

Horse and Greyhound Training Award 2010

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Part 1—Application and Operation

1. Title

This award is the *Horse and Greyhound Training Award 2010*.

2. Commencement date

This award commences on 1 January 2010.

3. Definitions and interpretation

3.1 In this award, unless the contrary intention appears:

Act means the *Workplace Relations Act 1996* (Cth)

Commission means the Australian Industrial Relations Commission or its successor

employee has the meaning in the Act

employer has the meaning in the Act

enterprise award has the meaning in the Act

horse and greyhound training industry means the business, calling or occupation of the training and preparation of animals for the thoroughbred, trotting, harness and greyhound racing industries and covers the functions of pre-training, grooming, feeding, handling, stabling and exercising of animals, the cleaning, care and maintenance of stables and associated training equipment and the care and leading in of horses at race meetings

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

NES means National Employment Standards

stable foreman means a stablehand appointed to be in charge of or directing the work of not less than three stablehands

stablehand means a person (including a jockey) employed in the horse and greyhound training industry engaged in connection with the training and preparation of horses and engaged in grooming, feeding, handling, stabling and exercising of horses and the cleaning, care and maintenance of stables and associated training equipment and the caring of and leading in of horses at race meetings

standard rate means the minimum weekly wage for the stable foreman classification in clause 13

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track rider means a person who is engaged to ride track work exclusively and may be a jockey or an apprentice other than a jockey or an apprentice who has an established arrangement with the employer with respect to race riding

trainer means a person employed to oversee all aspects of training a horse or greyhound

training assistant means a person employed to perform general duties in the horse and greyhound training industry being duties which are not within the duties of any other classification in this award including general labouring, cleaning, minor maintenance duties incidental or peripheral to cleaning, ordering supplies, receiving deliveries and basic clerical work.

3.2 Where this award refers to a condition of employment provided for in the NES, the NES definition applies.

4. Coverage

4.1 This industry award covers employers throughout Australia in the horse and greyhound training industry and their employees in the classifications listed in clause 13 to the exclusion of any other modern award.

4.2 The award does not cover an employee excluded from award coverage by the Act.

4.3 The award does not cover an employer bound by an enterprise award in respect of an employee who is covered by the enterprise award.

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

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

5. Access to the award and the National Employment Standards

The employer must ensure that copies of this award and the NES are available to all employees to whom they apply either on a noticeboard which is conveniently located at or near the workplace or through electronic means, whichever makes them more accessible.

6. The National Employment Standards and this award

The [NES](#) and this award contain the minimum conditions of employment for employees covered by this award.

7. Award flexibility

7.1 Notwithstanding any other provision of this award, an employer and an individual employee may agree to vary the application of certain terms of this award to meet the

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genuine individual needs of the employer and the individual employee. The terms the employer and the individual employee may agree to vary the application of are those concerning:

- (a) arrangements for when work is performed;
- (b) overtime rates;
- (c) penalty rates;
- (d) allowances; and
- (e) leave loading.

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

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

- (a) be confined to a variation in the application of one or more of the terms listed in clause 7.1; and
- (b) not disadvantage the individual employee in relation to the individual employee's terms and conditions of employment.

7.4 For the purposes of clause 7.3(b) the agreement will be taken not to disadvantage the individual employee in relation to the individual employee's terms and conditions of employment if:

- (a) the agreement does not result, on balance, in a reduction in the overall terms and conditions of employment of the individual employee under this award and any applicable agreement made under the Act, as those instruments applied as at the date the agreement commences to operate; and
- (b) the agreement does not result in a reduction in the terms and conditions of employment of the individual employee under any other relevant laws of the Commonwealth or any relevant laws of a State or Territory.

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

- (a) be in writing, name the parties to the agreement and be signed by the employer and the individual employee and, if the employee is under 18 years of age, the employee's parent or guardian;
- (b) state each term of this award that the employer and the individual employee have agreed to vary;
- (c) detail how the application of each term has been varied by agreement between the employer and the individual employee;
- (d) detail how the agreement does not disadvantage the individual employee in relation to the individual employee's terms and conditions of employment; and
- (e) state the date the agreement commences to operate.

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

- 7.7 An employer seeking to enter into an agreement must provide a written proposal to the employee. Where the employee's understanding of written English is limited the employer must take measures, including translation into an appropriate language, to ensure the employee understands the proposal.
- 7.8 The agreement may be terminated:
- (a) by the employer or the individual employee giving four weeks' notice of termination, in writing, to the other party and the agreement ceasing to operate at the end of the notice period; or
 - (b) at any time, by written agreement between the employer and the individual employee.
- 7.9 The right to make an agreement pursuant to this clause is in addition to, and is not intended to otherwise affect, any provision for an agreement between an employer and an individual employee contained in any other term of this award.

Part 2—Consultation and Dispute Resolution

8. Consultation regarding major workplace change

8.1 Employer to notify

- (a) Where an employer has made a definite decision to introduce major changes in production, program, organisation, structure or technology that are likely to have significant effects on employees, the employer must notify the employees who may be affected by the proposed changes and their representatives, if any.
- (b) **Significant effects** include termination of employment, major changes in the composition, operation or size of the employer's workforce or in the skills required; the elimination or diminution of job opportunities, promotion opportunities or job tenure; the alteration of hours of work; the need for retraining or transfer of employees to other work or locations; and the restructuring of jobs. Provided that where this award makes provision for alteration of any of these matters an alteration is deemed not to have significant effect.

8.2 Employer to discuss change

- (a) The employer must discuss with the employees affected and their representatives, if any, the introduction of the changes referred to in clause 8.1, the effects the changes are likely to have on employees and measures to avert or mitigate the adverse effects of such changes on employees and must give prompt consideration to matters raised by the employees and/or their representatives in relation to the changes.
- (b) The discussions must commence as early as practicable after a definite decision has been made by the employer to make the changes referred to in clause 8.1.

- (c) For the purposes of such discussion, the employer must provide in writing to the employees concerned and their representatives, if any, all relevant information about the changes including the nature of the changes proposed, the expected effects of the changes on employees and any other matters likely to affect employees provided that no employer is required to disclose confidential information the disclosure of which would be contrary to the employer's interests.

9. Dispute resolution

- 9.1** In the event of a dispute about a matter under this award, or a dispute in relation to the NES, in the first instance the parties must attempt to resolve the matter at the workplace by discussions between the employee or employees concerned and the relevant supervisor. If such discussions do not resolve the dispute, the parties will endeavour to resolve the dispute in a timely manner by discussions between the employee or employees concerned and more senior levels of management as appropriate.
- 9.2** If a dispute about a matter arising under this award or a dispute in relation to the NES is unable to be resolved at the workplace, and all appropriate steps under clause 9.1 have been taken, a party to the dispute may refer the dispute to the Commission.
- 9.3** The parties may agree on the process to be utilised by the Commission including mediation, conciliation and consent arbitration.
- 9.4** Where the matter in dispute remains unresolved, the Commission may exercise any method of dispute resolution permitted by the Act that it considers appropriate to ensure the settlement of the dispute.
- 9.5** An employer or employee may appoint another person, organisation or association to accompany and/or represent them for the purposes of this clause.
- 9.6** While the dispute resolution procedure is being conducted, work must continue in accordance with this award and the Act. Subject to applicable occupational health and safety legislation, an employee must not unreasonably fail to comply with a direction by the employer to perform work, whether at the same or another workplace, that is safe and appropriate for the employee to perform.

Part 3—Types of Employment and Termination of Employment

10. Types of employment

- 10.1** Subject to clause 10.4 and except as hereinafter provided employment must be by the week. It must be clearly indicated by the employer whether the employee is engaged on a full-time, part-time, or casual basis.

10.2 Probationary employment

- (a) An employer may initially engage a full-time or part-time employee for a period of probationary employment for the purpose of determining the employee's suitability for ongoing employment. The employee must be advised in advance that the employment is probationary and of the duration of the probation which can be up to but not exceed four weeks.
- (b) A probationary employee is for all purposes of the award a full-time or part-time employee.
- (c) Probationary employment forms part of an employee's period of continuous service for all purposes of the award, except where otherwise specified in the award.
- (d) Probationary employees may give, or be given, notice on the following basis:

First week of service	1 day's notice
Second week of service	2 days' notice
Third week of service	3 days' notice
Fourth week of service	4 days' notice
- (e) Where an employee has given or been given such notice, the employee will continue in the employment until the date of expiration of such notice. Any employee who, having given or been given such notice, is absent from work without reasonable cause (proof of which will lie on the employee) during such period will be deemed to have abandoned the employment and will not be entitled to payment for work done by the employee within that period.

10.3 Part-time employment

A part-time employee means an employee who works a regular pattern of hours from week to week which is less than the standard ordinary hours in any week. The terms of this award apply pro rata for part-time employees on the basis that ordinary weekly hours for full-time employees are 38.

10.4 Casual employment

- (a) A casual employee is to be employed by the hour and the employment of a casual employee may be terminated at any time.
- (b) Casual employees may only be engaged in the following circumstances:
 - (i) to meet short term work needs; or
 - (ii) to carry out work in emergency circumstances; or
 - (iii) to perform work unable to be practicably rostered to a permanent employee.

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- (c) A casual employee working ordinary time must be paid the appropriate minimum wage prescribed in clause 13—Classifications and minimum wages, calculated hourly plus a loading of 25% but will not be entitled to any of the leave or public holiday benefits applying to full-time employees. The loading constitutes part of the casual employee's all-purpose rate.
- (d) A casual employee who has been employed on a regular pattern of hours in twelve consecutive weeks must after that time have the right to elect to be engaged as a permanent employee if the employment on a regular pattern of hours continues into the next consecutive week. Any eligible employee that elects to convert must thereafter be treated for all purposes of this award as a full-time or part-time employee, as the case may be.
- (e) An employee must not be engaged or re-engaged as a casual employee under this clause to avoid any obligation under this award.
- (f) A casual employee must be engaged:
 - (i) for a minimum daily period of three hours; and
 - (ii) not more than once on each day.
- (g) If a casual employee is given notice or dismissed at other than the normal place of employment the employee must be entitled to transport or return fares to the usual place of employment.

11. Termination of employment

11.1 Notice of termination is provided for in the NES.

11.2 Notice of termination by an employee

The notice of termination required to be given by an employee is the same as that required of an employer except that there is no requirement on the employee to give additional notice based on the age of the employee concerned. If an employee fails to give the required notice the employer may withhold from any monies due to the employee on termination under this award, or the NES, an amount not exceeding the amount the employee would have been paid under this award in respect of the period of notice required by the clause less any period of notice actually given by the employee.

11.3 Job search entitlement

Where an employer has given notice of termination to an employee, an employee must be allowed up to one day's time off without loss of pay for the purpose of seeking other employment. The time off is to be taken at times that are convenient to the employee after consultation with the employer.

12. Redundancy

12.1 Redundancy pay is provided for in the NES.

12.2 Transfer to lower paid duties

Where an employee is transferred to lower paid duties by reason of redundancy, the same period of notice must be given as the employee would have been entitled to if the employment had been terminated and the employer may, at the employer's option, make payment instead of an amount equal to the difference between the former ordinary time rate of pay and the ordinary time rate of pay for the number of weeks of notice still owing.

12.3 Employee leaving during notice period

An employee given notice of termination in circumstances of redundancy may terminate their employment during the period of notice. The employee is entitled to receive the benefits and payments they would have received under this clause had they remained in employment until the expiry of the notice, but is not entitled to payment instead of notice.

12.4 Job search entitlement

- (a) An employee given notice of termination in circumstances of redundancy must be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment.
- (b) If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee must, at the request of the employer, produce proof of attendance at an interview or they will not be entitled to payment for the time absent. For this purpose a statutory declaration is sufficient.
- (c) This entitlement applies instead of clause 11.3.

12.5 Transitional provisions

- (a) Subject to clause 12.5(b), an employee whose employment is terminated by an employer is entitled to redundancy pay in accordance with the terms of a NAPSA:
 - (i) that would have applied to the employee immediately prior to 1 January 2010, if the employee had at that time been in their current circumstances of employment and no agreement made under the Act had applied to the employee; and
 - (ii) that would have entitled the employee to redundancy pay in excess of the employee's entitlement to redundancy pay, if any, under the NES.
- (b) The employee's entitlement to redundancy pay under the NAPSA is limited to the amount of redundancy pay which exceeds the employee's entitlement to redundancy pay, if any, under the NES.
- (c) This clause does not operate to diminish an employee's entitlement to redundancy pay under any other instrument.
- (d) This clause ceases to operate on 31 December 2014.

Part 4—Minimum Wages and Related Matters

13. Classifications and minimum wages

13.1 The minimum weekly wages for adults will be the following:

Classification	Minimum weekly wage
	\$
Stable employee (on commencement with employer)	543.90
Stablehand Grade 1 (after three months' continuous employment with the employer)	560.50
Stablehand Grade 2 (who has at least two years in the industry and whose duties are above those required of a Grade 1 employee)	583.00
Trackrider	583.00
Stable foreman	637.60
Training assistant	658.50
Trainer	698.20

13.2 Deductions from wages

Where board and lodging are provided for permanent employees on or adjacent to the employer's property the employer may deduct from the employee's earnings a reasonable amount to be mutually agreed upon as the charge for such board and lodging.

13.3 Junior employees

(a) The minimum weekly wage to be paid to any unapprenticed employee, including any probationary apprentice, under 21 years of age, is a percentage of the relevant minimum wage in clause 13.1 determined in accordance with the following table:

Age	Percentage
15 and under 16 years	55
16 and under 17 years	60
17 and under 18 years	65
18 and under 19 years	70
19 and under 20 years	80
20 years of age	95

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- (b) Such percentage is to be rounded to the nearest 10 cents.
- (c) If required by the employer an employee must produce either a birth certificate or a statutory declaration as to the employee's age.

13.4 Supported wage system

See Schedule A

13.5 National training wage

See Schedule B

14. Allowances

14.1 Racecourse attendance allowance

Every employee who is required to attend a race meeting must be paid a racecourse attendance allowance calculated as follows:

- (a) where the racecourse is situated within 75 kilometres of the employee's place of employment: \$22.70;
- (b) where the racecourse is more than 75 kilometres from the employee's place of employment, the allowance in clause 14.1(a) plus \$5.35 for each additional 50 kilometres or part thereof that the racecourse is situated from the place of employment.

14.2 Transport allowance

In addition to the allowance in clause 14.1, every employee who is required to attend a race meeting and perform work covered by the award must, if the horse is floated, be reimbursed an amount equal to the cost of fares reasonably spent by the employee in travelling from the employee's usual place of work to the race meeting unless the employer supplies transport.

14.3 Meal allowances

- (a) When required to attend a race meeting an employee must be paid an allowance of \$9.00 for each meal unless the employer supplies the meal.
- (b) An employee required to work overtime for more than one and a half hours without being notified on the previous day or earlier must be paid an allowance of \$11.00 for each meal. If an employee is notified on the previous day or earlier of a requirement to work overtime for more than one and a half hours and provides their own meal but is subsequently not required to work overtime or is required to work less overtime than advised, the employee must be paid the allowance.

14.4 Travel allowance

Where in the course of the employment an employee is required to live and sleep at some place other than the employee's normal place of residence or where an employee is required by the employer to travel, the employee must be paid their reasonable out-of-pocket expenses before leaving the employer's premises.

14.5 Protective clothing and footwear

(a) Where it is necessary that an employee wear gumboots, waterproof coats, waterproof half-coats and waterproof trousers, the employer must reimburse the employee for the costs of purchasing such clothing not supplied by the employer.

(b) Where protective clothing is supplied without cost to the employee, it will remain the property of the employer. In the event of an employee leaving, or being employed where such clothing is not required, the protective clothing must be returned to the employer in good condition, fair wear and tear excepted.

14.6 Boots, cap and vest allowance

Trackriders (including people required to drive or ride horses) must be paid an allowance per week by way of subsidy of \$5.46 instead of riding boots, skullcaps and safety vest and each employee must provide a suitable skullcap, safety vest and riding boots as required.

14.7 Adjustment of expense-related allowances

(a) At the time of any adjustment to the standard rate, each expense-related allowance will be increased by the relevant adjustment factor. The relevant adjustment factor for this purpose is the percentage movement in the applicable index figure most recently published by the Australian Bureau of Statistics since the allowance was last adjusted.

(b) The applicable index figure is the index figure published by the Australian Bureau of Statistics for the Eight Capitals Consumer Price Index (Cat No. 6401.0), as follows:

Allowance	Applicable Consumer Price Index figure
Meal allowances	Take away and fast foods sub-group
Boots, cap and vest allowance	Clothing and footwear group
Racecourse attendance allowance	Private motoring sub-group

15. District allowances

15.1 Northern Territory

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

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

15.2 Western Australia

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

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

15.3 This clause ceases to operate on 31 December 2014.

16. Accident pay

16.1 Subject to clause 16.2 an employee is entitled to accident pay in accordance with the terms of:

- (a) a NAPSA that would have applied to the employee immediately prior to 1 January 2010 or an award made under the *Workplace Relations Act 1996* (Cth) that would have applied to the employee immediately prior to 27 March 2006, if the employee had at that time been in their current circumstances of employment and no agreement made under the *Workplace Relations Act 1996* (Cth) had applied to the employee; and
- (b) that would have entitled the employee to accident pay in excess of the employee's entitlement to accident pay, if any, under any other instrument.

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

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

16.4 This clause ceases to operate on 31 December 2014.

17. Mixed functions

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

18. Payment of wages

- 18.1** When an employee's employment is terminated before the usual pay day, the employee must be paid all wages and holiday pay to which the employee is entitled within 24 hours of leaving the employer's service.
- 18.2** Wages must be paid once weekly or once fortnightly at the discretion of the employer and with the consent of the employee, provided that no employer will keep more than two days' pay in hand, other than for casual employees, whose wages will be paid in full.
- 18.3** Wages may be paid by cash or cheque or be transferred directly to the employee's bank account.
- 18.4** Payment is to be made on a nominated day between Monday and Friday, unless the day is a public holiday, in which case payment must be made the day before.
- 18.5** On or prior to payday, the employer must state to each employee, in writing, the total amount of wages to which the employee is entitled, the deductions and the net amount.

19. Superannuation

19.1 Superannuation legislation

- (a) Superannuation legislation, including the *Superannuation Guarantee (Administration) Act 1992* (Cth), the *Superannuation Guarantee Charge Act 1992* (Cth), the *Superannuation Industry (Supervision) Act 1993* (Cth) and the *Superannuation (Resolution of Complaints) Act 1993* (Cth), deals with the superannuation rights and obligations of employers and employees. Under superannuation legislation individual employees generally have the opportunity to choose their own superannuation fund. If an employee does not choose a superannuation fund, any superannuation fund nominated in the award covering the employee applies.
- (b) The rights and obligations in these clauses supplement those in superannuation legislation.

19.2 Employer contributions

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

19.3 Voluntary employee contributions

- (a) Subject to the governing rules of the relevant superannuation fund, an employee may, in writing, authorise their employer to pay on behalf of the employee a specified amount from the post-taxation wages of the employee into the same superannuation fund as the employer makes the superannuation contributions provided for in clause 19.2.
- (b) An employee may adjust the amount the employee has authorised their employer to pay from the wages of the employee from the first of the month following the giving of three months' written notice to their employer.
- (c) The employer must pay the amount authorised under clauses 19.3(a) or (b) no later than 28 days after the end of the month in which the deduction authorised under clauses 19.3(a) or (b) was made.

19.4 Superannuation fund

Unless, to comply with superannuation legislation, the employer is required to make the superannuation contributions provided for in clause 19.2 to another superannuation fund that is chosen by the employee, the employer must make the superannuation contributions provided for in clause 19.2 and pay the amount authorised under clauses 19.3(a) or (b) to one of the following superannuation funds:

- (a) AustralianSuper;
- (b) HOSTPLUS;
- (c) SunSuper;
- (d) Victorian Racing Industry Superannuation Plan;
- (e) CustomSuper Plan – AMP; or
- (f) any superannuation fund, to which the employer was making superannuation contributions for the benefit of its employees before 12 September 2008, provided the superannuation fund is an eligible choice fund.

Part 5—Hours of Work and Related Matters

20. Ordinary hours of work and rostering

- 20.1** The ordinary hours of work are 38 hours per week to be worked within rostered hours in five full days, or four full days and two half days, Monday to Saturday.
- 20.2** No employee will be required to work after twelve noon as part of the ordinary hours in any week on the two days rostered as the employee's two half days off.
- 20.3** A roster setting out the five days or the four days and two half days to be worked in any one week, Monday to Saturday, by each employee must be posted up on Monday of the preceding week.
- 20.4** By arrangement with the employer, stablehands may agree to change their rostered half days off in any week; this must be in writing.

21. Breaks

- 21.1** One 15 minute break, to be counted as time worked, must be allowed during the morning period of each working day to each individual employee at a time to be arranged by the employer in consultation with the employees.
- 21.2** For all employees rostered to work more than six hours, one 30 minute, unpaid meal break is to be taken between hour five and hour six of the shift at a time arranged by the employer following consultation with employees.

22. Overtime and penalty rates

- 22.1** All work performed in excess of or outside the ordinary hours prescribed by clause 20—Ordinary hours of work and rostering, of this award must be paid at 150% of the relevant minimum wage calculated hourly for the first three hours and 200% for the rest of the overtime.
- 22.2** An employee required to work on a Sunday must be paid for all such work at 200% of the relevant minimum wage per hour for a minimum of three hours.
- 22.3** An employee may elect to take time off in place of payment for overtime. The overtime payment otherwise payable will be reduced by an amount calculated at the ordinary time rate for the time off.
- 22.4** An employee directed to stand by in readiness to work outside the ordinary hours or to do watch keeping or guard duties outside the ordinary working hours will, until released, be paid at overtime rates for all time so engaged.

Part 6—Leave and Public Holidays

23. Annual leave

- 23.1** Annual leave is provided for in the NES. Annual leave does not apply to casual employees.
- 23.2** By agreement between an employer and an employee a period of annual leave may be taken in advance of the entitlement accruing. Provided that if leave is taken in advance and the employment terminates before the entitlement has accrued the employer may make a corresponding deduction from any money due to the employee on termination.
- 23.3** Where an employer intends temporarily to close (or reduce to nucleus) the place of employment or a section of it for the purpose, amongst others, of allowing annual leave to the employees concerned or a majority of them, the employer may give those employees one month's notice in writing of an intention to apply the provisions of this clause. In the case of any employee engaged after notice has been given, notice must be given to that employee on the date of their engagement.

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- (a) Any employee who has accrued annual leave at the date of closing must:
 - (i) be given annual leave commencing from the date of closing; and
 - (ii) be paid one twelfth of their ordinary pay for any period of employment between accrual of the employee's right to the annual leave and the date of closing.
- (b) Any employee who has no accrued annual leave at the date of closing must:
 - (i) be given leave without pay as from the date of closing; and
 - (ii) be paid for any public holiday during such leave for which the employee is entitled to payment.

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

23.5 Before the start of the employee's annual leave the employer must pay the employee:

- (a) notwithstanding the base rate of pay referred to in the s.35(1) of the NES, the amount the employee would have earned for working their normal hours, exclusive of overtime, had they not been on leave; and
- (b) an additional loading of 17.5% of the relevant minimum wage for the period of leave.

23.6 Where an employee is entitled to a payment on termination of employment pursuant to s.35(2) of the NES, the amount is to be calculated in accordance with clause 23.5(a) above.

24. Personal/carer's leave and compassionate leave

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

25. Community service leave

Community service leave is provided for in the NES.

26. Public holidays

26.1 Public Holidays are provided for in the NES.

26.2 An employer and the employees may by agreement substitute another day for a public holiday. Where there is no agreement the employer may substitute another day but not so as to give an employee less time off work than the employee would have had if the employee had received the public holiday.

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- 26.3** If an employee works on a public holiday, and another day has not been substituted pursuant to the previous clause, the employee will be paid at 200% of the employee's minimum wage per hour for all hours worked.