parties or the transcripts that indicate that the change to the overtime provisions for non-continuous shiftworkers was intended. It would appear that none of the parties or the Commission turned their minds to the consequences of the change to the drafting of the overtime provisions.
40. In my experience, the TWU would not intentionally propose a draft award that resulted in a diminution of entitlements.



.....

Therese Walton

Dated: 29 January 2019

TW-1

Schedule B—Summary of Hourly Rates of Pay

NOTE: Employers who meet their obligations under this schedule are meeting their obligations under the award.

B.1 Ordinary hourly rate

B.1.1 Ordinary hourly rate is the minimum hourly rate of pay for an employee plus any allowance payable for all purposes to which the employee is entitled. Where an allowance is payable for all purposes in accordance with clause 19.7(a), this forms part of the employee’s ordinary hourly rate and must be added to the minimum hourly rate prior to calculating penalties and overtime.

B.1.2 The rates in the tables below are based on the **minimum hourly rates** in accordance with clause 18.

B.2 Full-time and part-time aviation transport employees

B.2.1 Full-time and part-time aviation transport employees other than shiftworkers—ordinary and penalty rates

	Ordinary hours	Saturday	Sunday	Public holiday	
				Public holidays other than Christmas Day and Good Friday	Christmas Day and Good Friday
% of ordinary hourly rate					
	100%	150%	200%	200%	250%
	\$	\$	\$	\$	\$
Level 1	18.68	28.02	37.36	37.36	46.70
Level 2	18.76	28.14	37.52	37.52	46.90
Level 3	19.09	28.64	38.18	38.18	47.73
Level 4	19.64	29.46	39.28	39.28	49.10
Level 5	20.52	30.78	41.04	41.04	51.30
Level 6	21.06	31.59	42.12	42.12	52.65
Level 7	21.20	31.80	42.40	42.40	53.00
Level 8	22.11	33.17	44.22	44.22	55.28

B.2.2 Full-time and part-time aviation transport shiftworkers—shiftwork rates

	Early morning or afternoon shift	Night shift	Permanent night shift	Continuous afternoon or night shifts ¹
	% of ordinary hourly rate			
	115%	122.5%	130%	150%
	\$	\$	\$	\$
Level 1	21.48	22.88	24.28	28.02
Level 2	21.57	22.98	24.39	28.14
Level 3	21.95	23.39	24.82	28.64
Level 4	22.59	24.06	25.53	29.46
Level 5	23.60	25.14	26.68	30.78
Level 6	24.22	25.80	27.38	31.59
Level 7	24.38	25.97	27.56	31.80
Level 8	25.43	27.08	28.74	33.17

¹Continuous afternoon or night shift means work on any afternoon or night shift which does not continue for at least five consecutive afternoons or nights (see clause 17.5)

B.2.3 Full-time and part-time aviation transport shiftworkers—penalty rates

	Saturday	Sunday	Public holiday	
			Public holidays other than Christmas Day and Good Friday	Christmas Day and Good Friday
	% of ordinary hourly rate			
	150%	200%	200%	250%
	\$	\$	\$	\$
Level 1	28.02	37.36	37.36	46.70
Level 2	28.14	37.52	37.52	46.90
Level 3	28.64	38.18	38.18	47.73
Level 4	29.46	39.28	39.28	49.10
Level 5	30.78	41.04	41.04	51.30
Level 6	31.59	42.12	42.12	52.65
Level 7	31.80	42.40	42.40	53.00
Level 8	33.17	44.22	44.22	55.28

B.2.4 Full-time and part-time aviation transport employees including shiftworkers—overtime rates

	Day workers			Shiftworkers (except continuous shiftworkers)		Continuous shiftworkers
	Monday to Saturday		Sunday	Monday to Sunday		Monday to Sunday
	First 2 hours	After 2 hours	All hours	First 2 hours	After 2 hours	All overtime hours
	% of ordinary hourly rate					
	150%	200%	200%	150%	200%	200%
	\$	\$	\$	\$	\$	\$
Level 1	28.02	37.36	37.36	28.02	37.36	37.36
Level 2	28.14	37.52	37.52	28.14	37.52	37.52
Level 3	28.64	38.18	38.18	28.64	38.18	38.18
Level 4	29.46	39.28	39.28	29.46	39.28	39.28
Level 5	30.78	41.04	41.04	30.78	41.04	41.04
Level 6	31.59	42.12	42.12	31.59	42.12	42.12
Level 7	31.80	42.40	42.40	31.80	42.40	42.40
Level 8	33.17	44.22	44.22	33.17	44.22	44.22

B.3 Full-time and part-time clerical, administration and support adult employees

B.3.1 Full-time and part-time clerical, administration and support employees other than shiftworkers—ordinary and penalty rates

	Ordinary hours	Saturday	Sunday	Public holiday	
				Public holidays other than Christmas Day and Good Friday	Christmas Day and Good Friday
	% of ordinary hourly rate				
	100%	150%	200%	200%	250%
	\$	\$	\$	\$	\$
Level 1	19.29	28.94	38.58	38.58	48.23
Level 2	20.13	30.20	40.26	40.26	50.33
Level 3	21.26	31.89	42.52	42.52	53.15

Exposure draft – Airline Operations—Ground Staff Award 2016

	Ordinary hours	Saturday	Sunday	Public holiday	
				Public holidays other than Christmas Day and Good Friday	Christmas Day and Good Friday
% of ordinary hourly rate					
	100%	150%	200%	200%	250%
	\$	\$	\$	\$	\$
Level 4	22.32	33.48	44.64	44.64	55.80
Level 5	23.23	34.85	46.46	46.46	58.08
Level 6	24.14	36.21	48.28	48.28	60.35
Level 7	25.06	37.59	50.12	50.12	62.65
Level 8	25.96	38.94	51.92	51.92	64.90

B.3.2 Full-time and part-time clerical, administration and support shiftworkers—shiftwork rates

	Early morning or afternoon shift	Night shift	Permanent night shift	Continuous afternoon or night shifts ¹
% of ordinary hourly rate				
	115%	122.5%	130%	150%
	\$	\$	\$	\$
Level 1	22.18	23.63	25.08	28.94
Level 2	23.15	24.66	26.17	30.20
Level 3	24.45	26.04	27.64	31.89
Level 4	25.67	27.34	29.02	33.48
Level 5	26.71	28.46	30.20	34.85
Level 6	27.76	29.57	31.38	36.21
Level 7	28.82	30.70	32.58	37.59
Level 8	29.85	31.80	33.75	38.94

¹Continuous afternoon or night shift means work on any afternoon or night shift which does not continue for at least five consecutive afternoons or nights (see clause 17.5)

B.3.3 Full-time and part-time clerical, administration and support shiftworkers—penalty rates

	Saturday	Sunday	Public holiday	
			Public holidays other than Christmas Day and Good Friday	Christmas Day and Good Friday
% of ordinary hourly rate				
	150%	200%	200%	250%
	\$	\$	\$	\$
Level 1	28.94	38.58	38.58	48.23
Level 2	30.20	40.26	40.26	50.33
Level 3	31.89	42.52	42.52	53.15
Level 4	33.48	44.64	44.64	55.80
Level 5	34.85	46.46	46.46	58.08
Level 6	36.21	48.28	48.28	60.35
Level 7	37.59	50.12	50.12	62.65
Level 8	38.94	51.92	51.92	64.90

B.3.4 Full-time and part-time clerical, administration and support employees including shiftworkers—overtime rates

	Day workers			Shiftworkers (except continuous shiftworkers)		Continuous shiftworkers
	Monday to Saturday		Sunday	Monday to Sunday		Monday to Sunday
	First 2 hours	After 2 hours	All hours	First 2 hours	After 2 hours	All overtime hours
% of ordinary hourly rate						
	150%	200%	200%	150%	200%	200%
	\$	\$	\$	\$	\$	\$
Level 1	28.94	38.58	38.58	28.94	38.58	38.58
Level 2	30.20	40.26	40.26	30.20	40.26	40.26
Level 3	31.89	42.52	42.52	31.89	42.52	42.52
Level 4	33.48	44.64	44.64	33.48	44.64	44.64
Level 5	34.85	46.46	46.46	34.85	46.46	46.46

Exposure draft – Airline Operations—Ground Staff Award 2016

	Day workers			Shiftworkers (except continuous shiftworkers)		Continuous shiftworkers
	Monday to Saturday		Sunday	Monday to Sunday		Monday to Sunday
	First 2 hours	After 2 hours	All hours	First 2 hours	After 2 hours	All overtime hours
	% of ordinary hourly rate					
	150%	200%	200%	150%	200%	200%
	\$	\$	\$	\$	\$	\$
Level 6	36.21	48.28	48.28	36.21	48.28	48.28
Level 7	37.59	50.12	50.12	37.59	50.12	50.12
Level 8	38.94	51.92	51.92	38.94	51.92	51.92

B.4 Full-time and part-time maintenance and engineering adult employees

B.4.1 Full-time and part-time maintenance and engineering employees other than shiftworkers—ordinary and penalty rates

	Ordinary hours	Saturday	Sunday	Public holiday	
				Public holidays other than Christmas Day and Good Friday	Christmas Day and Good Friday
	% of ordinary hourly rate				
	100%	150%	200%	200%	250%
	\$	\$	\$	\$	\$
Aircraft worker 1	17.29	25.94	34.58	34.58	43.23
Aircraft worker 2	17.79	26.69	35.58	35.58	44.48
Aircraft worker 3	18.47	27.71	36.94	36.94	46.18
Aircraft worker 4	19.10	28.65	38.20	38.20	47.75
Tradesperson	20.13	30.20	40.26	40.26	50.33
Aircraft Maintenance Engineer	21.96	32.94	43.92	43.92	54.90
Full Category B1.1 Licence Holder	23.55	35.33	47.10	47.10	58.88
Full Category B1.2	23.55	35.33	47.10	47.10	58.88

Exposure draft – Airline Operations—Ground Staff Award 2016

	Ordinary hours	Saturday	Sunday	Public holiday	
				Public holidays other than Christmas Day and Good Friday	Christmas Day and Good Friday
% of ordinary hourly rate					
	100%	150%	200%	200%	250%
	\$	\$	\$	\$	\$
Licence Holder					
Full Category B1.3 Licence Holder	23.55	35.33	47.10	47.10	58.88
Full Category B1.4 Licence Holder	23.55	35.33	47.10	47.10	58.88
Full Category B2 Licence Holder	23.55	35.33	47.10	47.10	58.88
Full Category B1/B2 Licence Holder	23.55	35.33	47.10	47.10	58.88
Transitional Category B1.1 Licence Holder	23.55	35.33	47.10	47.10	58.88
Transitional Category B1.2 Licence Holder	22.47	33.71	44.94	44.94	56.18
Transitional Category B1.3 Licence Holder	23.55	35.33	47.10	47.10	58.88
Transitional Category B1.4 Licence Holder	22.47	33.71	44.94	44.94	56.18
Transitional Category B2 Licence Holder	23.55	35.33	47.10	47.10	58.88

B.4.2 Full-time and part-time maintenance and engineering shiftworkers—shiftwork rates

	Early morning or afternoon shift	Night shift	Permanent night shift	Continuous afternoon or night shifts¹
	% of ordinary hourly rate			
	115%	122.5%	130%	150%
	\$	\$	\$	\$
Aircraft worker 1	19.88	21.18	22.48	25.94
Aircraft worker 2	20.46	21.79	23.13	26.69
Aircraft worker 3	21.24	22.63	24.01	27.71
Aircraft worker 4	21.97	23.40	24.83	28.65
Tradesperson	23.15	24.66	26.17	30.20
Aircraft Maintenance Engineer	25.25	26.90	28.55	32.94
Full Category B1.1 Licence Holder	27.08	28.85	30.62	35.33
Full Category B1.2 Licence Holder	27.08	28.85	30.62	35.33
Full Category B1.3 Licence Holder	27.08	28.85	30.62	35.33
Full Category B1.4 Licence Holder	27.08	28.85	30.62	35.33
Full Category B2 Licence Holder	27.08	28.85	30.62	35.33
Full Category B1/B2 Licence Holder	27.08	28.85	30.62	35.33
Transitional Category B1.1 Licence Holder	27.08	28.85	30.62	35.33
Transitional Category B1.2 Licence Holder	25.84	27.53	29.21	33.71
Transitional Category B1.3 Licence Holder	27.08	28.85	30.62	35.33

	Early morning or afternoon shift	Night shift	Permanent night shift	Continuous afternoon or night shifts ¹
	% of ordinary hourly rate			
	115%	122.5%	130%	150%
	\$	\$	\$	\$
Transitional Category B1.4 Licence Holder	25.84	27.53	29.21	33.71
Transitional Category B2 Licence Holder	27.08	28.85	30.62	35.33

¹Continuous afternoon or night shift means work on any afternoon or night shift which does not continue for at least five consecutive afternoons or nights (see clause 17.5)

B.4.3 Full-time and part-time maintenance and engineering shiftworkers—penalty rates

	Saturday	Sunday	Public holiday	
			Public holidays other than Christmas Day and Good Friday	Christmas Day and Good Friday
	% of ordinary hourly rate			
	150%	200%	200%	250%
	\$	\$	\$	\$
Aircraft worker 1	25.94	34.58	34.58	43.23
Aircraft worker 2	26.69	35.58	35.58	44.48
Aircraft worker 3	27.71	36.94	36.94	46.18
Aircraft worker 4	28.65	38.20	38.20	47.75
Tradesperson	30.20	40.26	40.26	50.33
Aircraft Maintenance Engineer	32.94	43.92	43.92	54.90
Full Category B1.1 Licence Holder	35.33	47.10	47.10	58.88
Full Category B1.2 Licence Holder	35.33	47.10	47.10	58.88
Full Category B1.3	35.33	47.10	47.10	58.88

Exposure draft – Airline Operations—Ground Staff Award 2016

	Saturday	Sunday	Public holiday	
			Public holidays other than Christmas Day and Good Friday	Christmas Day and Good Friday
% of ordinary hourly rate				
	150%	200%	200%	250%
	\$	\$	\$	\$
Licence Holder				
Full Category B1.4 Licence Holder	35.33	47.10	47.10	58.88
Full Category B2 Licence Holder	35.33	47.10	47.10	58.88
Full Category B1/B2 Licence Holder	35.33	47.10	47.10	58.88
Transitional Category B1.1 Licence Holder	35.33	47.10	47.10	58.88
Transitional Category B1.2 Licence Holder	33.71	44.94	44.94	56.18
Transitional Category B1.3 Licence Holder	35.33	47.10	47.10	58.88
Transitional Category B1.4 Licence Holder	33.71	44.94	44.94	56.18
Transitional Category B2 Licence Holder	35.33	47.10	47.10	58.88

B.4.4 Full-time and part-time maintenance and engineering employees including shiftworkers—overtime rates

	Day workers			Shiftworkers (except continuous shiftworkers)		Continuous shiftworkers
	Monday to Saturday		Sunday	Monday to Sunday		Monday to Sunday
	First 2 hours	After 2 hours	All hours	First 2 hours	After 2 hours	All overtime hours
% of ordinary hourly rate						
	150%	200%	200%	150%	200%	200%
	\$	\$	\$	\$	\$	\$
Aircraft worker 1	25.94	34.58	34.58	25.94	34.58	34.58
Aircraft worker 2	26.69	35.58	35.58	26.69	35.58	35.58
Aircraft worker 3	27.71	36.94	36.94	27.71	36.94	36.94
Aircraft worker 4	28.65	38.20	38.20	28.65	38.20	38.20
Tradesperson	30.20	40.26	40.26	30.20	40.26	40.26
Aircraft Maintenance Engineer	32.94	43.92	43.92	32.94	43.92	43.92
Full Category B1.1 Licence Holder	35.33	47.10	47.10	35.33	47.10	47.10
Full Category B1.2 Licence Holder	35.33	47.10	47.10	35.33	47.10	47.10
Full Category B1.3 Licence Holder	35.33	47.10	47.10	35.33	47.10	47.10
Full Category B1.4 Licence Holder	35.33	47.10	47.10	35.33	47.10	47.10
Full Category B2 Licence Holder	35.33	47.10	47.10	35.33	47.10	47.10

Exposure draft – Airline Operations—Ground Staff Award 2016

	Day workers			Shiftworkers (except continuous shiftworkers)		Continuous shiftworkers
	Monday to Saturday		Sunday	Monday to Sunday		Monday to Sunday
	First 2 hours	After 2 hours	All hours	First 2 hours	After 2 hours	All overtime hours
	% of ordinary hourly rate					
	150%	200%	200%	150%	200%	200%
	\$	\$	\$	\$	\$	\$
Full Category B1/B2 Licence Holder	35.33	47.10	47.10	35.33	47.10	47.10
Transitional Category B1.1 Licence Holder	35.33	47.10	47.10	35.33	47.10	47.10
Transitional Category B1.2 Licence Holder	33.71	44.94	44.94	33.71	44.94	44.94
Transitional Category B1.3 Licence Holder	35.33	47.10	47.10	35.33	47.10	47.10
Transitional Category B1.4 Licence Holder	33.71	44.94	44.94	33.71	44.94	44.94
Transitional Category B2 Licence Holder	35.33	47.10	47.10	35.33	47.10	47.10

B.5 Full-time and part-time storepersons and logistics adult employees

B.5.1 Full-time and part-time storepersons and logistics employees other than shiftworkers—ordinary and penalty rates

	Ordinary hours	Saturday	Sunday	Public holiday	
				Public holidays other than Christmas Day and Good Friday	Christmas Day and Good Friday
% of ordinary hourly rate					
	100%	150%	200%	200%	250%
	\$	\$	\$	\$	\$
Level 1	18.37	27.56	36.74	36.74	45.93
Level 2	18.79	28.19	37.58	37.58	46.98
Level 3	19.28	28.92	38.56	38.56	48.20
Level 4	19.89	29.84	39.78	39.78	49.73
Level 5	20.62	30.93	41.24	41.24	51.55

B.5.2 Full-time and part-time storepersons and logistics shiftworkers—shiftwork rates

	Early morning or afternoon shift	Night shift	Permanent night shift ¹	Continuous afternoon or night shifts ¹
% of ordinary hourly rate				
	115%	122.5%	130%	150%
	\$	\$	\$	\$
Level 1	21.13	22.50	23.88	27.56
Level 2	21.61	23.02	24.43	28.19
Level 3	22.17	23.62	25.06	28.92
Level 4	22.87	24.37	25.86	29.84
Level 5	23.71	25.26	26.81	30.93

¹Continuous afternoon or night shift means work on any afternoon or night shift which does not continue for at least five consecutive afternoons or nights (see clause 17.5)

B.5.3 Full-time and part-time storepersons and logistics shiftworkers—penalty rates

	Saturday	Sunday	Public holiday	
			Public holidays other than Christmas Day and Good Friday	Christmas Day and Good Friday
% of ordinary hourly rate				
	150%	200%	200%	250%
	\$	\$	\$	\$
Level 1	27.56	36.74	36.74	45.93
Level 2	28.19	37.58	37.58	46.98
Level 3	28.92	38.56	38.56	48.20
Level 4	29.84	39.78	39.78	49.73
Level 5	30.93	41.24	41.24	51.55

B.5.4 Full-time and part-time storepersons and logistics employees including shiftworkers—overtime rates

	Day workers			Shiftworkers (except continuous shiftworkers)		Continuous shiftworkers
	Monday to Saturday		Sunday	Monday to Sunday		Monday to Sunday
	First 2 hours	After 2 hours	All hours	First 2 hours	After 2 hours	All overtime hours
% of ordinary hourly rate						
	150%	200%	200%	150%	200%	200%
	\$	\$	\$	\$	\$	\$
Level 1	27.56	36.74	36.74	27.56	36.74	36.74
Level 2	28.19	37.58	37.58	28.19	37.58	37.58
Level 3	28.92	38.56	38.56	28.92	38.56	38.56
Level 4	29.84	39.78	39.78	29.84	39.78	39.78
Level 5	30.93	41.24	41.24	30.93	41.24	41.24

**Award Modernisation
Stage 3 Industries/occupations:**

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Airline operations	Publication Title	Pub ID	Common Rule	State
AIRC Industry				
<i>Pre-reform awards (non-enterprise)</i>				
Airline operations	Aerial Agricultural Aviation Pilots Award 1999	<u>AP765615</u>	CR	
Airline operations	Aircraft Engineers (General Aviation) Award 1999	<u>AP765552</u>		
Airline operations	Aircraft Engineers (General Aviation) Superannuation Award 1988	<u>AP765673</u>	CRV	
Airline operations	Airline Operations - Clerical and Administrative Award 1999	<u>AP768636</u>		
Airline operations	Airline Operations (Domestic Airlines) Award 2000	<u>AP765514</u>	CNV	
Airline operations	Airline Operations (Transport Workers) Award 1998	<u>AP768308</u>		
Airline operations	Airline Operations (Transport Workers) Long Service Leave Award 1999	<u>AP768518</u>	CR	
Airline operations	Helicopter Pilots (General Aviation) Award 1999	<u>AP783494</u>		
Airline operations	Overseas Airlines (Interim) Award 1999	<u>AP791898</u>		
Airline operations	Pilots' (General Aviation) Award 1998	<u>AP792332</u>	CR	
Airline operations	Pilots' (General Aviation) Superannuation Award 1988	<u>AP792389</u>		
Airline operations	Qantas/Australian Airlines Pilots Integration Award 1994	<u>AP794089</u>		
Airline operations	Regional Airlines Pilots' Award 2003	<u>AP829753</u>	CR	
Private transport industry	Transport and Storage Industry Sector - Minimum Wage Order - Victoria 1997	<u>AP800417</u>		
<i>NAPSAs (non-enterprise)</i>				
<i>Pre-reform enterprise awards</i>				
Airline operations	Airline Industry (East-West Airlines) Superannuation Award 1988	<u>AP765670</u>		
Airline operations	Airline Industry (Domestic Operators) Superannuation Award 1986	<u>AP765648</u>		
Airline operations	Airline Industry (Qantas Airways Limited and Qantas Flight Catering Limited) ALHMWU - Hours of Work - Award 2000	<u>AP768980</u>		
Airline operations	Airline Industry (Qantas Airways) Superannuation Award 1988	<u>AP765680</u>		
Airline operations	Airline Officers (Qantas Airways Limited) Award 2000	<u>AP765780</u>		
Airline operations	Airline Officers (Qantas Staff Credit Union) Award 2000	<u>AP766470</u>		

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Airline operations

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AIRC Industry	Publication Title	Pub ID	Common Rule	State
	<i>Pre-reform enterprise awards - continued</i>			
Airline operations	Airline Operations - AMWU (Ansett) Award 1999	<u>AP768838</u>		
Airline operations	Airline Operations - AMWU Technical and Supervisory Staff - Qantas Airways Limited - Award 1999	<u>AP767002</u>		
Airline operations	Airline Operations - Australian Airlines Limited - Forepersons - Award 1999	<u>AP768600</u>		
Airline operations	Airline Operations - Flight Attendants' Long Haul - Qantas Airways Limited - Award 2000	<u>AP765517</u>		
Airline operations	Airline Operations - Licensed Aircraft Engineers - Qantas Airways Limited - Award 2005	<u>AP839983</u>		
Airline operations	Airline Operations - Professional Engineers - Qantas Airways Limited - Award 1999	<u>AP766942</u>		
Airline operations	Airline Operations - Qantas Flight Attendant Divisional Transfer Award 2004	<u>AP836453</u>		
Airline operations	Airline Operations - Salaried Staff (Ansett Australia) Award 1998	<u>AP768592</u>		
Airline operations	Airline Operations - Salaried Staff - Qantas Information Technology Limited - Award 2003	<u>AP833180</u>		
Airline operations	Airline Operations - Technical Salaried Staff - Qantas Airways Limited - Award 2005	<u>AP839984</u>		
Airline operations	Airline Operations (Qantas Airways Limited and National Union of Workers) Hours of Work Award 2000	<u>AP768977</u>		
Airline operations	Airline Operations (Qantas Airways Limited) Award 1999	<u>AP765516</u>		
Airline operations	Airline Operations (Qantas Airways Limited) Long Service Leave Award 1999	<u>AP765549</u>		
Airline operations	Airline Operations (Qantas Airways Limited) Shorter Hours Award 2005	<u>AP838870</u>		
Airline operations	Ansett Airlines of Australia (Pilots) Award 2000	<u>AP765716</u>		
Airline operations	Australian Air Express Award 2004	<u>AP834590</u>		
Airline operations	Australian Airlines ASU Award 2003	<u>AP830851</u>		
Airline operations	Australian Airlines Pilots' Award 2002	<u>AP819199</u>		
Airline operations	Bristow Helicopter (Aircraft Engineers) Award 2000	<u>AP769476</u>		
Airline operations	CHC Helicopters (Aircrew/Rescue Crew) Award 2002	<u>AP815272</u>		
Catering industry	Gate Gourmet Services - Transport Workers' - Award 2002	<u>AP818101</u>		
Airport operations	Flight Attendants (Ansett International) Award 2000	<u>AP781203</u>		
Airline operations	Flight Attendants (Domestic Airlines) Award 1999	<u>AP781128</u>		

AIRC Industry	Publication Title	Pub ID	Common Rule	State
	<i>Pre-reform enterprise awards - continued</i>			
Airline operations	Flight Attendants' (Regional Airlines and Charter Operators) Award 1999	<u>AP781148</u>		
Airline operations	Flight Attendants' Association of Australia Australian Airlines Award 2002	<u>AP818229</u>		
Airline operations	Flight West Airlines Flight Attendants' Award 2000	<u>AP781217</u>		
Airline operations	International Air Transport Association (Airline Industry) Award 2000	<u>AP785143</u>		
Airline operations	Licensed Aircraft Engineers' (Ansett Australia Ltd) Award 1995	<u>AP786998</u>		
Airport operations	Liquor Industries - Aircraft In-flight and General Catering - Gate Gourmet Services Pty Ltd - Award 1999	<u>AP787748</u>		
Catering industry	Liquor Industries (Caterair Airport Services) Award 2000	<u>AP787042</u>		
Airline operations	National Jet Systems Pilots' Award 2002	<u>AP820003</u>		
Airline operations	National Jet Systems Pty Limited Airline Division Flight Attendants' Award 1999	<u>AP790949</u>		
Airline operations	Pearl Aviation Aircraft Engineers' Award 2004	<u>AP833810</u>		
Airline operations	Qantas Shorthaul Pilots' Award, 2000	<u>AP805947</u>		
Airline operations	Qantas Technical Aircrew (Long Haul) Award 2000	<u>AP805958</u>		
Airline operations	Skywest Airlines Pty Ltd Aircraft Engineers' Award 2001	<u>AP806871</u>		
Airline operations	Skywest Airlines Pty Ltd Flight Attendants Award 1999	<u>AP796297</u>		
Airport operations	Transport Workers (Caterair Airport Services) Award 1999	<u>AP799633</u>		
Airline operations	Transport Workers' (Virgin Tech) Award 2003	<u>AP828612</u>		
Airline operations	Travel Industries Automated Systems Pty Limited (T.I.A.S.) Award 1998	<u>AP799655</u>		
Airline operations	United Airlines Maintenance Staff Interim Enterprise Award 1999	<u>AP801606</u>		

NAPSAs derived from state enterprise awards (preliminary classification)

Airport operations (other than Retail)

(Page 1 of 1)

AIRC Industry	Publication Title	Pub ID	Common Rule	State
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Pre-reform awards (non-enterprise)
Airline operations Airport Employees Award 1999

NAPSAs (non-enterprise)

Pre-reform enterprise awards

NAPSAs derived from State enterprise awards (preliminary classification)

AP768388

TW-3

PREV

NEXT

AP768308CNV - Airline Operations (Transport Workers') Award 1998

28. OVERTIME

28.1 Requirement to work overtime

[28.1 substituted by PR938327 ppc 18Sep03]

28.1 Subject to clause 28.1.1 an employer may require an employee to work reasonable overtime at overtime rates.

28.1.1 An employee may refuse to work overtime, where the working of such overtime would result in the employee working hours which are unreasonable with regard to:

28.1.1(a) any risk to employee health and safety;

28.1.1(b) the employees personal circumstances including any family responsibilities;

28.1.1(c) the needs of the workplace or enterprise;

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

28.1.1(e) any other relevant matter.

28.2 Payment for working overtime

28.2.1 Day work - All work done outside ordinary hours must be paid for at the rate of time and a half for the first two hours and double time thereafter.

28.2.2 Shift work - All time worked in excess of or outside ordinary hours or on a shift other than a rostered shift must be paid for at the rate of double time unless:

28.2.2(a) the time is worked by arrangement between the employees themselves; or

28.2.2(b) the time is worked for the purpose of effecting the customary rotation of shifts; or

28.2.2(c) the time is worked because a relief worker does not come on duty at the proper time and the relief worker did not give the employer and the employee whom he or she was to relieve at least eight hours notice of his/her intended absence from work.

Except as provided in 28.3 and 28.4 in computing overtime, each days work stands alone.

28.3 Rest period after overtime

[28.3.1 substituted by T0266 from 24Mar99]

28.3.1 Employees who work so much overtime between the termination of their ordinary work on one day and the commencement of their ordinary work on the next day that they had not at least ten consecutive hours off duty between these times, shall, subject to this subclause be released after completion of such

overtime until they have had ten consecutive hours off duty without loss of pay for ordinary working time during such absence.

[28.3.2 substituted by T0266 from 24Mar99]

28.3.2 If, on the instructions of their employer, such employees resume or continue work without having such ten consecutive hours off duty, they shall be paid at double rates until they are released from duty for such period; and they shall then be entitled to be absent until they have had ten consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

28.3.3 For the purposes of this subclause, overtime does not include overtime worked when an employee is recalled to work in accordance with 28.4 and the actual time worked on the recall is less than three hours.

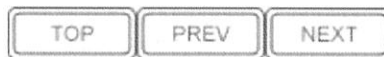
28.4 Recall

28.4.1 If an employee is recalled to work overtime after leaving the employer's business premises (whether notified before or after leaving the premises) the employee must be paid for a minimum of four hours. This subclause does not apply if:

28.4.1(a) it is customary for employees to return to their employer's premises to perform a specific job outside their ordinary hours; or

28.4.1(b) the overtime is continuous (subject to a meal break) with the completion or commencement of ordinary time.

28.4.2 In the event of cancellation or postponement of such recall when employees report to their place of duty they will be paid for four hours for each such time they are recalled even if they are not required to work.





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AP768636CRV - Airline Operations – Clerical and Administrative Award 1999

25. OVERTIME

25.1 Payment for working overtime

25.1.1 Day work

25.1.1(a) All work done outside ordinary hours must be paid for at overtime rates.

25.1.1(b) A day worker must be paid overtime at the rate of time and a half. Where day worker works more than two hours of overtime in any single day, overtime must be paid at the rate of double time.

[25.1.1(c) corrected by PR900979 ppc 30Nov99]

25.1.1(c) A day worker required to work on Sunday will be paid at the rate of double time for four hours or if more than four hours is worked for the time actually worked. One clear days notice of a requirement to work on a Sunday must be given.

[25.1.1(d) corrected by PR900979 ppc 30Nov99]

25.1.1(d) A day worker required to work on a public holiday will be paid at the rate of double time and a half for four hours or if more than four hours is worked for the time actually worked. One clear days notice of a requirement to work on a public holiday must be given.

25.1.2 Shift work

For all time worked

- in excess of or outside ordinary hours; or
- on a shift other than a rostered shift; or
- where the employee has worked more than six consecutive shifts in any seven consecutive days; or
- where the employee has worked more than ten shifts in any fourteen consecutive days;

the employee must be paid for at the rate of double time unless the time is worked by arrangement between the employees themselves.

25.1.3 For the purpose of determining the appropriate overtime rate, each period of overtime will stand alone.

25.2 Rest period after overtime

25.2.1 An employee who has worked overtime must be given a break of at least ten consecutive hours between the time of finishing work and the time when the employee next commences ordinary work. An employee must not lose ordinary pay for any time lost by reason of this break. An employee may agree with the employer to reduce this break to eight hours.

25.2.2 If an employee is required by the employer to resume or continue work without having a break of ten consecutive hours, the employee must be paid at overtime rates until the employee is released from duty. The employee is then entitled to a break of ten consecutive hours and must not lose ordinary pay for any



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AP765514 - Airline Operations (Domestic Airlines) Award 2000

29. OVERTIME

29.1 Payment for working overtime

29.1.1 Day work - all work done outside ordinary hours must be paid for at the rate of time and a half for the first two hours and double time thereafter.

29.1.2 Shift work: All time worked in excess of or outside ordinary hours or on a shift other than a rostered shift must be paid for at the rate of double time unless:

29.1.2(a) the time is worked by arrangement between the employees themselves; or

29.1.2(b) the time is worked for the purpose of effecting the customary rotation of shifts; or

29.1.2(c) the time is worked because a relief worker does not come on duty at the proper time and the relief worker did not give the company at least eight hours notice of his or her intended absence from duty; or

29.1.2(d) the employee works make up time in accordance with 29.5

29.1.3 In computing overtime, each days work stands alone.

29.2 Rest period after overtime

29.2.1 An employee who has worked overtime must be given a break of at least ten consecutive hours between the time of finishing work and the time when the employee next commences ordinary work. An employee must not lose ordinary pay for any time lost by reason of this break.

29.2.2 If an employee is required by the employer to resume or continue work without having a break of ten consecutive hours, the employee must be paid at the rate double time until the employee is released from duty. The employee is then entitled to a break of ten consecutive hours and must not lose ordinary pay for any time lost by reason of this break.

29.2.3 For the purposes of this clause, overtime does not include overtime worked when an employee is recalled to work in accordance with clause 29.4 and the actual time worked on the recall is less than three hours.

29.3 Recall

29.3.1 If an employee is recalled to work overtime after leaving the employer's business premises (whether notified before or after leaving the premises) the employee must be paid for a minimum of four hours at the appropriate rate for each recall. If the employer provides transport to the employee the employer must only pay the employee for a minimum of three and a half hours.

29.3.2 This clause does not apply if:

29.3.2(a) it is customary for employees to return to their employer's premises to perform a specific job outside their ordinary hours; or



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AP791898 - Overseas Airlines (Interim) Award 1999

21. OVERTIME

21.1 Penalty rates

21.1.1 Dayworkers

Except where otherwise provided in this award for all work done outside ordinary hours, the rate of pay will be time and a half for the first two hours and double time thereafter, such double time to continue until completion of the overtime worked.

21.1.2 Shiftworkers

All time worked in excess of or outside the ordinary working hours prescribed by clause 19 - Hours of Work, or on a shift other than a rostered shift, will be paid at the rate of double time except when the time is worked for the purpose of effecting the customary rotation of shifts.

21.1.3 Overtime will not be paid when the time is worked by arrangement between the employees themselves with the approval of the head of the section.

21.1.4 In computing overtime each day's work will stand alone except as otherwise provided in this clause.

21.1.5 In computing the number of hours worked per week, any leave with pay will be treated as time worked.

[21.1.6 varied by PR961750 ppc 19Aug05]

21.1.6 For the purpose of this award, in calculating overtime penalty rates, an employee's annual salary will be divided by 1976 to obtain the ordinary hourly rate. The maximum ordinary hourly rate so derived will not exceed the result of dividing the maximum salary of Band D by 1976.

21.1.7 Except in unavoidable circumstances, all overtime worked during a pay period will be paid for not later than the pay day for the next pay period.

21.2 Rest period after overtime

21.2.1 Employees who works so much overtime between the termination of their ordinary duty on one day and the commencement of their ordinary work on the next day that they have not had at least ten consecutive hours off duty between those times will, subject to this sub-clause, be released after completion of such overtime until they have had ten consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

21.2.2 If, on the instructions of the employer, such employees resume or continue work without having had ten such consecutive hours off duty, they will be paid at double rates until they are released from duty for such period and they will then be entitled to be absent until they have had ten consecutive hours off duty without loss of pay for ordinary working time occurring such absence.

21.2.3 Where the employer and employee agree to reduce the break to not less than eight hours, any payment due to the employee in respect of ordinary working time occurring during such absence will be

adjusted accordingly.

21.3 Transport allowance

Where an employee ceases work at a time when the usual or reasonable means of conveyance is not available, the transport allowance prescribed under 17.2 will be paid. Payment will not be made if the employee is provided with transport.

21.4 Recall to duty

21.4.1 Employees recalled to work overtime after leaving the employer's premises or, in the case of a shiftworker after their normal finishing time (whether notified before or after leaving the premises) will be paid for a minimum of four hours work at the appropriate rate for each time they are so recalled. This subclause will not apply in cases where the overtime is continuous (subject to a meal break) with the completion or commencement of ordinary working time.

21.4.2 Employees working on a call-in or a rostered day off, provided four hours actual work is performed, will be provided with a meal or paid as prescribed in 20.3.

21.4.3 Overtime worked in the circumstances specified in this subclause will not be regarded as overtime for the purpose of 21.2, where the actual time worked is less than four hours such recall or on each of such recalls.

21.5 Overtime - maximum payments

[21.5.1 varied by PR961750 ppc 19Aug05]

21.5.1 Overtime will not be paid to employees receiving salaries in excess of the maximum for Band E, except the meal allowance prescribed in 20.3.

21.5.2 Except in special circumstances, no employee will work overtime unless properly authorised beforehand.

21.6 Time off in lieu of overtime

21.6.1 All overtime worked by employees covered by this award will be paid at the appropriate penalty rate. Provided, however, where the employee and the employer agree, an employee may take time off in lieu of such overtime. Such time off will be paid at the ordinary time rate of pay.

21.6.2 Where time off in lieu of overtime is taken, the employee/s will be allowed free of duty the number of hours worked on overtime.

21.6.3 Time off in lieu of overtime will be given and taken within 28 days of the occurrence of the overtime. Where time off in lieu is not granted within the prescribed period, the time off will be added to the employee's annual leave.

21.6.4 The allocation of overtime will not be influenced by an employee's preference to be paid for overtime worked or to take time off in lieu thereof.

21.6.5 The employer's salary and attendance records will specify whether overtime is paid at the appropriate penalty rate or granted as time off in lieu at the employee's request.

21.7 Reasonable Overtime

[21.7 inserted by PR969329 ppc 01Feb06]

21.7.1 Subject to clause 21.7.2 an employer may require an employee to work reasonable overtime at overtime rates.

21.7.2 An employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working hours which are unreasonable having regard to:

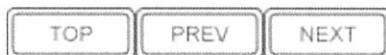
21.7.2(a) any risk to employee health and safety;

21.7.2(b) the employee's personal circumstances including any family responsibilities;

21.7.2(c) the needs of the workplace or enterprise;

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

21.7.2(e) any other relevant matter.



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Aircraft Engineers (General Aviation) Award 1999.

PREV

NEXT

1. AWARD TITLE
2. ARRANGEMENT
3. DEFINITIONS
4. DATE THE AWARD STARTS
5. WHERE AND WHO THE AWARD COVERS
6. WHO IS BOUND BY THIS AWARD
7. RELATIONSHIP WITH OTHER AWARDS
8. ENTERPRISE FLEXIBILITY PROVISIONS
9. POSTING OF AWARD
10. TYPES OF EMPLOYMENT
11. RATES OF PAY
12. STAND DOWN
13. APPRENTICESHIP
14. TRAVELLING TIME PAYMENTS
15. PERMANENT TRANSFERS
16. HOURS OF DUTY (DAY WORK)
17. HOURS OF DUTY - SHIFT WORK
18. OVERTIME AND RECALL TO DUTY
19. HOLIDAYS AND SUNDAY WORK
20. HIGHER DUTIES ALLOWANCE
21. ANNUAL LEAVE
22. PAYMENT OF SALARY
23. PROCEDURES FOR AVOIDING AND RESOLVING DISPUTES
24. LONG SERVICE LEAVE
25. TRANSPORT OR TRANSPORT ALLOWANCE

AP765552 - Aircraft Engineers (General Aviation) Award 1999.

18. OVERTIME AND RECALL TO DUTY

18.1 Penalty rates

For the purposes of calculating overtime, the ordinary time hourly rates will be determined by dividing the appropriate weekly rate by 38.

18.2 Day workers

For all time worked outside ordinary hours, the overtime rate will be time and a half for the first two hours and double time thereafter.

18.3 Shift workers

For all time worked outside ordinary hours the overtime rate of pay will be double time.

18.4 Recall and emergency duty

18.4.1 An employee recalled to work overtime after leaving the employer's business premises (whether notified before or after leaving the premises) will be paid for a minimum of four hours' work for each time the employee is so recalled. In the case of unforeseen circumstances arising, the employee will not be required to work the full four hours if the job the employee was recalled to perform is completed within a shorter period.

18.4.2 For the purpose of this clause, the provisions in 18.4.1 will not apply in cases where it is customary for an employee to return to the employer's premises to perform a specific job outside the employee's ordinary working hours, or where the overtime is continuous (subject to a meal break) with the completion or commencement of ordinary working time. Overtime worked in the circumstances specified in this clause will not be regarded as overtime for the purpose of 18.5.1 when the actual time worked is less than four hours on such recall or on each of such recalls.

18.5 Meal break/meal money

18.5.1 Where an employee is required for overtime duty in excess of one hour before the normal starting time or in excess of one hour after the usual finishing time, the employee will be granted a meal break of twenty minutes to be paid at the appropriate overtime rate of pay.

18.5.2 Where an employee is required to work a further four hours overtime or subsequent four-hour periods, the employee will be granted a further meal break of 30 minutes at the completion of each such four hours of overtime worked, to be paid at the appropriate overtime rate of pay.

18.5.3 The above meal breaks are not to be used in calculation of overtime hours worked.

Aircraft Engineers (General Aviation) Award 1999.

PREV

NEXT

1. AWARD TITLE

2. ARRANGEMENT

3. DEFINITIONS

4. DATE THE AWARD STARTS

5. WHERE AND WHO THE AWARD COVERS

6. WHO IS BOUND BY THIS AWARD

7. RELATIONSHIP WITH OTHER AWARDS

8. ENTERPRISE FLEXIBILITY PROVISIONS

9. POSTING OF AWARD

10. TYPES OF EMPLOYMENT

11. RATES OF PAY

12. STAND DOWN

13. APPRENTICESHIP

14. TRAVELLING TIME PAYMENTS

15. PERMANENT TRANSFERS

16. HOURS OF DUTY (DAY WORK)

17. HOURS OF DUTY - SHIFT WORK

18. OVERTIME AND RECALL TO DUTY

19. HOLIDAYS AND SUNDAY WORK

20. HIGHER DUTIES ALLOWANCE

21. ANNUAL LEAVE

22. PAYMENT OF SALARY

23. PROCEDURES FOR AVOIDING AND RESOLVING DISPUTES

24. LONG SERVICE LEAVE

25. TRANSPORT OR TRANSPORT ALLOWANCE

AP765552 - Aircraft Engineers (General Aviation) Award 1999.

19. HOLIDAYS AND SUNDAY WORK

19.1 An employee will be entitled to holidays on the following days:

19.1.1 New Year's Day, Good Friday, Easter Saturday, Easter Monday, Christmas Day and Boxing Day or Commemoration Day (SA);

19.1.2 the following days, as prescribed in the relevant States, Territories and localities: Australia Day, Anzac Day, Queen's Birthday and Eight Hours' Day or Labour Day;

19.1.3 and one other day fixed as follows:

- August Bank Holiday (NSW)
- Melbourne Cup Day (Victoria)
- Regatta Day (Hobart)
- Recreation Day (North Tasmania)
- Foundation Day (WA)
- The appropriate Show Day in other areas

19.2 When Christmas Day is a Saturday or a Sunday, a holiday in lieu thereof will be observed on 27 December.

19.3 When Boxing Day is a Saturday or a Sunday, a holiday in lieu thereof will be observed on 28 December.

19.4 When New Year's Day or Australia Day is a Saturday or Sunday, a holiday in lieu thereof will be observed on the next Monday.

19.5 Where in a State or Territory or locality, public holidays are declared or prescribed on days other than those set out in 19.1, 19.2, 19.3 and 19.4, those days will constitute additional holidays for the purpose of this award.

19.6 An employer, with the agreement of the employees and/or an appropriate union which has members employed by the employer, may substitute another day for any prescribed in this clause.

19.6.1 An agreement reached will be recorded in writing and be available to every affected employee.

19.6.2 Where the agreement involves members of a union a party to this award, the relevant union will be informed of the agreement and may within seven days refuse to accept it. The unions will not unreasonably refuse to accept the agreement.

19.6.3 If a union, refuses to accept such an agreement, the parties will seek to resolve their differences to the satisfaction of the employer, the employees and the union.

19.6.4 If no resolution is achieved, the employer may apply to the

- Airline Operations (Domestic Airlines) Award 2000 (**Domestic Airlines Award**);
- Overseas Airlines (Interim) Award 1999 (**Overseas Airlines Award**); and
- Aircraft Engineers (General Aviation) Award 1999 (**GA Award**).

4.2 Transport Workers Award

The majority of employers in the airline operations industry are covered by the Transport Workers Award. Aside from enterprise awards, this is the industry award with the greatest industry employee coverage.

The Transport Workers Award applies to Qantas Airways which is otherwise covered by enterprise awards. Approximately 4,500 Qantas Group employees are covered by the Transport Workers Award.

The Transport Workers Award is also used by Virgin Blue and, as far as we are aware, is also the predominant award used by third party providers of ground handling (above and below wing). This is demonstrated by the table below at section 4.7 which sets out our understanding of award coverage of key employers in the airline operations industry.

These matters are relevant to the classification structure proposed in section 6 below.

4.3 The Clerical Award

The majority of employers in the industry are covered by NAPSAs in relation to employees performing clerical, administrative and support functions. This is demonstrated by the table below at section 4.7 which sets out our understanding of award coverage of key employers in the airline operations industry.

For example, Jetstar, Virgin Blue, Eastern, Sunstate and Regional Express have federal workplace agreements or pre-reform certified agreements in place where NAPSAs were the accepted instruments for the purpose of applying the no-disadvantage test (with the exception of Victoria where the Clerical Award applies as a common rule award).

These NAPSAs apply to both typical clerical and administrative work (eg office work) and check-in and customer service functions. No distinction is drawn in those NAPSAs between those types of work nor is there any distinction between domestic and international check-in functions.

Until the Clerical Award was made common rule in Victoria on 16 November 2005 [PR965856], there was no applicable federal award or NAPSA (other than any enterprise award) for employers in the industry in Victoria in respect of clerical, administrative and support functions.

Interestingly, at the time when the Clerical Award was made common rule, the only employer respondents to the award were:

- Ansett Australia;
- Compass Airlines Pty Ltd;
- Southern Cross Airlines Holdings Limited (trading as Compass Airlines); and
- Societe Internationale de Telecommunications Aeronautiques.

At that time, both Ansett and Compass had already collapsed and ceased to be employers in the industry. In truth, the Clerical Award was an enterprise award which should never

award coverage and current industry award coverage set out in these submissions in sections 2, 3 and 4 above.

5.4 Awards used

On the basis of the submissions in section 4 above, we have used the Transport Workers Award where possible in drafting. However, we have also had regard to each of the other industry awards and NAPSAs where relevant.

We have not had regard to the *Transport and Storage Industry Sector – Minimum Wage Order – Victoria 1997* which is relevant to the Private Road Transport Industry rather than the airline operations industry.

5.5 Part-time employment

In the current pre-reform Federal awards, there is an inconsistency between the rostering provisions for shift workers and the restrictions on part-time employment which require agreement between the employer and employee to change part-time hours and days of work.

Shift workers throughout the industry, including part-time shift workers, are generally rostered on rotating shift work rosters and there are regularly changes in flight schedules (for example due to daylight savings, summer/winter changeover etc) which require changes to shift work rosters.

Clause 12.4 as drafted is consistent with the practice in the industry for rostering part-time shift workers on a rotating roster where they have a minimum guaranteed number of hours per week but the days and hours of work vary according to the roster.

We have retained a provision which allows for part-time day workers to agree on the days of the week the employee will work and the actual starting and finishing times each day (clause 12.4(e)(ii)) as we recognise that many employees require certainty in part-time working hours/days for reasons such as carer's responsibilities.

5.6 Allowances

We have included only allowances that are not obsolete or irrelevant. Further, where an allowance appears only in one of the industry awards, it has generally not been included in the Draft Award as it would not be appropriate for such an allowance to become an industry standard. The exceptions are:

- (a) Clause 17.3 – Australian Security Identification Card;
- (b) Clause 17.4 – Coffin allowance;
- (c) Clause 17.8 – Travelling time allowance; and
- (d) Clause 24.2(e) – Multiple starts allowance.

5.7 Transport allowance

Some of the airline operations industry awards contain a "transport allowance"², which provides for an additional payment for an employee who is employed as a shift worker at airports in circumstances where the employee:

² See for example clause 26.15 Airline Operations (Domestic Airlines) Award 2000 AP765514; clause 23.4 Airline Operations – Clerical and Administrative Award 1999 AP768636; clause 25.14 Airline Operations (Transport Workers) Award 1998 AP768308CNV and clause 17.2 Overseas Airlines (Interim) Award 1999 AP791898.

Clause	Drafting Notes
24.3	<ul style="list-style-type: none"> Consistent across Domestic Airlines Award, Overseas Airlines Award and Clerical and Admin Award. Transport Workers Award requires overtime between midnight Friday and 7am Saturday.
25.3	<ul style="list-style-type: none"> Provisions consistent across all 4 awards; Clerical and Administrative Award and Domestic Airlines Award provide for agreement to reduce the break to 8 hours.
25.5	<ul style="list-style-type: none"> Provisions from Transport Workers Award but consistent across all 4 awards except Domestic Airlines Award clause 29.4.2. If the arrangement to take time in lieu of payment for overtime is only by agreement, then no disadvantage.
27.	<ul style="list-style-type: none"> Consistent with Transport Workers Award, Domestic Airlines Award and Clerical and Admin Award. Overseas Airlines Award provides for an allowance where higher duties continues for 5 or more consecutive working days.

include the cost of board and lodging or, in lieu thereof, a minimum payment of \$98.63 per day will be paid by the employer.

17.9 Change in place of employment

If an employee is required to work at a place other than his/her regular place of employment, the employer must pay the employee any additional fares incurred or provide the employee with transport.

18. Supported Wage System

See Schedule B.

19. National Training Wage

See Schedule C.

20. Payment Of Wages

20.1 Wages must be paid weekly or fortnightly in arrears.

20.2 Wages may be paid other than by week or fortnight by agreement between the employer and the majority of employees affected.

Part 5—Hours Of Work And Related Matters

Qantas Group Proposal:

21. Ordinary Hours of Work

21.1 The ordinary hours of work for a full-time employee will be an average of 38 hours per week over a work cycle not exceeding 28 days.

21.2 Subject to clause 21.6:

(a) Standard hours for day workers are up to eight hours per day.

(b) Ordinary hours for shift workers will not exceed:

(i) 8 hours in any shift; or

(ii) 80 hours in two roster weeks, to be worked in not more than 10 shifts.

21.3 The ordinary hours of work for a day worker will be between 7.00am and 6.00pm Monday to Friday.

21.4 The ordinary hours of work on any day will be continuous except for meal breaks.

21.5 The spread of hours may be altered by mutual agreement between the employer and

the majority of employees in the section or sections concerned.

21.6 Methods of arranging ordinary working hours

- (a) Subject to the employer's right to fix the daily hours of work for any day worker from time to time within the spread of hours in 21.3 and the employer's right to fix the commencing and finishing time of shifts from time to time, the arrangement of ordinary working hours is to be by agreement between the employer and the majority of employees in the workplace or part of the workplace concerned. This does not preclude the employer reaching agreement with individual employees about how their working hours are to be arranged.
- (b) The matters upon which agreement may be reached include:
 - (i) how the hours are to be averaged over a work cycle;
 - (ii) any arrangement of ordinary hours which exceeds or is less than 8 per day;
 - (iii) accumulation and substitution of rostered days off;
 - (iv) rosters which specify the starting and finishing times of working hours;
 - (v) arrangements which allow for flexibility in relation to the taking of rostered days off;
 - (vi) the duration of the work cycle for day workers provided that such duration shall not exceed twelve months.

21.7 Rostered days off

- (a) A rostered day off system which is in place as at 1 January 2010 will continue in operation unless mutually agreed by the employer and majority of employees or between the employer and an individual employee to apply an alternative method of arranging ordinary hours in accordance with clause 21.6(a).
- (b) An employee who works in accordance with a method of arranging ordinary hours which includes a rostered day off during the employee's work cycle is entitled to twelve rostered days off in a twelve month period.
- (c) Rostered days off must be taken at a time fixed by the employer. Unless otherwise agreed between the employer and individual employee, the employee must be given four weeks notice of the rostered day off.
- (d) Employees will not be directed to take a rostered day off on a public holiday.
- (e) If a shift worker is allowed to take a rostered day off on a public holiday for which the employee would otherwise have been rostered to work, the employee will not accrue an entitlement to a day off in lieu in respect of the public holiday.
- (f) Rostered days off may be banked to a maximum of five days and by agreement with the employee concerned may be paid out when taking annual leave. If

there is no agreement, the employer must give the employee four weeks notice if the employer is paying out the rostered day.

- (g) On termination of employment, the employer must pay the employee his or her pro rata entitlement to the rostered days off.

22. Rostering

- 22.1 Shift work rosters must specify the commencing and finishing times of ordinary working hours of the respective shifts.
- 22.2 Employees must be given at least seven days' notice of any change to their hours of work or shift work rosters (meaning a change from one roster pattern which prescribes the total number of shifts worked over the complete cycle of the roster to another roster pattern) unless the shift work rosters are varied by agreement between the employer and the majority of employees in the area concerned or between an employer and an individual employee.
- 22.3 If an employee on shift work is required to change his/her roster (meaning the transfer of an employee from a shift in the roster pattern to another shift in the same roster pattern), the employee must be given at least two days' notice of the change. If the required notice is not given, the employee must be paid for the shifts worked during this period at the rate of double time.
- 22.4 Each shift will be paid for at the rate applicable to the day on which the major portion of the shift is worked.

Ai Group / BARA proposal:

21. Ordinary hours of work

- 21.1 The hours of work of a full-time employee will average 38 per week.
- 21.2 The average of 38 hours per week are to be worked over a cycle not exceeding 28 days.
- 21.3 An employer and a majority of employees in a section or sections of the enterprise may agree to work ordinary hours over a cycle in excess of 28 days.

21.4 Minimum and maximum hours per day or shift

Employees covered by this award may be required to work variable length shifts or days, the duration of which will not be less than four hours and not more than twelve hours.

21.5 Arranging Ordinary Hours

Subject to an employer's right to fix the daily hours of work for day workers from time to time within the spread of hours prescribed in 22.1 and an employer's right to fix the commencing and finishing time of shifts from time to time, the arrangement of

ordinary working hours is to be by agreement between the employer and the majority of employees in the enterprise or part of the enterprise concerned. This does not preclude the employer reaching agreement with individual employees regarding the arrangement of their working hours.

22. Day Work

- 22.1 The ordinary hours of work may be worked on any day or all of the days of the week, Monday to Friday. The days on which ordinary hours are worked may include Saturday and Sunday subject to agreement between the employer and the majority of employees concerned. Agreement in this respect may also be reached between the employer and an individual employee.
- 22.2 The ordinary hours of work will be worked continuously, except for meal breaks, at the discretion of the employer between 7.00 am and 6.00 pm. The spread of ordinary hours may be altered by up to one hour at either end of the spread, by agreement between the employer and an individual employee.
- 22.3 Any work performed outside the agreed spread of hours is to be paid for at overtime rates.

23. Breaks

23.1 Meal break - day work

- (a) Employees on day work must receive an unpaid meal break of between 30 minutes and one hour.
- (b) An employee must not be required to work for more than five hours (or, by agreement, six hours) without a meal break. If a meal break is not so allowed, all time worked after the commencement time of the regular meal break until the meal break is allowed must be paid for at overtime rates. An employer and employees may agree to stagger meal breaks to meet the operational requirements in lieu of this provision.

23.2 Meal break - shiftwork

- (a) Continuous shift workers must be allowed a meal break of at least twenty minutes per shift to be counted as time worked.
- (b) Non-continuous shift workers must be allowed an unpaid meal break of between 30 minutes and one hour.
- (c) The meal break must be allowed no later than five hours (or, by agreement, six hours) after commencing an ordinary shift. If a meal break is not so allowed, all time worked after the commencement time of the regular meal break until the meal break is allowed must be paid for at overtime rates. An employer and employees may agree to stagger meal breaks to meet the operational requirements in lieu of this provision.

Qantas Group Proposal:

23.3 Crib breaks

A shift worker must be given a rest break of not more than 10 minutes each shift counted as time worked. This clause does not apply to a part-time shift worker who works less than full-time hours on a shift.

Ai Group / BARA proposal:

23.3 Crib breaks

A continuous shift worker must be given a rest break of not more than 10 minutes each shift counted as time worked. This clause does not apply to a part-time shift worker who works less than full-time hours on a shift.

23.4 Meal breaks – overtime

- (a) If an employee is required for overtime duty in excess of one hour before the normal starting time or in excess of one hour after the usual finishing time:
 - (i) the employee must be given a meal break of twenty minutes paid at the appropriate overtime rate of pay;
 - (ii) the employee must be given a further meal break of 30 minutes at the completion of each further four hour period of overtime worked paid at the appropriate overtime rate of pay; and
 - (iii) the employee must be paid a meal allowance of \$9.48 or provided with a suitable meal by the employer.
- (b) These meal breaks must not to be used in the calculation of overtime hours.
- (c) If an employee who is working on a recall or on a rostered day off performs four or more hours of actual work, the employee must be provided with a suitable meal by the employer or paid a meal allowance of \$9.48 and granted a meal break of twenty minutes paid at the appropriate overtime rate of pay. This applies for each four hour period worked.

Qantas Group Proposal:

24. Shift Work

24.1 Definitions

- (a) **Afternoon shift** means a shift which finishes after 6.00pm and at or before midnight.
- (b) **Continuous shift worker** means a shift worker who is required to work on a roster of consecutive shifts of employees throughout the 24 hours of at least six consecutive days without interruption except during breakdowns or meal breaks or due to unavoidable causes beyond the control of the employer.
- (c) **Day shift** means a shift which commences at or after 7.00am and finishes at or before 6.00pm.
- (d) **Early morning shift** means a shift which commences at or after 5.00am and before 7.00am.
- (e) **Night shift** means a shift which starts before 5.00am and finishes after midnight and at or before 1pm.
- (f) **Rostered shift** means a shift of which the employee concerned has been given at least 48 hours notice.
- (g) **Seven day shift worker** means an employee who is regularly rostered to work ordinary hours on Sundays and public holidays.

24.2 Shift loadings

- (a) **Early morning shifts**

Shift workers must be paid ordinary rates plus 15% for all time worked on early morning shifts.
- (b) **Afternoon shifts**

Shift workers must be paid ordinary rates plus 15% for all time worked on afternoon shifts.
- (c) **Night shifts**
 - (i) Shift workers must be paid ordinary rates plus 22.5% for all time worked on night shifts.
 - (ii) If, during a period of engagement, a shift worker:
 - works night shift only; or
 - remains on night shift for more than four consecutive weeks; or
 - works on a night shift which does not rotate with another shift or with day work so that the shift worker does not have at least one third of his/her working time off night shift in each roster

cycle,

the shift worker must be paid at the rate of single time plus 30% for all time worked during ordinary working hours on night shifts worked Monday to Friday.

(d) **Continuous afternoon and night shifts**

Shift workers who work on any afternoon shift or night shift work which does not continue for at least five consecutive afternoons or nights (including Saturdays and Sundays), the shift worker must be paid at the rate of time and a half for all such shifts worked.

(e) **Multiple starts**

If a shift worker is required to work on one or more shifts in any rostered week at starting times which in three or more cases are at least 30 minutes different from each other, the employee is entitled to \$3.80 for each different starting time in excess of two; is required to work in any pay week one or more day shifts and to commence duty, whether on day shift or other shifts, at starting times which are in three or more cases are at least 30 minutes different from each other, the employee is entitled to ordinary time rates plus ten percent for any shift or shifts during the pay week to which shift work premiums would not otherwise apply.

(f) **Daylight saving**

In any area where, by reason of legislation of a State or Territory, **summer time** is prescribed as being in advance of the standard time of that state, the length in any shift:

- commencing before the time prescribed by the relevant legislation for the commencement of a summer time period; and
- on or before the time prescribed by such legislation for the termination of such summer time period,

will be deemed to be the number of hours represented by the difference between the time recorded by the clock at the beginning of the shift and the time so recorded at the conclusion of the shift.

24.3 Shift work penalty rates

Shift workers will be paid the following penalty rates in substitution for and not cumulative upon the shift loadings prescribed in clause 24.2:

- (a) All shifts worked on Saturday – time and a half;
- (b) All shifts worked on Sunday – double time;
- (c) All shift worked on public holidays, except Christmas Day and Good Friday – double time;
- (d) All shifts worked on Christmas Day and Good Friday – double time and a half.

Ai Group / BARA proposal:

24. Shift Work

24.1 Definitions

The following definitions will apply to shiftwork:

- **Change of Roster** means a change from one roster pattern which prescribes the total number of shifts worked over the complete cycle of the roster to another roster pattern.
- **Change of Shift** means the transfer of an employee from a shift in the roster pattern to another shift in the same roster pattern.
- **Continuous Work** means work carried on with consecutive shifts of employees throughout the 24 hours of each of at least six consecutive days without interruption except during breakdowns or meal breaks or due to unavoidable causes beyond the control of the employer.
- **Early morning shift** means a shift commencing between midnight and before 7am
- **Afternoon shift** means a shift finishing after 7.00pm and at or before midnight
- **Night shift** means a shift finishing after midnight and at or before 8.00am

24.2 Shift loadings

The following loadings will be paid in addition to ordinary rates for all shifts worked between 0001 hours Monday and 2400 hours Friday:

(a) Early morning shifts

- Shift workers working on early morning shifts commencing from 4.00 a.m. to before 7.00 a.m must be paid a loading of 15%
- Shift workers working on early morning shift commencing between midnight and 4.00am must be paid a loading of 22.5%

(b) Afternoon shift

Shift workers working on afternoon shifts must be paid loading of 15%

(c) Night shift

- Subject to 24.3, shift workers working on night shifts must be paid loading of 22.5%

24.3 Permanent night shift

If, during a period of engagement, a shift worker:

- works night shift only; or
- remains on night shift for more than four consecutive weeks; or
- works on a night shift which does not rotate with another shift or with day work so that the shift worker does not have at least one third of his/her working time off night shift in each roster cycle,

the shift worker must be paid loading of 30% for all time worked during ordinary working hours on such night shifts.

24.4 Temporary shifts

If a shiftworker works on afternoon or night shift which does not continue for at least five consecutive afternoons or nights, they will be paid at the rate of time and a half for those shifts.

24.5 Loadings for weekend and public holiday work

Subject to any arrangements entered into in accordance with 25.2, shiftworkers will be paid the following shift penalty rates:

For all shifts worked on Saturday	time and a half
For all shifts worked on Sunday	double time
For all shifts worked on public holidays, except Christmas Day and Good Friday	double time
For all shifts worked on Christmas Day and Good Friday	double time and a half

24.6 Shiftwork rosters

- (a) A shiftworker will not work more than six shifts in any seven consecutive days unless the employer and the employee agree.
- (b) Shiftworkers will work at such times as the employer directs subject to the provisions of this clause.
- (c) An employee will not be required to work more than one shift per day, except at the change-over of shifts.
- (d) An employee will have at least ten hours break between shifts. If any employee does not have a ten hour break between shifts, the employee will be paid at overtime rates until the employee is released from duty and will have a ten hour

break before resuming work.

- (e) Shiftwork rosters will specify the starting and finishing times of ordinary working hours of shifts. Employees will be given at least seven days notice of any change to their shift work rosters. No notice is required if the shiftwork roster has been varied by agreement between the employer and the employee/s.
- (f) If shiftworkers are required to change their roster, the employee will be given at least two days notice of the change. If this notice is not given, the shiftworker will be paid for the shifts worked during the two day period at the rate of double time.

25. Overtime

25.1 Requirement to work overtime

- (a) Subject to clause 25.1(b), an employer may require an employee to work reasonable overtime at overtime rates.
- (b) An employee may refuse to work overtime, where the working of such overtime would result in the employee working hours which are unreasonable with regard to:
 - (i) any risk to employee health and safety;
 - (ii) the employees personal circumstances including any family responsibilities;
 - (iii) the needs of the workplace or enterprise;
 - (iv) the notice (if any) given by the employer of the overtime and by the employee of his or her intention to refuse it; and
 - (v) any other relevant matter.

25.2 Payment for working overtime

- (a) Day work - All work done outside ordinary hours must be paid for at the rate of time and a half for the first two hours and double time thereafter.
- (b) Shift work - All time worked in excess of or outside ordinary hours or on a shift other than a rostered shift must be paid for at the rate of double time unless the time is worked by arrangement between the employees themselves.
- (c) Except as provided in clause 25.3 and 25.4, in computing overtime, each day's work stands alone.

25.3 Rest period after overtime

- (a) An employee who has worked overtime must be given a break of at least 10 consecutive hours between the time of finishing work and the time when the employee next commences ordinary work. An employer and an individual employee may agree to reduce this break to 8 hours. An employee must not lose ordinary pay for any time lost by reason of this break.

- (b) If an employee is required by the employer to resume or continue work without having a break of 10 consecutive hours, the employee must be paid at double time until the employee is released from duty. The employee is then entitled to a break of 10 consecutive hours and must not lose pay for ordinary working time occurring during such absence.
- (c) For the purposes of this clause, overtime does not include overtime worked when an employee is recalled to work in accordance with clause 25.4 and the actual time worked on the recall is less than three hours.

25.4 Recall

- (a) If an employee is recalled to work overtime after leaving the employer's business premises (whether notified before or after leaving the premises) the employee must be paid for a minimum of four hours. This subclause does not apply if:
 - (i) it is customary for employees to return to their employer's premises to perform a specific job outside their ordinary hours; or
 - (ii) the overtime is continuous (subject to a meal break) with the completion or commencement of ordinary time.
- (b) In the event of cancellation or postponement of such recall when employees report to their place of duty they will be paid for four hours for each such time they are recalled even if they are not required to work.

25.5 Time off in lieu of overtime

- (a) An employee may elect, with the consent of the employer, to take time off in lieu of payment for overtime at a time or times agreed with the employer. This agreement must be in writing and, unless otherwise agreed, the employee must take time off within four weeks of working the overtime.
- (b) Overtime taken as time off during ordinary time hours must be taken at the ordinary time rate (i.e. an hour for each hour worked).
- (c) If an employee elects to take time off in lieu of payment for overtime worked but the time off has not been taken within the agreed time, the employer must, if requested by the employee, provide payment at the appropriate overtime rate for the overtime worked.

26. Sunday Work

- 26.1 An employee who is required to work on a Sunday must be paid for a minimum of four hours.
- 26.2 For day workers, all time worked on a Sunday will be paid at double time.

TW-10

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18 March 2009

Hon Justice Giudice
President
Australian Industrial Relations Commission
Level 4, 11 Exhibition Street
Melbourne 3000

Your Honour,

Re: AM 2008/25 – Airline Operations

On behalf of its affiliates in the aviation industry, the ACTU submits the attached draft Aviation Industry Award for consideration by the Commission as part of the Award Modernisation process in this important industry sector.

The draft has been developed by affiliates with the assistance of the ACTU. As the scope of the draft award shows, it is intended to apply to the industry of aviation generally, not to the more limited sector of airline operations.

The award is in draft form and may be subject to further modification following proceedings this week in the Commission and discussions with employers.

The proposed award is intended to apply to all work in the aviation industry except that specifically excluded by clause 4.3.

In particular, unions representing flight attendants and pilots have submitted that occupationally-based awards should apply to these occupations. In the event that the Commission does not agree to occupational awards for these two sectors, the ACTU understands that unions representing these occupational groups would want terms and conditions for their members included in the Aviation Industry Award which would need to be amended accordingly.

The proposed Award also excludes professional engineers and professional scientists as well as employees covered by the modern awards covering contract cleaning and security already made in the priority stage of award modernisation.

The aviation industry has been subject to federal award regulation since the earliest days of the industry in Australia as required by the national [and international] nature of the sector. These awards have been developed, maintained and varied over the years to reflect the dynamic nature of the industry and to provide appropriate safety nets of wages and conditions for employees in this industry.

The Aviation Industry is one of the most regulated industries in Australia and the employees and employers in it have specific accountabilities and responsibilities in regard to the safety of the air travelling Australian public.

The aviation industry relies upon the skills and talents of a wide range of occupational groups to ensure that the industry performs efficiently and safely in the public interest and in Australia's economic interest.

Terms and conditions found in aviation industry awards reflect the skills and knowledge of the employees and the conditions that prevail in the sector. It is important that modern awards continue to provide a sound, robust and appropriate set of terms and conditions for employees in this vital sector.

The attached award endeavours to maintain the existing safety nets of wages and salaries and conditions of employment. The aviation industry continues to undergo change and it is essential that the industry has relevant safety nets of terms and conditions of employment that apply across the board to all employers and employees in the sector.

The making of an aviation industry award, as well as awards covering pilots and flight attendants, will give effect to the award modernisation request.

The ACTU supports the making of awards in the aviation industry in the terms proposed by the airline unions.

Yours sincerely

A handwritten signature in black ink, appearing to read 'MBissett', with a long horizontal flourish extending to the right.

Michelle Bissett
Industrial Officer

34.4 Superannuation fund

Unless, to comply with superannuation legislation, the employer is required to make the superannuation contributions provided for in clause 34.2 to another superannuation fund that is chosen by the employee, the employer must make the superannuation contributions provided for in clause 34.2 and pay the amount authorised under clauses 34.3(a) or (b) to one of the following superannuation funds:

- (a) AustralianSuper; or
- (b) Labour Union Cooperative Retirement Fund (LUCRF); or
- (c) TasPlan; or
- (d) Sunsuper; or
- (e) 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.

34.5 Absence from work

Subject to the governing rules of the relevant superannuation fund, the employer must also make the superannuation contributions provided for in clause 34.2 and pay the amount authorised under clauses 34.3(a) or (b):

(a) **Paid leave**

While the employee is on any paid leave.

(b) **Work related injury or illness**

For the period of absence from work (subject to a maximum of 52 weeks in total) of the employee due to work related injury or work related illness provided that:

- the employee is receiving workers compensation payments or is receiving regular payments directly from the employer in accordance with statutory requirements; and
- the employee remains employed by the employer.

Part 5—Hours of Work and Related Matters

35. Ordinary hours of work and rostering

35.1 Maximum weekly hours and requests for flexible working arrangements are provided for in the NES.

35.2 Ordinary hours of work – Day work

- (a) The ordinary hours of work are 38 per week but not exceeding 152 hours in 28 days.
- (b) The ordinary hours of work may be worked on any day or all of the days of the week, Monday to Friday.

- (c) The ordinary hours of work are to be worked continuously, except for meal breaks, at the discretion of the employer between 7.00 am and 6.00 pm. The spread of hours (7.00 am to 5.30 pm) may be altered by up to one hour at either end of the spread, by agreement between an employer and the majority of employees concerned.
- (d) The employer and a majority of affected employees may agree to work additional ordinary hours up to a total 40 average hours per week Monday to Friday with one regular rostered day off in each four week cycle.
- (e) Any work performed outside the agreed spread of hours must be paid for at overtime rates.

35.3 Ordinary hours of work—Shiftwork

- (a) Continuous shiftwork means work carried on with consecutive shifts of employees throughout the 24 hours of each of at least six consecutive days without interruption except for breakdowns or meal breaks or due to unavoidable causes beyond the control of the employer.
- (b) The ordinary hours of shiftworkers are an average of 38 hours per week inclusive of meal breaks and must not exceed 152 hours in 28 consecutive days.
- (c) Except at the regular change-over of shifts, an employee must not be required to work more than one shift in each 24 hours.
- (d) The employer and a majority of affected employees may agree to arrange shifts which require up to an average 40 hours per week with one regular rostered day off in each four week cycle.

35.4 Method of arranging ordinary hours

- (a) Subject to the employer's right to fix the daily hours of work for day workers from time to time within the spread of hours referred to in clause 35.2(b) and the employer's right to fix the commencing and finishing time of shifts from time to time, the arrangement of ordinary working hours must be by agreement between the employer and the majority of employees in the enterprise or part of the enterprise concerned.
- (b) The matters on which agreement may be reached include:
 - (i) how the hours are to be averaged within a work cycle established in accordance with clauses 35.2 and 35.3;
 - (ii) the duration of the work cycle for day workers provided that such duration does not exceed three months;
 - (iii) rosters which specify the starting and finishing times of working hours;
 - (iv) a period of notice of a rostered day off which is less than four weeks;
 - (v) substitution of rostered days off;
 - (vi) accumulation of rostered days off;

- (vii) arrangements which allow for flexibility in relation to the taking of rostered days off; and
 - (viii) any arrangements of ordinary hours which exceed eight hours in any day.
- (c) By agreement between an employer and the majority of employees in the enterprise or part of the enterprise concerned, 12 hour days or shifts may be introduced subject to:
- (i) proper health monitoring procedures being introduced;
 - (ii) suitable roster arrangements being made;
 - (iii) proper supervision being provided;
 - (iv) adequate breaks being provided; and
 - (v) a trial or review process being jointly implemented by the employer and the employees or their representatives.

35.5 Daylight saving

- (a) Where by reason of State or Territory legislation summer time is prescribed as being in advance of the standard time in that state, the length of any shift commencing before the time prescribed by the relevant legislation for the commencement of a summer time period or commencing on or before the time prescribed by the relevant legislation for the termination of a summer time period, is deemed to be the number of hours represented by the difference between the time recorded by the clock at the beginning of the shift and the time so recorded at the end of the shift. The time of the clock in each case is to be set to the time fixed by the relevant legislation.
- (b) The terms **standard time** and **summer time** have the same meaning as in the relevant State or Territory legislation.

35.6 Make up time

- (a) An employee may elect, with the consent of the employer, to work make up time under which the employee takes time off during ordinary hours, and works those hours at a later time, during the spread of ordinary hours provided in this award.
- (b) An employee on shiftwork may elect, with the consent of their employer, to work make up time under which the employee takes time off during ordinary hours and works those hours at a later time, at the rate which would have been applicable to the hours taken off.

36. Special provisions for shiftworkers

36.1 For the purposes of this award:

- (a) **rostered shift** means any shift of which the employee concerned has had at least 48 hours notice;

- (b) **change of roster** means a change from one roster pattern which prescribes the total number of shifts worked over the complete cycle of the roster to another roster pattern
- (c) **change of shift** means the transfer of an employee from a shift in the roster pattern to another shift in the same roster pattern.

36.2 Shift work rosters

- (a) Shift work rosters must specify the commencing and finishing times of ordinary working hours of the respective shifts.
- (b) Employees must be given at least seven days' notice of any change to their shift work rosters unless the roster is varied by agreement between the employer and the employee concerned.
- (c) Where an employee is required to change shift, the employee must be given at least two days' notice of the change. If this notice is not given, the shift worker must be paid for the shifts worked during the two day period at the rate of double time.
- (d) An employee who is required to transfer to another maintenance base with less than two days' notice, for a period in excess of two days, will be deemed to have changed shift and will be entitled to the payments prescribed under Clause 35.2 (c).

36.3 Shift loadings

- (a) For all shifts worked between Sunday midnight to Friday midnight - the following loadings must be paid in addition to ordinary rates:

Shift Type		Loading
Early morning shift	Commencing no earlier than 4am but prior to 7am	15%
Early morning shift (Mascot only)	Commencing at or before 6am	17.5%
Afternoon Shift	Finishing after 6pm and at or before midnight	15%
Night Shift	Finishing after midnight and at or before 8am	22.5%
Night shift	Commencing after midnight and before 4am	22.5%

36.4 Shift penalty rates – weekends and public holidays

- (a) Shift workers must be paid the following penalty rates for work on weekends and public holidays:

Shift Type	Penalty Rate:
Saturday	Time and a half
Sunday	Double time

Public Holidays (except Christmas and Good Friday)	Double time
Christmas Day and Good Friday	Double time and a half

- (b) Employees in the classifications in 24.2 must be paid the following amounts in addition to the relevant penalty rate.
 - (i) A shift worker required to work afternoon shifts or night shifts on a Saturday must be paid an additional \$10.82 per shift.
 - (ii) A shift worker required to work afternoon shifts or night shifts on a Sunday or public holiday must be paid an additional \$10.82 per shift.
- (c) The rates in this clause are in substitution for and not cumulative upon the shift premiums prescribed in clause 36.5

36.5 Afternoon and night shifts- special provisions

- (a) Shift workers who work on any afternoon or night shift work which does not continue for at least five consecutive afternoons or nights, shall be paid at the rate of time and a half.
- (b) An employee who:
 - (i) works night shift only during a period of engagement on shift work; or
 - (ii) remains on night shift for more than four consecutive weeks; or
 - (iii) works on night shift and does not have at least one third of his or her working time off night shift in each roster cycle;

must be paid at the rate of time and a quarter for all time worked during ordinary working hours on such night shifts.
- (c) An employee who:
 - (i) during a period of engagement on shift, works night shift only; or
 - (ii) remains on night shift for a longer period than four consecutive weeks; or
 - (iii) works on a night shift which does not rotate or alternate with another shift or with day work so as to give the employee at least one third of their working time off night shift in each shift cycle,

must, during such engagement, period or cycle, be paid 30% extra for all time worked during ordinary working hours on such night shift.

36.6 Multiple shift allowance

- (a) If a shift worker in any roster week is required to work three shifts that commence at times that are greater than 30 minutes apart they must be paid on allowance of \$3.29.
- (b) If a shift worker in any rostered week is required to work three or more shifts, and there are greater than three rostered starting times with a

difference in excess of 30 minutes, they must be paid a further allowance of \$3.53 for each such starting time in excess of three.

37. Meal Breaks

- (a) An employee must not be required to work for more than five hours without a meal break.
- (b) Employees engaged in day work and non-continuous shift work must receive an unpaid meal break of between 30 and 60 minutes.
- (c) Continuous shift workers must receive a paid meal break of 20 minutes each shift and 2 ten minute tea breaks which will be counted as time worked.

38. Overtime

38.1 Payment for working overtime

- (a) All work done outside ordinary hours on any day or shift must be paid at time and a half for the first two hours and double time thereafter until the completion of the overtime work. For a continuous shift worker the rate for working overtime is double time.
- (b) For the purposes of Overtime, **ordinary hours** means the hours worked in an enterprise, fixed in accordance with Ordinary hours of work and rostering and **Error! Reference source not found.**
- (c) The hourly rate, when computing overtime, is determined by dividing the appropriate weekly rate by 38, even in cases when an employee works more than 38 ordinary hours in a week
- (d) An employee may elect, with the consent of the employer, to take time off instead of payment for overtime at a time or times agreed with the employer, provided that:
 - (i) overtime taken as time off during ordinary hours must be taken at the ordinary time rate, that is an hour for each hour worked; and
 - (ii) an employer must, if requested by an employee, provide payment, at the rate provided for the payment of overtime in this award, for any overtime worked which has not been taken as time off in lieu of payment for overtime within four weeks of accrual.
- (e) When not less than 7.6 hours notice has been given to the employer by a relief shiftworker that the relief shiftworker will be absent from work and the shiftworker whom that person should relieve is not relieved and is required to continue work on their rostered day off the unrelieved shiftworker must be paid at the rate of double time.
- (f) In computing overtime each day's work stands alone.

38.2 Requirement to work reasonable overtime

- (a) Subject to clause 38.2(b), an employer may require an employee to work reasonable overtime at overtime rates.

- (b) An employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working hours which are unreasonable having regard to:
 - (i) any risk to employee health and safety;
 - (ii) the employee's personal circumstances including any family responsibilities;
 - (iii) the needs of the workplace or enterprise;
 - (iv) the notice, if any, given by the employer of the overtime and by the employee of their intention to refuse it; and
 - (v) any other relevant matter.

38.3 Rest period between shifts

An employee must have at least ten hours break between shifts. If any employee does not have a ten hour break between shifts, the employee must be paid at overtime rates until the employee is released from duty and has a ten hour break before resuming work.

38.4 Recall to work

- (a) If an employee is recalled to work overtime after leaving the employer's business premises (whether notified before or after leaving the premises) the employee must be paid at overtime rates for a minimum of four hours for each time the employee is recalled. This clause does not apply if
 - (i) it is customary for employees to return to their employer's premises to perform a specific job outside their ordinary hours; or
 - (ii) the overtime is continuous (subject to a meal break) with the completion or commencement of ordinary time.
- (b) In the case of unforeseen circumstances arising, the employee will not be required to work the full four hours if the job the employee was recalled to perform is completed within a shorter period.

38.5 Standing by

Subject to any custom prevailing at an enterprise, where an employee is required regularly to hold themselves in readiness to work after ordinary hours, the employee must be paid standing by time at the employee's ordinary time rate for the time they are standing by.

38.6 Saturday work

A day worker required to work overtime on a Saturday must be afforded at least four hours work or be paid for four hours at the rate of time and a half for the first two hours and double time thereafter, except where the overtime is continuous with overtime commenced on the previous day.

38.7 Sunday work

- (a) Employees required to work overtime on a Sunday must be paid for a minimum of four hours or if greater, the hours actually worked. The rate of pay is double time.

38.8 Public holiday work

- (a) Employees required to work overtime on a public holiday must be paid for a minimum of four hours or if greater, the hours actually worked.
- (b) Day workers required to work overtime on a public holiday (other than Christmas or Good Friday) must be paid double time and a half.
- (c) A shift worker required to work on a public holiday (other than Christmas or Good Friday) must be paid double time.
- (d) Employees required to work on Christmas Day or Good Friday must be paid double time and a half.

38.9 Rest break

- (a) If an employee is required for overtime duty in excess of one hour before the normal starting time or in excess of one hour after the usual finishing time the employee must be given a meal break of twenty minutes paid at the appropriate overtime rate of pay
- (b) The employee must be given a further meal break of 20 minutes at the completion of each further four hour period of overtime worked paid at the appropriate overtime rate of pay.

38.10 Meal Allowance

- (a) The employee must be paid a meal allowance of \$11.07 or provided with a suitable meal for each rest break to which they're entitled under clause 37.8.
- (b) These meal breaks must not to be used in the calculation of overtime hours.

38.11 Transport of employees on overtime

When an employee, after having worked overtime or a shift for which they have not been regularly rostered, finishes work at a time when reasonable means of transport are not available, the employer must provide the employee with a conveyance home, or pay the employee at the overtime rate for the time reasonably occupied in reaching home.

Part 6—Leave and Public Holidays

39. Annual leave

- 39.1** Annual leave is provided for in the NES. Annual leave does not apply to a casual employee.

23. Breaks

- (a) An employee must not be required to work for more than five hours without a meal break.
- (b) Employees engaged in day work and non-continuous shift work must receive an unpaid meal break of between 30 and 60 minutes.
- (c) Continuous shift workers must receive a paid meal break of 20 minutes each shift and 2 ten minute tea breaks which will be counted as time worked.

24. Overtime and penalty rates

24.1 Payment for working overtime

- (a) All work done outside ordinary hours on any day or shift must be paid at time and a half for the first two hours and double time thereafter until the completion of the overtime work. For a continuous shift worker the rate for working overtime is double time.
- (b) For the purposes of clause 37- Breaks
- (c) An employee must not be required to work for more than five hours without a meal break.
- (d) Employees engaged in day work and non-continuous shift work must receive an unpaid meal break of between 30 and 60 minutes.
- (e) Continuous shift workers must receive a paid meal break of 20 minutes each shift and 2 ten minute tea breaks which will be counted as time worked.
- (f) Overtime, **ordinary hours** means the hours worked in an enterprise, fixed in accordance with clause 34—Ordinary hours of work and rostering and Clause 35 – Special provisions
- (g) The hourly rate, when computing overtime, is determined by dividing the appropriate weekly rate by 38, even in cases when an employee works more than 38 ordinary hours in a week
- (h) An employee may elect, with the consent of the employer, to take time off instead of payment for overtime at a time or times agreed with the employer, provided that:
 - (i) overtime taken as time off during ordinary hours must be taken at the ordinary time rate, that is an hour for each hour worked; and
 - (ii) an employer must, if requested by an employee, provide payment, at the rate provided for the payment of overtime in this award, for any overtime worked which has not been taken as time off in lieu of payment for overtime within four weeks of accrual.
- (i) When not less than 7.6 hours notice has been given to the employer by a relief shiftworker that the relief shiftworker will be absent from work and the shiftworker whom that person should relieve is not relieved and is required to

35.7 Meal Breaks

- (a) An employee must not be required to work for more than five hours without a meal break.
- (b) Employees engaged in day work and non-continuous shift work must receive an unpaid meal break of between 30 and 60 minutes.
- (c) Continuous shift workers must receive a paid meal break of 20 minutes each shift and 2 ten minute tea breaks which will be counted as time worked.

36. Overtime**36.1 Payment for working overtime**

- (a) All work done outside ordinary hours on any day or shift must be paid at time and a half for the first two hours and double time thereafter until the completion of the overtime work. All time worked in excess of or outside the ordinary working hours, or on a shift other than a rostered shift, will be paid at the rate of double time.
- (b)
- (c) For the purposes of Overtime, ordinary hours means the hours worked in an enterprise, fixed in accordance with Ordinary hours of work and rostering. Classification definitions
- (d) The hourly rate, when computing overtime, is determined by dividing the appropriate weekly rate by 38, even in cases when an employee works more than 38 ordinary hours in a week
- (e) An employee may elect, with the consent of the employer, to take time off instead of payment for overtime at a time or times agreed with the employer, provided that:
 - (i) overtime taken as time off during ordinary hours must be taken at the ordinary time rate, that is an hour for each hour worked; and
 - (ii) an employer must, if requested by an employee, provide payment, at the rate provided for the payment of overtime in this award, for any overtime worked which has not been taken as time off in lieu of payment for overtime within four weeks of accrual.
- (f) When not less than 7.6 hours notice has been given to the employer by a relief shiftworker that the relief shiftworker will be absent from work and the shiftworker whom that person should relieve is not relieved and is required to continue work on their rostered day off the unrelieved shiftworker must be paid at the rate of double time.

Content of Unions' draft award

65. ACTU affiliated unions have further considered the content of the draft award submitted on the 18th March 2009.
66. A revised draft award is at Attachment A.
67. Also attached is a document indicating the source of the Award provisions in the Unions draft Award at Attachment B.
68. In the Union's submission, Attachment B shows that the provisions of the Unions' draft award are firmly based in the underpinning industry awards operating in the Aviation industry.
69. Certain standard provisions are also sourced from other modern awards, especially the modern Manufacturing and Associated Industries and Occupations Award 2010. The Unions submit that this is an appropriate source for standard or necessary terms and conditions of employment for the following reasons:
- to provide a convenient text for provisions designed to bring together existing terms from underpinning awards
 - because these are provisions that have been endorsed by the Award Modernisation Full Bench.
70. In addition, the Unions note that both AiG/BARA and Qantas proposed that certain parts of the Aviation industry be covered by the MAIO 2010. Therefore these provisions would apply in any case in the event that the AiG/BARA/Qantas proposal was agreed by the Commission.
71. The Drafting notes indicate the source of entitlements, which underpinning awards have the entitlements and the source of the text for each clause. The Unions have attempted to identify industry standards based on the provisions of existing awards and construct clauses to give effect to these industry standards.

TW-15

TW-15

Drafting Notes – Aviation Award 2010

The union draft is based on the following awards:

TW award:	Airline operations (Transport Workers') Award 1998	AP768308
GA award:	Aircraft Engineers (General Aviation) Award 1999	AP765552
C&A award:	Airline Operations – Clerical and Administrative Award 1999	AP768636
OA award:	Overseas Airlines (Interim) Award 1999	AP791898
Qantas award:	Airline Officers (Qantas Airways Limited) Award 2000	AP765780
MAIOA:	Manufacturing & Associated Industries & Occupations Award 2010	MA000010

Entitlements which are specific to a particular sector have been drafted to apply to the relevant classification stream (eg allowances and junior rates)

Entitlements which are standard across the industry apply to employees in all streams

Where similar entitlements exist across all 6 awards the 'modern' form of wording adopted in MAIOA has been used as a guide unless the wording in another award is easier to understand.

Source of Conditions

	Draft Clause	Source of conditions
1. Title		New
2. Commencement date		Standard clause
3. Definitions and interpretation		Standard definitions plus technical definitions relevant to the maintenance/engineering stream
4. Coverage		Agreed union position
5. Access to the award and NES		5.1 Award access: Standard clause 5.2 Additional notice board provision: TW award (cl 8)
6. NES and this award		Standard clause
7. Award flexibility		Standard clause
8. Consultation regarding major workplace change		Standard clause
9. Dispute resolution		Standard clause
10. Dispute resolution procedure training leave		MAIOA

Attachment B

<p>to reconcile these differences.</p> <p>35.4</p> <p>(a) Weekend penalties are standard across the industry.</p> <p>(b) Additional rates based on C&A award. Similar provisions exist in the TW award, Qantas award and GA award. This provision has been modified so that it is not restricted to clerical employees.</p> <p>35.5</p> <p>(a) TW award (27.4), Qantas award (18.3), OA award (19.3) contain this entitlement. MAIOA (cl 37.3) provides for double time after 3 hours.</p> <p>(b) The appropriate penalty rate for continuous afternoon/night shift is 30%. See GA award (cl 17.12), MAIOA (cl 37.3), TW award (cl 27.4) and OA award (cl 19.3).</p> <p>The Qantas award provides for higher penalty of 50%.</p> <p>NB This clause has been modified to remove unnecessary repetition.</p> <p>35.6 Based on the C&A award (cl 24.3). Similar provisions exist in TW award (cl 27.4), Qantas award (18.3), OA award (19.3)</p>	
<p>36. Meal breaks</p> <p>Based on TW award. Awards contain differing entitlements although this standard is common to several of the awards.</p>	
<p>37. Overtime</p> <p>(a) This is the industry standard for day workers. The standard provision covering shift workers has also been added to the draft.</p> <p>(b) Awards contain similar provisions</p> <p>(c) MAIOA clause</p> <p>(d) Awards contain similar provisions</p> <p>(e) MAIOA clause</p> <p>(f) MAIOA clause</p> <p>37.2 Awards contain similar provisions</p> <p>37.3 Awards contain similar provisions</p> <p>37.4 Awards contain similar provisions</p> <p>37.5 MAIOA clause. Similar provision in GA award (cl 18)</p> <p>37.6 MAIOA clause</p> <p>37.7 Awards contain similar provisions</p>	

Clause	QF/AIG	ACTU/combined unions
Span of Hours	<u>Qantas</u> Mon-Fri 7am to 6pm. RDO 19 day month. <u>AiG</u> Mon-Fri 7am to 6pm	Mon-Fri: 7am –5.30 pm RDO 19 day month those working 40 hrs per week
Overtime	Day work < 2 hrs x 1.5 > 2 hrs x 2 Shift work: x 2	Day work < 2 hrs x 1.5 > 2 hrs x 2 Shift work: x 2
Meal break	Day worker between 30 minutes & 1 hour. Continuous shift workers 20 minutes. Non-continuous shift workers 30 minutes	A period of not less than 30 minutes and not more than 60 minutes Continuous shift workers: 20 minutes
Rest break	crib break 10mins does not apply to a part-time shift worker who works less than full-time hours on a shift.	Continuous shift workers: 2 x 10 mins
Shift Work	<u>Qantas</u> Early morning & afternoon 15% Night shift 22.5%. 30% for working 4 consecutive weeks Mon to Fri. Afternoon shift or night shift work which does not continue for at least five consecutive afternoons or nights (including Saturdays and Sundays), the shift worker must be paid at the rate of time and a half. Multiple start \$3.80 for each different starting time <u>Penalty shift</u> Sat x 1.5 Sun x 2 Public Hols except Christmas Day and Good Friday x 2 Christmas Day and Good Friday x 2.5 <u>AiG</u> Early morning 4.00 a.m. to before 7.00 a.m 15%, between midnight – 4am 22.5% Afternoon 15% Night 22.5% or permanent night shift 30% for working 4 consecutive weeks Mon to Fri. Sat x 1.5 Sun x 2 Public Hols except Christmas Day and Good Friday x 2 Christmas Day and Good Friday x 2.5	Early morning shift 15% Early morning shift (Mascot only) 17.5% Afternoon Shift 15% Night Shift 22.5%, 30% loading for working 4 consecutive weeks Mon - Fri Afternoon/night shift which does not continue for at least 5 consecutive afternoons or nights: time and a half Multiple shift allowance \$3.29. <u>Penalty shift</u> Sat x 1.5 Sun x 2 Public Hols except Christmas Day and Good Friday x 2 Christmas Day and Good Friday x 2.5 \$10.82 per shift to work Sat, Sun or Public holiday afternoon on a night shift.
Annual leave	NES, shift workers 5 weeks	NES
Loading	17.5%	17.5%
Parental leave	Not in award	Federal standard
Personal/Carers Leave	As per NES. AiG – evidence to support claim i.e. medical certificate	As per NES. Classifications listed in clause 24.2 < 12 months – 104 hours. > 144 hours Classifications other than those listed in clause 24.2 < 12 months – 80 hours. > 120 hours
Caring responsibility	As per NES	As per NES
Bereavement/ Compassionate Leave	As per NES	3 or 2 days
Jury service	x	✓
Public Holidays	As per NES	10 + 1 other State specified day and in addition any other State gazetted holiday

Ai Group / BARA proposal

- No provision for clause 24.6

24.7 Shift penalty rates – weekends and public holidays

- (a) Shift workers must be paid the following penalty rates for work on weekends and public holidays:

Shift type	Penalty rate
Saturday	Time and a half
Sunday	Double time
Public Holidays (except Christmas Day and Good Friday)	Double time
Christmas Day and Good Friday	Double time and a half

- (b) The rates in this clause are in substitution for and not cumulative upon the shift premiums prescribed in clause 24.3, 24.4, 24.5 and 24.6.

25. Daylight saving

25.1 Where by reason of State or Territory legislation summer time is prescribed as being in advance of the standard time in that state, the length of any shift commencing before the time prescribed by the relevant legislation for the commencement of a summer time period or commencing on or before the time prescribed by the relevant legislation for the termination of a summer time period, is deemed to be the number of hours represented by the difference between the time recorded by the clock at the beginning of the shift and the time so recorded at the end of the shift. The time of the clock in each case is to be set to the time fixed by the relevant legislation.

25.2 The terms standard time and summer time have the same meaning as in the relevant State or Territory legislation.

26. Overtime

26.1 Requirement to work overtime

- (a) Subject to clause 26.1(b), an employer may require an employee to work reasonable overtime at overtime rates.
- (b) An employee may refuse to work overtime, where the working of such overtime would result in the employee working hours which are unreasonable with regard to:
- (i) any risk to employee health and safety;
 - (ii) the employees personal circumstances including any family responsibilities;
 - (iii) the needs of the workplace or enterprise;
 - (iv) the notice (if any) given by the employer of the overtime and by the employee of his or her intention to refuse it; and

- (v) any other relevant matter.

26.2 Payment for working overtime

Drafting note:

- ACTU clause 38.1, except:
 - Insertion of words "except where the time is worked by arrangement between the employees themselves" in Qantas Group / Ai Group clause 0
 - Remedied drafting error in ACTU clause 38.1(b) and cross-reference in Qantas Group clause 26.2(b) to clause 22.2(c)
 - Deletion of ACTU clause 38.1(e)

- (a) All work done outside ordinary hours on any day or shift (except where the time is worked by arrangement between the employees themselves) must be paid at time and a half for the first two hours and double time thereafter until the completion of the overtime work. For a continuous shift worker the rate for working overtime is double time.
- (b) For the purposes of Overtime, **ordinary hours** means the hours worked in an enterprise, fixed in accordance with clause 22.2(c).
- (c) The hourly rate, when computing overtime, is determined by dividing the appropriate weekly rate by 38, even in cases when an employee works more than 38 ordinary hours in a week
- (d) An employee may elect, with the consent of the employer, to take time off instead of payment for overtime at a time or times agreed with the employer, provided that:
 - (i) overtime taken as time off during ordinary hours must be taken at the ordinary time rate, that is an hour for each hour worked; and
 - (ii) an employer must, if requested by an employee, provide payment, at the rate provided for the payment of overtime in this award, for any overtime worked which has not been taken as time off in lieu of payment for overtime within four weeks of accrual.
- (e) In computing overtime each day's work stands alone.

26.3 Rest period after overtime

- (a) An employee who has worked overtime must be given a break of at least 10 consecutive hours between the time of finishing work and the time when the employee next commences ordinary work. An employer and an individual employee may agree to reduce this break to 8 hours. An employee must not lose ordinary pay for any time lost by reason of this break.

- (b) If an employee is required by the employer to resume or continue work without having a break of 10 consecutive hours, the employee must be paid at double time until the employee is released from duty. The employee is then entitled to a break of 10 consecutive hours and must not lose pay for ordinary working time occurring during such absence.
- (c) For the purposes of this clause, overtime does not include overtime worked when an employee is recalled to work in accordance with clause 26.4 and the actual time worked on the recall is less than three hours.

26.4 Recall

- (a) If an employee is recalled to work overtime after leaving the employer's business premises (whether notified before or after leaving the premises) the employee must be paid for a minimum of four hours. This subclause does not apply if:
 - (i) it is customary for employees to return to their employer's premises to perform a specific job outside their ordinary hours; or
 - (ii) the overtime is continuous (subject to a meal break) with the completion or commencement of ordinary time.
- (b) In the event of cancellation or postponement of such recall when employees report to their place of duty they will be paid for four hours for each such time they are recalled even if they are not required to work.

26.5 Time off in lieu of overtime

- (a) An employee may elect, with the consent of the employer, to take time off in lieu of payment for overtime at a time or times agreed with the employer. This agreement must be in writing and, unless otherwise agreed, the employee must take time off within four weeks of working the overtime.
- (b) Overtime taken as time off during ordinary time hours must be taken at the ordinary time rate (i.e. an hour for each hour worked).
- (c) If an employee elects to take time off in lieu of payment for overtime worked but the time off has not been taken within the agreed time, the employer must, if requested by the employee, provide payment at the appropriate overtime rate for the overtime worked.

Qantas Group proposal

26.6 Standing by

Subject to any custom prevailing at an enterprise, where an employee is required regularly to hold themselves in readiness to work after ordinary hours, the employee must be paid standing by time at the employee's ordinary time rate for the time they are standing by.

Ai Group / BARA proposal

- No provision for clause 26.6

ATTACHMENT 1 to Submissions of Qantas Group – 1 April 2009

CLAUSE	QANTAS GROUP	ACTU	COMMENTS
<p>38. Overtime – requirement to work overtime</p>	<p>25.1 Requirement to work overtime</p> <p>(a) Subject to clause 25.1(b), an employer may require an employee to work reasonable overtime at overtime rates.</p> <p>(b) An employee may refuse to work overtime, where the working of such overtime would result in the employee working hours which are unreasonable with regard to:</p> <p>(i) any risk to employee health and safety;</p> <p>(ii) the employees personal circumstances including any family responsibilities;</p> <p>(iii) the needs of the workplace or enterprise;</p> <p>(iv) the notice (if any) given by the employer of the overtime and by the employee of his or her intention to refuse it; and</p> <p>(v) any other relevant matter.</p>	<p>38.2 Requirement to work reasonable overtime</p> <p>(a) Subject to clause 38.2(b), an employer may require an employee to work reasonable overtime at overtime rates.</p> <p>(b) An employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working hours which are unreasonable having regard to:</p> <p>(i) any risk to employee health and safety;</p> <p>(ii) the employee's personal circumstances including any family responsibilities;</p> <p>(iii) the needs of the workplace or enterprise;</p> <p>(iv) the notice, if any, given by the employer of the overtime and by the employee of their intention to refuse it; and</p> <p>(v) any other relevant matter.</p>	<p>No substantive differences between clauses proposed</p>
<p>39. Overtime – payment for working overtime</p>	<p>25.2 Payment for working overtime</p> <p>(a) Day work - All work done outside ordinary hours must be paid for at the rate of time and a half for the first two hours and double time thereafter.</p> <p>(b) Shift work - All time worked in excess of or outside ordinary hours or on a shift other than a rostered shift must be paid for at the rate of double time unless the time is worked by arrangement between the employees themselves.</p>	<p>38.1 Payment for working overtime</p> <p>(a) All work done outside ordinary hours on any day or shift must be paid at time and a half for the first two hours and double time thereafter until the completion of the overtime work. For a continuous shift worker the rate for working overtime is double time.</p> <p>(b) For the purposes of Overtime, ordinary hours means the hours worked in an enterprise, fixed in accordance with Ordinary hours of work and rostering and Error!</p>	<p>Agree to ACTU clause except:</p> <ul style="list-style-type: none"> - Include words in clause 38.1(a) making it clear that overtime not payable where time is worked by arrangement between employees themselves - Note drafting error in clause 38.1(b) - Delete 38.1(e) as no separate provisions elsewhere in the award dealing with relief shiftworkers

ATTACHMENT 1 to Submissions of Qantas Group – 1 April 2009

CLAUSE	QANTAS GROUP	ACTU	COMMENTS
	<p>(c) Except as provided in clause 25.3 and 25.4, in computing overtime, each day's work stands alone.</p>	<p>Reference source not found..</p> <p>(c) The hourly rate, when computing overtime, is determined by dividing the appropriate weekly rate by 38, even in cases when an employee works more than 38 ordinary hours in a week</p> <p>...</p> <p>(e) When not less than 7.6 hours notice has been given to the employer by a relief shiftworker that the relief shiftworker will be absent from work and the shiftworker whom that person should relieve is not relieved and is required to continue work on their rostered day off the unrelieved shiftworker must be paid at the rate of double time.</p> <p>(f) In computing overtime each day's work stands alone.</p>	
<p>40. Overtime – payment for working overtime</p>	<p>25.5 Time off in lieu of overtime</p> <p>(a) An employee may elect, with the consent of the employer, to take time off in lieu of payment for overtime at a time or times agreed with the employer. This agreement must be in writing and, unless otherwise agreed, the employee must take time off within four weeks of working the overtime.</p> <p>(b) Overtime taken as time off during ordinary time hours must be taken at the ordinary time rate (i.e. an hour for each hour worked).</p> <p>(c) If an employee elects to take time off in lieu of payment for overtime worked but the time</p>	<p>38.1(d) An employee may elect, with the consent of the employer, to take time off instead of payment for overtime at a time or times agreed with the employer, provided that:</p> <p>(i) overtime taken as time off during ordinary hours must be taken at the ordinary time rate, that is an hour for each hour worked; and</p> <p>(ii) an employer must, if requested by an employee, provide payment, at the rate provided for the payment of overtime in this award, for any overtime worked which has not been taken as time off in lieu of payment for overtime within four weeks of accrual.</p>	<p>No substantive difference between clauses</p> <p>No change to Qantas Group / Ai Group clause</p>

28.7 Shift penalty rates—weekends and public holidays

- (a) Shiftworkers must be paid the following penalty rates for work on weekends and public holidays:

Shift type	Penalty rate
Saturday	Time and a half
Sunday	Double time
Public holidays (except Christmas Day and Good Friday)	Double time
Christmas Day and Good Friday	Double time and a half

The rates in this clause are in substitution for and not cumulative upon the shift premiums prescribed in clauses 28.3, 28.4, 28.5 and 28.6.

29. Daylight saving

- 29.1 Where by reason of State or Territory legislation summer time is prescribed as being in advance of the standard time in that State or Territory, the length of any shift commencing before the time prescribed by the relevant legislation for the commencement of a summer time period or commencing on or before the time prescribed by the relevant legislation for the termination of a summer time period, is deemed to be the number of hours represented by the difference between the time recorded by the clock at the beginning of the shift and the time so recorded at the end of the shift. The time of the clock in each case is to be set to the time fixed by the relevant legislation.

- 29.2 The terms **standard time** and **summer time** have the same meaning as in the relevant State or Territory legislation.

30. Overtime**30.1 Payment for working overtime**

- (a) All work done outside ordinary hours on any day or shift (except where the time is worked by arrangement between the employees themselves) must be paid at time and a half for the first two hours and double time thereafter until the completion of the overtime work. For a continuous shiftworker the rate for working overtime is double time.
- (b) For the purposes of this clause, **ordinary hours** means the hours worked in an enterprise, fixed in accordance with clause 26.2(c).
- (c) The hourly rate, when computing overtime, is determined by dividing the appropriate weekly rate by 38, even in cases when an employee works more than 38 ordinary hours in a week.
- (d) An employee may elect, with the consent of the employer, to take time off instead of payment for overtime at a time or times agreed with the employer, provided that:

IN THE FAIR WORK COMMISSION

Matter No. AM2018/15

4 Yearly Review of Modern Awards – Airline Operations-Ground Staff Award 2010

STATEMENT OF GEORGE STELLA

I, George Stella, care of 52-56 Rouse Street Port Melbourne in the state of Victoria state as follows:

A. MY EMPLOYMENT

1. I am employed by Dnata Catering (**Dnata**) at Melbourne International Airport on a permanent full-time basis.
2. My current employment terms and conditions, including work classifications and remuneration, are those standards set out in the *Qantas Airways Limited and Q Catering Limited – Transport Workers Agreement 2018 (the Agreement)*.
3. The reason I am covered by this agreement is because Dnata took over the business of Q Catering towards the end of 2018.
4. I am a member of the Victorian Branch of the Union.
5. I commenced my employment at Melbourne Airport in 1989 with Australian Airlines. They were taken over by the Qantas Group a few years after that.
6. I work in the catering section in a building at the airport. When I commenced employment with Australian Airlines I started on the floor in the wash up area followed by a short stint in the kitchen. I then progressed onto the trucks delivering the food and alcohol to the planes. About 18 years an opportunity arose in the international section in my current role preparing the bars for the cabin crew.

B. MY DUTIES AND RESPONSIBILITIES

7. My role is to prepare the bars which go out to the planes along with the required food for passengers and crew.
8. The bars are part of the service that the cabin crew will need. It's called "dry stores" which is coffee and dry food, as well as the beverage component which might have beer, wine and soft-drinks.
9. Essentially what I do is make up the bars and I put alcohol in there and place the bars in the fridge for at least six to eight hours to get a proper cold-soak so when it goes onto the aircraft it's cold.
10. I work in a section that is part of the Q Catering building, or now Dnata building; it's an isolated section, because a lot of the alcohol is duty paid so therefore it can't be treated along with domestic operations, so they have separate stock, it's a separate identity. International catering is a big section but it's under the same roof as the domestic operations.
11. The catering operations have a number of different roles to service the planes. The people who are responsible for loading the aircraft will get their food out of the fridge area. Then it will come to where I work. They will require the bars that marry-up with that food and I will allocate the bars and all the equipment such as the dry stores, and beverages. They will consolidate it all in one truck and then service the aircraft.

C. INTERNATIONAL CATERING OPERATIONS

12. The international operations at Melbourne airport are effectively operating on a 24-hour basis, although my sections roster pattern is not spread over 24 hours. Having said that, the shift patterns will depend on the schedules of the airlines.
13. Our shifts start at rolling times with the first commencing at 4 am, followed by 7 am, 11 am, 1.00 pm, and 4 pm. All shifts are 8 hours with the last one finishing at midnight. Occasionally we have a Philippines Airlines plane that goes out early in the morning, so we will have someone rostered from 1 am to 3 am to service that plane. We have had situations in the past where the nightshift has finished, and the next shift has commenced in order to accommodate a flight going out.

14. Although my section does not roster staff over a 24-hour period, there are people within the building always operating over the 24 hours. The building is always staffed by an SPG or Operations Leader whose role is essentially that of a leading hand which used to be a TWU role.
15. A few years ago, Qantas took away a lot of the roles of leading hands and made them into SPG's, which is an ASU position. There is always an SPG on duty in case of a request or if there is a change to the aircraft schedules. The effect of this change has led to a reduction in our roster pattern to less than 24 hours, however our shifts still comprise early morning, afternoon and night shifts when we are required to commence before 4 am.
16. There is always some activity within the building. The operation of the wash-up area would usually commence their shifts at 2 am.
17. Although there was a change in supervisory roles under Qantas, I understand that Dnata intends on reintroducing the leading hand roles into my area which would mean we would move back to a 24-hour operation. This would mean that our shift patterns would be more in line with how they were when I first commenced working at the airport.
18. I have always been a shiftworker. When I started at Australian Airlines the whole floor was operational shift-work. The only day-workers we had in the building were predominantly the administrative staff.

D. OVERTIME

19. Under our enterprise agreement, shiftworkers are paid double time for overtime. Attached and marked as "GS-1" is a copy of the overtime provisions in our agreement.
20. I am often required to work overtime because of gaps in the rostering. Q Catering also regularly used labour hire to fill in the gaps as there are not enough full-time employees to cover all of the roster patterns. As I understand the labour hire employees are paid under the Award and complete 8 and 10-hour shifts..
21. The issue of labour hire was raised with the TWU. Since then more overtime is being offered to the permanent workforce. Overtime is available on a weekly basis, either as an extension to an employee's shift or as an extra shift/s. Extensions are offered on a daily basis.

22. Personally, I prefer not to work overtime as an extension to an existing shift. I prefer to work overtime as an extra shift to my roster. I prefer not to do extensions which can mean a 10-hour day as I find I get fatigued. However, there are a lot of people that would rather have their days off and they would use extensions as their preferred option for overtime.
23. If I didn't receive sufficient penalties for working overtime I doubt whether I would work overtime. In my view the loading is just a small compensation for not having family time and also for getting up at different hours.
24. Shiftwork has an effect on a shift-worker; it's quite obvious it affects their body long-term. I believe shiftworkers fatigue a lot easier because of their sleeping patterns and the ongoing effect of different patterns of work. Shiftwork can have an impact on health and digestive systems in that you are continually changing the times that you eat.
25. There is also the social disability of not having a regular family life. Shiftwork can have an impact on marriages, which I have witnessed in my industry with colleagues.
26. Another issue is the times in which you have to travel to work. Depending on where you live, the airport could be difficult to get to in terms of public transport so generally employees need to drive. It is also not feasible to catch public transport at say 2 am in the morning.
27. The impact of shiftwork and then working overtime has more of an impact than it does for a day worker working overtime. If I was a day-worker I would most likely have a regular sleeping pattern. When I work overtime I may be on a shift where I have been at work since 3 am. To work an additional 2 or 3 hours has, in my view, more of an impact on me than a day worker who has not commenced work until 7 am.
28. As a rotating shift-worker, unlike a dayworker, I have irregular starting times. I don't believe you ever get used to shiftwork, whether you work a 24-hour roster pattern, or a roster pattern that is less than 24 hours. The impact on a person working different shifts is still the same. They commence work at different times, have different sleeping patterns, fatigue more easily, have their meals at different times and don't have a regular family life.

.....

George Stella

Dated: January 2019

- (b) on or before the time prescribed by such legislation for the termination of such summer time period;

Will be deemed to be the number of hours represented by the difference between the time recorded by the clock at the beginning of the shift and the time so recorded at the conclusion of the shift.

28. OVERTIME

28.1 Requirement to work overtime

Subject to Clause 28.1.1 the Company may require an employee to work reasonable overtime at overtime rates.

28.1.1 An employee may refuse to work overtime, where the working of such overtime would result in the employee working hours, which are unreasonable with regard to:

- (a) any risk to employee health and safety;
- (b) the employee's personal circumstances including any family responsibilities;
- (c) the needs of the workplace or enterprise;
- (d) the notice (if any) given by the Company of the overtime and by the employee of his or her intention to refuse it; and
- (e) any other relevant matter.

28.2 Payment for working overtime

28.2.1 Day work - All work done outside ordinary hours must be paid for at the rate of time and a half for the first two hours and double time thereafter.

28.2.2 Shift work - All time worked in excess of or outside ordinary hours or on a shift other than a rostered shift must be paid for at the rate of double time unless:

- (a) the time is worked by arrangement between the employees themselves;
or
- (b) the time is worked for the purpose of effecting the customary rotation of shifts.

Except as provided in Clauses 28.3 and 28.4 in computing overtime, each day's work stands alone.

28.3 Rest period after overtime

28.3.1 Employees who work so much overtime between the termination of their ordinary work on one day and the commencement of their ordinary work on

IN THE FAIR WORK COMMISSION

Matter No. AM2018/15

**4 Yearly Review of Modern Awards – Airline Operations-Ground Staff Award
2010**

STATEMENT OF SHANE O'BRIEN

I, Shane O'Brien, care of Level 2, 388-390 Sussex Street Sydney New South Wales 2000, National Strategic Campaigns Lead of the Transport Workers' Union of Australia, make the following statement:

1. I am the National Strategic Campaigns Lead for the Transport Workers' Union of Australia (TWU). I have held this role since November 2018. Prior to this time, I was the Director of Aviation Campaigns for the TWU.
2. I commenced working at the TWU on June 13, 2013. As part of my role as Director of Aviation, I was involved in enterprise bargaining negotiations on behalf of members of the TWU working in the aviation industry and generally representing members in the aviation industry.
3. Whilst I have changed roles I continue to finalise the negotiations of aviation agreements with some companies.

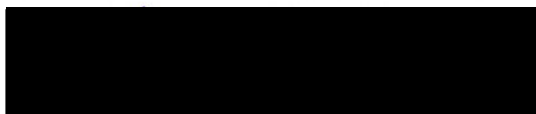
Aviation Industry

4. The Airline Operations- Ground Staff Award 2010 (the Award) is the principal award for ground staff at Australian airports. Ground staff includes

baggage handlers, ramp workers, catering workers, fleet presentation, clerical and administrative staff and engineering and maintenance workers. Essentially ground staff means below the wing of an aircraft.

5. The TWU's membership extends to baggage handlers, ramp workers, catering workers, fleet presentation and in some cases clerical and administrative workers.
6. In my role I have been responsible for either the direct negotiation of enterprise agreements in aviation or oversight of negotiations by other TWU officials for employees covered by the Award and employed by the majority of significant airlines and airline service providers.
7. Successful agreements have been negotiated with Qantas, Qantas Ground Services (QGS), Jetstar Services, Virgin, Dnata Airport Services, Airport Handling Services Australia (AHSA), Dnata Catering, Gate Aviation Services, Cabin Services Australia, Menzies, AAE, Aerocare and Skystar.
8. These companies would be estimated to represent approximately 80 to 85% of workers engaged in the transport stream of the Award. It should be noted that some of the above agreements cover multiple streams of the Award.
9. Agreements with the above companies expire at different times. I have compiled a list of companies with agreements where negotiations are still to be finalised, yet to commence or will expire in the next two and a half years. The list indicates the number of estimated employees covered by those agreements. Attached and marked as "SOB-1" is a copy of the list as described.
10. With respect to overtime, with the exception of agreements that include loaded rates, most agreements operate to provide over award payments and continue to maintain most provisions from the Award. This includes a payment of overtime rates at double time for all shiftworkers, regardless of whether they work continuous shiftwork or non-continuous shiftwork.

Signed:



Shane O'Brien

Dated 29 January 2019

SOB-1

Company	Overtime Shiftworkers	Expiry date	Employees (Estimate)
Virgin Ground Crew	Double time	30/6/20	1858
Dnata Catering	Double time	30/6/20	1524
Dnata Ramp and Cargo	Double time	30/6/20	565
Cabin Services Australia	Double time	30/6/20	936
Menzies Brisbane	Double time	30/6/20	120
Menzies Sydney/Melbourne	Double time	30/6/20	500
QAL and Q Catering	Double time	30/6/20	2088
AAE	Double time	30/6/20	174
Gate Aviation Services Perth, Melbourne, Brisbane, Adelaide,	Double time	31/5/21	240
Gate Aviation Services Darwin	Double time	Expired	60
Gate Aviation Services Sydney	Double time	Expired current negotiations	Unknown
Gate Aviation Services Cairns	Unknown	Expired	40
Menzies Perth	Loaded rates	Expired current negotiations	Unknown
Menzies Adelaide	Award		Unknown
Skystar	Loaded rates	Expired current negotiations	Unknown
QGS	Double time	To be renegotiated	1666
Jetstar Services	Double time	To be renegotiated	370
Aerocare	Loaded rates	Awaiting approval	2500