



MISCELLANEOUS WORKERS KINDERGARTENS AND CHILDCARE CENTRES (STATE) TRAINING WAGE AWARD

Level 3, 222 Pitt Street Sydney NSW 2000

PO Box A2178 Sydney South NSW 1235

Telephone: 02 8267 4365

Fax: 02 8267 4225



PART A

1. CONTENTS

| SECTION | TITLE |
|---------|------------------------------|
| 1 | Title |
| 2 | Application |
| 3 | Objective |
| 4 | Definitions |
| 5 | Training Conditions |
| 6 | Employment Conditions |
| 7 | Co-operation |
| 8 | Wages |
| 9 | Grievance Procedures |
| 10 | Area, Incidence and Duration |

Level 3, 222 Pitt Street Sydney NSW 2000

PO Box A2178 Sydney South NSW 1235

Telephone: 02 8267 4365

Fax: 02 8267 4225



1. TITLE

This award shall be known as the Miscellaneous Workers' Kindergartens and Child Care Centres (State) Training Wage Award.

2. APPLICATION

(a) Subject to subclause (c), this award shall apply to persons who are undertaking a traineeship (as defined) and is to be read in conjunction with the Miscellaneous Workers' - Kindergartens and Child Care Centres, &c. (State) Award, as varied.

(b) Notwithstanding (a), this award shall apply provisionally for an interim period:

(i) Starting upon the commencement date as recorded on a valid "Application to Establish a Traineeship" signed by both the employer and the Trainee, which has been lodged with the Relevant NSW Training Authority; and

(ii) Ending upon the expiry of one calendar month period immediately following the employer's receipt of the Indenture Papers from the Relevant NSW Training Authority.

In any case, the duration for which this award may provisionally apply shall be no longer than two calendar months, or such longer period as may be required to accommodate a delay in processing the "Application to Establish a Traineeship" which is beyond the control of the employer.

(c) The terms and conditions of the parent award shall apply, except where inconsistent with this award.

(d) Notwithstanding the foregoing, this award shall not apply to employees who were employed by an employer under an award referred to in subclause (a) of this clause prior to the date of approval of a traineeship relevant to the employer, except where agreed upon between the employer and the union.

(e) This award does not apply to the apprenticeship system or any training

Level 3, 222 Pitt Street Sydney NSW 2000

PO Box A2178 Sydney South NSW 1235

Telephone: 02 8267 4365

Fax: 02 8267 4225



program, which applies to the same occupation and achieves essentially the same training outcome as an existing apprenticeship in an award as at 27 April 1998 or in an award that binds the employer.

Level 3, 222 Pitt Street Sydney NSW 2000

PO Box A2178 Sydney South NSW 1235

Telephone: 02 8267 4365

Fax: 02 8267 4225



(f) At the conclusion of the traineeship, this award shall cease to apply to the employment of the trainee and the Parent Award shall apply to the former trainee.

3. OBJECTIVE

The objective of this award is to assist with the establishment of a system of Traineeships which provides approved training in conjunction with employment in order to enhance the skill levels and future employment prospects of Trainees, particularly young people, and the long-term unemployed. The system is neither designed nor intended for those who are already trained and job ready. Nothing in this award shall be taken to replace the prescription of training requirements in the Parent Award.

A further objective of this award is to ensure training and the maintenance of job security in the industry generally.

4. DEFINITIONS

"Structured Training" means that training which is specified in the Training Plan, which is part of the Training Agreement registered with the relevant NSW Training Authority. It includes training undertaken both on or off the job in a Traineeship scheme and involves formal instruction, both theoretical and practical, and supervised practice. The training reflects the requirements of a Traineeship approved by the relevant NSW Training Authority and leads to a qualification set out in clause 5(f).

"Parent Award" means the Miscellaneous Workers' Kindergartens and Child Care Centres, &c. (State) Award.

"Relevant Union" means the Australian Liquor, Hospitality and Miscellaneous Workers Union, New South Wales Branch.

"Trainee" is an individual who is a signatory to a training agreement registered with the relevant NSW Training Authority and is involved in paid work and structured training, which may be on or off the job.

Level 3, 222 Pitt Street Sydney NSW 2000

PO Box A2178 Sydney South NSW 1235

Telephone: 02 8267 4365

Fax: 02 8267 4225



"Traineeship" means a system of training, which has been approved by the relevant NSW Training Authority.

"Training Contract" means a contract entered into for the purpose of establishing a traineeship under the Apprenticeship & traineeship ACT 2001

"Training Plan" means a programme of training which forms part of a Training Agreement registered with the relevant NSW Training Authority.

"Relevant NSW Training Authority" means the Department of Education and Training, or successor organization.

"Year 10" for the purposes of this award any person leaving school before completing Year 10 shall be deemed to have completed Year 10.

5. TRAINING CONDITIONS

(a) The Trainee shall attend an approved training course or training programme prescribed in the Training Agreement or as notified to the trainee by the Relevant NSW Training Authority in an accredited and relevant Traineeship.

(b) A Traineeship shall not commence until the relevant Training Agreement, has been signed by the employer and the trainee and lodged for registration with the relevant NSW Training Authority.

(c) The employer shall ensure that the Trainee is permitted to attend the training course or programme provided for in the Training Agreement and shall ensure that the Trainee receives the appropriate on-the-job training.

(d) The employer shall provide supervision of the Trainee by a designated qualified member of staff (the workplace supervisor), who is required to have an early childhood qualification of Diploma of Social Science (Child Studies) or equivalent or higher. The workplace supervisor shall be provided with appropriate non-contact time during working hours each week to allow the workplace supervisor to undertake evaluation of the Trainee and to do record keeping. The role of the workplace supervisor is to supervise the conduct of the Trainee in the workplace, to coach the Trainee

Level 3, 222 Pitt Street Sydney NSW 2000

PO Box A2178 Sydney South NSW 1235

Telephone: 02 8267 4365

Fax: 02 8267 4225



so that they maximise their learning opportunities and assist in assessing the Trainees skills.

(e) The employer agrees that the overall training programme will be monitored by officers of the relevant NSW Training Authority and training records or workbooks may be utilised as part of this monitoring process.

(f) Training shall be directed at:

(i) The achievement of key competencies required for successful participation in an industry or enterprise (where there are endorsed national standards these will define these competencies) as are proposed to be included in an Australian Qualification Framework Certificate Level 3 or above.

This could be achieved through foundation competencies which are part of endorsed competencies for an industry or enterprise; and/or

(ii) The achievement of key competencies required for successful participation in an industry or enterprise (where there are endorsed national standards, these will define these competencies), as are proposed to be included in an Australian Qualification Framework Certificate Level 3 or above.

6. EMPLOYMENT CONDITIONS

(a) A Trainee shall be engaged as a full-time employee for a maximum of one year's duration.

By agreement in writing, and with the consent of the relevant NSW Training Authority, the relevant employer and the Trainee may vary the duration of the Traineeship and the extent of approved training, provided that any agreement to vary is in accordance with the relevant Traineeship.

(b) A Trainee shall be subject to a satisfactory probation period of up to one month, which may be reduced at the discretion of the employer.

Level 3, 222 Pitt Street Sydney NSW 2000

PO Box A2178 Sydney South NSW 1235

Telephone: 02 8267 4365

Fax: 02 8267 4225



(c) Where the Trainee completes the qualification in the Training Agreement, earlier than the time specified in the Training Agreement the traineeship may be concluded by mutual agreement.

(d) A traineeship shall not be terminated before its conclusion, except in accordance with the Industrial and Commercial Training Act 1989.

NOTATION: s57(1) of the Industrial and Commercial Training Act 1989 provides that a traineeship may be cancelled by consent of the employer and of the Trainee.

An employer who chooses not to continue the employment of a trainee upon the completion of the traineeship shall notify, in writing, the relevant NSW Training Authority of their decision.

(e) The Trainee will be permitted to be absent from work without loss of continuity of employment and/or wages to attend approved training in accordance with the Training Agreement.

(f) Where the employment of a Trainee by an employer is continued after the completion of the Traineeship period, such Traineeship period shall be counted as service for the purposes of any Parent Award or any other legislative entitlements.

(g) (i) The Traineeship Agreement may restrict the circumstances under which the trainee may work overtime and shift work in order to ensure the training programme is successfully completed.

(ii) No Trainee shall work overtime or shift work on their own unless consistent with the provisions of the Parent Award.

(iii) No Trainee shall work shift work unless the relevant parties to this Award agree that such shift work makes satisfactory provision for approved training. Such training may be applied over a cycle in excess of a week, but must average over the relevant period no less than the amount of training required for non-shift work Trainees.

(iv) The Trainee wage shall be the basis for the calculation of overtime and/or shift penalty rate prescribed by the Parent Award.

Level 3, 222 Pitt Street Sydney NSW 2000

PO Box A2178 Sydney South NSW 1235

Telephone: 02 8267 4365

Fax: 02 8267 4225



- (h) All other terms and conditions of the Parent Award(s) that are applicable to the Trainee, or would be applicable to the Trainee but for this award, shall apply unless specifically varied by this award.
- (i) A Trainee who fails to either complete the Traineeship or who cannot for any reason be placed in full-time employment with the employer on successful completion of the Traineeship shall not be entitled to any severance payments.
- (j) The maximum number of approved Trainees in any centre will be based on the registered number of childcare places as shown below:
- centres up to 25 places - 1 trainee;
centres up to 26-44 places - up to 2 trainees;
centres up to 45-60 places - up to 3 trainees;
centres up to 60 places - up to 4 trainees.
- (k) **NOTATION:** The right of entry provisions contained in the parent award or the Industrial Relations Act 1996 shall apply to the parties bound by this award.

7. CO-OPERATION

- (a) The parties recognise the role of the Union in working with the children's services industry to develop the Traineeship award.
- (b) The opportunity must be provided for open communication between the trainee, training provider and employer.

Level 3, 222 Pitt Street Sydney NSW 2000

PO Box A2178 Sydney South NSW 1235

Telephone: 02 8267 4365

Fax: 02 8267 4225



8. WAGES

(a) The weekly wages payable to full time Trainees are as provided in Table 1 - Industry/Skill Level B, of Part B, Monetary Rates.

(b) These wage rates will only apply to Trainees while they are undertaking an approved Traineeship, which includes approved training as defined in this award.

(c) The wage rates prescribed by this clause do not apply to complete trade level training, which is covered by the apprenticeship system.

(d) The rates of pay in this award have been adjusted to include the adjustments payable under the State Wage Case 2005. These adjustments may be offset against:

(i) any equivalent overaward payments; and/or

(ii) award wage increases since 29 May 1991 other than safety net, State Wage Case, and minimum rates adjustments.

(e) Appendix A sets out the skill level of a traineeship. The industry/skill levels contained in Appendix A are, illustrative of the appropriate levels but are not determinative of the actual skill levels (i.e. skill levels A, B or C) that may be contained in a traineeship scheme. The determination of the appropriate skill level for the purpose of determining the appropriate wage rate shall be based on the following criteria:

(i) any agreement of the parties or submission by the parties;

(ii) the nature of the industry;

(iii) the total training plan;

(iv) recognition that training can be undertaken in stages;

Level 3, 222 Pitt Street Sydney NSW 2000

PO Box A2178 Sydney South NSW 1235

Telephone: 02 8267 4365

Fax: 02 8267 4225



- (v) the exit skill level in the parent award contemplated by the Traineeship.

In the event that the parties disagree with such determination, it shall be open to any party to the award to seek to have the matters in dispute determined by the Industrial Relations Commission of New South Wales.

9. GRIEVANCE PROCEDURE

(a) Procedures relating to grievances of individual trainees:

- (i) a trainee shall notify the employer as to the substance of any grievance and request a meeting with the employer for bilateral discussions in order to settle the grievance.
- (ii) If no remedy to the trainee's grievance is found, then the trainee shall seek further discussions with the employer, the employer's industrial representative and the Union delegate (if any) or contact and attempt to resolve the grievance at a higher level of authority, where appropriate.
- (iii) Reasonable time limits must be allowed for discussions at each level of authority.
- (iv) at the conclusion of the discussions, the employer must provide a response to the trainee's grievance, if the matter has not been resolved, including reasons for not implementing any proposed remedy. At this stage an employer or a trainee may involve an industrial organization of employers or employees of which he/she is a member.
- (v) If no resolution of the trainee's grievance can be found, then:
 - (i) if the dispute relates to issues of training then the matter may be referred to the NSW Commissioner for Vocational

Level 3, 222 Pitt Street Sydney NSW 2000

PO Box A2178 Sydney South NSW 1235

Telephone: 02 8267 4365

Fax: 02 8267 4225



Training in accordance with the Apprenticeship & traineeship ACT 2001; or

- (i) if the dispute relates to industrial issues then the matter may be referred to the Industrial Relations Commission of New South Wales by either the employer, an industrial organization of employers or a union representing the trainee.
 - (vi) While this grievance procedure is being followed, normal work shall continue.
- (b) Procedures relating to disputes, etc, between employers and their trainees:
- (i) A question, dispute or difficulty must initially be dealt with at the workplace level where the problem has arisen. If the problem cannot be resolved at this level, the matter shall be referred to a higher level of authority for discussion between the affected trainee(s), the Union delegate (if any) or contact and the employer. Both the employer's industrial representative and the employee's Union representative may be notified.
 - (ii) If no resolution can be found to the question, dispute or difficulty, the matter may be referred to the Industrial Relations Commission by any party to the dispute or the industrial organization representing any of the parties to the dispute.
 - (iii) Reasonable time limits must be allowed for discussion at each level of authority.
 - (iv) While a procedure is being followed, normal work must continue.

Level 3, 222 Pitt Street Sydney NSW 2000

PO Box A2178 Sydney South NSW 1235

Telephone: 02 8267 4365

Fax: 02 8267 4225



10. AREA, INCIDENCE AND DURATION

This award rescinds and replaces the Miscellaneous Workers NSW Child Care Traineeship (Interim) Award published 11 June 1999 (309 I.G. 744), and all variations thereof. The award published 11 June 1999 rescinded & replaced the award published on 23 August 1996

It shall apply to all persons of the classes herein provided for within the jurisdiction of the Kindergartens, &c. (State) Industrial Committee.

This award has been reviewed in accordance with section 19 of the Industrial Relations Act 1996.

Level 3, 222 Pitt Street Sydney NSW 2000

PO Box A2178 Sydney South NSW 1235

Telephone: 02 8267 4365

Fax: 02 8267 4225