

REGISTER OF ENTERPRISE AGREEMENTS

ENTERPRISE AGREEMENT NO: EA05/71

TITLE: Action James Pty Ltd - TWU Enterprise Agreement

I.R.C. NO: IRC4/2677

DATE APPROVED/COMMENCEMENT: 14 May 2004 / 14 May 2004

TERM: 24

**NEW AGREEMENT OR
VARIATION:** New.

GAZETTAL REFERENCE: 8 April 2005

DATE TERMINATED:

NUMBER OF PAGES: 5

COVERAGE/DESCRIPTION OF

EMPLOYEES: The agreement applies to all employees employed by Action James Pty Limited, located at Unit 2, 11 Holbeche Road, Arndell Park NSW 2148, who fall within the coverage of the following awards: Milk Treatment, &c., Distribution (State) Award, Transport Industry (State) Award, Transport Industry Mixed Enterprises Interim (State) Award, Motor Bus Drivers and Conductors (State) Award, Transport Industry Quarried - Materials (State) Award, Transport Industry Retail (State) Award 1999, Transport Industry Tourist and Service Coach Drivers (State) Award, Transport Industry Trade Waste (State) Award, and the Transport Industry Waste Collection and Recycling (State) Award.

PARTIES: Action James Pty Limited -&- the Transport Workers' Union of New South Wales

ACTION JAMES PTY LTD - TWU ENTERPRISE AGREEMENT

An Enterprise Agreement made this day of 2004, ACTION JAMES PTY LIMITED (the company) and THE TRANSPORT WORKERS' UNION OF NEW SOUTH WALES (the union), made under the Industrial Relations Act 1996 in accordance with the provisions of Part 2, Division 1 of the said Act, to regulate the following terms and conditions of employment.

Now it is hereby agreed by the parties as follows:

1. Title of Agreement

- (a) This agreement shall be known as the ACTION JAMES PTY LTD - TWU Enterprise Agreement.
- (b) It shall be fixed and maintained in a conspicuous place at the premises to which the agreement applies so as to be easily read by all employees. If any employees cannot understand the language in which the agreement is written, sufficient accurate (but simply expressed) summaries of the agreement will also be fixed and maintained for each of the employees to be able to read in a language which he or she understands.

2. Relationship to Parent Awards

2.1 This agreement shall apply concurrently with the relevant award or awards that apply, as a matter of law and are named in clauses 2.2 or 2.3 herein, or any other award or awards that apply as a matter of law, provided that the provisions of this agreement shall prevail to the extent of any inconsistency:

2.2 Relevant New South Wales Awards

Milk Treatment &c., and Distribution (State) Award, as varied from time to time;

Transport Industry (State) Award, as varied from time to time;

Transport Industry-Mixed Enterprises (State) Award, as varied from time to time;

Transport Industry-Motor Bus Drivers and Conductors (State) Award, as varied from time to time;

Transport Industry-Quarried Materials (State) Award, as varied from time to time;

Transport Industry-Retail (State) Award, as varied from time to time;

Transport Industry-Tourist and Service Coach Drivers (State) Award, as varied from time to time;

Transport Industry-Trade Waste (State) Award, as varied from time to time.

Transport Industry-Waste Collection and Recycling (State) Award, as varied from time to time;

and/or any awards replacing or superseding the above awards in part or in whole.

2.3 Relevant Federal Awards

Transport Workers (Airlines) Award 1988; as varied from time to time;

Transport Workers (Oil Companies) Award 1992; as varied from time to time;

Transport Workers (Oil Agents and Contractors) Award 1981, as varied from time to time;

Transport Workers (Steels Aviation Services Pty Ltd) Award 1993, as varied from time to time;

and/or any awards replacing or superseding the above awards in part or in whole.

- 2.4 If any of the awards listed in clause 2.3 or other such award of the Australian Industrial Relations Commission applies, as a matter of law, clauses 6 and 8 of this agreement shall not apply.

3. Declaration

This Agreement was not entered into under duress by any party to it.

4. Objective of Agreement

The objectives of this agreement are:

- (a) To enable the company to perform work in the activities covered by this Agreement in a productive and efficient manner;
- (b) To enable employees to work in a productive, efficient, flexible and safe manner in accordance with their full skill and competence to meet the requirements of the company and their clients; and
- (c) To provide appropriate remuneration and conditions of employment for employees working under the terms of the Agreement.

5. Rates of Pay and Conditions of Employment

- (a) Employees under this agreement shall generally be required to perform work under the direction of businesses who are clients of the company.
- (b) When performing such work, employees (whether permanent full-time, permanent part-time, or casual) will be paid according to the relevant award, provided that where there is an agreement (registered or unregistered, and whether an enterprise agreement, award modernisation agreement or award) between the client and the union covering the client's own employees, then the provisions of that agreement will also apply to the employee.
- (c) Paragraph (b) cannot operate to allow in any circumstances the total remuneration of the employee to be less than that payable under the provisions of the relevant award.

6. Hours of Work

- (a) The spread of ordinary hours shall be that contained in the relevant award, provided that where there is an agreement (registered or unregistered, and whether an enterprise agreement, award modernisation agreement or award) between the client of the company and the union covering the client's own employees, then any span of hours in that agreement will apply to the employee in lieu of the spread of ordinary hours contained in the relevant award.
- (b) A casual employee on each separate engagement can work a maximum of 8 hours ordinary time before the commencement of overtime payments;
- (c) The minimum engagement for casual employees shall be 4 hours.

7. Funding for the Transport Industry Training Safety and Industrial Rights Council

- (a) The employer shall pay an additional amount equivalent to 1% (not be increased while this agreement is in force) of the total payroll for employees covered by this agreement to the Transport Industry Training Education and Industrial Rights Council, being an organisation established for the purpose of promoting vocational training, occupational health and safety training, safer work practices, knowledge of award and other industrial entitlements, and other services for the benefit of workers in the transport industry.
- (b) Prior to the establishment of such an organisation, the funds referred to in paragraph (a) shall be deposited and preserved in an account to be agreed upon by the company and the union.

- (c) The company shall be represented on the board of the Transport Industry Training Education and Industrial Rights Council.

8. Use of Casual Employees

At each work location of a client of the company, any number of casual employees may be used by the company provided that any provision of the award which applies to the client's own employees which provides for a ratio of permanent full-time employees to casual employees must be complied with in relation to all persons working at that work location.

9. Disputes Resolution Procedure

In the event of a question, dispute or difficulty arising at a branch:

- (a) The matter shall first be raised with the local management and agreement sought.
- (b) If the dispute is not resolved at this level, the matter may be discussed between the Union delegate and the local Manager.
- (c) Should the dispute remain unresolved, the matter may be referred to an official of the Union , who shall discuss it with senior management.
- (d) In the event of no agreement being reached at this stage, the dispute will be referred to the Industrial Relations Commission of New South Wales.

While the procedure is being followed, normal work will continue.

10. No Extra Claims

It is a term of this Agreement that the union and each of the employees bound by this Agreement will not pursue any extra claims, award or over award for the duration of this Agreement as specified in clause 10 of this Agreement. This includes claims relating to changes that are inconsistent with the terms of this Agreement. It is also a term of this Agreement that the union and each of the employees bound by it will not take industrial action in support of extra claims, award or over award for the duration of this Agreement.

11. Superannuation

All employees shall at the commencement of their employment with the company join the TWU Superannuation Fund.

The company will make contributions to the TWU Superannuation Fund on behalf of their employees as required by the Transport Industry (State) Superannuation Award.

The payment of superannuation contributions shall be in accordance with the provisions of the relevant award provided that where there is an agreement (registered or unregistered, and whether an enterprise agreement, award modernisation agreement or award) between the client of the company and the union covering the client's own employees, then any provision dealing with the calculation of superannuation in that agreement will apply to the employee in lieu of the provisions of the relevant award.

12. Induction Training

- (a) Prior to a new employee commencing work with the company the employee shall be trained in:
 - occupational health and safety; and
 - industrial rights.

- (b) In order to meet the requirements of sub-clause 12(a) each new transport worker shall undertake a two hour induction course, conducted by the Union and the company at an agreed time. No transport workers shall commence work with the Company without this induction taking place.
- (c) The company shall notify the Union in writing of any new contracts obtained for the supply of labour in order to facilitate the arrangement of inductions referred to in subclause 12 (b).

13. Anti-Discrimination

- (a) It is the intention of the parties bound by this agreement to seek to achieve the object of section 3(f) of the *Industrial Relations Act*, 1996, to prevent and eliminate discrimination in the workplace. This includes discrimination on the grounds of race, ex, marital status, disability, homosexuality, transgender identity, age and responsibilities as a carer.
- (b) It follows that in fulfilling their obligations under the dispute resolution procedure prescribed by this agreement the parties have obligations to take all reasonable steps to ensure that the operation of the provisions of this agreement are not directly or indirectly discriminatory in their effects. It will be consistent with the fulfilment of these obligations for the parties to make application to vary any provision of the agreement, which, by its terms or operation, has a direct or indirect discriminatory effect.
- (c) Under the *Anti-Discrimination Act*, 1977, it is unlawful to victimise an employee because the employee has made or may make or has been involved in a complaint of unlawful discrimination or harassment.
- (d) Nothing in this clause is to be taken to affect :
 - (i) any conduct or act which is specifically exempted from anti-discrimination legislation;
 - (ii) offering or providing junior rates of pay to persons under 21 years of age;
 - (iii) any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act*, 1977; or
 - (iv) a party to this agreement from pursuing matters of unlawful discrimination in any State or Federal jurisdiction.
 - (v) a party to this agreement from pursuing matters of unlawful discrimination in any State or Federal jurisdiction.
- (e) This clause does not create legal rights or obligation in addition to those imposed upon the parties by the legislation referred to in this clause.

Notes :

- (a) Employers and employees may also be subject to Commonwealth anti-discrimination legislation.
- (b) Section 56 (d) of the *Anti-Discrimination Act* 1977, provides :

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

14. Area, Incidence and Duration

- (a) This agreement applies to all employees of the employer, whether employed on a permanent, casual, part-time, temporary or fixed-term basis, performing work that falls within the coverage of the awards specified in clause 2 of this agreement, within the state of New South Wales.

- (b) This agreement shall commence upon the date of signing by the company. Its nominal term shall be two (2) years and the agreement shall continue in force thereafter until replaced or rescinded.

The parties hereby witness this agreement as follows :

SIGNED on behalf of the TRANSPORT WORKERS UNION OF NEW SOUTH WALES

In the presence of:

SIGNED on behalf of:

In the presence of

Dated: