

ENTERPRISE AGREEMENT

NO: E.A. 1 /1994

DATE REGISTERED: 4/1/94

PRICE: \$ 62.00

ENTERPRISE AGREEMENT

COAL DELIVERY FACILITY - ERARING POWER STATION

An Enterprise Agreement reached on 9 December 1992 between the Federated Ironworkers' Association of Australia (FIA) and Ulan Coal Mines Limited covering rates of pay and general conditions of employment of wages staff employed (excluding employees engaged on management or clerical duties). The parties to this Enterprise Agreement declare that the Agreement so reached was not entered into under duress.

A.1 Application

Employees engaged on operating and maintenance of the Coal Delivery Facility at Eraring Power Station, NSW.

A.2 Period of Operation

This Agreement will operate for a period of three (3) years on and from the date of registration.

A.3 No Extra Claims Commitment

It is a term of this Agreement that the union undertakes for the duration of the Agreement not to pursue any extra claims during its term of operation.

A.4 Intent

This Agreement shall only be varied in accordance with State Wage Case decisions or award variations where agreed pursuant to Section 122(1)(3) of the Industrial Arbitration Act 1991 and not otherwise.

The agreement shall regulate totally the terms and conditions of employment previously regulated by the Metal & Engineering Industry (NSW) Interim Award.

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A.5 Structural Efficiency

The employer may direct an employee to carry out such duties as are within the limits of the employee's skills, competence and training consistent with the classification structure of this Agreement provided that such duties are not designed to promote de-skilling.

Any direction issued by the employer shall be consistent with the employer's responsibilities to provide a safe and healthy working environment.

The parties to this Agreement are committed to co-operating, positively to increase the efficiency, productivity and competitiveness of the facility and to enhance the career opportunities and job security of employees.

B. RATES OF PAY

B.1 "Total Rates"

(a) The "Total Rate" payable, for individual classifications, comprehends all award entitlements, including but without limiting the generality to payments for travelling time, travelling allowances and fares, excess fares, special rates (such as space, height and dirt money) etc., irregularity of work, industry or special allowance, follow the job loadings, compensation for travel patterns mobility, isolation, etc., allowances, and any other similar or like payment but excludes those payments contained in Clause B 2 hereof. "Total Rates" are based on a weekly rate of pay of 38 hours for ordinary time worked and are expressed as an hourly rate of pay to be paid for all purposes for time actually worked.

(b) <u>CLASSIFICATIONS</u>	<u>TOTAL RATE</u>
	<u>Per Week</u>
	\$
Plant Technician	510.20
Tradesperson	481.20
Utility person	453.84

B.2 Additional Allowance

The following allowance will be paid in addition to the "Total Rate", where applicable:

Tool Allowance:

- (i) A tradesperson shall be paid an allowance of \$9.00 per week for supplying and maintaining tools ordinarily required in the performance of his/her work as a tradesperson.
- (ii) Notwithstanding subclause (a)(i) hereof, the employer shall provide for the use of tradespersons all necessary power tools, special purpose tools and precision measuring instruments.
- (iii) An employee shall replace or pay for any tools supplied by his/her employer if lost through negligence.

B.3 Increases

Movement of the National Wage or defining the CPI, if it is extended into the National wage will result in the Agreement being adjusted by the appropriate amount.

B.4 Apprentice Rates of Pay

The "Total Rate" applicable to apprentices shall be the following percentages of the trade classification.

- 1st year - 42%
- 2nd year - 55%
- 3rd year - 75%
- 4th year - 88%

B.5 Mixed Functions

An employee engaged for more than two hours during one day or shift on duties carrying a higher rate than his/her ordinary classification shall be paid the higher rates for such day or shift. If for two hours or less during one day or shift he/she shall be paid the higher rate for the time so worked.

C. CONDITIONS OF EMPLOYMENT

C.1 Contract of Employment

- (a) Monthly Contract of Employment:
Employees engaged and paid as such shall be deemed to be employed by the month.
- (b) Weekly Contract of Employment
All employees not specifically engaged either under a monthly contract or casual as provided in sub-clause (a) and (d) hereof shall be deemed to be employed by the week.

(c) Part-Time Employment

- (i) An employee may be engaged by the week to work on a part-time basis for a constant number of hours which, having regard to the various ways of arranging ordinary hours, shall average less than 38 hours per week.
- (ii) An employee so engaged shall be paid per hour one thirty-eighth of the weekly rate prescribed by clause B1 for the classification in which the employee is engaged.
- (iii) An employee engaged on a part-time basis shall be entitled to payments in respect of annual leave, public holidays and sick leave arising under this Agreement on a proportionate basis calculated as follows:

(1) Annual Leave

Subject to the provisions of clause C10

* Where the employee has completed 12 months continuous service -four weeks leave at the number of ordinary hours which would otherwise have been worked during the period of leave.

* Where the employee is entitled to pro-rata leave on termination or at a close down in accordance with this Agreement the employee shall receive 2.923 hours paid at the appropriate rate of wage for each 38 ordinary hours worked.

(2) Public Holidays

Where the normal paid hours fall on a public holiday and work is not performed by the employee, such employees shall not lose pay for the day.

Where the employee works on the holiday, such employee shall be paid in accordance with Clause C8 of the Agreement.

(3) Sick Leave - Subject to Clause C9

First Year of Employment

During the first year of any period of service with the employer the employee shall be entitled to sick leave equivalent to

Average number of hours worked each week x 10

5

During the first 10 months of any period of service with the employer, such leave shall accrue at the rate of 1/10th of the above calculation for every completed month of service.

Second or subsequent Years of Employment

During the second or subsequent years of any period of service with the employer the employee shall not be entitled to have leave in excess of an amount calculated as follows

$$\frac{\text{Average number of hours worked each week} \times 10}{5}$$

(4) Bereavement Leave

Where a part-time employee would normally work on either or both of the two working days following the death of a close relative which would entitle an employee on weekly hiring to bereavement leave in accordance with Clause C11 of this Agreement, the employee shall be entitled to be absent on bereavement leave on either or both of those working days without loss of pay for the day or days concerned.

(iv) Overtime

A part-time employee who works in excess of the hours fixed under the contract of employment, shall be paid overtime in accordance with Clause C6 of this Agreement.

(d) Casual Employment

A casual employee is one engaged and paid as such. A casual employee for working ordinary time shall be paid per hour one thirty-eighth of the weekly wage prescribed herein for the work which he or she performs, plus 20 per cent.

(e) Time Keeping - Late Comers

Notwithstanding anything elsewhere contained in this Agreement the employer may select and utilise for time keeping purposes any fractional or decimal proportion of an hour (not exceeding six minutes) and may apply such proportion in the calculation of the working time of employees who, without reasonable cause promptly communicated to the employer, report for duty before their appointed finishing times. The employer who adopts a proportion for the aforesaid purpose shall apply the same proportion for the calculation of overtime.

(f) Absence from Duty

An employee not attending for duty as required shall lose his/her pay for the actual time of such non-attendance.

(g) Standing down of Employees

The employer may deduct payment for any day upon which an employee cannot be usefully employed because of any strike by or participation in any strike by any members of the union employed by the employer or because of any strike by or participation in any strike by any other union, organisation or association or by any branch thereof, or by any members thereof who are employed by the employer or because of any stoppages of work for any cause, including breakdown of machinery or failure or lack of power, for which cause the employer is not responsible.

C.2 Termination of Employment

- (a) Other than for casuals and/or monthly hire, one week's notice of termination of employment shall be given on either side or one week's pay shall be paid or forfeited.
- (b) Monthly hire; one months notice of termination of employment shall be given on either side or one months' pay shall be paid or forfeited.
- (c) If an employee fails to give notice the employer shall have the right to withhold moneys due to the employee with a maximum amount equal to the all purpose rate of pay for the period of notice.
- (d) Nothing in this Clause shall affect the right of the employer to dismiss an employee without notice for conduct that justifies instant dismissal, including malingering, inefficiency or neglect of duty and in such cases the wages shall be paid up to the time of dismissal only.
- (e)
 - (i) termination of employment by the employer shall not be harsh, unjust or unreasonable.
 - (ii) For the purposes of this Clause termination of employment shall include termination with or without notice.
 - (iii) Without limiting the above, except where a distinction, exclusion or preference is based on the inherent requirements of a particular position, termination on the ground of race, colour, sex, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction and social origin shall constitute a harsh, unjust or unreasonable termination of employment.

- (f) An employee who is absent from work for a continuous period of five working days without the consent of the employer and without notification to the employer with a reasonable explanation shall be deemed to have abandoned his/her employment.

C.3 Hours of work

(a) Day Workers

The ordinary hours of work shall be an average of 38 per week to be worked on one of the following bases:

- (i) 38 hours within a work cycle not exceeding seven consecutive days; or
 - (ii) 76 hours within a work cycle not exceeding fourteen consecutive days; or
 - (iii) 114 hours within a work cycle not exceeding twenty-one consecutive days; or
 - (iv) 152 hours within a work cycle not exceeding twenty-eight consecutive days.
 - (v) For the purposes of sub-clause (f)(iv) any other work cycle during which a weekly average of 38 ordinary hours are worked.
- (b) The ordinary hours of work prescribed herein may be worked on any day or all of the days of the week, Monday to Friday.
 - (c) The ordinary hour of work prescribed herein shall be worked continuously, except for meal breaks, at the discretion of the employer between 6.00am and 6.00pm.

Variation of Hours: The ordinary hours of work once having been determined may be varied by agreement between the employer and the employees concerned to suit the circumstances of the facility, or in the absence of agreement by one weeks notice of alteration given by the employer to the employees concerned.

Provided further that work done prior to the spread of hours fixed in accordance with this subclause for which overtime rates would otherwise be payable shall be deemed for the purposes of this subclause to be part of the ordinary hours of work.

- (d) The ordinary hours of work prescribed herein shall not exceed 12 on any day,

- (e) (i) Ordinary hours of work shall be an average of 38 hours per week as provided in subclause (a).
- (ii) Except as provided in sub-clause (f) hereof, the method of implementation of the 38-hour week may be one of the following:
 - (1) by employees working less than 8 ordinary hours each day; or
 - (2) by employees working less than 8 ordinary hours on one or more days each week; or
 - (3) by rostering employees off on various days of the week during a particular work cycle so that each employee has one week day off during that cycle; or
 - (4) by fixing one week day on which all employees will be off during a particular work cycle
 - (5) Circumstances may arise where different methods of implementation of a 38-hour week apply to various groups or sections of employees.

(f) Rostered Days off

- (i) An employee (other than an employee on monthly hire) whose ordinary hours of work are arranged in accordance with sub clause C3 (e) (3) or C3 (e)(4) of this Agreement, so that he/she works an average of 38 ordinary hours each week during a particular work cycle, wages shall be paid weekly according to a weekly average of ordinary hours worked even though more or less than 38 ordinary hours may be worked in any particular week of the work cycle.

Accordingly for each day an employee works eight ordinary hours he/she accrues the first 24 minutes (0.4 hours) as an entitlement to take the nominated rostered day off as a day of paid for as though worked.

- (ii) Notice of Days Off

Except as provided in subclause C(3) (f)(iii) and C(3)(f)(iv) hereof in cases where, by virtue of the arrangement of his/her ordinary hours, an employee, in accordance with subclause C(3)(e)(3) and C3 (e)(4) hereof, is entitled to a day off during his/her work cycle, such employee shall be advised by the employer at least one week in advance of the weekday he/she is to take off; provided that a lesser period of notice may be agreed

between the employee and employer.

(iii) Substitute Days

(a) The employer, may substitute the day an employee is to take off in accordance with sub-clauses C3(e)(3) and C3(e)(4) hereof for another day in the case of a breakdown in machinery or a failure or shortage of electric power or to meet the requirements of the business in the event of some other emergency or unforeseen situation.

(b) An individual employee, with the agreement of his/her employer, may substitute the day he/she is to take off for another day.

(iv) Accrual of Rostered Days Off

Rostered days off may be accrued up to a maximum of five days at the employers discretion.

(v) Public Holidays

Where such rostered day off falls on a public holiday the next working day shall be taken in lieu.

(vi) Paid Leave (eg annual, Sick, Long Service, Bereavement, Public Holiday, jury Service or Workers' Compensation).

Leave taken and paid for during any cycle of four weeks shall be regarded as a day worked for accrual purposes and as in the case of actual days worked the first 24 minutes (.4 hour) shall be the designated accrual.

(vii) Pro Rata Accruals

Except as provided for by the paid Leave Provision above, employees not working a complete 19 day four week cycle shall receive pro rata accrued entitlements, for each day worked, payable for the programmed day off or, in the case of termination of employment, on termination.

(viii) Apprentices

Apprentices who attend Technical College Courses in accordance with their conditions of employment on a prescribed rostered day off shall by arrangement with their employer be afforded the following Friday or Monday as an alternative rostered day off.

(viii) Annual Leave

Where annual leave is granted and taken and such period covers an entire four-week cycle then the employee so affected shall be paid one day's additional pay for the rostered day off occurring within the leave period., The employee shall not be entitled to an extra day's holiday.

C.4 Meal Breaks

- (a) An employee shall not be required to work for more than six hours without a break for a meal, consisting of a 30 minute unpaid cessation of working time subject to the following:
- (b) The time of taking the scheduled meal break by one or more employees may be altered by the employer if it is necessary to do so in order to meet a requirement for continuity of operations.
- (c) The Employer may stagger the time of taking the meal break to meet operational requirements.
- (d) Employees shall work during meal breaks at ordinary rates of pay whenever instructed to do so for the purpose of making good breakdown of plant or upon routine maintenance of plant which can only be done while such plant is idle.

C.5 Shift Work

- (a) Definitions

For the purpose of this Clause:

"Afternoon Shift" means any shift finishing after 6.00pm and at or before midnight.

"Night Shift" means any shift finishing subsequent to midnight and at or before 8.00am.

- (b) Hours

The ordinary hours of shift workers shall average 38 per week. A roster system may operate on the basis that the weekly average of 38 ordinary hours is achieved over a period which exceeds 28 consecutive days.

The ordinary hours shall be worked continuously except for the meal break as prescribed in Clause C.4.

Subject to subclause (f)(i)(a) and (f)(i)(b) the ordinary hours of work prescribed herein shall not exceed 12 hours on any day.

(c) Shift Variations

The time of commencing and finishing shifts once having been determined may be varied by agreement between the employer and the employees concerned to suit the circumstances of the establishment or in the absence of agreement by 48 hours notice of alteration given by the employer to the employees.

(d) Afternoon or Night Shift Allowances

(i) A shift worker whilst on afternoon or night shift shall be paid for such shift 15 per cent more than the total all purpose rate.

(ii) An employee who:

- (a) During a period of engagement on shift, works night shift only; or
- (b) Remains on night shift for a longer period than four consecutive weeks; or
- (c) Works on a nights shift which does not rotate or alternate with another shift or with day work so as to give him/her at least one-third of his/her working time off night shift in each shift cycle:

Shall during such engagement period or cycle be paid 30 per cent more than his/her ordinary rate for all time worked during ordinary working hours on such night shift.

(e) Saturday Shifts

The minimum rate to be paid to a shift worker for work performed between midnight on Friday and midnight on Saturday shall be time and a half. Such extra rate shall be in substitution for and not cumulative upon the shift premiums prescribed in sub-clause (d) hereof.

(f) Overtime

Shift workers for all time worked in excess of or outside the ordinary hours prescribed by this Agreement or on a shift other than a rostered shift shall:

(i) Be paid at the rate of time and a half for the first two hours and double time thereafter except in each case when the time is worked -

- (a) for the purpose of effecting the customary rotation of shifts; or
- (b) on a shift or part thereof to which an employee is transferred on short notice by

the Employer to meet a requirement for continuity of operations.

(ii) Requirement to Work Reasonable Overtime

The employer may require any employee to work reasonable overtime at overtime rates and such employee shall work overtime in accordance with such requirement.

(g) Sundays and Holidays

Shift Workers for all time worked on a Sunday or Holiday shall be paid at the rates prescribed by Clause C6 and Clause C8 respectively of this Agreement. Where shifts commence between 11.00pm and midnight on a Sunday or Holiday, the time so worked before midnight shall not entitle the employee to the Sunday or Holiday rate provided that the time worked by an employee on a shift commencing before midnight on the day preceding a Sunday or Holiday and extending into a Sunday or Holiday shall be regarded as time worked on such Sunday or Holiday.

Where shifts fall partly on a Holiday, that shift, the major portion of which falls on a holiday shall be regarded as the holiday shift.

(h) Daylight Saving

Notwithstanding anything contained elsewhere in this Agreement in any area where by reason of the legislation of the State of NSW summer time is prescribed as being in advance of the standard time of the State of NSW the presented length of any shift;

- (i) commencing before the time prescribed by the relevant legislation for the commencement of a summer time period, and
- (ii) commencing on or before the time prescribed by such legislation for the termination of a summer time period,

shall be deemed to be the number of hours represented by the difference between the time recorded by the clock at the beginning of the shift and the time so recorded at the end thereof, the time of the clock in each case to be set to the time fixed pursuant to the relevant NSW State legislation.

In this sub-clause the expressions "standard time" and "summer time" shall bear the same meanings as are prescribed by the relevant NSW State legislation.

C.6 Overtime

(a) Payment for Working Overtime

- (i) For all work (other than shift work) done outside ordinary hours the rates of pay shall be time and a half for the first two hours and double time thereafter, such double time to continue until the completion of the overtime work.

Except as provided in this sub-clause or sub-clause (a)(iii) hereof in computing overtime each day's work shall stand alone.

For the purposes of this Clause ordinary hours shall mean the hours worked fixed in accordance with Clause C3 of this Agreement.

The hourly rate, when computing overtime, shall be determined by dividing the appropriate weekly rate by 38, even in cases when an employee worked more than 38 ordinary hours in a week.

- (ii) Requirement to Work Reasonable Overtime

The employer may require any employee to work reasonable overtime at overtime rates and such employee shall work overtime in accordance with such requirement.

- (iii) Rest Period After Overtime

When overtime work is necessary it shall, wherever reasonably practicable, be so arranged that employees have at least ten consecutive hours off duty between the work of successive days.

- (iv) Call Back

An employee recalled to work overtime after leaving the facility (whether notified before or after leaving the facility) shall be paid pursuant to subclause (a)(i).

Overtime worked in the circumstances specified in this sub-clause shall not be regarded as overtime for the purpose of sub-clause (iii) hereof when the actual time worked is less than three hours on such recall or on each of such recalls.

(v) Crib Time

When an employee is required to work overtime after the usual ceasing time for the day or shift for two hours or more, he shall be allowed to take, without deduction of pay, a crib time of 20 minutes in duration immediately after such ceasing time and thereafter, after each four hours of continuous work, he shall be allowed to take also, without deduction of pay, a crib time of 20 minutes in duration. In the event of an employee remaining at work after the usual ceasing time without taking the crib time of 20 minutes and continuing at work for a period of two hours or more, he shall be regarded as having worked 20 minutes more than the time worked and be paid accordingly.

(vi) Standing By

An employee required to hold him/herself in readiness to work after ordinary hours shall, until released, be paid standing-by time of twenty percent (20%) of the all purpose rate for his/her classification from the time which he/she is so to hold him/herself in readiness. An employee may be issued and required to carry with him/her at all times whilst so standing by an electronic paging device.

(b) Working Saturdays and Sundays

- (i) All time worked on Sundays shall be paid for at the rate of doubletime.
- (ii) An employee working overtime on a Saturday or overtime on a Sunday, shall be allowed a paid crib time of twenty minutes after four hours work, to be paid for at the all purpose rate of pay.

In the event of an employee being required to work in excess of a further four hours, he/she shall be allowed to take a paid crib time of 20 minutes which shall be paid at the all purpose rate of pay.

C.7 Payment of Wages

- (a) Payment by Electronic Transfer: Payment of wages may be by electronic transfer which shall be at management discretion.

(b) Pay Details

Full particulars of details of payment shall be provided to each employee on or prior to the recognised pay day and shall contain the following information:

- (i) Date of payment
- (ii) Period covered by such payment
- (iii) The amount of wages paid for work at ordinary rates
- (iv) The number of hours paid at overtime rates and the amount paid therefor
- (v) The amount of allowances paid and the nature thereof
- (vi) The gross amount of wages and allowances paid
- (vii) The amount of each deduction made and the nature thereof
- (viii) The net amount of wages and allowances paid
- (ix) The annual holiday payments

(c) Payment on Termination

When notice is given of termination, all moneys due to the employee shall be paid at the time of termination.

Where this is not practicable as a result of summary dismissal the employer shall have two (2) working days to forward moneys due by registered post.

C. 8 Public Holidays

- (a) An employee other than a casual employee (as defined) shall be entitled to the following holidays without deduction of pay, provided however, that if any other day be by a NSW Act of Parliament or State proclamation substituted for any of the said holidays, the day so substituted shall be observed.

New Year's Day
Australia Day
Good Friday
Easter Saturday
Easter Monday
Anzac Day
Queen's Birthday
Labour Day

Christmas Day
Boxing Day
Picnic Day

- (b) All work performed on any of the holidays prescribed in this Clause or substituted in lieu thereof, shall be paid for at the rate of double time and a half.
- (c) The provisions of Clause C6 of this Agreement shall apply in respect of work on a holiday.
- (d) Provided that:

The employee has worked as required by the employer the working day immediately before and the working day immediately after such a holiday or is absent with the permission of the employer or is absent with reasonable causes. Absence arising by termination of employment by the employee shall not be reasonable cause.

- (e) Picnic Day Definition:

The Picnic day as prescribed in subclause (a) hereof shall be taken in lieu of award prescriptions relating to picnic days or additional award public holidays. The date of such picnic day to be determined by agreement at the commencement of each year.

C.9 Sick Leave

An employee other than a casual employee as defined in this Agreement, who is absent from his/her work on account of personal illness or injury, other than that covered by Workers' Compensation, shall be entitled to leave of absence, without deduction of pay, provided that:

- (a) Within 24 hours of the commencement of such absence the employee shall inform the employer of his/her inability to attend for duty and, as far as practicable, state the nature of the injury or illness and the estimated duration of the absence;
- (b) the employee shall prove to the satisfaction of the employer that he/she was unable on account of such illness or injury to attend for duty on the day or days for which sick leave is claimed;
- (c) an employee during his/her first year of employment with the employer shall be entitled to sick leave entitlement at the rate of one day at the completion of each of the first 10 calendar months of his/her first year of employment.

Provided that in cases where he/she normally works more than eight (8) ordinary hours in any day he/she shall not be entitled to leave in excess of eighty (80) hours.

Provided that an employee who has completed one year of continuous employment shall be credited with a further 10 days sick leave entitlement or in cases where he/she normally works more than eight (8) ordinary hours in any day, eighty (80) hours sick leave entitlement at the beginning of his/her second and each subsequent year, which, shall commence on the anniversary of engagement.

- (d) In the case of an employee who claims to be allowed paid sick leave in accordance with this Clause for an absence of one day only such employee if in the year he/she has already been allowed paid sick leave on two occasions for one day only, shall not be entitled to payment for the day claimed unless he/she produces to the employer a certificate of a duly qualified medical practitioner that in his/her, the medical practitioner's opinion, the employee was unable to attend for duty on account of personal illness or injury. Nothing in this sub-clause shall limit the employer's rights under sub-clause (b).
- (e) Sick leave with the employer shall accumulate from year to year so that any balance of the period specified in sub-clause C9(c) hereof which in any year has not been allowed to any employee by that employer as paid sick leave may be claimed by the employee and subject to the conditions herein prescribed shall be allowed by that employer in a subsequent year, without diminution of the sick leave prescribed in respect of that year.

C.10 Annual Leave

Other than for casual employees:

- (a) (i) Period of Leave

A period of twenty-eight consecutive days leave, including non-working days, shall be allowed annually to an employee after twelve months continuous service (less the period of annual leave) as an employee on weekly or monthly hiring in any one or more of the occupations to which the Agreement applies.

An employee on weekly or monthly hiring shall accrue annual leave at a rate of 2.923 hours for each 38 ordinary working hours worked.

- (ii) Seven Day Shift Workers

In addition to leave hereinbefore prescribed seven day shift workers, that is shift workers who are rostered to work regularly on Sundays and holidays, shall be allowed seven consecutive days leave including non-working days.

Where an employee with 12 months continuous service is engaged for part of the 12 monthly period as a seven day shift

worker, he/she shall be entitled to have the period of leave to which he/she is entitled as prescribed in subclause (a)(i) hereof increased by half a day for each month he/she is continuously engaged as aforesaid.

(b) Annual Leave Exclusive of Public Holidays

Subject to this sub-clause the annual leave prescribed by this Clause shall be exclusive of any of the holidays prescribed by Clause C8 of this Agreement and, if any such holiday falls within an employee's period of annual leave and is observed on a day which in the case of that employee would have been an ordinary working day, there shall be added to the period of annual leave time equivalent to the ordinary time which the employee would have worked if such day had not been a holiday.

Where a holiday falls as aforesaid and the employee fails, without reasonable cause, proof whereof shall be upon him, to attend for work at his ordinary starting time on the working day immediately prior to the first day and immediately following the last day of the period of his/her annual leave he/she shall not be entitled to be paid for any such holiday.

(c) Broken Leave

The annual leave shall be given and taken in one or two continuous periods. If the annual leave is given in two continuous periods, one of those two periods must be of at least twenty-one consecutive days, including non-working days.

Provided that, if the employer and an employee so agree, his/her annual leave entitlement may be given and taken in two separate periods neither of which is at least twenty-one consecutive days, including non-working days, or in three separate periods.

(d) Calculation of Continuous Service

For the purpose of this Clause service shall be deemed to be continuous notwithstanding:

- (i) any interruption or determination of the employment by the employer if such interruption or determination has been made merely with the intention of avoiding obligations hereunder in respect of leave of absence;
- (ii) any absence from work on account of personal sickness or accident or on account of leave lawfully granted by the employer; or
- (iii) any absence with reasonable cause, proof whereof shall be upon the employee.

In cases of personal sickness or accident or absence with reasonable cause the employee to become entitled to the benefit of this sub-clause shall inform the employer, in writing if practicable, within twenty-four hours of the commencement of such absence of his/her inability to attend for duty and as far as practicable the nature of the illness, injury or cause and the estimated duration of his absence.

Broken Service

Where an employee breaks his/her continuity of service by an absence from work for any reason other than a reason set out in sub-clauses d(i), d(ii) and d(iii) hereof, the amount of leave to which he/she would have been entitled under sub-clause (a) hereof shall be reduced by one forty-eighth for each week or part thereof during which any such absence occurs and the amount of payment in lieu of leave to which he/she would have been entitled under sub-clause (k) hereof shall be reduced by one-twelfth of a week's pay for each week or part thereof during which any such absence occurs.

Provided, however, that no reduction shall be made in respect of any absence unless the employer informs the employee in writing of his/her intention so to do within fourteen (14) days of the termination of the absence.

In calculating the period of twelve months' continuous service the following absences shall be taken into account and counted as time worked:

- up to 152 ordinary hours in a twelve monthly period in the case of sickness or accident;
- long service leave actually taken by an employee;
- injury received during the course of employment and up to a maximum of twenty-six (26) weeks for which he/she received worker's compensation.

Other absences from work shall not be taken into account and shall not count as time worked in calculating the period of twelve months continuous service.

Provided that for the purpose of this Clause in calculating continuous service for periods of less than 12 months such absences due to sickness or accident shall be taken into account and counted as time worked on a pro rata basis of 152 ordinary working hours for 12 months' service.

(e) Calculation of Service

The period of annual leave to be allowed under this sub-clause shall be calculated to the nearest day, any broken part of a day in the

result not exceeding half a day to be disregarded.

Where the employer is a successor or assignee or transferee of a business, if an employee was in the employment of the employer's predecessor at the time when he/she became such successor or assignee or transferee the employee in respect of the period during which he/she was in the service of the predecessor shall for the purpose; of this Clause be deemed to be in the service of the employer.

(f) Leave to be Taken

The annual leave provided by this Clause shall be allowed and shall be taken and except as provided by sub-clause (k) and (l) hereof payment shall not be made or accepted in lieu of annual leave.

(g) Time of Taking Leave

Annual leave shall be given at a time fixed by the employer within a period not exceeding six months from the date when the right to annual leave accrued and after not less than four weeks' notice to the employee.

Provided that by agreement between the employer and employee, annual leave may be taken at any time within a period of 12 months from the date at which it falls due and with less than four weeks notice to the employee.

(h) Leave Allowed Before Due Date

(i) The employer may allow an employee to take annual leave either wholly or partly in advance before the right thereto has accrued due. In such case a further period of annual leave shall not commence to accrue until after the expiration of the twelve months in respect of which the annual leave or part thereof had been taken before it accrued.

(ii) Where annual leave or part thereof has been granted pursuant to sub-clause h(i), before the right thereto has accrued due, and the employee subsequently leaves or is discharged from the service of the employer before completing the twelve months' continuous service in respect of which the leave was granted, and the amount paid by the employer to the employee for the annual leave or part so taken in advance exceeds the amount which the employer is required to pay to the employee under sub-clause (k) hereof, the employer shall not be liable to make any payment to the employee under sub-clause (k) hereof, and shall be entitled to deduct the amount of excess from any remuneration payable to the employee under the termination of employment.

(i) **Payment for Period of Annual Leave**

Subject to the provisions of sub-clauses (l) and (m) hereof each employee before going on leave shall be paid the wages he/she would have received in respect of the ordinary time he/she would have worked had he/she not been on leave during the relevant period, provided that payment for the period specified shall not exceed 152 ordinary hours.

Subject to sub-clause (j) hereof each employee shall, where applicable, have the amount of wages to be received for annual leave calculated by including the following where applicable:

- (i) The rate applicable to him/her as prescribed by Clauses B1 Wage Rates, B4 - Apprenticeship, D4 - First Aid
- (ii) Subject to sub-clause (j)(ii) hereof the rate prescribed for work in ordinary time by Clause C5 - Shift Work of the Agreement according to the employee's roster or projected roster
- (iii) The rate payable pursuant to Clause B5 - Mixed Functions, calculated on a daily basis which the employee would have received for ordinary time during the relevant period whether on a shift roster or otherwise
- (iv) Any other rate to which the employee is entitled in accordance with his/her contract of employment for ordinary hours of work provided that this provision shall not operate so as to include any payment prescribed by Clause B2 - Additional Allowances, Clause C6 - Overtime, nor any payment which might have become payable to the employee as reimbursement for expenses incurred.

(j) **Loading on Annual Leave**

During a period of annual leave an employee shall receive a loading calculated on the rate of wage prescribed by sub-clause (i) of this clause, subject to the provisions of paragraph (ii) hereof.

The loading shall be as follows:

- (i) **Day Workers** - an employee who would have worked on day work only had he/she not been on leave - a loading of 17-1/2 per cent.
- (ii) **Shift Workers** - an employee who would have worked on shift work had he not been on leave and where the employee would have received shift loadings prescribed by Clause C5 - Shift Work had he/she not been on leave during the relevant period and such loadings would have entitled him/her to a greater

amount than the loading of 17-1/2 per cent, then the shift loading as prescribed in sub-clause (i) hereof in lieu of the 17-1/2 per cent loading.

Provided further that if the shift loadings would have entitled her/him to a lesser amount than the loading of 17 1/2 per cent then such loading of 17 1/2 per cent shall be added to the rate of wage prescribed by subclause (i) but not including subparagraph (i)(ii).

The loading prescribed by this sub-clause shall not apply to proportionate leave on termination.

(k) **Proportionate Leave on Termination**

An employee on weekly or monthly hiring who:

- (i) After one weeks continuous service in his/her first qualifying 12 monthly period with an employer, lawfully leaves the employment of the employer or his/her employment is terminated by the employer through no fault of the employee; or
- (ii) After 12 months continuous service with an employer leaves the employment of the employer or his/her employment is terminated by the employer for any reason, shall be paid for 2.923 hours for each 38 ordinary hours worked and in respect of whichever had not been granted under this Clause at the appropriate rate of wage calculated in accordance with sub-clause (i) hereof.

(l) **Annual Close Down**

Where the employer closes down the facility, or a section or sections thereof, for the purposes of allowing annual leave to all or the bulk of the employees at the facility, or section or sections concerned, the following provisions shall apply:

- (i) The employer may, by giving not less than 4 weeks' notice of his/her intention so to do, stand off for the duration of the close down all employees at the facility, or section or sections concerned, and allow to those who are not then qualified for a full entitlement to annual leave for twelve months' continuous service, pursuant to sub-clause (a) hereof, paid leave on a proportionate basis at the appropriate rate of wage as prescribed in sub-clauses (i) and (j) hereof for 2.923 hours for each 38 ordinary hours worked.
- (ii) An employee who has then qualified for a full entitlement to annual leave for twelve months' continuous service pursuant

to sub-clause (a) hereof, and has also completed a further week or more of continuous service, shall be allowed his/her leave, and shall, subject to sub-clause (f) hereof, also be paid at the appropriate rate of wage as prescribed by sub-clauses (i) and (j) hereof for 2.923 hours for each 38 ordinary hours worked since the close of his last twelve monthly qualifying period.

- (iii) The next twelve monthly qualifying period for each employee affected by such close down shall commence from the day on which the facility, or section or sections concerned, is re-opened for work. Provided that all time during which an employee is stood off without pay for the purposes of this sub-clause shall be deemed to be time of service in the next twelve monthly qualifying period.
- (iv) If in the first year of service with an employer an employee is allowed proportionate annual leave under paragraph (i) hereof, and subsequently within such year lawfully leaves his/her employment or his/her employment is terminated by the employer through no fault of the employee, he/she shall be entitled to the benefit of sub-clause (k) hereof subject to adjustment for any proportionate leave which he may have been allowed as aforesaid.
- (v) The employer may close down the facility for one or two separate periods for the purpose of granting annual leave in accordance with this sub-clause. If the employer closes down the facility in two separate periods one of those periods shall be for a period of at least twenty-one consecutive days including non-working days.

Provided that where the employees in the facility, or section or sections concerned agree, the employer may close down the facility in accordance with this sub-clause in two separate periods neither of which is of at least twenty-one consecutive days including non-working days, or in three separate periods. In such cases, the employer shall advise the employees concerned of the proposed dates of each close down before asking them for their agreement.

(m) **Part Close Down and Part Rostered Leave**

- (i) The employer may close down the facility, or a section or sections thereof, for a period of at least twenty-one consecutive days including non-working days and grant the balance of the annual leave due to an employee in one continuous period in accordance with a roster.
- (ii) The employer may close down the facility, or a section or sections thereof, for a period of less than twenty-one consecutive days including non-working days and allow the balance of the annual leave due to an employee in one or two

continuous periods either of which may be in accordance with a roster. In such case, the granting and taking of annual leave shall be subject to the agreement of the employer and the employees in the facility, or a section or sections thereof, respectively, and before asking the employees concerned for their agreement the employer shall advise them of the proposed date of the close down or close downs and the details of the annual leave roster.

C.11 Bereavement Leave

An employee on weekly or monthly hiring shall on the death within Australia of a wife, husband, mother, father, parents-in-law, brother, sister, child, step-child or grandparent, be entitled on notice to leave up to and including the day of the funeral of such relation (or where made necessary because of travel arrangements, the day after the funeral), and such leave shall be without deduction of pay of a period not exceeding the number of hours worked by the employee in two ordinary days of work. Proof of such death shall be furnished by the employee to the satisfaction of the employer.

- (i) Provided that this Clause shall have no operation while the period of entitlement to leave under it coincides with any other period of entitlement to leave.
- (ii) For the purpose of this Clause the words "wife" and "husband" shall include a person who lives with the employee as de facto wife or husband:

C.12 Jury Service

An employee on weekly or monthly hiring required to attend for jury service and who is therefore unable to attend for his/her ordinary working hours 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 wage he/she would have received in respect of the ordinary time he/she would have worked had he/she not been on jury service.

An employee shall notify the employer as soon as practicable of the date upon which he/she is required to attend for jury service, and shall provide the employer with proof of this attendance, the duration of such attendance and the amount received in respect thereof.

D.1 Time and Wages Book

- (a) The employer shall keep a record from which can be readily ascertained the name of each employee and his/her occupation, the hours worked each day, and the wages and allowances paid each pay period.

- (b) The time occupied by an employee in filling in any time record or cards or in the making of records shall be treated as time of duty, but this does not apply to checking in or out when entering or leaving the facility.
- (c) The time and wages record shall be open for inspection by a duly accredited union official during the usual office hours at the employer's office or other convenient place. Provided that an inspection shall not be demanded unless the Secretary of the union or the District Secretary or organiser of any division suspects that a breach of this Agreement has been committed, such breach to be nominated to the Employer.
- (d) The official making such inspection shall be entitled to take a copy of entries in a time and wages record relating to the suspected breach of this Agreement.

D.2 Right of Entry

(a) **Interviewing Employees**

For the purpose of interviewing employees on legitimate union business, a duly accredited union representative shall have the right to enter the employers' premises during the mid-day meal break on the following conditions:

- (i) that he/she produces his/her authority to the gatekeeper or such other person as may be appointed by the employer;
- (ii) that he/she interviews employees at places where they are taking their meal or at such other places as is mutually agreed;
- (iii) that if the employer alleges that a representative is unduly interfering with his/her work or is creating dissatisfaction amongst his/her employees or is offensive in his/her methods or is committing a breach of any of the previous conditions, the employer may refuse the right of entry but the representative shall have the right to bring such refusal before a member of the Industrial Commission of NSW.

(b) **Investigating Complaints**

For the purpose of investigating complaints concerning the application of this Agreement a duly accredited union representative shall be afforded reasonable facilities for entering the employer's premises during working hours, subject to the following conditions:

- (i) that he/she discloses to the employer or his/her representative

the complaint which he/she desires to investigate;

- (ii) that he/she makes his/her investigations in the presence of the employer or his/her representative (if the employer so desires);
 - (iii) that he/she does not interfere with work proceeding in the premises;
 - (iv) that he/she conducts him/herself properly
- (c) A representative of the union shall be a duly accredited representative if he/she is the holder for the time being of a certificate signed by the General Secretary of that organisation and bearing the seal of that organisation in the following form, or in a form not materially differing therefrom:

NAME OF ORGANISATION

This is to certify that.....
is a duly accredited representative of the abovenamed organisation for all purposes of this Agreement made under the Industrial Relations Act 1991.

(Seal) General Secretary

Specimen signature of holder.

STRICTLY NOT
TRANSFERABLE

D.3 Settlement of Dispute Procedure

- (a) Where an employee or the delegate has submitted a request concerning a matter directly connected with employment to a foreman or a more senior representative of management and that request has been refused, the employee may, if he so desires, ask the delegate to submit the matter to Management and the matter shall then be submitted by the delegate to the appropriate executive of the employer.
- (b) If not settled at this stage, the matter may be formally submitted by a State official of the union to the employer.
- (c) If not settled at this stage, the matter may then be discussed between such representatives of the union as the union may desire and the employer who may be accompanied by or represented by the Metal Trades Industry Association of Australia.
- (d) Where the procedures from (a) to (c) are being followed, work shall continue normally.

- (e) Should the parties fail to agree there shall be no stoppage of work and either party reserves its rights to notify a dispute to the Industrial Commission of NSW.
- (f) No party shall be prejudiced as to the final settlement by continuance of work in accordance with this Clause.

D.4 First Aid

An employee who is an appropriately qualified first aid person pursuant to NSW legislation and is appointed by the employer to carry out first aid in addition to their usual duties shall be paid an additional rate of \$8.40 per week.

D.5 Redundancy

(a) Definition

"Redundancy" means a situation where the employer terminates the services of an employee because the employer no longer requires the job the employee has been doing done by anyone and this is not due to the ordinary and customary turnover of labour. "redundant" has a corresponding meaning.

(b) Employees exempted

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 the employee is offered alternative employment or the employer obtains acceptable alternative employment for the employee. "Acceptable alternative employment" shall consist of a comparable position located in an area that does not necessitate the employee to change his/her permanent residential address.

(c) Redundancy Pay

A redundant employee shall be entitled to the following amount of redundancy pay in respect of a continuous period of service whilst so engaged at the facility:

Period of Continuous Service	Redundancy Pay
1 year or less	nil

1 year and up to the completion of 2 years	4 weeks pay
2 years and up to the completion of 3 years	6 weeks pay
3 years and up to the completion of 4 years	7 weeks pay
4 years and over	8 weeks pay

"Weeks Pay" means the ordinary time rate of pay for the employee concerned.

(d) Transfer to Lower Paid Duties

Where an employee is transferred to lower paid duties for reasons set out in subclause (a) hereof the employee shall be entitled to the same period of notice of transfer as he or she would have been entitled to if his or her employment had been terminated, and the employer may at the employers option, make payment in lieu thereof of an amount equal to the difference between the former ordinary time rate of pay and the new lower ordinary time rate for the number of weeks of notice still owing.

(h) Superannuation Benefits

Where an employee who is terminated receives a benefit from the superannuation scheme, he/she shall only receive under subclause D5(c) the difference between the severance pay specified in that subclause and the amount of the superannuation benefit he/she receives which is attributable to employer contributions only. If this superannuation benefit is greater than the amount due under subclause D5 (c) then he/she shall receive no payment under that clause.

(i) Transmission of Business

(i) Where the business is transmitted from the employer (in this subclause called "the transmitter" to another employer (in this subclause called "the transferee" and an employee who at the time of such transmission was an employee of the transmitter in the business becomes an employee of the transferee:

- (1) The continuity of the employment of the employee shall be deemed not to have been broken by reason of such transmission and
- (2) In this subclause "business", includes trade, process, business or occupation and includes part of any such business and "transmission" includes transfer, conveyance,

assignment or succession whether by agreement or by operation of law and "Transmitted" has a corresponding meaning.

D.6 Definitions

Plant Technician:-

A Plant Technician is the holder of an appropriate Trade Certificate (mechanical electrical and/or electronics) who shall have satisfactorily completed a suitable training course and shall:

- (i) Perform work under limited supervision either individually or in a team.
- (ii) Carry out surveillance, including physical checks, of all operating equipment, monitor and log results.
- (iii) Carry out maintenance and repairs.
- (iv) Co-ordinate and/or perform all works associated with the effective operation of the facility and may be required to supervise the work of others.

Trade person:-


Is an employee who holds an appropriate trade certificate in mechanical and/or electrical/electronics and is able to exercise the skills and knowledge of the trade.

- (i) Operate all lifting equipment incidental to his/her work and performs work which is incidental or peripheral to the primary task and facilitates the completion of the whole task.

Utility Person:-

Shall be a holder of a current drivers licence and shall perform tasks such as operating all lifting equipment, store keeping, trade assisting, non-trades maintenance and may utilise such other non-trade qualifications as appropriate.

Week:- One working week equals 38 ordinary hours.

K.M. 

Signed for and on behalf of
Ulan Coal Mines Limited

in the presence of

Signed for and on behalf of the Federated
Ironworkers' Association of Australia

in the presence of

Dale Carr

Peter Coates
General Manager

Shawn Clarke
Marketing Manager

M Rudd

M Rudd
Branch Secretary

F. Hewston

F. Hewston
Branch President

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