



*Gladstone Power Station Agreement Act 1993*

# **Gladstone Power Station Agreement Regulation 2016**

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Queensland

# Gladstone Power Station Agreement Regulation 2016

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# Gladstone Power Station Agreement Regulation 2016

## Part 1 Preliminary

### 1 Short title

This regulation may be cited as the *Gladstone Power Station Agreement Regulation 2016*.

### 2 Commencement

This regulation commences on 1 September 2016.

### 3 Definitions

The dictionary in schedule 1 defines particular words used in this regulation.

## Part 2 Long service leave

### 4 Who is entitled to long service leave

- (1) An employee is entitled to long service leave if the employee completes—
  - (a) at least 10 years service; or
  - (b) at least 5 years service ending when the employee—
    - (i) dies; or
    - (ii) resigns on or after reaching 55 years; or
    - (iii) resigns before reaching 55 years because of ill-health.
- (2) However, an employee mentioned in subsection (1)(b)(iii) is entitled to long service leave only if the employee gives the

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company a certificate from a doctor agreed between the employee and the company that states the employee can not continue employment because of ill-health.

## **5 How long service leave is calculated**

An employee is entitled to long service leave calculated—

- (a) for a full-time employee—at the rate of 1.3 weeks on full pay for each year of service and a proportionate amount for an incomplete year of service; or
- (b) for a part-time or casual employee—at the rate mentioned in paragraph (a) in the proportion that the hours worked by the employee bears to the hours worked by a full-time employee.

## **6 Periods of absence without pay that count as service**

An employee's period of service does not include a period when the employee is absent without pay, other than—

- (a) a period during which the employee is receiving compensation under the *Workers' Compensation and Rehabilitation Act 2003* for an injury, within the meaning of that Act, sustained by the employee; or
- (b) a period of authorised leave of not more than 2 weeks; or
- (c) a period of leave that the company has approved as service for this part.

## **7 Taking long service leave**

- (1) An employee must apply for long service leave—
  - (a) in the form approved by the company; and
  - (b) at least 1 month before the leave is to be taken, unless the company agrees to accept a later application.

- (2) An employee may take long service leave only when it is mutually convenient to the company and the employee.

## **8 Minimum period of long service leave**

The minimum period of long service leave that an employee may take is 2 weeks.

## **9 Public holidays during long service leave**

An employee's long service leave must be credited for a public holiday that falls while the employee is on long service leave if the employee is usually scheduled to work on the day.

## **10 Illness during long service leave**

If an employee is granted sick leave of at least 1 week for an illness or injury that the employee suffers while on long service leave—

- (a) the employee's long service leave must be credited for the number of days of the sick leave; and
- (b) the period of long service leave actually taken is not subject to the minimum period requirement under section 8.

## **11 Rate of payment for long service leave**

- (1) The company must pay an employee for long service leave at—
- (a) for an employee who is a nominated relief shift worker—the highest of the following—
    - (i) 107.5% of the all purpose rate;
    - (ii) the all purpose rate plus the average percentage loading earned by the employee in the previous year;

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- (iii) if the employee has worked 26 or more weeks of continuous shift work immediately before the leave is taken—the Station standard continuous shift roster rate; or
  - (b) for an employee who is a noncontinuous shift worker—the higher of the following—
    - (i) 107.5% of the all purpose rate;
    - (ii) the all purpose rate plus the average percentage loading earned by the employee in the previous year; or
  - (c) for an employee who is a continuous shift worker—the projected roster rate; or
  - (d) for any other employee—the all purpose rate.
- (2) In this section—

*projected roster rate* means the all purpose rate plus the Station standard loading.

*Station standard continuous shift roster* means the roster mentioned in section 6.12.2 of the award.

*Station standard loading* means the average of all shift and weekend penalties (other than overtime) earned from the Station standard continuous shift roster.

## 12 Payment instead of long service leave not taken

- (1) This section applies if—
  - (a) an employee’s contract of employment with the company ends; or
  - (b) an employee dies.
- (2) The company must pay the employee or the deceased employee’s personal representative for the long service leave that the employee is entitled to.
- (3) Payment must be made at the all purpose rate.



- (4) The company must pay the employee for any long service leave that would have accrued had the employee taken the long service leave.

## **Part 3 Redundancy and retrenchment**

### **Division 1 Preliminary**

#### **13 When a role becomes redundant**

A role becomes redundant when the company decides its need for the role has diminished or ceased.

#### **14 Employees who are not entitled to benefits**

An employee who is retrenched because of a redundancy is not entitled to benefits under this part if—

- (a) section 18(2) applies to the employee; or
- (b) the employee—
  - (i) dies or suffers a permanent injury or illness making the employee incapable of continuing employment with the company; or
  - (ii) is engaged in a casual capacity or for a specific task; or
  - (iii) has less than 1 year of service; or
  - (iv) terminates employment during the period of notice given under section 22 without the company's prior approval, unless the approval is unreasonably withheld.

## **Division 2                    Redundancy and retrenchment     procedures**

### **15        Redundancy notice**

If the company decides a role is redundant it must promptly notify the employees in the role and their representatives of—

- (a) the reasons for the role becoming redundant; and
- (b) the location and description of the redundant role; and
- (c) the number of employees to be affected by the redundancy.

### **16        Consultation after redundancy notice**

Promptly after the redundancy notice is given, the company must consult with the employees and their representatives about the implementation of this part.

### **17        Centrelink must be notified of redundancies**

- (1) After consulting with the employees and their representatives, the company must notify Centrelink in accordance with the *Fair Work Act 2009* (Cwlth), section 530 of the number and details of employees who will be affected by the redundancy.

- (2) In this section—

***Centrelink*** means the Department of State of the Commonwealth that is administered by the Minister administering the *Human Services (Centrelink) Act 1997* (Cwlth).

### **18        Consideration of employee's competencies for another role**

- (1) Promptly after the redundancy notice is given, the company and each employee in the redundant role must together

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consider the employee's competencies in the role to decide if—

- (a) the employee can perform work in a vacant role; or
  - (b) the employee, with reasonable retraining, could perform work in another role.
- (2) An employee is not entitled to benefits under this part if the employee—
- (a) agrees to perform another role; or
  - (b) unreasonably refuses to agree to perform another role.
- (3) Subsection (2) does not apply to an employee if within 3 months of performing the other role the employee or company finds the other role to be unsatisfactory for the employee's competencies.

## **19 Rate of pay for other role**

- (1) If an employee who has been given a redundancy notice agrees with the company to perform another role for which a rate of pay lower than the rate paid for the redundant role is paid, the company must pay the employee the rate for the redundant role.
- (2) Payment at the rate for the redundant role must be made until the earlier of the following events happens—
- (a) the end of 2 years from the employee starting work in the other role;
  - (b) the all purpose rate of pay for the other role becomes more than the rate for the redundant role.

## **20 Time off to seek other employment**

- (1) An employee who has been given a redundancy notice must be given an appropriate amount of leave at full pay to seek other employment.
- (2) The leave is subject to the company's normal approval procedures.

## **21 Nomination and selection for retrenchment**

- (1) An employee who can demonstrate the necessary competencies to perform the redundant role may nominate to be considered for retrenchment.
- (2) If more than 1 employee nominates for retrenchment—
  - (a) the company must select the employee to be retrenched on the basis of demonstrated core competencies, assessed performance, demonstrated commitment to the company and equity; and
  - (b) all employees who operate boiler and turbine units are taken—
    - (i) to be the same classification; and
    - (ii) to have the same demonstrated core competencies for paragraph (a).

## **22 6 months notice of retrenchment must be given**

The company must give an employee who is to be retrenched at least 6 months written notice (a *retrenchment notice*) of the day the employee is to be retrenched.

## **23 Application for early separation**

- (1) An employee who has been given a retrenchment notice must apply to the company within 14 days after receiving the notice if the employee wants—
  - (a) to terminate employment before the retrenchment day mentioned in the retrenchment notice; and
  - (b) to be considered for an early separation incentive payment under section 26.
- (2) If the company approves the early separation for the employee—
  - (a) the company must give the employee written notice of the approval; and

- (b) the employee's employment ends 14 days after the notice mentioned in paragraph (a).

## **24 Statement of employee's service**

The company must give an employee who is to be retrenched a notice stating the employee's—

- (a) name; and
- (b) period of employment; and
- (c) latest role; and
- (d) reason for termination; and
- (e) demonstrated competencies.

## **25 Notice, after retrenchment, of appropriate vacancies**

The company must notify an employee who has been retrenched of any appropriate vacancies with the company for 2 years after the retrenchment.

# **Division 3                      Payments and other benefits for retrenched employees**

## **26 Early separation incentive payment**

- (1) If the company approves an employee's early separation, the company must pay the employee an early separation incentive payment.
- (2) The early separation incentive payment is 13 weeks' pay at the all purpose rate.
- (3) The early separation incentive payment is additional to the retrenchment payment mentioned in section 28.

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## 27 Retrenchment of shift worker

If an employee who is a shift worker is to be retrenched—

- (a) the employee must receive, until the retrenchment, at least the average loadings that applied to the roster the employee would have worked had the employee not been retrenched; and
- (b) other payments to the employee under this part must also be based on this principle.

## 28 Retrenchment payment

- (1) The company must pay an employee who has been retrenched an amount (a *retrenchment payment*) equal to the all purpose rate of pay for the number of total weeks according to the years of service completed by the employee as set out in the following table—

### Scale of retrenchment payments

Completed years of service	Weeks per year of service	Total weeks
1	4	4
2	3	6
3	2 <sup>1</sup> / <sub>3</sub>	7
4	2	8
5	2	10
6	2	12
7	2	14
8	2	16
9	2	18
10	2	20
11	2	22

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**Scale of retrenchment payments**

<b>Completed years of service</b>	<b>Weeks per year of service</b>	<b>Total weeks</b>
12	2	24
13	2	26
14	2	28
15	2	30
16	2	32
17	2	34
18	2	36
19	2	38
20	2	40
21	2	42
22	2	44
23	2	46
24	2	48
25	2	50
26 or more	2	52

- (2) The retrenchment payment to an employee who has completed more than 2 years service must include a proportionate amount for an incomplete year of service.
- (3) The company must also pay the employee—
  - (a) an amount for long service leave of 1.3 weeks for each year of service, and a proportionate amount for an incomplete year of service, less any long service leave taken; and

- (b) a superannuation benefit calculated under Gladstone Power Superannuation Plan contained in the Energy Super trust deed.
- (4) The company must give the employee an estimate of the total payment at least 14 days before the employment ends.
- (5) In this section—

*Energy Super trust deed* means the trust deed for the fund known as the Electricity Supply Industry Superannuation Fund (Qld) dated 16 June 1995, and as amended from time to time, between the Queensland Transmission and Supply Corporation, the Queensland Generation Corporation and Electricity Supply Industry Superannuation (Qld) Ltd.

## **29 Retraining expenses**

The company must reimburse a retrenched employee for the expenses of retraining the employee approved by the company and substantiated by the employee, up to an amount agreed between the company and the employee before the employment ends.

## **30 Relocation expenses**

- (1) If a retrenched employee must relocate to find suitable alternative employment, the company must reimburse the employee's reasonable relocation expenses.
- (2) The maximum payment is the amount that would relocate the employee to the nearest capital city.
- (3) Relocation expenses are only payable if a claim for expenses is made within 3 months of the employment with the company ending.



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## **Division 4                      Other provisions about redundancy and retrenchment**

### **31            Problem-solving processes**

- (1) If an employee considers a decision of the employee's immediate manager about the application of this part is unfair, the employee may appeal against the decision to the person the employee's immediate manager reports to.
- (2) Subsection (1) does not affect—
  - (a) the employee's right to take a proceeding about the employee's rights under this part in a court of competent jurisdiction; or
  - (b) the application of the problem-solving process outlined in the award.

### **32            Variation of procedures and benefits for redundancies and retrenchments**

This part does not prevent the company and its employees from agreeing to different procedures or benefits for redundancies and retrenchments.

## **Part 4                              Transitional provisions**

### **33            References to 2004 regulation taken to be references to this regulation**

- (1) In an instrument—
  - (a) a reference to the 2004 regulation may, if the context permits, be taken to be a reference to this regulation; and
  - (b) a reference to a provision of the 2004 regulation may, if the context permits, be taken to be a reference to the provision of this regulation dealing with the same subject matter as the provision of the 2004 regulation.

(2) In this section—

**2004 regulation** means the *Gladstone Power State Agreement Regulation 2004* as in force before the commencement.

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# Schedule 1      Dictionary

## section 3

*all purpose rate* has the meaning given in the award.

*award* means the Gladstone Power Station Award—State 2003 as in force at 27 March 2006.

*company* means NRG Gladstone Operating Services Pty Ltd ACN 061 519 275.

*date of transfer* has the meaning given in the State agreement.

*early separation*, for an employee, means termination of the employee's employment before the retrenchment day stated in a retrenchment notice given to the employee.

*employee* means an employee of the company at the Gladstone Power Station employed after the date of transfer on a full-time, part-time or casual basis under the *Industrial Relations Act 1999*.

*former QEC employee* means an employee who—

- (a) immediately before the date of transfer was employed by the Queensland Electricity Commission at the Gladstone Power Station; and
- (b) became an employee on the date of transfer because of the Power Station Sale Agreement.

*redundancy notice* means a notice given under section 15.

*representatives*, of employees, means the industrial organisations of employees who are bound by the award.

*retrenchment notice* see section 22.

*role* means work of a particular kind with the company at Gladstone Power Station.

*service*—

- (a) means the term of continuous service under the *Industrial Relations Act 1999* with the company; and

- (b) for a former QEC employee—includes the employee's term of continuous service from the day stated, under section 26(2)(b) of the Act, in the written certificate given to the employee under that section.