



Queensland

Gladstone Power Station Agreement Regulation 2004

Subordinate Legislation 2004 No. 172

made under the

Gladstone Power Station Agreement Act 1993

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Part 1 Preliminary

1 Short title

This regulation may be cited as the *Gladstone Power Station Agreement Regulation 2004*.

2 Commencement

This regulation commences on 1 September 2004.

3 Definitions

The dictionary in the schedule 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—
 - (a) the employee completes at least 10 years service; or
 - (b) the employee completes at least 5 years service ending when the employee—
 - (i) dies; or
 - (ii) resigns on or after reaching 55 years; or
 - (iii) subject to subsection (2), resigns before reaching 55 years because of ill-health.
- (2) An employee mentioned in subsection (1)(b)(iii) is entitled to long service leave only if the employee gives the company a certificate, from a doctor agreed between the employee and the company, stating that 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; and
- (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) when the employee receives 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 at a time 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;
 - (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.

12 Payment instead of long service leave not taken

- (1) If—
- (a) an employee's contract of employment with the company ends; or
 - (b) an employee dies;
- the company must pay the employee or the deceased employee's personal representative for the long service leave that the employee is entitled to.
- (2) Payment must be made at the all purpose rate.
- (3) 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 CES must be notified of redundancies

After consulting with the employees and their representatives, the company must notify the Commonwealth Employment Service of the number and details of employees who will be affected by the redundancy.

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 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.
- (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.

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	2	4
3	2	6
4	2	8
5	2	10
6	2	12
7	2	14
8	2	16
9	2	18
10	2	20
11	2	22
12	2	24
13	2	26
14	2	28
15	2	30
16	2	32
17	2	34
18	2	36
19	2	38

Scale of retrenchment payments

Completed years of service	Weeks per year of service	Total weeks
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 any 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 the trust deed of the Gladstone Power Station sub-fund of the Electricity Supply Industry Superannuation Fund (Qld).
- (4) The company must give the employee an estimate of the total payment at least 14 days before the employment ends.

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.

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 employee's manager once removed.
- (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 Repeal

33 Regulations repealed

The following regulations are repealed—

- Gladstone Power Station (Long Service Leave)
Regulation 1994 SL No. 114
- Gladstone Power Station (Redundancy)
Regulation 1994 SL No. 115.

Schedule Dictionary

section 3

all purpose rate has the meaning given in the award.

award means the Gladstone Power Station Award—State.

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.

early separation incentive payment see section 26.

employee means an employee of the company at the Gladstone Power Station after the date of transfer who is employed on a full-time, part-time or casual basis (within the meaning of 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 (within the meaning of the *Industrial Relations Act 1999*) with the company; and

Schedule (continued)

- (b) for a former QEC employee—includes the employee's term of continuous service from the day stated, under section 26(2)(b)¹ of the Act, in the written certificate given to the employee under that section.

Station standard continuous shift roster means the continuous shift roster mentioned in—

- (a) section 6.12.2 of the award as in force at 1 September 2004; or
- (b) if the section is renumbered in a later amendment of the award, the section as renumbered.

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

ENDNOTES

- 1 Made by the Governor in Council on 26 August 2004.
- 2 Notified in the gazette on 27 August 2004.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of Energy.

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1 Section 26 (Certificate of employees' rights at completion of sale of Gladstone Power Station) of the Act