

ENTERPRISE AGREEMENT

NO: E.A. 469 /1994

DATE REGISTERED: 29-11-94

PRICE: \$ 62-00

**REFRIGERATED ROADWAYS PTY. LTD.  
WOOLWORTHS CONTRACT (HOMEBUSH) AGREEMENT  
1994**

**1. Title**

This Agreement shall be titled the Refrigerated Roadways Pty. Ltd. Woolworths Contract (Homebush) Agreement 1994.

**2. Arrangement**

<b>Clause No.</b>	<b>Subject Matter</b>
22	Accident Make-up Pay
17	Annual Leave
24	Articles of Clothing
20	Bereavement Leave
08	Contract of Employment
13	Days Off & Public Holidays
06	Definitions
30	Disputes Settling Procedure
31	Enterprise Arrangements
26	Heavy Articles
21	Jury Service
15	Log Books
19	Long Service Leave
25	Medical Examination
10	No Extra Claims
12	Normal Working Period
07	Operational Efficiency Commitment
23	Parental Leave
04	Parties Bound
16	Payment of Wages
05	Period of Operation
32	Re-negotiation of Agreement
27	Right of Entry & Preference in Employment
03	Scope & Application of Agreement
18	Sick Leave
11	Superannuation
14	Trip & Wages Record
28	Union Notice Board
09	Wage Rates & Allowances
29	Workplace Delegate & Workplace Committee

**3. Scope and Application of Agreement**

- (a) The terms and conditions of this Agreement shall apply to Refrigerated Roadways Pty. Ltd. (hereinafter referred to as "the company"), the Transport Workers' Union of Australia New South Wales branch ("the union") and the company's employees principally engaged in the Woolworths Contract (Homebush) 1994 as defined and to employees engaged in duties ancillary to and incidental to Woolworths contract operations, and to day local work.
- (b) This Agreement, insofar as it may govern any terms and conditions of employment which until the commencement of this Agreement were regulated in part by any other award(s), supersedes any previous awards and orders of the Industrial Relations Commission made under the Industrial Relations Act 1991, and any awards or orders of all State industrial tribunals relating to employment in the industries and/or industrial pursuits governed by this Agreement, but no right, obligation or liability incurred under previous awards shall be affected by such supersession.

**4. Parties Bound**

This Agreement is binding on the company in respect of all employees, whether members or not of the union and upon the union, its officers and members and upon all employees covered by the terms of this Agreement. The Agreement was not entered into under duress by any party to it.

**5. Period of Operation**

This Agreement shall operate on and from the date of registration and shall remain in force for a period of two years.

**6. Definitions**

For the purposes of this Agreement, the following shall apply :

- (a) "Articulated vehicle" means a vehicle with three or more axles, comprising a power unit (called 'tractor truck' or 'prime mover' etc.) and semi-trailer which is superimposed on the power unit and coupled together by means of king-pin and revolving turntable and its articulated whether automatically detachable or permanently coupled;
- (b) "Employee" means any person employed under the terms of this Agreement whose duties may include, while not being limited to, driving, loading and unloading, truck servicing of a non-specialised nature, forklift driving, yard labouring or any related or ancillary function required, as part of the employment contract, by the company;
- (c) "Head Office" shall mean the Brisbane headquarters of the company where all employment related records are maintained;
- (d) "Home base" shall mean 212 Walters Road, Arndell Park, Sydney;
- (e) "Long distance driving operation" shall mean an operation involving a vehicle moving goods, wares, merchandise, material or anything whatsoever whether in its raw state or natural state, wholly or partly manufactured state of a solid or liquid or gaseous nature or otherwise, and/or of livestock; provided that to be a long distance operation the distance of the complete journey (including a return trip) must be no less than 500 kilometres, or, if agreed between the parties, a distance less than 500 kilometres for which a minimum payment shall be the day's pay. For the purpose of this definition, the company shall stipulate the principal point of commencement and the principal point of completion of the journey. For this purpose an area within a radius of 45 kilometres from the GPO of a capital city shall be deemed to be the capital city.

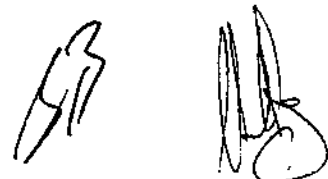


7. **Operational Efficiency Commitment**

- (a) The parties will negotiate to ensure that as part of a service industry the operations of the company shall operate as flexibly as possible in order to meet customer demand.
- (b) Employees within each grade, and within their skills and capabilities, are to perform a wider range of duties including work which is incidental or peripheral to their main tasks or functions.
- (c) Subject to agreement of the company and the employees concerned, employees are to undertake training for the wider range of duties and for access to higher classifications.
- (d) The parties will not create barriers to advancement of employees within the structure of this Agreement or through access to training.

8. **Contract of Employment**

- (a) All employees (other than casuals) shall be employed by the week. Employment shall be terminated by the company with the appropriate notice as specified in sub-clause 8 (g) or by the payment of the appropriate number of weeks' pay as specified in sub-clause 8 (g). An employee shall be required to give one week's notice or forfeit one week's pay. All prospective employees will be issued with a copy of the Drivers' Manual which must be read and accepted on engagement. This Manual contains the company's policy on a wide range of issues, including instruction on work and sets out procedures which are to be complied with. All employees are required to be aware of the Drivers' Manual's requirements. The Drivers Manual contains details of the company's commitment to the employees and its expectation from employees.
- (b) Nothing in this Agreement shall affect the right of the company to dismiss an employee without notice for neglect of duty, misconduct, malingering or inefficiency, in which case wages shall be paid to the time of dismissal only.
- (c) When an employee's services are terminated by the company when the employee is away from home base, the company shall provide the employee with means to return to home base.
- d) **Casual Employment**
  - (i) The company shall, wherever practicable, notify a casual employee that services are not required the next working day.
  - (ii) A casual employee shall be paid on an hourly basis 1/38th of the appropriate weekly wage rate prescribed in this Agreement plus 23.33% for all work performed. A minimum payment of four hours is to be paid.
  - (iii) In addition to normal overtime rates, a casual employee, while working overtime, shall be paid on an hourly basis, 1/38th of the appropriate weekly wage prescribed in this Agreement, plus 23.33% for all work performed.
  - (iv) A casual employee shall not be entitled to Annual Leave, Sick Leave, Bereavement Leave, Long Service Leave, Paternal Leave, Public Holidays (not worked), Accident Make-up Pay, and any such benefits that accrue to weekly employees for which the 23.33% loading paid to casual employee is in recompense.



- (e) **Probationary period**  
 All employees (other than those expressly employed as casuals or for a fixed term contract for a particular task or tasks) shall commence employment on probation on a casual basis, i.e. as per sub-clause (d) hereof, which may last no longer than three months. During this period, both the company and the employee are free to terminate the contract at any time, with an hour's notice, but in every case at the employee's home base. Either before the expiration of three months from the date of engagement, or after three months, the employee shall be offered employment on a weekly basis. Any employee who successfully completes the Probationary Period will be deemed to have commenced employment, for the purpose of accrued entitlements, from the initial commencement.
- (f) The company may direct an employee to carry out such duties as are within the limits of the employee's skill, competence and training consistent with the requirements of the company, provided that such duties are not designed to promote de-skilling. The company may direct an employee to carry out such duties and use such tools and equipment as may be required, provided that the employee has been trained in the use of such tools and equipment.
- (g) Any direction issued by the company pursuant to this clause shall be consistent with the company's responsibilities to provide a safe and healthy work environment. Employees shall be responsible for ensuring work practices and procedures, established by the company for health and safety reasons, are complied with without exception and at all times. An employee not attending for duty, except as provided for in this Agreement, shall lose pay for the actual time of non-attendance.
- (h)(i) **Notice of termination by the company**  
 (1) In order to terminate the employment of an employee the company shall give to the employee the following notice :

<u>Period of Continuous Service</u>	<u>Period of Notice</u>
1 year or less	1 week
1 year and up to the completion of 3 years	2 weeks
3 years and up to the completion of 5 years	3 weeks
5 years and over	4 weeks

(2) In addition to the notice in subparagraph (g) (i) (1) hereof, employees over 45 years of age at the time of the giving of the notice with not less than two years continuous service, shall be entitled to an additional week's notice.

(3) Payment in lieu of the notice prescribed in subparagraph (g) (i) (1) hereof shall be made if the appropriate notice period is not given. Provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof.

(4) In calculating any payment in lieu of notice, the weekly wage rate as prescribed in Clause 9 of this Agreement, shall be used.

(5) The period of notice in this clause shall not apply in the case of dismissal for conduct that justifies instant dismissal, such as 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 specific task or tasks.

6) For the purposes of this clause, continuity of service shall be calculated in the manner in which continuous service is calculated for the purposes of annual leave.

- (ii) If an employee fails to give notice the company shall have the right to withhold moneys due to the employee, with a maximum amount equal to the ordinary time rate of pay for the period of notice to a maximum of 7 days.
- (iii) Where the company has given notice of termination to an employee, an employee shall be allowed up to one day's time off without loss of pay for the purpose of seeking other employment. The time off shall be at a time convenient to both employee and the company after consultation.
- (iv) The company shall, upon receipt of a request from an employee whose employment has been terminated, provide to the employee a written statement specifying the period of his or her employment and the classification of or type of work performed by the employee.
- (v) Notwithstanding the provisions of subparagraph (g) (i) (1) hereof, the company shall have the right to dismiss any employee without notice for conduct that justifies instant dismissal, such as malingering, inefficiency or neglect of duty and in such cases the wages shall be paid up to the time of dismissal only.
- (vi) Termination of employment by the company shall not be harsh, unjust or unreasonable. For the purposes of this clause, termination of employment shall include termination with or without notice.

Without limiting the above, except where a distinction, exclusion or preference is based on the inherent requirements of a particular position, termination on the grounds of race, colour, sex, sexual preference, marital status, family responsibilities, pregnancy, religion, political opinion, union membership or activity, non union membership or activity, national extraction and social origin shall constitute a harsh, unjust or unreasonable termination of employment.

- (vii) Subject to the provisions of any relevant industrial legislation, any dispute or claim arising under paragraph (g) (vi) should be dealt with by way of the Disputes Settling Procedure contained in this Agreement.
- (j) In addition to the prescribed notice of termination referred to above, a redundant employee is entitled to the following amount of severance pay :

<u>Length of Continuous Service</u>	<u>Severance Pay</u>
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

(k) Exemptions

Severance payments are not payable in the following circumstances:

- an employee with less than one year's continuous service;
- an employee whose employment is summarily terminated as a consequence of misconduct;
- casual employees; and,
- employees engaged for a specific period of time.

9. Wage Rates and Allowances

- (a) In lieu of all fixed weekly wages, work related allowances and other payments, an employee's wage structure for long distance driving operations performed under this Agreement shall be determined by reference to the class of vehicle concerned as follows :
- (i) Grade 7 - 28 cents per kilometre for weekly employees
- (b) These rates shall include consideration for hours, penalties, loading/unloading times, overnight allowances and any other wage related payment (or allowance) not specifically included elsewhere in this Agreement. In addition, the rates per kilometre prescribed in this clause are inclusive of a disability allowance compensating for the following :
- (i) shift work and related conditions;
  - (ii) necessity to work during weekends;
  - (iii) lack of normal depot facilities, i.e. lunch room, wash room etc.
  - (iv) necessity to eat at roadside fast food outlets;
  - (v) absence of normal resting facilities and normal bed at night;
  - (vi) additional hazards arising from driving long distances at night and alone;
  - (vii) handling dirty material;
  - (viii) handling money;
  - (ix) extra responsibility associated with arranging loads, spare parts, tyres etc.
  - (x) irregular starting and finishing times; and
  - (xi) working in rain.

(c) **Guaranteed Minimum Income**

An employee, engaged on long distance driving operations, shall be entitled to the minimum fortnightly wage as designated below for the respective grade of vehicle, plus 30%, regardless of the kilometres actually travelled, provided that the guaranteed income is not in addition to per kilometre earnings. This minimum covers, but is not confined to, any period where an employee to whom this sub-clause applies, is prevented from earning their income by way of vehicle breakdown and/or impassable highways, during which time the employee shall be paid up to a maximum of 7.6 hours in any consecutive 24 hour period. In all cases, the employee must be ready, willing and available for work before payment will be made. The payment of an additional 30% prescribed herein does not apply for any period of authorised paid leave, which shall be paid for at the weekly rate prescribed in paragraphs (i) hereof or (ii) hereof.

- (i) Grade 6 - \$446.01 per 38 hours at ordinary time.
- (i) Grade 7 - \$462.11 per 38 hours at ordinary time.

(d) **Day Locals**

Where an employee is engaged on day local deliveries, the rate of pay is based on 38 hours per week. Grade 6 level \$11.74 and at Grade 7 level, \$12.16, with a minimum payment of four hours. A casual employee will be paid the above rates and in addition 23.33% for all work performed. Overtime paid per the TWU Award.

(e) **Distances**

To determine actual earnings, the company and the employees shall refer to the matrix of distances included in the company document known as the Drivers' Manual. The Drivers' Manual contains the kilometre matrix for major traffic lanes. The parties reserve the right to make changes to the kilometre matrix from time to time after consultation between management and employee' consultative committee and the union. When changes are made, a new Drivers' Manual will be issued to all affected employees and parties bound by this Agreement.

(f) **Mixed Functions**

Where an employee is called upon to perform two or more classes of work on any one day the employee shall, for the purpose of assessing the rate of wage to be paid, be deemed to have worked throughout the whole of their working time on that day at the class for which the highest rate of wage is prescribed. Provided that an employee shall not be transferred to perform a class of work providing a lesser minimum rate of wage than that at which the employee is usually employed, unless given a week's notice.

**10. No Extra Claims**

It is a term of this Agreement that the parties undertake that for a period of two years they will not pursue any extra claims except where any Wage Fixation Principles as determined from time to time by the Australian Industrial Relations Commission allow such claims. .

**11. Superannuation**

- (a) In addition to the rates of pay in this Agreement, the company shall contribute on behalf of any eligible employee covered by this Agreement an amount as prescribed by the Superannuation Guarantee Levy Act. This money shall be paid into the TWU Fund or a fund, approved by the Occupational Superannuation Commission, subject to agreement by the company.





- (b) For the purpose of this clause "eligible employees" shall mean all :
  - (i) full time and part time employees; and,
  - (ii) casual employees who work a minimum of 12 hours per week, where such casual employee has had six months service including regular working which averages 12 hours per week or more, who have completed the necessary application forms and lodged them with the company.
- (c) Contributions are payable in accordance with sub-clause (a) hereof upon attainment of the qualifying period, but are not retrospective.
- (d) The company may suspend contributions on behalf of any employee for any period when the employee is absent from work on unpaid leave. Provided that the company shall continue to make contributions in respect of any period during which an employee is absent from work on Workers' Compensation, up to a maximum of 26 weeks, and provided further that the employee remains in the employ of the company.

**12. Normal Working Period**

In recognition of the method of payment for long distance operations performed under this Agreement, the normal hours of work shall be determined with reference to the trip(s) concerned, but in any case shall not exceed the number of driving hours as stipulated by any state or federal legislation as applicable.

The scheduling of starting times shall be at the discretion of the employer. A roster shall be set up and displayed in such a manner that an employee shall so far as it is practicable know the duties the employee is required to perform.

**13. Days Off & Public Holidays**

- (a) An employee shall be entitled to have days off taken at the employee's home base.
- (b) Where an employee works on a Public Holiday, the employee shall receive, in addition to the cents per kilometre payment due as prescribed in Clause 9 of this Agreement, a day's pay according to the classification of vehicle the employee is driving. A "day's pay" means one-fifth of the relevant weekly rate prescribed in sub-clause 9 (c). If an employee is not required to work on a Public Holiday, the employee shall receive a day's pay.
- (c) The Public Holidays which will be observed by the company are those gazetted by the State and Territory governments, and employees shall be entitled to the Public Holidays so gazetted in the State or Territory in which their home base is located.

**14. Trip and Wages Record**

- a) The company shall keep a record of trips at the depot or yard where the employee normally commences work or in a place easily accessible to both the company and employee.
- (b) Such records shall be clearly marked "Trip and Wages Record" separately from the other records of the company and shall contain the following information in respect of each trip of each employee :
  - (i) the employee's name
  - (ii) the depot or yard's location where the trip began
  - (iii) the depot or yard's location where the trip ended
  - (iv) the distance travelled
  - (v) date of commencement and date of completion of the trip; and
  - (vi) the gross and net amount of wages and the components thereof paid to the employee in respect of the trip.

- (c) Such record shall be :
  - (i) completed and kept up to date by the company, who shall make the required entries (except wages) within three working days of the completion of the trip; and,
  - (ii) completed (as regards wages) by the company on or before pay day on which the wages are payable.
  
- (d) The company shall produce such record for inspection by the Secretary or other authorised representative of the Union, each of whom shall have the right to visit the office, depot or yard of the company for this purpose as well as for the purpose of investigating any breach or suspected breach of this Agreement. Before the company is obliged to produce records for inspection to a union official, reasonable notice must be given by the union to the company for the purposes of inspection. In any case, the company shall not be obliged to produce records for inspection on the day or days on which pays are being calculated and made up.

**15. Log Books**

Where an employee is required, by any State or Federal law, to possess a log book, the cost of such book shall be met by the employee.

**16. Payment of Wages**

Wages shall be weekly by means of electronic funds transfer.

**17. Annual Leave**

- (a) A period of four weeks paid leave shall be allowed annually to an employee on weekly hiring after twelve months continuous service (less the period of annual leave).

- (b) Continuous Service

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

- (i) Any interruption or termination of the employment by the company if such interruption or termination 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 granted, imposed or agreed to by the company; or
- (iii) Any absence with reasonable cause, proof whereof shall be upon the employee.

- (c) Calculation of Service

Service before the date of this Agreement shall be taken into consideration for the purpose of calculating annual leave, but an employee shall not be entitled to leave or payment in lieu thereof for any period in respect of which leave or payment in lieu thereof has been allowed or made. 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.

- (d) Leave to be Taken

The annual leave provided by this clause shall be allowed and shall be taken and except as provided for, payment shall not be made or accepted in lieu of annual leave.

- (e) Time of Taking Leave

- (i) Annual leave shall be given and taken in one or two continuous periods at a mutually agreed upon time.
- (ii) Provided that, if the company and an employee so agree, annual leave entitlements may be given and taken in any number of separate periods.

- (iii) Failing agreement under paragraph (i) hereof, annual leave shall be given at a time fixed by the company within a period not exceeding four months from the date when the right to annual leave accrued and after not less than four weeks' notice to the employee.
  - (iv) Notwithstanding the provisions of this sub-clause the leave provided in sub-clause (a) hereof may, if the company and the employee so agree be taken in conjunction with leave becoming due after the following twelve months of continuous service.
- (f) **Payment for Period of Leave**  
Each employee before going on leave shall be paid the appropriate rate (ie the weekly Grade 6 or 7 rate). In addition an employee shall receive, before going on annual leave, a loading of 25% of the wage rate payable to the employee pursuant to Clause 9(c).
- (g) **Proportionate Leave on Termination**  
If after four weeks' continuous service in any qualifying twelve monthly period an employee lawfully leaves his or her employment or his or her employment is terminated by the company through no fault of the employee, the employee shall be paid on the same basis as provided for in sub-clause (f) hereof on a pro-rate formula based on four weeks per annum, for each completed week of continuous service being service in respect of which leave has not been granted hereunder.

**18. Sick Leave**

Any employee, other than a casual, after one month's service with the company, who is absent from work on account of personal illness, or on account of injury by accident shall be entitled to leave of absence subject to the following conditions and limitations :

- (i) An employee shall not be entitled to be paid for any absence for any period of which the employee is entitled to workers' compensation.
- (ii) The employee shall inform the company at least two hours prior to the commencement of such absence of his or her inability to attend for duty and state the nature of the injury or personal illness and the estimated duration of the absence, provided that in exceptional circumstances, proof of which shall be on the employee, this time limit may be extended.
- (iii) A claim for sick leave shall be supported by evidence satisfactory to the company (i.e. a doctor's certificate), that the employee was unable on account of injury or personal illness to attend for duty on the day or days for which leave is claimed.
- (iv) The employee shall be entitled to a maximum 8 working days paid sick leave in the second and subsequent years of service accruable at the commencement of each such year, provided that during the first year's service with the company the entitlement shall be five days. An employee who has taken sick leave during the first month of service will be paid for those hours from any balance remaining at the anniversary of employment.
- (v) Sick leave allowable under this clause which is not availed of during the year in which it was accrued shall, while an employee is employed by the company, be allowed to accumulate indefinitely.
- (vi) In the case of an employee with not less than three months continuous service, continuity of employment for the purpose of this clause shall not be affected by reason of the employee being stood off on account of seasonal fluctuations for any period not exceeding three months in any sick leave year. For the purpose of this clause, 'year' means the period from the date of commencement of an employee's service to the anniversary of such date in each subsequent twelve month's actual employment.



- (vii) An employee shall not be entitled to single days of pay on sick leave on more than two occasions in any one year of service unless the employee produces to the company a certificate from a qualified medical practitioner to the effect that the employee is/was unfit for duty on account of personal illness or injury.

**19. Long Service Leave**

Each employee shall be entitled to long service leave in accordance with the relevant State or Territory legislation which applies in the State or Territory from which the employee's "home base" is determined in accordance with the Definitions clause of this Agreement.

**20. Bereavement Leave**

- (a) An employee on weekly hiring shall on the death of a wife, husband, father, mother, brother, sister, child, step-child, grandparent or parent-in-law be entitled to a maximum of 2 days leave with pay on the occasion of each death. "Pay" shall be based on the weekly rate for the category of vehicle the employee concerned normally operates. For the purposes of this clause the words "wife" and "husband" shall include a person who lived with the employee as a defacto spouse. Proof of a prescribed death shall be furnished by the employee to the satisfaction of the company, if the company requests proof.
- (b) Where an employee would otherwise become entitled to leave under this clause, but such day or days occur on a day or days rostered off for the employee, the employee shall not be entitled to bereavement leave on that occasion.

**21. Jury Service**

An employee required to attend for jury service during their ordinary working hours shall be reimbursed by the company an amount equal to the difference between the amount paid in respect of their attendance for such jury service. "Pay" shall be based on the weekly rate for the category of vehicle the employee concerned normally operates. An employee shall notify the company as soon as possible of the date upon which they are required to attend for jury service. Further the employee shall give the company proof of attendance, the duration of such attendance and the amount received in respect of such jury service.

**22. Accident Make-up Pay**

- (a) This clause shall apply to all employees covered by this Agreement, however it shall apply only in respect of incapacity which results from injury on or after the date of operation of this Agreement.
- (b) The circumstances under which an employee shall qualify for accident make-up payment shall be as prescribed hereunder :
  - (i) the company shall pay an employee accident make-up payment where the employee receives an injury for which weekly payment or compensation is payable by or on behalf of the company pursuant to the provisions of the relevant worker's compensation legislation as amended from time to time.
  - (ii) "accident make-up pay" means a weekly payment of an amount being the difference between the weekly amount of compensation paid to the employee pursuant to the said relevant worker's compensation legislation and the employee's appropriate rates of pay as prescribed by Clause 9 hereof, or, where the incapacity is for a lesser period than one week, the difference between the amount of compensation and the rate of pay for that period.
  - (iii) the company shall pay, or cause to be paid, accident make-up pay during the incapacity of the employee within the meaning of the relevant worker's compensation legislation until such incapacity ceases or until the expiration of a period of twenty-six weeks from the date of injury, whichever shall first occur.

- (iv) the liability of the company to pay accident make-up pay in accordance with this clause shall arise as at the date of the injury in respect of which compensation is payable under the relevant worker's compensation legislation, and the termination of the employees employment for any reason during the period of any incapacity shall in no way affect the liability of the employer to pay accident make-up pay as provided for in this clause.
- (v) in the event the employee receives a lump sum in redemption of weekly payments under the relevant worker's compensation legislation, the liability of the employer to pay accident make-up pay shall cease from the date of such redemption.
- (vi) the company may at any time apply to the Australian Industrial Relations Commission for exemption from the terms of this clause on the grounds that an accident make-up pay scheme proposed and implemented contains provisions generally not less favourable to the employees than the provisions of this clause.

### 23. Parental Leave

Subject to the terms of this clause employees are entitled to maternity, paternity and adoption leave and to work part time in connection with the birth or adoption of a child.

- (1) Maternity Leave
  - (a) Nature of Leave
 

Maternity leave is unpaid leave.
  - (b) Definitions
 

For the purposes of this sub-clause :

    - (i) "Employee" includes a part-time employee but does not include an employee engaged upon casual or seasonal work.
    - (ii) "Child" means a child of the employee under the age of one year.
    - (iii) "Spouse" includes a de facto spouse.
    - (iv) "Continuous service" means service under an unbroken contract of employment and includes any period of leave taken in accordance with this sub-clause and/or any period of leave or absence authorised by the company or by the agreement and/or any period of part-time employment worked in accordance with this clause.
    - (v) "Paternity leave" means leave of the type provided for in sub-clause (2).
- (c) Eligibility for maternity leave
  - (i) An employee who becomes pregnant, upon production to the company of the certificate required by paragraph (d) hereof, shall be entitled to a period of up to 52 weeks maternity leave provided that such leave shall not extend beyond the child's first birthday. This entitlement shall be reduced by any period of paternity leave taken by the employee's spouse and apart from paternity leave of up to one week at the time of confinement shall not be taken concurrently with paternity leave.
  - (ii) Subject to paragraphs (f) and (j) hereof the period of maternity leave shall be unbroken and shall, immediately following confinement, include a period of six weeks compulsory leave.
  - (iii) The employee must have had at least 12 months continuous service with the company immediately preceding the date upon which she proceeds upon such leave.

- (d) **Certification**
- (i) When applying for maternity leave the employee must produce to the company a certificate from a registered medical practitioner stating that she is pregnant and the expected date of confinement.
  - (ii) The employee must also produce to the company a statutory declaration stating particulars of any period of paternity leave sought or taken by her spouse and that for the period of maternity leave she will not engage in any conduct inconsistent with her contract of employment.
- (e) **Notice requirements**
- (i) An employee shall, not less than ten weeks prior to the presumed date of confinement, give notice in writing to the company stating the presumed date of confinement.
  - (ii) An employee shall give not less than four weeks notice in writing to the company of the date upon which she proposes to commence maternity leave stating the period of leave to be taken.
  - (iii) The company by not less than 14 days notice in writing to the employee may require her to commence maternity leave at any time within the six weeks immediately prior to her presumed date of confinement.
  - (iv) An employee shall not be in breach of this clause as a consequence of failure to give the stipulated period of notice in accordance with subparagraph (ii) hereof if such failure is occasioned by the confinement occurring earlier than the presumed date.
- (f) **Transfer to a safe job**
- (i) Where, in the opinion of a registered medical practitioner, illness or risks arising out of the pregnancy or hazards connected with the work assigned to the employee make it inadvisable for the employee to continue at her present work, the employee shall, if the company deems it practicable, be transferred to a safe job at the rate and on the conditions attaching to that job until the commencement of maternity leave.
  - (ii) If the transfer to a safe job is not practicable, the employee may, or the company may require the employee to, take leave for such period as is certified necessary by a registered medical practitioner. Such leave shall be treated as maternity leave for the purposes of paragraphs (k), (l), (m) and (n) hereof.
- (g) **Variation of period of maternity leave**
- Provided the maximum period of maternity leave does not exceed the period to which the employee is entitled under paragraph (c) hereof :
- (i) the period of maternity leave may be lengthened once only by the employee giving not less than 14 days notice in writing stating the period by which the leave is to be lengthened.
  - (ii) the period may be further lengthened by agreement between the company and the employee.
  - (iii) the period of maternity leave may, with the consent of the company, be shortened by the employee giving not less than 14 days notice in writing stating the period by which the leave is to be shortened.

- (h) Cancellation of maternity leave
- (i) Maternity leave, applied for but not commenced, shall be cancelled when the pregnancy of an employee terminates other than by the birth of a living child.
  - (ii) Where the pregnancy of an employee then on maternity leave terminates other than by the birth of a living child, it shall be the right of the employee to resume work at a time nominated by the company which shall not exceed four weeks from the date of notice in writing by the employee to the company that she desires to resume work.
- (j) Special maternity leave and sick leave
- Where the pregnancy of an employee not then on maternity leave terminates after 28 weeks other than by the birth of a living child then:
- (i) she shall be entitled to such period of unpaid leave (to be known as special maternity leave) as a registered medical practitioner certifies as necessary before her return to work; or
  - (ii) for illness other than the normal consequences of confinement she shall be entitled, either in lieu of or in addition to special maternity leave, to such paid sick leave as to which she is then entitled and which a registered medical practitioner certifies as necessary before her return to work.
  - (iii) where an employee not then on maternity leave suffers illness related to her pregnancy, she may take such paid sick leave as to which she is then entitled and such further unpaid leave (to be known as special maternity leave) as a registered practitioner certifies as necessary before her return to work, provided that the aggregate of paid sick leave, special maternity leave and maternity leave shall not exceed the period to which the employee is entitled under paragraph (c) hereof.
  - (iv) for the purposes of paragraphs (k), (l) and (m) hereof, maternity leave shall include special maternity leave.
  - (v) an employee returning to work after the completion of a period of leave taken pursuant to this paragraph shall be entitled to the position which she held immediately before proceeding on such leave or, in the case of an employee who was transferred to a safe job pursuant to paragraph (f) hereof, to the position she held immediately before such transfer.
  - (vi) where such position no longer exists but there are other positions available which the employee is qualified for and is capable of performing she shall be entitled to a position as nearly comparable in status and pay to that of her former position.
- (k) Maternity leave and other leave entitlements
- (i) Provided the aggregate of any leave, including leave taken under this sub-clause, does not exceed the period to which the employee is entitled under paragraph (c) hereof, an employee may, in lieu of or in conjunction with maternity leave, take any annual leave or long service leave or any part thereof to which she is entitled.
  - (ii) Paid sick leave or other paid authorised absences (excluding annual leave or long service leave) shall not be available to an employee during her absence on maternity leave.
- (l) Effect of maternity leave on employment
- Subject to this sub-clause, notwithstanding any agreement or other provision to the contrary, absence on maternity leave shall not break the continuity of service of an employee but shall not be taken into account in calculating the period of service for any purpose of this agreement or long service leave.

- (m) Termination of employment
  - (i) An employee on maternity leave may terminate her employment at any time during the period of leave by notice given in accordance with this agreement.
  - (ii) The company shall not terminate the employment of an employee on the ground of her pregnancy or of her absence on maternity leave, but otherwise the rights of the company in relation to termination of employment are not hereby affected.
  
- (n) Return to work after maternity leave
  - (i) An employee shall confirm her intention of returning to work by notice in writing to the company given not less than four weeks prior to the expiration of her period of maternity leave.
  - (ii) An employee, upon returning to work after maternity leave or the expiration of the notice required by sub-paragraph (i) hereof, shall be entitled to the position which she held immediately before proceeding on maternity leave or, in the case of an employee who was transferred to a safe job pursuant to paragraph (f) hereof, to the position which she held immediately before such transfer or in relation to an employee who has worked part-time during the pregnancy the position she held immediately before commencing such part-time work.
  - (iii) Where such position no longer exists but there are other positions available which the employee is qualified for and is capable of performing, she shall be entitled to a position as nearly comparable in status and pay to that of her former position.
  
- (o) Replacement employees
  - (i) A replacement employee is an employee specifically engaged as a result of an employee proceeding on maternity leave.
  - (ii) Before the company engages a replacement employee the company shall inform that person of the temporary nature of the employment and of the rights of the employee who is being replaced.
  - (iii) Before the company engages a person to replace an employee temporarily promoted or transferred in order to replace an employee exercising her rights under this sub-clause, the company shall inform that person of the temporary nature of the promotion or transfer and of the rights of the employee who is being replaced.
  - (iv) Nothing in this sub-clause shall be construed as requiring the company to engage a replacement employee.
  
- (2) Paternity Leave
  - (a) Nature of leave
    - Paternity leave is unpaid.
  
  - (b) Definitions
    - For the purposes of this sub-clause :
    - (i) "Employee" includes a part-time employee but does not include an employee engaged upon casual or seasonal work.
    - (ii) "Child" means a child of the employee's spouse under the age of one year.
    - (iii) "Spouse" includes a defacto spouse.
    - (iv) "Primary care giver" means a person who assumes the principal role of providing care and attention to a child



- (v) "Continuous service" means service under an unbroken contract of employment and includes any period of leave taken in accordance with this sub-clause and/or any period of leave or absence authorised by the company or by this agreement and/or any period of part-time employment worked in accordance with this clause.
- (c) **Eligibility for paternity leave**  
A male employee, upon production to the company of the certificate required by paragraph (d), shall be entitled to one or two periods of paternity leave, the total of which shall not exceed 52 weeks, in the following circumstances:
- (i) an unbroken period of up to one week at the time of confinement of his spouse.
  - (ii) a further unbroken period of up to 51 weeks in order to be the primary care-giver of a child provided that such leave shall not extend beyond the child's first birthday. This entitlement shall be reduced by any period of maternity leave taken by the employee's spouse and shall not be taken concurrently with that maternity leave, and,
  - (iii) the employee must have had at least 12 months continuous service with the company immediately preceding the date upon which he proceeds upon either period of leave.
- (d) **Certification**  
When applying for paternity leave the employee must produce to the company a certificate from a registered medical practitioner which names his spouse, states that she is pregnant and the expected date of confinement or states the date on which the birth took place. In relation to any period to be taken under sub-clause (c) hereof, the employee must also produce a statutory declaration stating:
- (i) he is seeking that period of paternity leave to become the primary care-giver of a child.
  - (ii) particulars of any period of maternity leave sought or taken by his spouse, and
  - (iii) for the period of paternity leave he will not engage in any conduct inconsistent with his contract of employment.
- (e) **Notice Requirements**  
The employee shall, not less than ten weeks prior to each proposed period of leave, give the company notice in writing stating the dates on which he proposes to start and finish the period or periods of leave and produce the certification required in paragraph (d) hereof. The employee shall not be in breach of this paragraph as a consequence of failure to give the notice required hereof if such failure is due to:
- (i) the birth occurring earlier than the expected date; or
  - (ii) the death of the mother of the child, or
  - (iii) other compelling circumstances.
  - (iv) the employee shall immediately notify the company of any change in the information provided pursuant to paragraph (d) hereof.
- (f) **Variation of period of paternity leave**  
Provided the maximum period of paternity leave does not exceed the period to which the employee is entitled under paragraph (d) hereof:
- (i) the period of paternity leave provided by sub-clause(c) may be lengthened once only by the employee giving not less than 14 days notice in writing stating the period by which the leave is to be lengthened.
  - (ii) the period may be further lengthened by agreement between the company and the employee.

- (iii) the period of paternity leave taken under sub-clause (c) hereof may, with the consent of the company, be shortened by the employee giving not less than 14 days notice in writing stating the period by which the leave is to be shortened.
  
- (g) **Cancellation of paternity leave**  
Paternity leave, applied for under sub-clause (c) hereof but not commenced, shall be cancelled when the pregnancy of the employee's spouse terminates other than by the birth of a living child.
  
- (h) **Paternity leave and other leave entitlements:**
  - (i) Provided the aggregate of any leave, including leave taken under this sub-clause, does not exceed the period to which the employee is entitled under paragraph (c) hereof, an employee may, in lieu of or in conjunction with paternity leave, take any annual leave or long service leave or any part thereof to which he is entitled.
  - (ii) Paid sick leave or other paid authorised agreement absences (excluding annual leave or long service leave) shall not be available to an employee during his absence on paternity leave.
  
- (j) **Effect of paternity leave on employment**  
Subject to this sub-clause, notwithstanding any agreement or other provision to the contrary absence on paternity leave shall not break the continuity of service of an employee but shall not be taken into account in calculating the period of service for any purpose of this agreement or long service leave.
  
- (k) **Termination of employment**
  - (i) An employee on paternity leave may terminate his employment at any time during the period of leave by notice given in accordance with this agreement.
  - (ii) The company shall not terminate the employment of an employee on the ground of his absence on paternity leave, but otherwise the rights of the company in relation to termination of employment are not hereby affected.
  
- (l) **Return to work after paternity leave**
  - (i) An employee shall confirm his intention of returning to work by notice in writing to the company given not less than four weeks prior to the expiration of the period of paternity leave provided by sub-paragraph (c) (ii) hereof.
  - (ii) An employee, upon returning to work after paternity leave or the expiration of the notice required by sub-paragraph (i) hereof, shall be entitled to the position which he held immediately before proceeding on paternity leave, or in relation to an employee who has worked part-time under this clause to the position he held immediately before commencing such part-time work.
  - (iii) Where such position no longer exists but there are other positions available which the employee is qualified for and is capable of performing, he shall be entitled to a position as nearly comparable in status and pay to that of his former position.

(m) Replacement employees

- (i) A replacement employee is an employee specifically engaged as a result of an employee proceeding on paternity leave.
- (ii) Before the company engages a replacement employee the company shall inform that person of the temporary nature of the employment and of the rights of the employee who is being replaced.
- (iii) Before the company engages a person to replace an employee temporarily promoted or transferred in order to replace an employee exercising his rights under this sub-clause, the company shall inform that person of the temporary nature of the promotion or transfer and of the rights of the employee who is being replaced.
- (iv) Nothing in this sub-clause shall be construed as requiring the company to engage a replacement employee.

- (3) Adoption Leave  
(a) Nature of leave  
Adoption leave is unpaid leave.

(b) Definitions

For the purposes of this clause :

- (i) "Employee" includes a part-time employee but not an employee engaged upon casual or seasonal work.
- (ii) "Child" means a person under the age of five years who has not previously lived continuously with the employee concerned for a period of six months, or who is not a child or step-child of the employee or of the spouse of the employee, and is placed with the employee for the purposes of adoption.
- (iii) "Relative adoption" occurs where a child, as defined, is adopted by a parent, a spouse of a parent or other relative being a grandparent, brother, sister, aunt or uncle (whether of the whole blood or half blood or by marriage).
- (iv) "Primary care-giver" means a person who assumes the principal role of providing care and attention to a child.
- (v) "Spouse" includes a de facto spouse.
- (vi) "Continuous service" means service under an unbroken contract of employment and includes any period of leave taken in accordance with this sub-clause and/or any period of leave or absence authorised by the company or by the agreement and/or any period of part-time employment worked in accordance with this clause.

(c) Eligibility

An employee, upon production to the company of the documentation required by paragraph (d) hereof shall be entitled to one or two periods of adoption leave, the total of which shall not exceed 52 weeks, in the following circumstances :

- (i) an unbroken period of up to three weeks at the time of the placement of the child;
- (ii) an unbroken period of up to 52 weeks from the time of its placement in order to be the primary care-giver of the child. This entitlement shall be reduced by any period of leave taken pursuant to this sub-clause and the aggregate of any periods of adoption leave taken or to be taken by the employee's spouse.
- (iii) such leave shall not extend beyond one year after the placement of the child and shall not be taken concurrently with adoption leave taken by the employee's spouse.
- (iv) the employee must have had at least 12 months continuous service with the company immediately preceding the date upon which he or she proceeds upon such leave in either case.

(d) Certification

Before taking adoption leave the employee must produce to the company :

- (i) A statement from an adoption agency or other appropriate body of the presumed date of placement of the child with the employee for adoption purposes; or
- (ii) A statement from the appropriate government authority confirming that the employee is to have custody of the child pending application for an adoption order.

- (iii) In relation to any period to be taken under sub-clause (c) hereof, a statutory declaration stating the employee is seeking adoption leave to become the primary care-giver of the child, the particulars of any period of adoption leave sought or taken by the employee's spouse; and that, for the period of adoption leave the employee will not engage in any conduct inconsistent with his or her contract of employment.
- (e) Notice requirements
  - (i) Upon receiving notice of approval for adoption purposes, an employee shall notify the company of such approval and within two months of such approval shall further notify the company of the period or periods of adoption leave the employee proposes to take. In the case of a relative adoption the employee shall notify as aforesaid upon deciding to take a child into custody pending an application for an adoption order.
  - (ii) An employee who commences employment with the company after the date of approval for adoption purposes shall notify the company thereof upon commencing employment and of the period or periods of adoption leave which the employee proposes to take. Provided that such employee shall not be entitled to adoption leave unless the employee has not less than 12 months continuous service with the company immediately preceding the date upon which he or she proceeds upon such leave.
  - (iii) An employee shall, as soon as the employee is aware of the presumed date of placement of a child for adoption purposes but not later than 14 days before such placement, give notice in writing to the company of such date, and of the date of the commencement of any period of leave to be taken under sub-clause (c) hereof.
  - (iv) An employee shall, ten weeks before the proposed date of commencing any leave to be taken under sub-clause (c) hereof give notice in writing to the company of the date of commencing leave and the period of leave to be taken.
  - (v) An employee shall not be in breach of this sub-clause, as a consequence of failure to give the stipulated period of notice in accordance with subparagraphs (iii) and (iv) hereof if such failure is occasioned by the requirement of an adoption agency to accept earlier or later placement of a child, the death of the spouse or other compelling circumstances.
- (f) Variation of period of adoption leave  
Provided the maximum period of adoption leave does not exceed the period to which the employee is entitled under sub-clause (c) hereof :
  - (i) the period of leave taken under sub-clause (c) hereof may be lengthened once only by the employee giving not less than 14 days notice in writing stating the period by which the leave is to be lengthened.
  - (ii) the period may be further lengthened by agreement between the company and employee.
  - (iii) the period of adoption leave taken under sub-clause (c) hereof may, with the consent of the company, be shortened by the employee giving not less than 14 days notice in writing stating the period by which the leave is to be shortened.
- (g) Cancellation of adoption leave
  - (i) Adoption leave, applied for but not commenced, shall be cancelled should the placement of the child not proceed.
  - (ii) Where the placement of a child for adoption purposes with an employee then on adoption leave does not proceed or continue, the employee shall notify the company forthwith and the company shall nominate a time not

exceeding four weeks from receipt of notification for the employee's resumption of work.

- (h) **Special leave**

The company shall grant to any employee who is seeking to adopt a child, such unpaid leave not exceeding two days, as is required by the employee to attend any compulsory interviews or examinations as are necessary as part of the adoption procedure. Where paid leave is available to the employee the company may require the employee to take such leave in lieu of special leave.
- (j) **Adoption leave and other entitlements**
  - (i) Provided the aggregate of any leave, including adoption leave taken under this sub-clause, does not exceed the period to which the employee is entitled under sub-clause (c) hereof, an employee may, in lieu of or in conjunction with adoption leave, take any annual leave or long service leave or any part thereof to which he or she is entitled.
  - (ii) Paid sick leave or other paid authorised absences (excluding annual leave or long service leave), shall not be available to an employee during the employee's absence on adoption leave.
- (k) **Effect of adoption leave on employment**

Subject to this sub-clause, notwithstanding any agreement or other provision to the contrary, absence on adoption leave shall not break the continuity of service of an employee but shall not be taken into account in calculating the period of service for any purpose this agreement or long service leave.
- (l) **Termination of employment**
  - (i) An employee on adoption leave may terminate the employment at any time during the period of leave by notice given in accordance with this agreement.
  - (ii) The company shall not terminate the employment of an employee on the ground of the employee's application to adopt a child or absence on adoption leave, but otherwise the rights of the company in relation to termination of employment are not hereby affected.
- (m) **Return to work after adoption leave**
  - (i) An employee shall confirm the intention of returning to work by notice in writing to the company given not less than four weeks prior to the expiration of the period of adoption leave provided by sub-clause (c) hereof.
  - (ii) An employee, upon returning to work after adoption leave shall be entitled to the position held immediately before proceeding on such leave or in relation to an employee who has worked part-time under this clause the position held immediately before commencing such part-time work.
  - (iii) Where such position no longer exists but there are other positions available which the employee is qualified for and is capable of performing, the employee shall be entitled to a position as nearly comparable in status and pay to that of the employee's former position.
- (n) **Replacement employees**
  - (i) A replacement employee is an employee specifically engaged as a result of an employee proceeding on adoption leave.
  - (ii) Before the company engages a replacement employee the company shall inform that person of the temporary nature of the employment and of the rights of the employee who is being replaced.

- (iii) Before the company engages a person to replace an employee temporarily promoted or transferred in order to replace an employee exercising rights under this sub-clause, the company shall inform that person of the temporary nature of the promotion or transfer and of the rights of the employee who is being replaced.
  - (iv) Nothing in this sub-clause shall be construed as requiring the company to engage a replacement employee.
- (4) Part-time Work
- (a) For the purposes of this sub-clause :
    - (i) "male employee" means an employed male who is caring for a child born of his spouse or a child placed with the employee for adoption purposes.
    - (ii) "female employee" means an employed female who is pregnant or is caring for a child she has borne or a child who has been placed with her for adoption purposes.
    - (iii) "spouse" includes a de-factor spouse.
    - (iv) "former position" means the position held by a female or male employee immediately before proceeding on leave or part-time employment under this sub-clause whichever occurs first or, if such position no longer exists but there are other positions available for which the employee is qualified and the duties of which he or she is capable of performing, a position as nearly comparable in status and pay to that of the position first mentioned in this definition.
    - (v) "continuous service" means service under an unbroken contract of employment and includes any period of leave taken in accordance with this clause, or any period of leave or absence authorised by the company or by the agreement and/or any period of part-time employment worked in accordance with this clause.
  - (b) Entitlement
 

With the agreement of the company :

    - (i) a male employee may work part-time in one or more periods at any time from the date of birth of the child until its second birthday or, in relation to adoption, from the date of placement of the child until the second anniversary of the placement.
    - (ii) a female employee may work part-time in one or more periods while she is pregnant where part-time employment is, because of the pregnancy, necessary or desirable.
    - (iii) a female employee may work part-time in one or more periods at any time from the seventh week after the date of birth of the child until its second birthday.
    - (iv) in relation to adoption a female employee may work part-time in one or more periods at any time from the date of the placement of the child until the second anniversary of that date.
  - (c) Return to former position :
    - (i) an employee who has had at least 12 months continuous service with the company immediately before commencing part-time employment after the birth or placement of a child has, at the expiration of the period of such part-time employment or the first period, if there is more than one, the right to return to his or her former position :
    - (ii) nothing in sub-paragraph (i) hereof shall prevent the company from permitting the employee to return to his or her former position after a second or subsequent period of part-time employment.

- (d) **Effect of part-time employment on continuous service**  
Commencement on part-time work under this clause and return from part-time work to full-time work under this clause shall not break the continuity of service of employment.
- (e) **Pro-rata entitlements**  
Subject to the provisions of this sub-clause and the matters agreed to in accordance with paragraph (h) hereof, part-time employment shall be in accordance with the provisions of this agreement which shall apply pro rata.
- (f) **Transitional arrangements - annual leave**  
(i) an employee working part-time under this sub-clause shall be paid for and take any leave accrued in respect of a period of full-time employment, in such periods and manner as specified in the annual leave provisions of this agreement, as if the employee were working full-time in the class of work the employee was performing as a full-time employee immediately before commencing part-time work under this sub-clause.  
(ii) a full-time employee shall be paid for and take any annual leave accrued in respect of a period of part-time employment under this sub-clause, in such periods and manner as specified in this agreement, as if the employee were working part-time in the class of work the employee was performing as a part-time employee immediately before resuming full-time work. Provided that, by agreement between the company and the employee, the period over which the leave is taken may be shortened to the extent necessary for the employee to receive pay at the employee's current full-time rate.
- (g) **Transitional arrangements - sick leave**  
An employee working part-time under this sub-clause shall have sick leave entitlements which have accrued under this agreement (including any entitlement accrued in respect of previous full-time employment) converted into hours. When this entitlement is used, whether as a part-time employee or as a full-time employee, it shall be debited for the ordinary hours that the employee would have worked during the period of absence.
- (h) **Part-time work agreement**  
Before commencing a period of part-time employment under this sub-clause the employee and the company shall agree :  
(i) that the employee may work part-time  
(ii) upon the hours to be worked by the employee, the days upon which they will be worked and commencing times for the work  
(iii) upon the classification applying to the work to be performed, and  
(iv) upon the period of part-time work.

The terms of this agreement may be varied by consent. The terms of this agreement or any variation to it shall be reduced to writing and retained by the company. A copy of the agreement and any variation to it shall be provided to the employee by the company. The terms of this agreement shall apply to the part-time employment.



- (j) **Termination of employment**
- (i) The employment of a part-time employee under this clause may be terminated in accordance with the provisions of this agreement but may not be terminated by the company because the employee has exercised or proposes to exercise any rights arising under this clause or has enjoyed or proposes to enjoy any benefits arising under this clause.
- (ii) any termination entitlements payable to an employee whose employment is terminated while working part-time under this clause, or while working full-time after transferring from part-time work under this clause, shall be calculated by reference to the full-time rate of pay at the time of termination and by regarding all service as a full-time employee as qualifying for a termination entitlement based on the period of full-time employment and all service as a part-time employee on a pro rata basis.
- (k) **Extension of hours of work**  
The company may request, but not require, an employee working part-time under this clause to work outside or in excess of the employee's ordinary hours provided for in accordance with paragraph (h).
- (l) **Nature of part-time work**  
The work to be performed part-time need not be the work performed by the employee in his or her former position but shall be work otherwise performed under this agreement.
- (m) **Inconsistent provisions**  
An employee may work part-time under this clause notwithstanding any other provision of this agreement which limits or restricts the circumstances in which part-time employment may be worked or the terms upon which it may be worked including provisions :
- (i) limiting the number of employees who may work part-time
- (ii) establishing quotas as to the ratio of part-time to full-time employees
- (iii) prescribing a minimum or maximum number of hours a part-time employee may work, or
- (iv) requiring consultation with, consent of or monitoring by a union, and such provisions do not apply to part-time work under this clause.
- (n) **Replacement employees**
- (i) a replacement employee is an employee specifically engaged as a result of an employee working part-time under this sub-clause
- (ii) a replacement employee may be employed part-time. Subject to this paragraph, paragraphs (e), (f), (g) (h) and (m) of this sub-clause apply to the part-time employment of replacement employees
- (iii) before the company engages a replacement employee under this paragraph, the company shall inform the person of the temporary nature of the employment and of the rights of the employee who is being replaced
- (iv) unbroken service as a replacement employee shall be treated as continuous service for the purposes of sub-paragraph (a) (v) hereof
- (v) nothing in this sub-clause shall be construed as requiring the company to engage a replacement employee.

## 24. **Articles of Clothing**

- (a) Where an employee is required by the company to wear any special uniform, overall or other article, it shall be supplied by the company at no cost to the employee.

- (b) Where an employee is required by the company to work continuously in conditions which, because of their nature, the clothing would otherwise become saturated, the company shall provide such employee with suitable protective clothing at no cost to the employee. This sub-clause shall not apply to employees who are required as an adjunct to their normal duties to check such things as vehicles, oil, water and tyres.
- (c) Provided further that such protective clothing shall remain the property of the company, and that the employee shall be liable for the cost of replacement of any article of protective clothing which is lost, destroyed or damaged through the wilful negligence of the employee.
- (d) Employees required by their company to wear protective clothing shall do so, and failure to do so may lead to disciplinary action.

**25. Medical Examination**

The company may require an employee and the employee shall so agree to submit to a medical examination upon engagement and thereafter annually, or other period, at the discretion of the company. The company nominated doctor shall perform the examination unless the employee chooses an alternative. The employee must advise the company of the name and contact information of the alternative doctor prior to the examination occurring. Costs of examination(s) will be borne by the company and the results made available to the employee on request.

**26. Heavy Articles**

An employee unaided by proper auxiliary appliances or by another employee shall not be permitted to lift or carry goods over 71 kilograms in weight.

**27. Right of Entry & Preference in Employment**

**A. Right of Entry**

- (a) For the purpose of interviewing employees on legitimate union business, a duly accredited union representative shall have the right to enter any premises in which work to which this agreement is applicable is being carried on, the following conditions :
  - (i) that the representative produces authority to the gatekeeper or such other person as may be appointed by the company.
  - (ii) that the representative interviews employees, members of the union or persons eligible to be members of the union
  - (iii) that not more than three representatives to be on the premises at any one time
  - (iv) that if the company alleges that a representative is unduly interfering with work, or is creating dissatisfaction amongst employees, or is offensive in method, or is committing a breach of any of the previous conditions, the company may refuse the right of entry, but the union shall have the right to bring such refusal before the Settlement of Disputes procedure prescribed elsewhere in this agreement.
- (b) Subject to clause 14 of this agreement, 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 company's premises during working hours, subject to the following conditions :
  - (i) that the representative discloses to the company the nature of the complaint which is to be investigated.
  - (ii) that the representative makes investigations in the presence of the company's representative (if the company so desires)

- (iii) that the representative does not interfere with work proceeding at the company's premises, and
- (iv) that proper conduct is observed.

(c) A union representative shall be a duly authorised representative of the union and be holder for the time being of a certificate, signed by the Secretary of the Branch or with regard to persons under the control of the Federal Secretary, by the Federal Secretary of the union, in the following form or in a form not materially differing this form :

Transport Workers' Union of Australia

This is to certify that . . . . . is a duly accredited representative of the Transport Workers' Union of Australia for all purposes of the Industrial Relations Act 1988.

Federal Secretary . . . . .

Branch Secretary . . . . .

(Specimen signature of holder) . . . . .

Strictly not transferable Date . . . . .

B. Preference in Employment

- (a) In the employment of persons by the company, no discrimination shall be exercised against any members of the union.
- (b) The Union shall not, without reasonable cause, refuse to accept an employee who is employed within the terms of this agreement for membership within the union.

28. Union Notice Board

The company shall ensure a notice board is erected (or make available a section of an existing notice board) in a prominent position for authorised union notices that have been signed or countersigned by an authorised union official. A copy of this Agreement shall be posted on the notice board.

29. Workplace Delegate & Workplace Committee

An employee elected as union representative in a depot or yard shall, upon notification to the company by the union, be recognised as the accredited union representative, and shall be allowed necessary time during working hours to interview relevant company representatives on matters affecting employees in the depot or yard.



A workplace committee of employee and company representatives shall be established, for the purpose of providing a consultative mechanism in the workplace. The committee shall develop a set of guidelines and meet at least four times per year.

**30. Disputes Settling Procedure**

In the event of a dispute arising between the company and his/her employee(s) the following procedure shall be observed :

- (a) Any matter which remains in dispute after it has been considered jointly by the appropriate supervisor and by the employee(s) concerned shall then be examined by the officer appointed by the company to deal with industrial matters.
- (b) If the dispute remains unsettled the company's representative shall ensure that the matter is recorded in writing in pertinent detail, while the employee(s) may notify the Union concerned of the nature and details of the matter in dispute.
- (c) If the dispute thereafter remains unresolved the question shall be discussed between an accredited representative of the company and an official of the union, both of whom shall take all reasonable steps to settle the dispute.
- (d) If the dispute remains unsettled after the procedure specified in (c) hereof has been concluded, the matter shall be notified to the Industrial Relations Commission.
- (e) While the procedures specified herein are being followed all work shall continue normally.
- (f) The ultimate terms of settlement of the dispute shall not be affected in any way, nor shall the rights of any person involved in or affected by the dispute be prejudiced, by the fact that normal work has continued without interruption.

**31. Enterprise Arrangements**

- (a) As part of an on-going process for improvements in productivity and efficiency, discussion shall take place at the enterprise to provide more flexible working arrangements, improvement in the quality of working life, enhancement of skills, training and job satisfaction, and positive assistance in the restructuring process and to encourage consultative mechanisms across the workplace for all employees. As part of this process, the company shall arrange quarterly meetings of management and authorised representatives of the employees to discuss progress of the implementation of efficiency/productivity measures, and this forum shall be used to discuss and, where agreed, make adjustments in rates of pay for productivity gains or employees' increased costs of living.
- (b) The terms of any proposed genuine arrangement reached between the company and employee(s) shall, after due processing, substitute for the provisions of this Agreement to the extent that they are contrary provided that :
  - (i) a majority of employees affected genuinely agree
  - (ii) such arrangement is consistent with the current wage fixation principles

- (c) Such enterprise arrangements shall be processed as follows :
  - (i) all employees will be provided with the prescriptions that currently apply
  - (ii) where an arrangement is agreed between the company and the employees or their representative at an enterprise, such arrangement shall be committed to writing
  - (iii) where the arrangement is agreed between the company and an absolute majority of employees under this Agreement, such arrangement shall be committed to writing.
- (d) The authorised representative of employees at the enterprise shall include the delegate, duly elected consultative committee representatives and organiser or official of the union if requested.
- (e) The arrangement shall be signed by the company, or the employer's duly authorised representative, and the employees or their authorised representative with whom agreement was reached.
- (f) The agreement will be processed in accordance to section S125 of the Industrial Relations Act 1991.
- (g) Nothing shall preclude the parties to this Agreement from agreeing to expand the scope of this Agreement to cover other aspects of the company's operations.

### **32. Introduction of Change & Redundancy**

#### **A. Introduction of Change**

##### **(a) Company's duty to notify**

- (i) Where the company has made a definite decision to introduce major changes in production, programme, organisation, structure or technology that are likely to have significant effects on employees, the company shall notify the employees who may be affected by the proposed changes and their union.

- (ii) "Significant Effects" include termination of employment, major changes in the composition, operation or size of the employer's workforce or in the skills required; the elimination or diminution of job opportunities, promotion opportunities or job tenure; the alteration of hours of work; the need for retraining or transfer of employees to other work or locations and the restructuring of jobs. Provided that where the Agreement makes provision for alteration of any of the matters referred to herein, an alteration shall be deemed not to have significant effect.

##### **(b) Company's duty to discuss change**

- (i) The Company shall discuss with the employees affected and their union, inter alia, the introduction of the changes referred to in subclause (a) hereof, the effects the changes are likely to have on employees, measures to avert or mitigate the adverse effects of such changes on employees and shall give prompt consideration to matters raised by the employees and/or their union in relation to the changes.

- (ii) The discussions shall commence as early as practicable after a definite decision has been made by the Company to make the changes referred to in subclause (a).
- (iii) For the purposes of such discussion, the company shall provide in writing to the employees concerned and their union, all relevant information about the changes including the nature of the changes proposed; the expected effects of the changes on employees and any other matters likely to affect employees, provided that the company shall not be required to disclose confidential information, the disclosure of which would be inimical to the company's interest.

B. Redundancy

(a) Discussions before terminations

- (i) Where the company has made a definite decision that the Company no longer wishes the job the employee has been doing done by anyone, and this is not due to the ordinary and customary turnover of business and that decision may lead to termination of employment, the company shall hold discussions with the employees directly affected and with the Union.

- (ii) The discussions shall take place as soon as is practicable after the Company has made a definite decision which will invoke the provisions of paragraph (a)(i) hereof and shall cover, inter alia, any reasons for the proposed terminations, measures to avoid or minimise terminations and measures to mitigate any adverse effects of any terminations on the employees concerned.

- (iii) For the purposes of the discussion the Company shall, as soon as practicable, provide in writing to the employees concerned and the Union, all relevant information about the proposed terminations including the reasons for the proposed terminations, the number and categories of employees likely to be affected, the number of workers normally employed and the period over which the terminations are likely to be carried out. Provided that the Company shall not be required to disclose confidential information, the disclosure of which would be inimical to the Company's interests.

(b) Transfer to lower paid duties

Where an employee is transferred to lower paid duties for reasons set out in paragraph (a)(i) 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 Company may, at its 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 rates for the number of weeks of notice still owing.

(c) Severance pay

In addition to any period of notice prescribed for ordinary termination in this Award, and subject to further order of the Commission, an employee whose employment is terminated for reasons set out in paragraph (a)(i) hereof shall be entitled to the following amount of severance pay in respect of a continuous period of service:

Period of continuous service	Severance 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

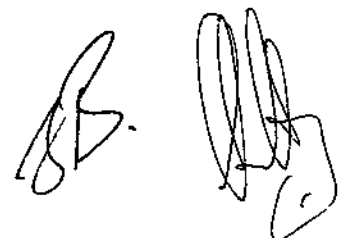
"Weeks' pay" means the weekly rate of pay for the employee as prescribed by Clause 9 of this Agreement. Provided that the severance payments shall not exceed the amount which the employee would have earned if employment with the Company had proceeded to the employee's normal retirement date.

- (d) **Employee leaving during notice**  
 An employee whose employment is terminated for reasons set out in paragraph (a)(i) hereof may terminate his or her employment during the period of notice and, if so, shall be entitled to the same benefits and payments under this clause had he or she remained with the Company until the expiry of such notice. Provided that in such circumstances the employee shall not be entitled to payment in lieu of notice.
- (e) **Alternative employment**  
 The Company, in a particular redundancy case, may make application to the Commission to have the general severance pay prescription varied if the Company obtains acceptable alternative employment for an employee.
- (f) **Time off during notice period**  
 (i) During the period of notice of termination given by the Company, an employee shall be allowed up to one day's time off without loss of pay during each week of notice for the purposes of seeking other employment.  
 (ii) If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee shall, at the request of the Company, be required to produce proof of attendance at an interview or he or she shall not receive payment for the time absent. For this purpose a statutory declaration will be sufficient.
- (g) **Notice to Commonwealth Employment Service**  
 Where a decision has been made to terminate employees in the circumstances outlined in paragraph (a)(i) hereof, the Company shall notify the Commonwealth Employment Service thereof as soon as possible giving relevant information including the number and categories of the employees likely to be affected and the period over which the terminations are intended to be carried out.
- (h) **Superannuation benefits**  
 Subject to further order of the Commission, where an employee who is terminated receives a benefit from a superannuation scheme, he or she shall only receive under subclause (c) the difference between the severance pay specified in that subclause and the amount of the superannuation benefit he or she receives which is attributable to company contributions only. If this superannuation benefit is greater than the amount due under subclause (c) then he or she shall receive no payment under that clause.

- (j) **Transmission of business**  
(i) Where a business is, before or after the date of this Agreement, transmitted from the company (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 that 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) The period of employment which the employee has had with the transmitter or any prior transmitter shall be deemed to be service of the employee with the transferee.
- (ii) 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.
- (k) **Employees with less than one year's service**  
This clause shall not apply to employees with less than one year's continuous service and the general obligation on the Company should be no more than to give relevant employees an indication of the impending redundancy at the first reasonable opportunity, and to take such steps as may be reasonable to facilitate the obtaining by the employees of suitable alternative employment.
- (l) **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.
- (m) **Transfer**  
Where the Company offers and the redundant employee accepts a transfer interstate to a position with the Company, the employee shall be entitled to receive reasonable removal expenses and allowances for both the employee and his or her dependants.

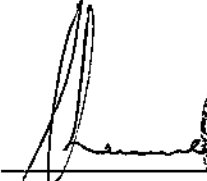
33. **Re-negotiation of Agreement**

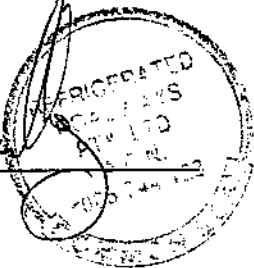
The parties to this Agreement shall enter discussions at least three months prior to the expiry of the Agreement in 1996 for the purpose of re-negotiation of the Agreement. The parties shall not confine their discussions to wage rates, but shall review the operation of all aspects of the Agreement, and shall enter the negotiations with the intention of registering a replacement Agreement on the expiry of this Agreement. The parties agree that, should discussions and negotiations conclude after the expiry of this Agreement, this Agreement shall remain in force until such time as a replacement is certified by the ~~Australian~~ Industrial Relations Commission.






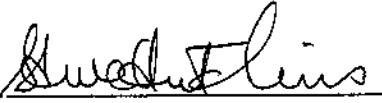
Signed for and on behalf of :  
Refrigerated Roadways Pty. Ltd.

  
\_\_\_\_\_  
Representative



  
\_\_\_\_\_  
Witness  
V. COMMONS

Signed for and on behalf of :  
Transport Workers' Union of Australia

  
\_\_\_\_\_  
Representative



  
\_\_\_\_\_  
Witness