

(1688)

SERIAL C1935

**TRANSPORT INDUSTRY - MAYNE LOGISTICS CONTRACT
DETERMINATION**

Schedule of Consolidated Award Published on 11.07.03 and Subsequent Variations Incorporated

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INTERIM CONTRACT DETERMINATION

Pending further order, the Industrial Relations Commission of New South Wales makes a Contract Determination in the following terms:

1. This Contract Determination shall be binding on Linfox, Mayne, and the TWU.
2. By no later than the close of business on Friday, 31 January 2003 Mayne shall provide all Contract Carriers with length of service within their contract or carriage with Mayne.
3. Following the completion of the step referred to in clause 2 of this contract determination Mayne and Linfox shall comply with the following procedure for Contract Carriers:
 - 3.1 Individual contract carriers, or their representative, shall contact the person(s) nominated by Linfox with any queries or disputes relating to the information.
 - 3.2 The relevant person(s) shall make enquiries of Mayne's payroll department.
 - 3.3 By 24 February 2003 Mayne shall provide each Contract Carrier with a correct statement of their length of service within their contract of carriage with Mayne as at the Transfer Date and forward a copy of this statement to Linfox with respect to each Transferring Contract Carrier.
 - 3.4 Linfox shall participate and fully cooperate in this process as the new principal contractor with respect to all Transferring Contract Carriers and shall provide a statement to each Transferring Contract Carrier either confirming that the information contained in the statement provided by Mayne in accordance with clause 3.3 of this Contract Determination is correct or, alternatively, that Linfox does not believe it is correct within 60 business days of Linfox receiving a copy of the statement from Mayne.
 - 3.5 In the event that Linfox transmits any part of the business it has acquired by reason of the Trade Sale to another entity during the term of this award Linfox provide each Contract Carrier with a correct statement of their length of service within their contract of carriage to each contract carrier whose contract of carriage is terminated as a result of such transmission to the Purchasing Entity. Such a statement shall be provided no later than the later of the date of transmission and the date referred to in clause 3.4.
 - 3.6 In the event that agreement as to the correctness of the information referred to in clause 2 of this Contract Determination cannot be reached the matter shall be referred to the Industrial Relations Commission of New South Wales for determination. Following determination by the Commission, Mayne and Linfox shall provide the relevant employee with a statement containing the information as at the transfer date within seven days.
4. Linfox shall offer to engage all Contract Carriers on the same terms and conditions upon which they were engaged by Mayne.
5. Linfox shall recognise all service related entitlements of Transferring Contract Carriers accrued with Mayne up to the Transfer Date (as determined pursuant to the process specified in clause 2 and 3 of this award).
6. Linfox shall, in respect of Transferring Contract Carriers, recognise the length of continuous service with Mayne (including continuous service with any entity which was purchased or acquired by Mayne, provided service with such entity is recognised by Mayne as continuous service with Mayne) for the purposes of all service related entitlements, and from the Transfer Date all such continuous service by Transferring Contract Carriers with Mayne prior to the Transfer Date shall cease to be regarded as service with Mayne and shall be deemed to be continuous service with Linfox for all purposes including calculating entitlements under an industrial instrument or industrial relations legislation.
7. In the event of Linfox terminating any of the Transferring Contract Carriers after the Transfer Date by reason of redundancy the length of service for the purpose of calculating the redundancy payment shall be the aggregate of the period of service recognised by Mayne at the Transfer Date pursuant to clause 6 of this contract

determination and the period of service that the employee has had with Linfox from the Transfer date until the date of termination, save that Linfox shall not be required to make redundancy payments in respect of any period of engagement with Mayne (or any entity which was purchased or acquired by Mayne) for which a redundancy payment has previously been paid by Mayne (or any entity which was purchased or acquired by Mayne).

8. Linfox shall consult with the Transferring Contract Carriers and the TWU should the need arise, after the Transfer Date, for a restructure of the contract logistics or Armaguard businesses. Such a restructure process shall not begin until after the Transfer Date.
9. Linfox and the TWU shall, in respect of each Transferring Contract Carrier, observe the terms and conditions of any Agreement, whether expired or not, applicable to the Transferring Contract Carrier immediately prior to the Transfer Date.
10. For the purposes of this Contract Determination the following definitions shall apply:

'Contract Carriers' shall mean contract carriers who work solely for Mayne and who are members of the TWU or eligible to be members of the TWU and to whom a Contract Determination or a Contract Agreement to which the TWU is a party applies are offered engagement by Linfox effective on and from the Transfer Date under the terms of the Trade Sale of Mayne's transport activities in New South Wales.

'Transferring Contract Carrier' shall mean each Contract Carrier who accepts the offer of engagement made by Linfox under the terms of the Trade Sale of Mayne's transport activities in New South Wales and commences the engagement with Linfox.

'Trade Sale' shall mean the purchase by Linfox of the contract logistics and Armaguard businesses of Mayne.

'Agreement' shall mean each contract agreement made under the *Industrial Relations Act 1996* which is binding on Mayne in respect of any Contract Carrier including any of those contract agreements specified in Annexure A which are binding on Mayne in respect of any Contract Carrier.

'Linfox' shall mean in respect of Contract Carriers in Mayne's contract logistics business, Linfox Australia Pty Ltd (ACN 47 004 718 647) and, in respect of Contract Carriers in Mayne's Armaguard business, Linfox Armaguard Pty Ltd (ACN 099 701 872).

'Purchasing Entity' means any entity to which Linfox transmits any part of the business it has acquired by reason of the Trade Sale during the term of this award.

'TWU' shall mean the Transport Workers Union of New South Wales.

'Mayne' shall mean Mayne Group Ltd (ACN 004 073 410) and all subsidiaries of Mayne Group Ltd which employ employees in Mayne's contract logistics and Armaguard businesses.

'Transfer Date' means 3 February 2003 or such later date as shall be agreed between Linfox and Mayne pursuant to the Trade Sale agreement.

11. All Contract Carriers who are offered engagement with Linfox under the terms of the Trade Sale and in accordance with this contract determination shall be deemed to have had suitable alternative engagements obtained for them by Mayne and shall not be entitled to be paid any severance pay as prescribed in any contract determination, contract agreement, or other order of the Commission or otherwise as a consequence of ceasing to be engaged by Mayne.
12. This Contract Determination shall operate from 31 January 2003 and will have a nominal term of 12 months and shall cease to apply at the end of that nominal term.

Annexure A

1. MPG Logistics Pty Ltd - TWU (NSW Branch) Heads of Agreement
2. Mayne Logistics Australia Paper - Shoalhaven Certified Agreement 1999
3. MPG Logistics (Arndell Park) Enterprise Agreement 2000 EA01/24.
4. MPG Logistics Pty Ltd - Huntingwood Site (Transport Workers) Enterprise Agreement 2000 EA01/25.
5. Mayne Logistics (NSW Linehaul) Enterprise Agreement 2000 EA01/181.
6. MPG Logistics Pty Ltd (Tricon), Wetherill Park Warehouse Enterprise Agreement 2000 EA01/23.
7. MPG Logistics (Granville - Metro CSOs) Enterprise Agreement 2000 EA01/142.
8. The Mayne Logistics, Howard Smith Group NSW (Blackwoods Smithfield & Bakers Blacktown) Stage 3 Enterprise Agreement, 1998 EA99/47.
9. Newcastle Agreement 2001 between Mayne Logistics Network and Transport Workers Union of Australia New South Wales Branch CA01/7.
10. Mayne Logistics Network (Sydney) Contract Agreement 2001 CA01/5.