

## **REGISTER OF ENTERPRISE AGREEMENTS**

**ENTERPRISE AGREEMENT NO:** EA08/15

**TITLE:** Independent Cemetery Trust Enterprise Agreement 2008

**I.R.C. NO:** IRC8/909

**DATE APPROVED/COMMENCEMENT:** 25 June 2008 / 25 June 2008

**TERM:** 36

**NEW AGREEMENT OR  
VARIATION:** New.

**GAZETTAL REFERENCE:** 11 July 2008

**DATE TERMINATED:**

**NUMBER OF PAGES:** 27

**COVERAGE/DESCRIPTION OF**

**EMPLOYEES:** The agreement applies to all employees employed by the Independent Cemetery Trust, PO Box 9, Lidcombe NSW 1825, who are appointed to one of the Classification Levels provided in clause 8 of this agreement, and who fall within the coverage of the Cemetery and Crematoria Employees (State) Award.

**PARTIES:** Independent Cemetery Trust -&- The Funeral and Allied Industries Union of New South Wales Branch.

# INDEPENDENT CEMETERY TRUST ENTERPRISE AGREEMENT 2008

## 1. ARRANGEMENT

The provisions of this Agreement are arranged in the following order:

Clause No.	Subject Matter
1	Arrangement
2	Definitions
3	Parties to the Agreement
4	Nominal Term of the Agreement
5	Relationship with Awards and Other Agreements
6	Terms of Employment
7	Hours of Work
8	Meal Breaks and Rest Breaks
9	Classification Levels
10	Rates Of Pay
11	Allowances
12	Payment of Wages
13	Overtime
14	Saturday and Sunday Work
15	Holidays
16	Annual Leave
17	Annual Leave Loading
18	Sick Leave
19	Personal Carer's Leave
20	Bereavement Leave
21	Long Service Leave
22	Parental Leave
23	Jury Service
24	Clothing
25	Redundancy
26	Traineeships
27	Superannuation
28	Anti-Discrimination
29	No Extra Claims
30	Dispute Avoidance and Grievance Procedure
31	Signatures of Parties
Appendix A	Exhumation and Vault Transfer Conditions

## 2. DEFINITIONS

Agreement means the Independent Cemetery Trust Enterprise Agreement 2008

Employer means Independent Cemetery Trust

Employee means an employee appointed to one of the Classification Levels provided in Clause 8 of this Agreement.

Union means the Funeral and Allied Industries Union of New South Wales

## 3. PARTIES TO THE AGREEMENT

This Agreement is made between the Independent Cemetery Trust (the Employer) and the Funeral and Allied Industries Union of New South Wales (the Union)

## 4. NOMINAL TERM OF THE AGREEMENT

This Agreement shall commence operation on the date that is approved by the New South Wales Industrial Relations Commission and apply for a nominal term of three years from the commencement date.

## 5. RELATIONSHIP TO AWARDS AND OTHER AGREEMENTS

The terms of this Agreement prevail over the terms of any Award, with the exception of the Training Wage (State) Award 2002, that deal with the same matters. This Agreement applies to the exclusion of any other agreement which may otherwise apply to employees covered by this Agreement.

## 6. TERMS OF EMPLOYMENT

### 6.1 Probation

All employees shall be subject to a probation period of 3 months from the commencement of employment, during which the employee or the employer may terminate employment by one week's notice or payment in lieu of such notice.

### 6.2 Part Time Employees

6.2.1 An employee may be engaged on a part time basis. A part time employee shall mean a weekly employee engaged to work regular days and regular hours, either of which are less than the number of days or hours worked by a full time employee.

6.2.2 A part time employee is entitled to a minimum start per occasion of 3 continuous hours, except:

- (i) Where the employer and the employee concerned agree that there shall be a start of 2 continuous hours on 2 or more days per week, provided that:

1. A 2 hour start is sought by the employee to accommodate the employee's personal circumstances, which must be specified, or
2. The place of work is within a distance of 5 kilometres of the employee's place of residence

6.2.3 A part time employee may work up to 38 hours per week without the payment of overtime.

6.2.4 A part time employee will be paid per hour 1/38 of the weekly rate of pay prescribed for a full time employee of the same classification.

6.2.5 Any hours worked by a part time employee outside the ordinary hours of work as set out in Clause 7, or in addition to the 38 hours per week shall be paid at overtime rates.

6.2.6 Subject to this clause, all the provisions of this Agreement shall apply to a part time employee on a pro rata basis.

### 6.3 Casual Employees

A casual employee is one engaged and paid as such. Casual employees shall be paid at an hourly rate equal to the appropriate weekly rate divided by 38, plus 15 per cent, with a minimum payment of eight hours for work done on a Monday to Friday inclusive and four hours for work done on a Saturday.

### 6.4 Notice of Termination

All employment, other than casuals, shall be by the week and shall be terminated by the giving of the following notice or payment in lieu of notice provided that the employer may dismiss an employee at any time for serious misconduct and then shall be liable only for the payment of wages due to the time of dismissal:

Period of Continuous Service	Period of Notice
Less than 1 year	1 week
1 year and less than 3 years	2 weeks
3 years and less than 5 years	3 weeks
5 years and over	4 weeks

In addition to the notice above, employees over 45 years of age at the time of giving of the notice with not less than two years continuous service, shall be entitled to an additional week's notice.

## 7. HOURS OF WORK

7.1 The ordinary working hours of work shall be not more than on average 38 hours over a 20 day, four week cycle of eight hours each, Monday to Friday, inclusive, between the hours of 6.30 am and 6.00 pm, with 0.4 (2/5ths) of one hour each day worked accruing

as an entitlement to take one pre determined weekday off during the four week cycle as a rostered day off, paid for as though worked.

- 7.2 The employer and the employees may agree, on an individual or collective basis, to provide for the alteration of commencing time earlier than 6.30 am provided that the ordinary hours shall not exceed eight per day.
- 7.3 The commencing and finishing times of work shall be alterable by giving at least 1 day's notice to the employee(s) concerned or by mutual agreement between the employer and such employees.

## 8. MEAL BREAKS AND REST BREAKS

- 8.1 Employees shall be allowed a meal break of not less than thirty minutes. Meal times shall be flexible to suit the circumstances of the particular work requirement, provided that an employee shall not be required to work for more than 5 hours without a meal break.
- 8.2 A rest break of not more than fifteen (15) minutes shall be allowed between commencing time and the meal break. Such break is to be taken at or close to the immediate work location and at a time to suit the circumstances of the work in hand.

## 9. CLASSIFICATIONS LEVELS

9.1 Employees covered by this Agreement shall be appointed to one of the Classification Levels as set out in this Clause. The appointment of an employee to any of the Levels in Clause 9, other than where such appointment is subject to the probation period as provided in Clause 6.1, is subject to a trial period of three months. Where the employer considers that an employee has not meet the requirements of the appointed level during the trial period, the employee concerned shall revert to the position held immediately prior to the appointment.

9.2 The duties and responsibilities of each Level are as follows:

### 9.2.1 Level 1

A Level 1 position is one where the employee may have little or no relevant training or experience.

- (i) For a major part of the time performs duties involving application of standard procedures which require the use of limited discretion.
- (ii) Works under direct supervision, either individually or in a team environment, to a level of training held by the individual.
- (iii) Where appropriate undergoes training to enable the employee to progress to a suitable position at Level 2 upon attainment of the requisite skills.
- (iv) Without limiting the foregoing a Level 1 employee maybe required to perform the following indicative duties.

- (v) Undertake trimming edges, laying turf, pruning, mowing lawns, sowing, planting, weeding, spreading fertilizer, mulch, clearing shrubs/foilage, trimming hedges and using herbicides where necessary.
- (vi) Sweep and clean staff facilities, areas, gutters and drains.
- (vii) Uses and performs routine maintenance on hand tools and equipment. To fill out maintenance work sheet on equipment for ground manager.
- (viii) Performs garbage service/cleans machinery, equipment and facilities as instructed.
- (ix) Hold current drivers licence and maybe required to obtain learners permit to operate machinery.
- (x) General duties directed by ground manager.

### 9.2.2 Level 2

A Level 2 position is one where the employee;

- (i) Undertakes for a substantial part of the time routine or repetitive duties involving the applications of clearly prescribed standard procedures requiring the use of some discretion.
- (ii) Works under routine supervision, either individually or as a member of a team, to a level of training held by the individual.
- (iii) Without limiting the foregoing a Level 2 employee will be required to perform the following indicative duties in addition to a Level 1 employee.
- (iv) Operate grave equipment, which may include setting up canopies, boards, lowering devices and all preparation arrangements for burials and Exhumations.
- (v) Prepare new grave sites for turf and maintain grave areas.
- (vi) Demonstrate experience in landscaping, Cemetery maintenance or equivalent activities.

### 9.2.3 Level 3

A Level 3 position is one where the employee;

- (i) Undertakes duties which involve initiative and decision making to a level of training held by the individual.
- (ii) Without limiting the foregoing a Level 3 employee will be required to perform the following duties in addition to those duties performed at a lower level.
- (iii) Has responsibility for the quality of their work subject to routine supervision.
- (iv) Assists in the training of the employees at lower levels.
- (v) Able to identify a grave location for a burial or maintenance.

- (vi) Attend funeral services at prepared sites
- (vii) Undertake Vault transfers and prepare vaults for interments.
- (viii) Employees employed prior to 1999 will remain exempt from attending funeral services and transfers.
- (ix) Has an understanding of plant selection, planting, general landscape maintenance and pruning techniques and can carry out these tasks with minimal supervision.
- (x) May perform administrative tasks in relation to inventory control.
- (xi) Hold a current Certificate or be in training for a licence for machinery relevant to the position.
- (xii) Be able to inspect monuments and check specifications as per plans.

#### 9.2.4 Level 4

A Level 4 position is one where the employee;

- (i) Works under minimal supervision to a level of training held by the individual.
- (ii) Plans their own work and other work schedules as approved by the ground manager.
- (iii) Without limiting the foregoing a Level 4 employee may be required to perform the following duties in addition to those duties performed at a lower level.
- (iv) Able to identify a grave, crypt or vault location for sale, burial or ground maintenance.
- (v) Assists in the training and supervision employees at lower levels.
- (vi) Is competent in technical areas as required by management.
- (vii) Licensed for all machinery used on site and is competent operator or holds the equivalent in all aspects of stone masonry practices.
- (viii) Discuss and resolve in conjunction with ground manager any on site problem which may occur with the general public, contractors or funeral directors.

#### 9.2.5 Level 5

A Level 5 position is one where the employee;

- (i) Requires minimal instruction in the performance of their duties.
- (ii) Exercise substantial responsibility and initiative in judgement with a detailed knowledge of workplace procedures and of the employer's business.
- (iii) Is required to have undertaken and completed post secondary training provided by a credited training provider relevant to the duties required by the employer for this level.

- (iv) Without limiting the foregoing, a Level 5 employee will be required to perform the following indicative duties in addition to those duties performed at lower duties.
- (v) Supervision, training and co-ordination of staff, responsibility for their sufficient allocation and control.
- (vi) Supervision of staff for meal breaks
- (vii) Prepare and plan material requirements in conjunction with Grounds manager.
- (viii) Accountable to the Grounds manager to ensure that all staff is gainfully allocated to duties.
- (ix) Discuss and resolve in conjunction with the Grounds manager any on site problems that may occur with member of the public, contractors or funeral directors.
- (x) Ensure high standard of customer service.

## 10. RATES OF PAY

10.1 The rates of pay for weekly employees in the Classification Levels as set out in Clause 9 are as follows:

Classification Level	Weekly wage rate effective 1 May 2008 / % increase	Weekly wage rate effective 1 May 2009 / % increase	Weekly wage rate effective 1 Nov 2009 / % increase	Weekly wage rate effective 1 May 2010 / % increase	Weekly wage rate effective 1 Nov 2010 / % increase
Level 1	\$700.00 (new level)	\$728.00 (4% increase)	\$728.00 (no increase)	\$757.12 (4% increase)	\$757.12 (no increase)



Level 2	\$756.17 (4% increase)	\$771.29 (2% increase)	\$786.71 (2% increase)	\$802.44 (2% increase)	\$818.48 (2% increase)
Level 3	\$765.00 (new level)	\$780.30 (2% increase)	\$795.90 (2% increase)	\$811.82 (2% increase)	\$828.06 (2% increase)
Level 4	\$800.73 (6% increase)	\$820.74 (2.5% increase)	\$841.25 (2.5% increase)	\$862.28 (2.5% increase)	\$883.83 (2.5% increase)
Level 5	\$860.00 (new level)	\$881.50 (2.5% increase)	\$903.53 (2.5% increase)	\$926.11 (2.5% increase)	\$949.26 (2.5% increase)

10.2 Employees who had an entitlement to a service allowance at the date of commencement of this Agreement who are appointed to one of the above levels, shall be a paid a one off lump sum payment equivalent to the value of their service allowance over a twelve (12) month period.

10.3 Junior Rates

The minimum weekly rates of pay to be paid to juniors shall be the following percentages of the rate of pay for the appropriate classification as set out in clause 8 of this Agreement:

	Percentage %
16 years and under 17 years	50
17 years and under 18 years	60
18 years and under 19 years	70
19 years and under 20 years	90
20 years and over	100

The employer may not employ more than one junior employee for every three or fraction of full-time adult employees covered by the classifications under this clause.

## 11. ALLOWANCES

11.1 Exhumation Allowance

An employee engaged to exhume human remains from a grave filled with soil shall be paid an allowance of \$450.00 for each Exhumation performed in addition to his/her ordinary wage.

11.2 Vault and Crypt Allowance

An employee engaged to remove human remains from a Vault, Crypt or Tomb to another Vault, Crypt or Tomb shall be paid an allowance of \$90.00 for each transfer performed.

11.3 Leading Hand Allowance

Where the employer appoints an employee as a leading hand, such employee shall be paid an allowance of \$30.00 per week above his/her ordinary wage.

#### 11.4 First aid Allowance

An employee who has been trained to render first-aid and who is the current holder of appropriate first-aid qualifications, and has been appointed by the employer to perform first aid, shall be paid an allowance of \$14.00 per week.

#### 11.5 Tea Money

Employees required to work overtime for more than two hours after their ordinary ceasing time on any day, Monday to Friday inclusive, and who have not been so advised the day previously, shall be paid a meal allowance of \$10.15. Employees who are advised that they are required to work overtime and who are not so required to work shall be paid \$6.30 meal allowance.

#### 11.6 Travel Allowance

Employees shall be paid an allowance of \$18.60 for each day that they are required to travel to another Cemetery, other than their usual place of work, to carry out work.

## 12. PAYMENT OF WAGES

All wages shall be paid weekly or fortnightly at the employer's discretion and shall be paid by cash, cheque or electronic funds transfer into the employee's bank (or other recognised financial institution) account.

## 13. OVERTIME

13.1 Overtime shall be paid at the rate of time and one-half for the first two hours and double time thereafter for all work performed outside the commencing and ceasing times of the ordinary hours of labour or in excess of the ordinary daily hours of labour, or in excess of the weekly or fortnightly ordinary hours of labour as the case may be.

13.2 When required by the employer, employees shall perform work on Saturday and/or Sunday, where practicable in rotation, and shall work reasonable overtime when required.

13.3 In computing overtime, time worked shall be calculated to the nearest fifteen (15) minutes, five (5) minutes or less disregarded.

13.4 Time off in lieu of overtime may be taken by mutual agreement between the employer and employee. Such time off in lieu shall be calculated at the appropriate overtime rate payable for the overtime worked.

13.5 Time off in lieu may be taken in either of the following ways:

- (i) By the full overtime rate being accrued as time off in lieu.
- (ii) By overtime worked being paid at the employee's ordinary rate of pay with the penalty component of the overtime worked being taken as time off in lieu.

13.6 Any accumulated time in lieu shall be paid out on termination at the employee's appropriate rate of pay on the date of termination.

13.7 Accumulation of time in lieu shall be to a maximum 1 day per fortnight.

## 14. SATURDAY AND SUNDAY WORK

- 14.1 All time worked on Saturday shall be paid for at the rate of time and one-half for the first two hours and double time thereafter, in addition to the weekly rate; provided that there shall be a minimum of four hours' pay at the appropriate rate.
- 14.2 All time worked on Sunday commencing not earlier than 7.45 a.m. shall be paid for at double time and one-half with a minimum of four hours' pay at such rate.

## 15. HOLIDAYS

- 15.1 The following day or days observed as such shall be holidays: New Year's Day, Australia Day, Good Friday, Easter Monday, Easter Saturday, Anzac Day, Queen's Birthday, Eight Hour Day, Christmas Day, Boxing Day, together with any other days that hereafter may be proclaimed as public holidays for the State.
- 15.2 (a) All weekly employees shall be allowed the holidays specified herein and shall be deemed to have worked in the week in which such holiday falls the number of ordinary working hours that the employee would have worked had the day not been a holiday. An employee required to work on a holiday shall, where practicable, be so notified not later than his/her ceasing time on the previous working day.
- (b) An employee absent from work on a public holiday or public holidays shall only be paid for the number of ordinary working hours he/she would have worked provided that the employee works on the working day immediately preceding and the working day immediately succeeding a holiday or group of holidays.
- 15.3 For work done on any of the holidays, referred to in subclause (i) of this clause, double time and one-half shall be paid with a minimum payment for four hours' work.

## 16. ANNUAL LEAVE

See *Annual Holidays Act, 1944*.

## 17 ANNUAL LEAVE LOADING

- 17.1 Before an employee is given and takes his/her annual leave, the employer shall pay a loading at the rate of 17 ½ per cent of the appropriate ordinary weekly time rate of pay for the period of leave taken but shall not include any allowances, penalty rates, shift allowances, overtime or any other payments.
- 17.2 Where the employment of an employee is terminated by his/her employer, for a cause other than misconduct, and at the time of the termination the employee has not been given and has not taken the whole of an annual holiday to which he/she became entitled, he shall be paid a loading calculated in accordance with the above for the period not taken.
- 17.3 Except as provided by 17.2, no loading is payable on the termination of an employee's employment.

## 18. SICK LEAVE

- 18.1 An employee other than a Casual employee, who, after not less than two months' continuous service with the employer, is unable to attend for duty during his/her ordinary working hours by reason of personal illness or incapacity not due to his/her own serious and wilful misconduct, shall be entitled to be paid at ordinary times rates of pay for the time of such non-attendance up to a maximum of twelve days' pay in any year of service with the same employer, provided that he/she shall not be entitled to paid leave of absence for any period in respect of which he/she is entitled to workers' compensation.
- 18.2 The employee shall, as soon as reasonably practicable, and in any case within twenty-four hours of commencement of such absence, inform the employer of his/her inability to attend for duty, and, as far as possible, state the nature of the injury or illness and the estimated duration of the incapacity.
- 18.3 The employee shall furnish to the employer such evidence, as the employer may desire, that he/she was unable by reason of such illness or injury, to attend for duty on the day or days for which sick leave is claimed; provided that a doctor's certificate shall not be required for the first single day's absence in each sick leave year.

Notwithstanding the above, an employee may be required to produce a doctor's certificate for any absence occurring the working day before or the working day after a rostered day off.

Where an employee is absent from employment on the working day or part of the working day immediately preceding or immediately following:

- (a) A holiday as defined by Clause 15; or
  - (b) Before or after a period of annual leave during which a holiday or holidays occur as defined without reasonable excuse, the employer's consent, or such other evidence as the employer may require, the employee shall not be entitled to payment for such holiday or holidays.
- 18.4 On the payday following the first and subsequent Anniversaries of employment, employees shall be entitled to be paid an amount for good attendance. The payment is based on the amount of unused sick leave the employees would have been entitled to under this Clause less any sick days taken in the immediately preceding year, provided that the amount paid shall not exceed ten (10) days at any Anniversary. The attendance payment shall be based on an employee's ordinary weekly rate applicable at the Anniversary date. Except as provided in 18.4 no other payment of sick leave shall be made.
- 18.5 In any year where an employee has not redeemed (as in 18.4) or taken the whole of their sick leave entitlement, such untaken sick leave up to a maximum of two (2) days per year shall accumulate from year to year up to a maximum of eight (8) days.

## 19. PERSONAL CARER'S LEAVE

- 19.1 Use of Sick Leave

19.1.1 An employee, other than a casual employee, with responsibilities in relation to a class of person set out in subparagraph 19.1.3 (ii), who needs the employee's care and support, shall be entitled to use, in accordance with this subclause, any current or accrued sick leave entitlement, provided for in Clause 18 - Sick Leave, for absences to provide care and support, for such persons when they are ill or who require care due to an unexpected emergency. Such leave may be taken for part of a single day.

19.1.2 The employee shall, if required:

- (i) Establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person, or
- (ii) Establish by production of documentation acceptable to the employer or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee.

In normal circumstances, an employee must not take carer's leave under this subclause where another person has taken leave to care for the same person.

19.1.3 The entitlement to use sick leave in accordance with this subclause is subject to:

- (i) The employee being responsible for the care of the person concerned; and
- (ii) The person concerned being:
  - (a) A spouse of the employee; or
  - (b) A de facto spouse, who, in relation to a person, is a person of the opposite sex to the first mentioned person who lives with the first mentioned person as the husband or wife of that person on a bona fide domestic basis although not legally married to that person; or
  - (c) A child or an adult child (including an adopted child, a step child, a foster child or an ex nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the employee or spouse or de facto spouse of the employee; or
  - (d) a same sex partner who lives with the employee as the de facto partner of that employee on a bona fide domestic basis; or
  - (e) a relative of the employee who is a member of the same household, where for the purposes of this subparagraph:
    - 1. "Relative" means a person related by blood, marriage or affinity;
    - 2. "Affinity" means a relationship that one spouse has to blood relatives of the other; and

3. "Household" means a family group living in the same domestic dwelling.

19.1.4 An employee shall, wherever practicable, give the employer notice prior to the absence of the intention to take leave, the name of the person requiring care and that person's relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the employee to give prior notice of absence, the employee shall notify the employer by telephone of such absence at the first opportunity on the day of absence.

Note: In the unlikely event that more than 10 days sick leave in any year is to be used for caring purposes the employer and employee shall discuss appropriate arrangements which, as far as practicable, take account of the employer's and employee's requirements.

Where the parties are unable to reach agreement the disputes procedure at Clause 29 should be followed.

## 19.2 Unpaid Leave for Family Purpose

19.2.1 An employee may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care and support to a member of a class of person set out in 19.1.3 (ii) who is ill or who require care due to an unexpected emergency.

## 19.3 Annual Leave

19.3.1 An employee may elect with the consent of the employer to take annual leave not exceeding ten days in single day periods or part thereof, in any calendar year at a time or times agreed by the parties.

19.3.2 Access to annual leave, as prescribed above, shall be exclusive of any shutdown period provided for elsewhere under this Agreement.

19.3.3 An employee and employer may agree to defer payment of the annual leave loading in respect of single day absences, until at least five consecutive annual leave days are taken.

19.3.4 An employee may elect with the employers agreement to take annual leave at any time within a period of 24 months from the date at which it falls due.

## 19.4 Time Off in Lieu of Payment for Overtime

19.4.1 For the purpose only of providing care and support for a person in accordance with 19.1.3, and despite the provisions of 13, Overtime, the following provisions shall apply.

19.4.2 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 within 12 months of the said election.

19.4.3 Overtime taken as time off during ordinary time hours shall be taken at the ordinary time rate, that is an hour for each hour worked.

19.4.4 If, having elected to take time as leave in accordance with 19.4.2 of this subclause, the leave is not taken for whatever reason payment for time accrued at overtime rates shall be made at the expiry of the 12 month period or on termination.

19.4.5 Where no election is made in accordance with 19.4.2 the employee shall be paid overtime rates in accordance with the Agreement.

19.5 Make-Up Time

19.5.1 An employee may elect, with the consent of the employer, to work "make-up time", under which the employee takes time off ordinary hours, and works those hours at a later time, during the spread of ordinary hours provided in the Agreement at the ordinary rate of pay.

19.5.2 An employee on shift work may elect, with the consent of the employer, to work "make-up time" (under which the employee takes time off ordinary hours and works those hours at a later time), at the shift work rate which would have been applicable to the hours taken off.

19.6 Rostered Days Off

- 19.6.1 An employee may elect, with the consent of the employer, to take a rostered day off at any time.
- 19.6.2 An employee may elect, with the consent of the employer, to take rostered days off in part day amounts.
- 19.6.3 An employee may elect, with the consent of the employer, to accrue some or all rostered days off for the purpose of creating a bank to be drawn upon at a time mutually agreed between the employer and employee, or subject to reasonable notice by the employee or the employer.

19.7 Personal Carers Entitlement for Casual Employees

- 19.7.1 Subject to the evidentiary and notice requirements in 19.1.3 and 19.1.4, casual employees are entitled to not be available to attend work, or to leave work if they need to care for a person prescribed in Clause 19.1.3 who are sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child.
- 19.7.2 The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
- 19.7.3 An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.

## 20. BEREAVEMENT LEAVE

- 20.1 An employee, other than a casual employee, shall be entitled to a maximum of three days bereavement leave without deduction of pay on each occasion of the death of a person in Australia as prescribed in 20.3 for the purpose of making arrangements for and/or attending a funeral.
- 20.2 The employee must notify the employer as soon as practicable of the intention to take bereavement leave and will provide, to the satisfaction of the employer proof of death.
- 20.3 Bereavement leave shall be available to the employee in respect to the death of a person prescribed for the purposes of personal/carer's leave as set out in subparagraph 19.1.3 (ii), provided that, for the purpose of bereavement leave, the employee need not have been responsible for the care of the person concerned.
- 20.4 An employee shall not be entitled to bereavement leave under this clause during any period in respect of which the employee has been granted other leave.



- 20.5 Bereavement leave may be taken in conjunction with other leave available under subclauses 19.2, 19.3, 19.4, 19.5 and 19.6. In determining such a request, the employer will give consideration to the circumstances of the employee and the reasonable operational requirements of the business.
- 20.6 Bereavement Entitlements for Casual Employees
- (a) Subject to the evidentiary and notice requirements in 20.2, casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of a person prescribed in 19.1.3 (ii).
  - (b) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance
  - (c) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not engage a casual employee are otherwise not affected.

## 21. LONG SERVICE LEAVE

See *Long Service Leave Act, 1955*.

## 22. PARENTAL LEAVE

- 22.1 Refer to the *Industrial Relations Act 1996 (NSW)*. The following provisions shall also apply in addition to those set out in the *Industrial Relations Act 1996 (NSW)*
- 22.2 An employer must not fail to re-engage a regular casual employee (see section 53(2) of the Act) because:
- (a) the employee or employee's spouse is pregnant; or
  - (b) the employee is or has been immediately absent on parental leave.

The rights of an employer in relation to engagement and re-engagement of casual employees are not affected, other than in accordance with this clause.

### 22.3 Right to Request

22.3.1 An employee entitled to parental leave may request the employer to allow the employee:

- (i) To extend the period of simultaneous unpaid parental leave use up to a maximum of eight weeks;
- (ii) To extend the period of unpaid parental leave for a further continuous period of leave not exceeding 12 months;
- (iii) To return from a period of parental leave on a part-time basis until the child reaches school age;

To assist the employee in reconciling work and parental responsibilities.

22.3.2 The employer shall consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the employer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.

22.3.3 Employee's request and the employer's decision to be In writing

The employee's request and the employer's decision made under 22.3.1 and 22.3.2 must be recorded in writing.

22.3.4 Request to return to work part-time

Where an employee wishes to make a request under Clause 22.3.1 (iii) such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the employee is due to return to work from parental leave.

## 22.4 Communication During Parental Leave

22.4.1 Where an employee is on parental leave and a definite decision has been made to introduce significant change at the workplace, the employer shall take reasonable steps to:

- (i) Make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave; and
- (ii) Provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave.

22.4.2 The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.

22.4.3 The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with 22.4.2.

## 23. JURY SERVICE

23.1 When an employee is required to attend for jury service he/she shall notify the employer as soon as possible prior to the date upon which he/she is required to attend for jury service. The employee shall provide proof of his/her attendance, the duration of such attendance and the amount received in respect of such jury service including any amount received in respect of fares.

23.2 An employee required to attend for jury service during his/her ordinary working hours, Monday to Friday, shall be reimbursed by the employer an amount equal to the

difference between the amount paid in respect of his/her attendance for such jury service and the amount of wages he/she would have received in respect of his/her ordinary time as for eight hours per day he would have worked had he/she not been on jury service, together with the difference between the amount received and the actual expenditure for fares and travelling to and from the court.

- 23.3 When an employee who has been called to attend for jury service is discharged he/she shall return to his/her place of employment during working hours to complete the shift for the day. If the employee is able to return to work during his/her ordinary working hours but fails to so return then the employer will not be liable to make up the difference in wages and fares as provided for in subclause (ii) of this clause.

## 24. CLOTHING

### 24.1 Cemetery Provisions

All employees shall be entitled to the footwear and clothing prescribed hereunder:

- (i) Where graves are being dug in wet ground gum boots shall be supplied by the employer for the use of grave diggers.
- (ii) Employees working in wet weather shall be supplied by the employer with gum boots, waterproof coats and trousers and sou westers.
- (iii) An employee required to work in a cemetery in a capacity other than that of office worker shall be supplied with boots. Such employee shall be provided with suitable overalls or trousers.
- (iv) Employees shall take all reasonable care to guard against loss of clothing issued by the employer.
- (v) All unserviceable items of clothing, footwear or rain clothing issued under this clause shall be presented for inspection to the employer before a new issue is made.
- (vi) Employees required to use pneumatic picks upon request shall be provided with gloves.
- (vii) On termination of employment all employees shall return all items of clothing, boots, etc., issued by the employer to the employee, or make repayment of the proportionate value of the items not so returned.

### 24.2 Crematoria Provision

- (i) Employees shall be provided with suitable overalls or uniform and in addition, when required to work in periods of rain, shall be supplied with suitable waterproof clothing.
- (ii) An employee required to work in places where water is underfoot shall be provided with rubber knee-boots.
- (iii) Suitable gloves shall be provided to transformer hands and their assistants.
- (iv) An employee required to work in a crematorium in any capacity other than that of office worker, shall be supplied with boots.

## 25. REDUNDANCY

## 25.1 Application

25.1.1 This clause shall apply in respect of full-time and part-time employees.

25.1.2 This clause shall only apply to the employer where 15 or more employees are employed immediately prior to the termination of employment of employees.

25.1.3 Notwithstanding anything contained elsewhere in this clause, this clause shall not apply to employees with less than one year's continuous service and the general obligation on employers shall be no more than to give such employees an indication of the impending redundancy at the first reasonable opportunity, and to take such steps as may be reasonable to facilitate the obtaining by the employees of suitable alternative employment.

25.1.4 Notwithstanding anything contained elsewhere in this clause, this clause shall not apply where employment is terminated as a consequence of conduct that justifies instant dismissal, including malingering, inefficiency or neglect of duty, or in the case of casual employees, apprentices or employees engaged for a specific period of time or for a specified task or tasks or where employment is terminated due to the ordinary and customary turnover of labour.

## 25.2 Introduction of Change

### 25.2.1 Employer's duty to notify

- (i) 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 shall notify the employees who may be affected by the proposed changes and the union to which they belong.
- (ii) '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 the Agreement makes provision for alteration of any of the matters referred to herein, an alteration shall be deemed not to have significant effect.

### 25.2.2 Employer's duty to discuss change

- (i) The employer shall discuss with the employees affected and the union to which they belong, inter alia, the introduction of the changes referred to in 25.2.1 above, 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 shall give prompt consideration to matters raised by the employees and/or the union in relation to the changes.

- (ii) The discussion shall commence as early as practicable after a definite decision has been made by the employer to make the changes referred to in 25.2.1.
- (iii) For the purpose of such discussion, the employer shall provide to the employees concerned and the union to which they belong 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 any employer shall not be required to disclose confidential information the disclosure of which would adversely affect the employer.

### 25.3 Redundancy

#### 25.3.1 Discussions before terminations

- (i) Where an employer has made a definite decision that the employer no longer wishes the job the employee has been doing done by anyone and that decision may lead to the termination of employment, the employer shall hold discussions with the employees directly affected and with the union to which they belong.
- (ii) The discussions shall take place as soon as is practicable after the employer has made a definite decision which will invoke the provision of 25.2.1 and shall cover, inter alia, any reasons for the proposed terminatlons, measures to avoid or minimise the terminations and measures to mitigate any adverse effects of any termination on the employees concerned.
- (iii) For the purposes of the discussion the employer shall, as soon as practicable, provide to the employees concerned and the union to which they belong, all relevant information about the proposed terminations including the reasons for the proposed terminations, the number and categories of employees likely to be affected, and the number of workers normally employed and the period over which the terminations are likely to be carried out. Provided that any employer shall not be required to disclose confidential information the disclosure of which would adversely affect the employer.

### 25.4 Termination of Employment

#### 25.4.1 Notice for changes in production, programme, organisation or structure

This subclause sets out the notice provisions to be applied to terminations by the employer for reasons arising from "production", "programme", "organisation" or "structure" in accordance with 25.2.1.

- (i) In order to terminate the employment of an employee the employer shall give to the employee the following notice:

Period of Continuous Service	Period of Notice
<b>Less than 1 year</b>	1 week
1 year and less than 3 years	2 weeks
3 years and less than 5 years	3 weeks

5 years and over	4 weeks
------------------	---------

- (ii) In addition to the notice above, employees over 45 years of age at the time of the giving of the notice with not less than two years continuous service, shall be entitled to an additional week's notice.
- (iii) Payment in lieu of the notice above shall be made if the appropriate notice period is not given. Provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof.

#### 25.4.2 Notice for technological change

This subclause sets out the notice provisions to be applied to terminations by the employer for reasons arising from "technology" in accordance with 25.2.1:

- (i) In order to terminate the employment of an employee the employer shall give to the employee 3 months notice of termination.
- (ii) Payment in lieu of the notice above shall be made if the appropriate notice period is not given. Provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof.
- (iii) The period of notice required by this subclause to be given shall be deemed to be service with the employer for the purposes of the *Long Service Leave Act, 1955*, the *Annual Holidays Act, 1944*, or any Act amending or replacing either of these Acts.

#### 25.4.3 Time off during the notice period

- (i) During the period of notice of termination given by the employer, an employee shall be allowed up to one day's time off without loss of pay during each week of notice, to a maximum of five weeks, for the purposes of seeking other employment.
- (ii) 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 shall, at the request of the employer, be required to produce proof of attendance at an interview or the employee shall not receive payment for the time absent.

#### 25.4.4 Employee leaving during the notice period

If the employment of an employee is terminated (other than for misconduct) before the notice period expires, the employee shall be entitled to the same benefits and payments under this clause had the employee remained with the employer until the expiry of such notice. Provided that in such circumstances the employee shall not be entitled to payment in lieu of notice.

#### 25.4.5 Statement of employment

The employer shall, upon receipt of a request from an employee whose employment has been terminated, provide to the employee a written statement specifying the period of the employee's employment and the classification of or the type of work performed by the employee.

#### 25.4.6 Notice to Centrelink

Where a decision has been made to terminate employees, the employer shall notify Centrelink thereof as soon as possible giving relevant information including the number and categories of the employees likely to be affected and the period over which the terminations are intended to be carried out.

#### 25.4.7 Centrelink Employment Separation Certificate

The employer shall, upon receipt of a request from an employee whose employment has been terminated, provide to the employee an "Employment Separation Certificate" in the form required by the Centrelink.

#### 25.4.8 Transfer to lower paid duties

Where an employee is transferred to lower paid duties for reasons set out in 25.2.1, the employee shall be entitled to the same period of notice of transfer as the employee would have been entitled to if the employee's employment had been terminated, and the employer may at the employer's option make payment in lieu thereof of an amount equal to the difference between the former ordinary time rate of pay and the new ordinary time rates for the number of weeks of notice still owing.

### 25.5 Severance Pay

25.5.1 Where an employee is to be terminated pursuant to this clause, subject to further order of the Industrial Relations Commission, the employer shall pay the following severance pay in respect of a continuous period of service:

- (i) If an employee is under 45 years of age, the employer shall pay in accordance with the following scale:

Under 45 Years of Age	Years of Service Age Entitlement
Less than 1 year	Nil
1 year and less than 2 years	4 weeks
2 years and less than 3 years	7 weeks
3 years and less than 4 years	10 weeks
4 years and less than 5 years	12 weeks
5 years and less than 6 years	14 weeks
6 years and over	16 weeks

- (ii) Where an employee is 45 years old or over, the entitlement shall be in accordance with the following scale:

Years of Service	45 Years of Age and Over Entitlement
Less than 1 year	Nil
1 year and less than 2 years	5 weeks
2 years and less than 3 years	8.75 weeks
3 years and less than 4 years	12.5 weeks
4 years and less than 5 years	15 weeks

5 years and less than 6 years	17.5 weeks
6 years and over	20 weeks

- (iii) 'Weeks pay' means the all purpose rate of pay for the employee concerned at the date of termination.

#### 25.5.2 Incapacity to pay

Subject to an application by the employer and further order of the Industrial Relations Commission, an employer may pay a lesser amount (or no amount) of severance pay than that contained in 25.5.1.

The Industrial Relations Commission shall have regard to such financial and other resources of the employer concerned as the Industrial Relations Commission thinks relevant, and the probable effect paying the amount of severance pay in 25.5.1 above will have on the employer.

#### 25.5.3 Alternative employment

Subject to an application by the employer and further order of the Industrial Relations Commission, an employer may pay a lesser amount (or no amount) of severance pay than that contained in paragraph 25.5.1 above if the employer obtains acceptable alternative employment for an employee.

## 26. TRAINEESHIPS

As to traineeships for persons covered by this Agreement, see the Training Wage (State) Award 2002, published 26 September 2003 (341 I.G. 569) or any other successor thereto.

## 27. SUPERANNUATION

### 27.1 Superannuation Legislation

The subject of superannuation is dealt with extensively by federal legislation including the *Superannuation Guarantee (Administration) Act 1992*, the *Superannuation Guarantee Charge Act 1992*, the *Superannuation Industry (Supervision) Act 1993*, the *Superannuation (Resolution of Complaints) Act 1993* and s124 of the *Industrial Relations Act 1996* (NSW). This legislation, as varied from time to time, governs the superannuation rights and obligations of the parties.

### 27.2 Subject to the requirements of this legislation, superannuation contributions may be made to:

- (i) ARF (Australia Retirement Fund);
- (ii) ASSET (Australian Superannuation Savings Employment Trust); or
- (iii) Such other funds that comply with the requirements of this legislation.



## 28. ANTI-DISCRIMINATION

- (i) It is the intention of the parties to this Agreement to seek to achieve the object in section 3f of the *Industrial Relations Act 1996* (NSW) to prevent and eliminate discrimination in the workplace on the grounds of race, sex, marital status, disability, homosexuality, transgender identity, age and responsibilities as a carer.
- (ii) 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.
- (iii) Under the *Anti-Discrimination Act, 1977* (NSW) 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.
- (iv) Nothing in this clause is to be taken to affect:
  - (a) Any conduct or act which is specifically exempted from anti-discrimination legislation.
  - (b) Offering or providing junior rates of pay to persons under 21 years of age.
  - (c) Any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977* (NSW)
  - (d) A party to this Agreement from pursuing matters of unlawful discrimination in any state or federal jurisdiction.
- (v) This clause does not create legal rights or obligations in addition to those imposed upon the parties by the legislation referred to in this clause.

### NOTES

- (a) The employer 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 other act or practice 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.”

## 29. NO EXTRA CLAIMS

It is a term of this Agreement that there shall be no further claims during the nominal term of this Agreement.

## 30. DISPUTE AVOIDANCE AND GRIEVANCE PROCEDURE

The procedure for the resolution of grievances and industrial disputation concerning matters arising under this Agreement shall be in accordance with the following steps.

- (i) Procedure relating to grievance of an individual employee:
  - (a) The employee shall notify (in writing or otherwise) the employer as to the substance of the grievance, request a meeting with the employer for bilateral discussions and state the remedy sought.
  - (b) The grievance must initially be dealt with as close to its source as possible, with graduated steps for further discussion and resolution at higher levels of authority.
  - (c) Reasonable time limits must be allowed for discussion at each level of authority.
  - (d) At the conclusion of the discussion, the employer must provide a response to the employees' grievance, if the matter has not been resolved, including reasons for not implementing any proposed remedy.
  - (e) While a procedure is being followed, normal work must continue.
  - (f) The employer may be represented by an Industrial Organisation of Employers and the employee may be represented by an Industrial Organisation of Employees for the purpose of each procedure.
- (ii) Procedure for a dispute between an employer and the employees:
  - (a) A question, dispute or difficulty must initially be dealt with as close to its source as possible, with graduated steps for further discussion and resolution at higher levels of authority.
  - (b) Reasonable time levels must be allowed for discussion at each level of authority.
  - (c) While a procedure is being followed, normal work must continue.
  - (d) The employer may be represented by an Industrial Organisation of Employers and the employee may be represented by an Industrial Organisation of Employees for the purpose of each procedure.

### 31 SIGNATURES OF PARTIES

Signed for and on behalf of }  
the Independent Cemetery Trust }  
by its authorised representative }



...ALAN ROBERT BROWN  
(Full Name of Signatory - please print)

..... C. E. O. ....  
(Capacity)

..... 4<sup>TH</sup> JUNE 2008. ....  
(Date)

Signed for and on behalf of }  
the Funeral and Allied Industries Union }  
of New South Wales }



..... AIDEN MYE  
(Full Name of Signatory - please print)

..... SECRETARY  
(Capacity)

..... 4<sup>TH</sup> JUNE 08.  
(Date)

## Appendix A Exhumation and Vault Transfer Conditions

The following conditions apply to Exhumations and Vault Transfers:

1. Voluntary basis only;
2. Employees to be in a general state of good health;
3. Employees to be inoculated (eg Anti-Tetanus and Hepatitis B but not limited to);
4. Employees to strictly observe any Department of Health Guidelines (Plan of Management)
5. Counselling to be available to all employees;
6. Not less than four (4) employees to be engaged on any Exhumation where the remains have been buried for a period of fifteen (15) days and less than seven (7) years;
7. Not less than three (3) employees to be engaged on any other Exhumation;
8. For the Exhumation of infants and children the following applies where the child is under five (5) years of age, irrespective of the time buried – two (2) employees to be engaged only;
9. All employees engaged on an Exhumation are to participate fully in the removal of the human remains from the grave, including entering the grave on a rotating basis
10. Employees carrying out Exhumations must place all human remains into a body bag before handing those remains to the Funeral Director
11. Where a Funeral Director is carrying out a Vault Transfer only one (1) Cemetery employee shall be required;
12. Where a Vault Transfer is carried out by Cemetery employees the following applies:
  - i. Where human remains are encased in a Lead Liner – not less than six (6) employees shall be required;
  - ii. Where human remains are encased in a Zinc Liner – not less than four (4) employees shall be required;
13. Cemetery employees are permitted to carry out their own Exhumations and Vault Transfers within their own Cemetery grounds;
14. Where a Vault Transfer requires repair work to be carried out, a Funeral Director shall be engaged to carry out such work.