



DECISION

Fair Work Act 2009
s.185—Enterprise agreement

Nestle Australia Ltd
(AG2022/1930)

NESTLE SMITHTOWN ENTERPRISE AGREEMENT 2022

Food, beverages and tobacco manufacturing industry

COMMISSIONER MATHESON

SYDNEY, 18 JULY 2022

Application for approval of the Nestle Smithtown Enterprise Agreement 2022.

[1] An application has been made for approval of an enterprise agreement known as the *Nestle Smithtown Enterprise Agreement 2022* (**Agreement**). The application was made by Nestle Australia Ltd (**Applicant**) pursuant to s.185 of the *Fair Work Act 2009* (Cth) (**Act**). The Agreement is a single enterprise agreement.

[2] There is an error in clause 6.14 of the Agreement in that it provides that “Agreement” means the “Nestlé Smithtown Enterprise Agreement 2019”. The Applicant has clarified that this was intended as a reference to the current Agreement, being the “Nestle Smithtown Enterprise Agreement 2022”.

[3] The Applicant sought that I make a correction to the Agreement to address this error. I have considered this however, in *Advantaged Care Pty Ltd v Health Services Union*,¹ a Full Bench of the Commission considered the power in s.602 of the Act for the Commission to correct an error in relation to its decisions, finding it could not be exercised to correct an error in an enterprise agreement. While the decision dealt with s.602 of the Act and not s.586, having considered the principles in the Full Bench decision, I have decided not to correct the errors in the Agreement pursuant to s.586 of the Act in the manner sought by the Applicant. The Full Bench in *Advantaged Care Pty Ltd v Health Services Union* did however state:

“[47] Further, as the Deputy President observes, in circumstances of obvious error, defect or irregularity, the FW Act provides other means for rectification. Any ‘obvious error, defect or irregularity’ may be addressed by a variation of the agreement approved by a majority of the affected employees, in accordance with s.210 or by the Commission varying the agreement to remove an ambiguity or uncertainty, pursuant to s.217.”

¹ [2021] FWCFB 453.

[4] A party is at liberty to apply for a variation pursuant to ss.210 or 217 of the Act, however I note that, for the purposes of this application, I am able to discern the intention of the clause, have considered where the term “Agreement” is referenced in the Agreement and am satisfied that the error does not impact my assessment of the Agreement.

[5] Pursuant to s.202(4) of the Act, the model flexibility term prescribed by the *Fair Work Regulations 2009* is taken to be a term of the Agreement.

[6] The Employer has provided written undertakings. A copy of the undertakings is attached at Annexure A of this decision (**Undertakings**). The views of each person I know is a bargaining representative for the Agreement were sought in relation to the Undertakings and no objections were raised. I am satisfied that the effect of accepting the Undertakings is not likely to:

- (a) cause financial detriment to any employee covered by the Agreement; or
- (b) result in substantial changes to the Agreement.

[7] Pursuant to s.190(3) of the Act, I accept the Undertakings.

[8] Subject to the Undertakings, and on the basis of the materials before the Commission, I am satisfied that each of the requirements of ss.186, 187, 188 and 190 of the Act as are relevant to the application for approval of the Agreement have been met.

[9] The Australasian Meat Industry Employees Union, being a bargaining representative for the Agreement, has given notice under s.183 of the Act that it wants the Agreement to cover it. In accordance with s.201(2) of the Act, I note that the Agreement covers the organisation.

[10] The Agreement is approved and, in accordance with s.54 of the Act, will operate from 25 July 2022. The nominal expiry date of the Agreement is 29 April 2025.



COMMISSIONER

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Annexure A



Good food, Good life

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7 July 2022

FWC Matter No.:
AG2022/1930

Applicant:
Nestlé Australia Ltd

Section 185 – Application for approval of a single enterprise agreement

UNDERTAKING – SECTION 190

I, Justin De Celis, Head of Employee Relations, have the authority to give the following undertakings with respect to the *Nestlé Smithtown Enterprise Agreement 2022* ("the Agreement"):

1. Clause 4 will operate as intended, as follows:

This Agreement will be read and interpreted in conjunction with the National Employment Standards (NES). Where there is an inconsistency between this agreement and the NES, and the NES provides a greater benefit, the NES provision will apply to the extent of the inconsistency

The following specific undertakings are made accordingly:

- 1.1 17.3 - Public Holiday substitution will only occur in a manner consistent with the NES.
- 1.2 17.7 – 'day's pay' for the purpose of subclause 17.7 will equate to the base rate of pay a person would have received for their ordinary hours pay if they had not been absent from work.
- 1.3 25.4 - the purpose of termination with or without notice, serious misconduct will have a meaning that is consistent with s123(1) of the Fair Work Act.
- 1.4 25.4.2 – any deduction will not be inconsistent with s117 of the Fair Work Act.
- 1.5 25.6 – a termination without notice will only occur in the event of serious misconduct.
- 1.6 31.5 - an employee with 1-2 years' service will not receive less than 4 weeks' severance pay in the event of a termination caused by a redundancy.



Nestlé Good food, Good life

Nestlé Australia Ltd

ABN 77 000 011 316

2. Shift work

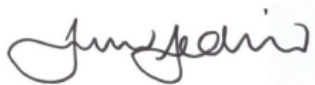
Employees will not be rostered to work on a “non-continuous afternoon or night shift” as defined in the *Food, Beverage and Tobacco Manufacturing Award 2020*, unless overtime will be paid in accordance with subclauses 10.2, 10.8 and 10.9 of the Agreement.

3. Casual Employees (Sunday Work)

In the unlikely event that a casual employee works a Sunday in isolation in a week, the employer will ensure that such an employee will not receive less than he/she would be entitled to receive under the award across the full roster cycle.

These undertakings are provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.

Signed for and on behalf of Nestlé Australia Ltd.



Justin De Celis
Head of Employee Relations

NESTLÉ

SMITHTOWN

ENTERPRISE

AGREEMENT

2022

Note - this agreement is to be read together with an undertaking given by the employer. The undertaking is taken to be a term of the agreement. A copy of it can be found at the end of this agreement.

Note - the model flexibility term is taken to be a term of this agreement and can be found at the end of the agreement.

Nestle Smithtown Enterprise Agreement 2022

1. ARRANGEMENT

Clause No:

15	ALLOWANCES
18	ANNUAL LEAVE
35	AREA INCIDENCE, DURATION AND PARTIES COVERED
1	ARRANGEMENT
29	ENGAGEMENT OF TEMPORARY WORKERS: CASUAL EMPLOYEES, TEMPORARY PERMANENT EMPLOYEES AND LABOUR ENGAGED THROUGH LABOUR HIRE AGENCIES
7	CLASSIFICATIONS
20	COMPASSIONATE LEAVE
3	COMPETENCY BASED TRAINING MULTI SKILLING
25	CONDITIONS OF EMPLOYMENT
2	CONSULTATION
13	CONSULTATION & PRODUCTIVITY
32	DEDUCTION OF UNION FEES
6	DEFINITIONS
38	FLEXIBILITY
37	GRADE WAGE RATES
5	GRIEVANCE PROCEDURE
8	HOURS OF WORK
4	RELATIONSHIP TO NES
21	JURY SERVICE
34	LEAVE TO ATTEND UNION BUSINESS
19	LONG SERVICE LEAVE
16	MIXED FUNCTIONS
36	NO EXTRA CLAIMS
10	OVERTIME
22	PARENTAL LEAVE
26	PAYMENT OF WAGES
24	PERSONAL (SICK) /CARERS LEAVE
17	PUBLIC HOLIDAYS
31	REDUNDANCY
23	REMUNERATION PACKAGING
12	REST PERIODS
9	ROSTERED DAYS OFF
27	SHIFT WORKERS
39	SIGNATURES OF PARTIES
30	SUPERANNUATION
33	TRADE UNION TRAINING
28	TWELVE HOUR SHIFTWORK EMPLOYEES – AWS
34	UNION RELATED MATTERS
14	WAGE INCREASES

AWS APPENDIX
 POLICIES APPENDIX
 MALT EXTRACT APPENDIX

2. CONSULTATION

Major Workplace Change

- 2.1 Where the Company has made a definite decision to introduce a major workplace change to production, program, organisation, structure, or technology that is likely to have a significant effect on employees, the Company must notify the employees who may be affected by the decision and the Union.
- 2.1.2 A major workplace change is *likely to have a significant effect on employees* if it results in:
- (a) the termination of the employment of employees;
 - (b) major change to the composition, operation or size of the employer's workforce or to the skills required of employees;
 - (c) the elimination or diminution of job opportunities (including opportunities for promotion or tenure);
 - (d) the alteration of hours of work;
 - (e) the need to retrain employees;
 - (f) the need to relocate employees to another workplace; and
 - (g) the restructuring of jobs.
- 2.1.3 As soon as practicable after a definite decision has been made, the Company must discuss with the affected employees and the Union (or other appointed employee representative as notified to the Company by an affected employee):
- (i) the introduction of the change;
 - (ii) the effect the change is likely to have on the employees; and
 - (iii) measures the employer is taking to avert or mitigate the adverse effect of the change on the employees; and
- 2.1.4 For the purposes of the discussion, the Company must provide, in writing, to the affected employees and the Union (or other appointed employee representative as notified to the Company by an affected employee):
- (i) all relevant information about the change including the nature of the change proposed; and
 - (ii) information about the expected effects of the change on the employees; and
 - (iii) any other matters likely to affect the employees.

Provided that the Company is not required to disclose confidential or commercially sensitive information.

- 2.1.5 The Company must give prompt and genuine consideration to matters raised about the major change by the affected employees or on their behalf by the Union (or other appointed employee representative as notified to the Company by an affected employee).

Change to Regular Roster or Ordinary Hours of Work

2.2 Where the Company proposes to introduce a change to the regular roster or ordinary hours of work of employees the Company must notify the relevant employees of the proposed change and their appointed representative which may be the Union.

2.2.1 As soon as practicable after proposing to introduce the change the Company must:

- (a) discuss with the relevant employees the introduction of the change; and
- (b) for the purposes of the discussion--provide to the relevant employees:
 - (i) relevant information about the change, including the nature of the change; and
 - (ii) information about what the employer reasonably believes will be the effects of the change on the employees; and
 - (iii) information about any other matters that the employer reasonably believes are likely to affect the employees; and
- (c) invite the relevant employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).

However, the Company is not required to disclose confidential or commercially sensitive information to the relevant employees.

2.2.3 The Company must give prompt and genuine consideration to matters raised about the change by the relevant employees.

3. MULTI SKILLING

The Company and the employees bound by this Agreement agree to observe the existing multi-skilling arrangements and to pursue and eliminate any remaining impediments to multi-skilling and broadening the range of tasks which an Employee may be required to perform.

4. RELATIONSHIP TO NES

The terms of this Agreement and its Appendices shall operate subject to the National Employment Standards (NES) set out in the Fair Work Act 2009, as amended or replaced from time to time.

5. GRIEVANCE PROCEDURE

To provide for the smooth resolution of grievances on site the Company and the employees bound by this Agreement will take all reasonable steps to ensure the following procedure is followed responsibly and expeditiously without affecting work performance or productivity. The Employees will co-operate positively in reviews of work practices aimed at improving productivity.

5.1 If an Employee has any problem or concern in relation to his/her employment he/she shall in the first instance discuss the matter with his/her Supervisor who will endeavour to resolve the issue expeditiously.

- 5.2 Any unresolved matter shall then be referred to the Department Head.
- 5.3 Should the dispute still remain unresolved, appropriate assistance should then be sought from the Factory Manager and if requested by an employee, an official of the Union (or other appointed Employee Representative as notified to the Company by an affected employee).
- 5.4 In the event of no agreement being reached within seven (7) days, the dispute may be referred to the Fair Work Commission for conciliation at first instance by either the Company or the employees bound by this Agreement.
- 5.5 Where conciliation fails to resolve a dispute, FWC is empowered to resolve the matter by arbitration if the matter is:
- about the interpretation, application or process of implementation of a term or terms under this agreement.
 - in relation to the National Employment Standards
- If the matter is not limited to these matters FWC may only arbitrate if the Company and the employees bound by this Agreement agree to binding arbitration.
- 5.6 Until the matter is determined, work shall continue in accordance with the pre-dispute conditions except where a trial is put in place in line with Consultation and Productivity (Clause 13) in which case the trial will go ahead.
- 5.7 Nothing in this clause will operate to the detriment of an Employee's health and safety.
- 5.8 At any stage of the grievance being handled an employee will be afforded the option of having an Employee Representative (which includes a Union Representative) present and will also be given time to consult with that Representative prior to any discussions.

6. DEFINITIONS

6.1 FULL-TIME EMPLOYEE

Is an Employee who is paid by the week and who is employed to work

- for an indefinite period ;and
- for an average of 38 ordinary hours over a work cycle..

6.2 PART-TIME EMPLOYEE

A Part-Time Employee is one appointed, after completion of the probationary period, to a weekly position for an indefinite period, working a regular pattern of hours which is less than the number of days or hours worked by a Full-Time employee.

A Part-Time Employee receives, on a pro rata basis equivalent pay and conditions to those of a full-time employee who does the same kind of work.

The Company must inform the Part-Time Employee of their minimum ordinary hours of work and associated starting and finishing times. Provided that a Part-Time employee may work additional hours, up to the full-time equivalent hours, at his/her ordinary rate of pay.

A Part-Time Employee must be engaged for a minimum of three consecutive hours on any day or shift. In order to meet their personal circumstances, a Part-Time Employee may request and the Company may agree to an engagement for less than the minimum of three hours.

6.3 CASUAL EMPLOYEE

Is an Employee engaged and paid by the Company as a casual in accordance with clause 29 for a minimum of four and a maximum of twelve hours per day.

6.4 LABOUR HIRE EMPLOYEE

Is an Employee engaged and paid by a Labour Hire Agency.

6.5 TEMPORARY PERMANENT EMPLOYEE

Is an Employee engaged as if he/she was a Permanent Employee but on a temporary basis for a specific period of at least 38 ordinary hours (36 ordinary hours in the event of covering and/or providing extra assistance to areas with permanent Annualised Wage System employees) for the purpose of providing temporary cover for a Permanent Employee who is temporarily absent or unavailable. The parties acknowledge that a Temporary Permanent Employee should not be employed to indefinitely replace a Permanent Employee.

Where an Temporary Permanent Employee is engaged on a short term temporary basis, ie between 1 and 3 weeks duration, there shall be a maximum of 5 such engagements per calendar year.

6.6 DAYWORK EMPLOYEE

Is an Employee whose ordinary hours of work are performed between 6.00am and 4.00pm or as otherwise agreed Monday to Friday inclusive. Provided that ordinary hours may be worked up to 6.00pm, Monday-Friday, where shifts exceed 8 hours in duration.

6.7 FIVE (5) DAY SHIFTWORK EMPLOYEE

Is an Employee other than a day work Employee whose ordinary hours of work are performed at anytime Monday to Friday inclusive.

6.8 SEVEN (7) DAY SHIFTWORK EMPLOYEE

Is an Employee other than a day work Employee or a five (5) Day Shiftwork Employee whose ordinary hours of work regularly include Saturdays and Sundays.

6.9 TWELVE (12) HOUR CONTINUOUS SHIFTWORK EMPLOYEE

Is an Employee whose ordinary hours of work fall into a continuous 12 hour shift roster covering all days of the week.

6.10 DAY'S PAY

Unless otherwise specified is 0.2 of the Daywork Employee's, Five (5) Day Shiftwork Employee's or Seven (7) Day Shiftwork Employee's relevant weekly Grade Wage Rate prescribed by this Agreement.

6.111 UNION

Means the Australasian Meat Industry Employees' Union, Newcastle and Northern Branch.

6.12 COMPANY

Means Nestlé Australia Ltd, ACN 000 011 316.

6.13 EMPLOYEE

Means a person employed by the Company in a position or classification covered by this Agreement.

6.14 AGREEMENT

Means the *Nestle Smithtown Enterprise Agreement 2019* unless the context indicates that the word should be given its ordinary meaning.

6.15 LABOUR HIRE AGENCY

Means a company or organisation whose primary purpose is to employ, and then provide, individual workers to the Company to supplement its workforce for the purpose of temporary or urgent work and/or to cover absences.

6.16 PERMANENT EMPLOYEES

Means Full-Time and Part-Time Employees respectively.

6.17 TEMPORARY WORKERS

Means Nestlé Casual Employees, Nestlé Temporary Permanent Employees and employees of a Labour Hire Agency, collectively.

6.18 SMITHTOWN SITE

Means the Company's factory located at Rawson St, Smithtown in New South Wales

7. CLASSIFICATIONS

Savings Provision

No employee will receive a reduction in their base weekly rate of pay as a result of the introduction of the new 2013 classification structure.

An employee who was in receipt of historic CBT based payments in addition to their base Grade Wage Rate under previous agreements will continue to receive those payments.

Full-time Employees shall be paid the relevant Grade Wage Rate set out in Clause 37 (Table 1), according to the Classification definitions contained in this clause.

Regardless of the particular level an employee is appointed to, all employees in the performance of their work are responsible for:

- Housekeeping and cleaning in their work area
- Working safely and applying required hygiene and health, safety and environment standards, programs, procedures and policies
- Carrying out basic instruction, training and support to assist others to perform their work. This includes assistance with on the job training provided they are skilled to do so.
- Performing basic quality checks
- Data entry and record keeping/maintenance, including use of computerised and other electronic equipment as required.
- Basic fault finding, problem solving and continuous improvement initiatives
- Complying with all work procedures and routines
- In the case of operating a machine or equipment, this includes machine set up, changeovers, operation and machine care

Level 1

Description

- Applies to all new employees who do not hold the required experience and/or skills sufficient for appointment to a Level 2 or higher position and who are undertaking up to 500 hours induction training (including training in the skills required for a Level 2 position).
- Upon completion of the induction training, the employee will progress to a Level 2 position, provided that:
 - At or before the completion of 500 hours, the company may elect to conduct a skills and/or knowledge assessment directly relating to skills and/or knowledge acquired during the induction training period.
 - On successful completion of the assessment, the employee will progress to a Level 2 position.
 - If the employee fails to successfully complete this assessment, he/she will remain at Level 1 for an extended induction training period of up to a further 100Hrs.
 - Thereafter, the employee will progress to a Level 2 position unless (a) the company elects to reassess the employee at or before the completion of the extended period and (b) the employee fails to successfully complete this assessment.
 - If the employee fails to successfully complete the assessment, his/her employment will be reviewed and either (a) the Company may elect to continue his/her employment or (b) without prejudice to either the Company's or the employee's contractual or statutory rights with respect to termination of employment, the Company may terminate employment based on the assessment results. Feedback must be provided to the employee on the results of the assessment when such a decision is made.

An employee at Level 1:

- Participates in intensive on-the-job training of the tasks and duties of a Level 2 employee including familiarisation with the workplace.
- Performs routine activities which require the practical application of basic skills and techniques.
- Performs work under close monitoring and supervision with instruction and assistance being readily available.
- Uses basic numeracy, written and verbal communication skills.
- Uses sound levels of interpersonal skills and demonstrates ability to work in a team environment
- Ability to exercise discretion is minimal.
- Provide solutions to problems are found in established procedures and instructions with assistance readily available.
- Minimal scope for interpretation and analysis.

Level 2

Description

An employee at Level 2 is an employee who has:

- (i) Successfully completed an assessment under Level 1; or
- (ii) Has recognised prior experience and/or skills equivalent to a Level 2, as determined by the Company.

An employee at Level 2:

- Performs work requiring the exercise of skills, abilities and competencies above and beyond that required of Level 1 employees
- Performs a range of activities and duties requiring the application of established work procedures, routines, methods and standards.
- Performs work under general direction with assistance readily available.
- Exercises limited initiative, discretion and/or judgment within established procedures and/or guidelines.
- Performs work involving low levels of variability and complexity – with solutions to problems requiring limited judgement and discretion and with assistance readily available.
- Is responsible for the quality of own work and is able to understand and implement quality control techniques within the confines of the work area(s) for which they are skilled to perform work in.
- Demonstrates a thorough knowledge and understanding of work procedures and process and the variables that impact on product, quality, speed and cost within the confines of the specific work area(s) in which they are skilled.
- Resolves problems of some complexity usually confined to particular work areas and within established constraints.
- Interprets and analyses procedures, routines, methods, standards and information in carrying out their duties involving limited complexity.
- Is able to inspect products and/or materials for compliance with established operational standards or procedures within the confines of the particular work area for which they are skilled.
- May undertake training to enable the employee to work at Level 3 or above.

Level 2 Indicative Areas and Tasks

Level 2 Indicative Areas	Level 2 Indicative Tasks
<p>Level 2 employees would normally work in any of the following areas* in the factory including a combination of these areas:</p> <ul style="list-style-type: none"> • Fill & Pack (including Cafe Menu/Stick pack, and Wolf line) • Materials Preparation 	<p>Level 2 employees will be required to perform any of the following tasks* or a combination of tasks for which they are appropriately skilled. Without limiting the parties' intentions to facilitate multi-skilling within the factory. At a minimum, it is expected that Level 2 employees are skilled and trained to perform at least 3 of the below indicative tasks:</p> <ul style="list-style-type: none"> • Case Packing/Cartoning • Filling • Labelling • Palletising/Depalletising • Tipping • Tray and Shrink • Materials Preparation

* The parties acknowledge that these lists are not exhaustive. Consequently, as changes are introduced into the factory from time to time, employees will be required to perform such tasks (and work within such areas) for which they are appropriately skilled. Nothing in this Agreement shall be taken to read that the lists of indicative areas and/or tasks will be interpreted narrowly or exhaustively.

Level 3

An employee at Level 3 performs work above and beyond the requirements of a Level 2 employee, and:

An employee at Level 3:

- Performs work requiring the exercise of skills, abilities and competencies above and beyond that required of Level 1 and 2 employees.
- Exercises initiative, discretion and/or judgment and may be required to act independently within established procedures and/or guidelines.
- Performs work which may require high levels of variability and complexity
- Problem resolution may not be confined to a particular work area. More Senior employees (TCOs or higher) may be relied upon for assistance in resolving more complex problems.
- Performs work which customarily will impact on various stages of the production/manufacturing process.

The impact of any error for work at this level is likely to have more serious ramifications for other processes and tasks carried out at the site (including production suspension, and sample testing and action to ensure compliance with necessary laboratory standards for release of product).

Level 3 Indicative Areas	Level 3 Indicative Tasks
<p>Level 3 employees would normally work in any of the following areas* in the factory including a combination of these areas:</p> <ul style="list-style-type: none"> • Scott Plant • Extract Plant • Quality Assurance (Laboratory) • Booster • Logistics • Nesquik Plant 	<p>Level 3 employees will be required to perform any of the following tasks* or a combination of tasks for which they are appropriately skilled. Without limiting the parties' agreement to facilitate multi-skilling within the factory, at a minimum, it is expected that Level 3 employees are skilled and trained to perform at least 3 of the below indicative tasks:</p> <ul style="list-style-type: none"> • Grinding/filling operation • Dryer operating • Dry mix operating • Cleaning relief • Tun operating • Pan operating • Laboratory (including sensory, chemistry, micro, and pathogen) • Dispatch coordination • Good receipt • Licensed Forklift operation

* The parties acknowledge that these lists are not exhaustive. Consequently, as changes are introduced into the factory from time to time, employees will be required to perform such tasks (and work within such areas) for which they are appropriately skilled. Nothing in this Agreement shall be taken to read that the lists of indicative areas and/or tasks will be interpreted narrowly.

Note: the parties have agreed as part of the 2019 Agreement that employees who operate the **Nesquik Plant** will be paid at Level 3 for the time they are engaged in this task.

Technical Co-ordinator (TCO)

An employee at the Technical Co-ordinator level is appointed by the Company and performs work above and beyond the requirements of a Level 2 or Level 3 position. A Technical Co-ordinator shall be paid their relevant Grade Wage Rate and the Technical Co-ordinator allowance as specified in Clause 37 Table 2, with the exception of Scott Plant TCOs who will be paid the weekly/hourly rate specified in Clause 37 Table 1 for the TCO Level plus the Technical Co-ordinator allowance as specified in Clause 37 Table 2

A Technical Co-ordinator:

- is responsible for the technical, production and administrative coordination of a work area(s); and
- Exercises higher levels of initiative, decision making and complex problem solving abilities and will be required to perform the following indicative tasks:

Indicative Tasks of a Technical Co-ordinator include:

<i>Production Control & Coordination</i>	<ul style="list-style-type: none"> • <i>Arrange and follow up engineering call-ins as required to ensure necessary maintenance is carried out on machinery within work area(s)</i> • <i>Arrange appropriate labour coverage for unplanned leave as required and according to applicable call-in protocols</i> • <i>Identify, correct and record production anomalies</i> • <i>Optimise resources utilisation within the team/site to achieve team goals and the production plan</i> • <i>Assist with identification of training and development needs of team members</i> • <i>Is the primary contact for technical assistance and guidance for operators as and when required</i> • <i>Adhere to production document control requirements</i> • <i>Leading and participation as required in improvement activities including specified projects</i>
<i>Communication</i>	<ul style="list-style-type: none"> • <i>Thorough communication of all operational and other changes/issues/priorities to shift team(s) and next shift TCO at changeover, to ensure a timely and accurate handover</i> • <i>Exercise swift and discretionary communication to on-call manager as required</i> • <i>Escalate difficulties, barriers and/or resistance to the technical coordination of the area</i>
<i>Administration</i>	<ul style="list-style-type: none"> • <i>Ensure all relevant data (by you and other operator/s under your technical coordination) is entered correctly and in a timely manner into SAP and SAM and other systems as required from time to time</i> • <i>Ensure all documentation has been correctly completed, signed off, entered in SAP/SAM and other systems as required and filed in a timely manner.</i> • <i>Ensure Process Orders and other documents/processes as required are ready for Line Manager's review.</i> • <i>Data entry for payroll purposes into the timekeeping system (or other systems as applicable), for the Line Manager to review and approve where required</i>

	<ul style="list-style-type: none"> • <i>Participate in documentation review as required</i>
Safety	<ul style="list-style-type: none"> • <i>Through technical coordination of an area, ensure all activities are conducted in compliance with environmental, safety (food and personal) and company policies and procedures</i> • <i>Work with Health and Safety Representative through the appropriate forum in promoting safety programs identifying and addressing potential safety hazards and risk assessments</i> • <i>Initiate and complete documentation following the Incident Investigation Procedure</i>

Historical Grade 2

An employee at the Historical Grade 2 level is an employee:

- whose Grade Wage Level was Grade 2 under the Agreement which expired on 29 April 2013; and
- who is in receipt of historical CBT payments.

Historical Grade 3

An employee at the Historical Grade 3 level is an employee:

- whose Grade Wage Level was Grade 3 under the Agreement which expired on 29 April 2013; and
- whose classification would otherwise be Level 2 under this Agreement; and/or
- who is in receipt of historical CBT payments.

Historical Grade 4

An employee at the Historical Grade 4 level is an employee:

- whose Grade Wage Level was Grade 4 under the Agreement which expired on 29 April 2013; and
- whose classification would otherwise be Level 2 or 3 under this Agreement; and/or
- who is in receipt of historical CBT payments.

Historical Grade 5

An employee at the Historical Grade 5 level is an employee:

- whose Grade Wage Level was Grade 5 under the Agreement which expired on 29 April 2013; and
- who is in receipt of historical CBT payments.

8. HOURS OF WORK

- 8.1 Ordinary hours of work shall be scheduled not to exceed an average of thirty-eight (38) hours per week in a work cycle.
- 8.2 Except for a meal break or rest period ordinary hours on any day shall not be worked in broken periods (See Clause 11 and 12).

- 8.3 At least ten (10) hours (or a lesser period by mutual agreement but no less than eight (8) hours) shall lapse between an Employee's ordinary hours of work on any one day or shift and the next.
- 8.4 The Company shall post a roster of the ordinary work hours of all Employees and shall not change this roster, except by mutual agreement or except in the case of an emergency, unless fourteen (14) days' notice is given to the Employee concerned.
- 8.5 By mutual agreement between the Company and an Employee the hours or days of work may be altered without incurring penalties.
- 8.6 Ordinary hours of work for a Daywork Employee shall be restricted to a maximum of eight (8) on any day. However by mutual agreement up to 12 ordinary hours may be worked.
- 8.7 The method of implementation of a Twelve Hour Day shall be subject to negotiation between the Company, the Employees and if requested by the employees, the Union.
- 8.8 The extension of 12 Hour Shift System beyond present work units will be subject to negotiation between the Company, the Employees and if requested by the employees the Union.
- 8.9 Split Shifts

By agreement, an employee may work a split shift/engagement on a day provided:

- There shall be no more than two work periods in a split shift/engagement;
- Each work period will be for a minimum of 3 hours and a maximum of 4 hours (meaning that the total engagement will be for a minimum period of 6 hours and a maximum period of 8 hours);
- The second work period will be completed within 12 hours of the commencement of the first work period; and
- Applicable shift loadings will apply to any work period which falls within the relevant shift definitions.

- 8.10 Absence & Roster Vacancy Cover – All Areas

Planned Absences – The Company will fill planned roster vacancies as appropriate, which includes filling the vacancy with Permanent Employees (whether within or outside of the work area) and/or with Temporary Workers.

Unplanned Absences – will be treated as available overtime for the purpose of clause 10.11 and as unplanned overtime which is outside of ordinary hours and on call-back for the purpose of clause 10.12.

9. ROSTERED DAYS OFF (RDO)

- 9.1 Five (5) day, seven (7) day Shiftwork Employees and Daywork Employees scheduled to work in excess of 38 ordinary hours per week in a work cycle will have 0.4 hours accumulated for a RDO. The 0.4 hours will accumulate when an Employee works all their scheduled ordinary hours on a day and when on paid sick leave; paid public holidays; paid jury service; paid compassionate leave and paid family leave.

- 9.2 There is no accrual of an RDO when on Annual Leave or an RDO.
- 9.3 Once an employee has accrued the equivalent of 45.6 hours RDO, the company may request the employee to utilise such RDO hours within one (1) month or by mutual agreement for hours over and above this accrued amount.
- If an employee has a need to accrue further RDO hours, this may be arranged by mutual agreement with the Company.
- 9.4 A RDO shall be taken at a time or times mutually agreed upon when the employee has accumulated seven point six (7.6) hours credit for each day off which shall be deducted from accumulated credit hours. An employee may, with the consent of the Company, take RDO's in part day amounts. Payment for a RDO shall be at the same rate as if worked. An Employee shall not be entitled to sick leave for illness on a RDO.
- 9.5 Where by agreement an Employee works on a RDO, the Employee may, by agreement, be granted a substitute RDO at a mutually agreed time or may be paid overtime rates for the time worked.
- 9.6 All accrued RDO will be paid out upon termination of employment.
- 9.7 An Employee may elect, with the consent of the Company, to accrue some or all rostered days off for the purpose of creating a bank to be drawn upon at a time mutually agreed between the Company and Employee, or subject to reasonable notice by the Employee or the Company.
- 9.8 An employee may apply to take an RDO by giving at least one calendar weeks' notice (or a lesser amount of notice by mutual agreement) prior to the intended date; provided that the Company may decline an application having regard to its operational requirements, but it may not do so unreasonably.

10. OVERTIME

- 10.1 An Employee shall work reasonable overtime as required.
- 10.2 Any time worked in excess of the ordinary hours on any one day shall be overtime and paid for at a rate of time and a half for the first two (2) hours and double time thereafter calculated on the Employees relevant weekly Grade Wage Rate.
- 10.3 Where an Employee is required to work overtime not continuous with the completion or commencement of his or her ordinary scheduled work hours he or she shall be employed for a mutually agreed period of time and paid for the time worked at the overtime rate.
- 10.4 Where overtime extends from one day into the next, such a period of overtime shall be regarded as all having been worked on the first day for payment purposes.
- 10.5 Where an employee works more than three (3) hours overtime on site on call back or continuous with the completion of his or her scheduled ordinary working hours:
- A day work employee shall be allowed a minimum of eight (8) continuous hours break prior to resuming work.
 - A shift work employee shall be allowed a minimum of ten (10) continuous hours break prior to resuming work, or eight (8) at change of shift or by mutual agreement
- 10.6 Should the break required in 10.5 not be allowed, an employee shall be paid at double time of the employees' relevant weekly Grade Wage Rate for all time worked after the completion of overtime until such a break is allowed.
- Where an employee requests or arranges a change to their roster clause 10.5 does not apply.
- 10.7 a) An Employee who is required to work two hours overtime after their normal finishing time without being notified the previous working day shall be entitled to meal allowance as per Clause 37 Item 4 of Table 2.
- b) An Employee who is required to work two hours overtime before their normal starting time without being notified the previous working day shall be entitled to meal allowance as per Clause 37 Item 4 of Table 2.
- 10.8 An Employee, other than an Employee rostered to work ordinary hours on a Saturday, shall be paid time and a half for the first two (2) hours and double time thereafter for Saturday work.
- 10.9 An Employee, other than an Employee rostered to work ordinary hours on a Sunday, shall be paid double time for all time worked on Sunday.
- 10.10 An Employee not rostered to work but required to work on a Public Holiday falling on a Monday to Friday who has not been given the required notice (as per Clause 8.4) shall be paid (as per Clause 17.7).

- 10.11 Permanent Employees will receive first preference for overtime available in their work area.
- 10.12 Where overtime is accepted by a Permanent Employee (as offered in clause 10.11), a minimum 4-hour engagement will apply for:
- unplanned overtime which is outside of ordinary hours and on call-back; and
 - weekend overtime.
- 10.13 Where an employee is required to work overtime onsite on call back or continuous with the completion of his or her scheduled ordinary hours, the employee shall be allowed one paid 10 minute rest break per overtime engagement of 4 hours duration. A rest break during an overtime engagement of less than 4 hours may be mutually agreed, however will be an unpaid rest break.
- 10.14 By agreement between an employee and the Company, an employee may receive time off in lieu of payment for overtime worked on an hour for hour basis. Such time off in lieu will be taken at a time mutually agreed between the employee and their manager.

11. MEAL BREAKS

- 11.1 Daywork Employees shall be allowed a thirty (30) minute unpaid meal break when working day work.
- 11.2 5 day and 7 day Shiftwork Employees shall be allowed a twenty (20) minute paid meal break when working shiftwork as follows:

Five (5) Day Shiftwork Employee (two shift rotation - Day, Afternoon)	Paid meal break on Day and Afternoon . Provided that when working on Day Shift, employees will remain at the line for up to 15 minutes on 1 day per week without additional pay. [Note: prior to the making of the 2019 Agreement employees on a 2 shift rotation did not receive a paid meal break when working Day Shift].
Five (5) Day Shiftwork Employee (three shift rotation - Day, Afternoon, Night)	Paid meal break on all shifts

- 11.3 Employees working a 12 Hour Shift system shall be allowed a 40 minute paid meal break which may be taken as agreed.
- 11.4 Unless otherwise agreed Employees shall not be required to work more than 5 ordinary hours without a meal break.
- 11.5 Notice will be given the previous working day of the Company's intention to vary the time of the meal break. Variation of the time of the meal break will not incur penalty rates.

11.6 Overtime rates will be paid for the meal break if the Company fails to give notice the previous working day of its intention to vary the time of the meal break the following day.

11.7 Where an employee is required to work more than 4 consecutive hours of overtime, he/she will be provided with a paid twenty (20) minute paid break.

12. REST PERIODS

12.1 A paid rest period of ten (10) minutes will be allowed at agreed times both before and after the meal break each day in the rest area.

12.2 Break Times for Day Workers

Unless otherwise indicated or advised:

- At the moment ordinary hours for Day work begins at 6am on the line;
- The first staggered break beginning at 8:30am – this consists of a ten minute break plus 5 minutes wash and walk time.
- The staggered lunch break begins at 12pm
- Employees at 2:15pm end work on the line and have 5 minutes wash time
- Employees may leave site at 2:20pm and be paid until 2:30pm for that day, in lieu of the forfeited after lunch break of 10min.
- Where overtime is continuous to the completion of scheduled ordinary hours and less than 2 hours, the afternoon rest break can be forfeited for dayworkers to take at the end of overtime, eg. Employees commence overtime at 2:15pm and finish on the line at 4:15pm (to be paid their afternoon tea break at ordinary time until 4:30pm, with overtime of 2 hours).
- Where overtime is continuous to the completion of scheduled ordinary hours and greater than 2 hours, the afternoon rest break for dayworkers must be taken prior to the overtime commencing, ie. Employees finish on the line at 2:15pm for their afternoon rest break with overtime commencing on the line at 2:30pm.

13. CONSULTATION AND PRODUCTIVITY

The Company and the employees bound by this Agreement are committed to continuous improvement of product quality, work environment, work performance, productivity and structural efficiency through consultation and working together to resolve problems. The Company and the employees (represented by the Union if they so choose) agree to continue to enhance flexibility, productivity and efficiency of the Factory through a review of working patterns and arrangements as necessary from time to time.

To achieve this:

- A Consultative Committee (CC) comprising of up to 5 union delegates and relevant management representatives will meet quarterly or otherwise as necessary.

The CC's purpose is to provide a mechanism to:

- Enhance communication and consultation between the parties on matters of mutual interest. Individual issues will not be considered by the CC.
- Conduct a regular Workforce Review.
- Review factory performance against Factory KPIs.
- Consider employee suggestions for continuous improvements in the Factory's operational efficiency.

The CC meeting agenda will include a Workforce Review which will include:

- a. Review and determine the current 'permanent establishment' headcount and review any actual or proposed changes to the establishment at each meeting.
- b. Review the extent to which there are any vacant permanent positions and/or any proposed new permanent positions.
- c. Monitoring the use of Temporary Workers (Casual Employees, Employees of Labour Hire Agencies and Temporary Permanent Employees).
- d. Monitoring the Factory's compliance with clause 29.13.
- e. Reviewing access to shifts which are available as a result of planned or unplanned absences.
- f. Considering the extent to which any employees who have been engaged by the Company as Casual Employees on a regular and systematic basis under this agreement during a period of at least six months (referred to hereafter as 'Eligible Casual(s)') should be:
 - i. Converted to become a Full-Time Employee, having regard to the relevant terms of this Agreement, the number of hours worked by the Eligible Casual, any pattern in their engagements and any outcomes from the Workforce Review generally.
 - ii. Converted to become a Part-Time Employee, having regard to the relevant terms of this Agreement, the number of hours worked by the Eligible Casual, any pattern in their engagements and any outcomes from the Workforce Review generally.

Where the CC does not reach a consensus position on whether an Eligible Casual should be converted to become either a Full-Time or Part-Time Employee, the management representatives must provide their reasons to the CC for refusing a conversion (where their refusal is the reason for a lack of consensus).

Where a Casual Employee is offered and does not accept a Full-Time or Part-Time position, the Company will take the necessary steps to fill the position with an alternative permanent employee.

Any dispute about the conversion of Eligible Casuals to Full-Time or Part-Time employment shall be dealt with in accordance with Clause 5 - Grievance Procedure of this Agreement.

To provide a process for change, the following provisions shall apply:

Where an issue is raised by the Company or the employees as part of continuous productivity improvement, consultation shall take place as follows:

- a) The changes shall be explained to all affected Employees including details of how the change or changes will work and how they will improve or alter productivity including output, waste, cost, etc.
- b) Employees will have their input and any alteration (s) considered.
- c) Where agreement is reached on the proposed changes, they will be implemented as soon as practicable.
- d) If no agreement is reached, provided the changes are permitted by the terms of the agreement, they may be implemented on a trial basis as soon as practicable after the expiry of two working weeks from the date on which the productivity improvement is first raised. It is recognised that a trial having a direct impact on all Employees may not be capable of immediate implementation but shall not take longer than four working weeks to implement. The consultative process will continue while the trial continues.

Either the Company or the employees bound by this Agreement may take the issue to the Fair Work Commission (FWC) at any stage after the issue is raised for assistance with the matter.

Where an occupational health and safety issue is raised, it shall be processed in accordance with the applicable Occupational Health and Safety legislation.

Where an Employee has personal difficulties arising from a productivity improvement, those difficulties will be promptly investigated and the Employee will have recourse to the Grievance Procedure (Clause 5) as outlined in the Agreement.

Any agreements or policy changes, entered into and signed by the members of the CC shall be binding on the parties, provided that no agreements shall have any effect to the extent that it operates to reduce any term or condition of employment covered by this agreement, and provided further that such agreements shall not contain matters which are prohibited by the Fair Work Act from being contained in an enterprise agreement.

14. WAGE INCREASES

The following increases will apply to wages during the term of this Agreement:

- a) from first pay period commencing on or after 29 April 2022, a 1.5% increase.
- b) from first pay period commencing on or after 29 October 2022, a 1.5% increase.
- c) from first pay period commencing on or after 29 April 2023, a 1.5% increase.
- d) from first pay period commencing on or after 29 October 2023, a 1.5% increase.
- e) from first pay period commencing on or after 29 April 2024, a 1.5% increase.
- f) from first pay period commencing on or after 29 October 2024, a 1.5% increase.

The increases have been agreed to by the Company on the assumption that there will be continuous improvement in the Factory performance during the term of this Agreement. The parties acknowledge that any deterioration in Factory performance during the term of this

Agreement will impact the Company's position with respect to future pay increases in any future enterprise agreement.

Evidence indicating continuous improvement will include:

- i) Positive movement in the Factory's KPI's.
- ii) Agreement by Company and the employees bound by this Agreement on changes required to improve the business.
- iii) No industrial action occurring.
- iv) Satisfactory performance of the site training and consultative processes
- v) Other relevant matters that may be raised by Company and the employees bound by this Agreement.

This evidence shall be regularly considered by the CC. Where progress is unsatisfactory, the reasons for this will be examined and a plan put in place to correct any problems.

15. ALLOWANCES

The allowances described below will be increased in accordance with Table 2 in Clause 37.

- 15.1 Emergency Response Allowance** - Employees appointed by the Company as permanent members of the Emergency Response Team shall be paid an allowance as per Clause 37 (Table 2, Item 1) per week, in addition to other payments to which they are entitled under this Agreement. The allowance shall not be included for the calculation of overtime payments or other payments.

The allowance will continue to be paid provided Employee attends the required number of training sessions per calendar year as specified by the Safety Department in order to maintain skill levels and continues to be ready, willing and able to carry out the duties required of an Emergency Response Team Member.

15.2 First Aid

- 15.2.1 First Aid Allowance** – Subject to 15.2.2, an Employee who holds a current First Aid Accreditation and is appointed by the Company as a First Aid Attendant, shall be paid an allowance as per Clause 37 (Table 2, Item 2) per week, in addition to other payments to which they are entitled under this agreement. The allowance shall not be included for the calculation of overtime payments or other payments.

The allowance will continue to be paid provided Employee attends the required number of training sessions per calendar year as specified by the Safety Department in order to maintain skill levels, maintains currency of accreditation and continues to be ready, willing and able to carry out the duties required of a First Aider.

- 15.2.2 Occupational First Aider Allowance** - an Employee who holds a current Occupational First Aid / Workplace First Aid Level 3 accreditation and is appointed by the Company as an Occupational First Aider, shall be paid an allowance as per Clause 37 (Table 2, Item 3) per week, in addition to other

payments to which they are entitled under this agreement. An employee who qualifies for this allowance will receive it in lieu of the allowance prescribed in 15.2.1. The allowance shall not be included for the calculation of overtime payments or other payments.

The allowance will continue to be paid to an appointed Employee provided: (a) he/she maintains currency of their occupational first aid qualification by completing refresher training (b) he/she continues to be ready willing and able to carry out the duties required of an Occupational First Aider and (c) he/she assists in the provision of refresher training to lower level First Aid Officers.

15.3 Technical Co-ordinator Allowance - where an employee is nominated by the Company and performs the duties of a Technical Co-ordinator, that employee shall be paid their nominal Grade Wage Rate and an hourly allowance for the hours they are nominated to undertake and perform such duties per Clause 37 (Table 2, Item 8). The total amount of the allowance payable to an employee in any week will not exceed the hourly allowance multiplied by 38. The allowance shall not be included for the calculation of overtime payments or other payments.

15.4 Forklift Allowance - an Employee whose position is classified at or below Level 2 or similar historical grade and who:

- (a) is accredited to operate a forklift for which a licence is required
- (b) maintains the currency of their forklift licence; and
- (c) is required to occasionally operate such a forklift from to time

Shall be paid an hourly allowance as per Clause 37 (Table 2, Item 6) per hour for the time spent operating the forklift in addition to other payments to which they are entitled under this agreement. The allowance shall not be included for the calculation of overtime payments or other payments.

Provided that where an employee operates a forklift for more than 1 hour on any day he/she shall be paid a daily allowance as per Clause 37 (Table 2, Item 5).

15.5 Confined Space Allowance – Competent employees suitably trained by the Company and authorised to issue Entry Permits and/or enter Confined Spaces, shall be paid an allowance as per Clause 37 (Table 2, Item 7) per week, in addition to other payments to which they are entitled under this Agreement. The allowance shall not be included for the calculation of overtime payments or other payments.

The allowance will continue to be paid provided the Employee attends the required training sessions specified by legislation and the Safety Department in order to maintain skill levels. The allowance will not continue if the ability to issue Entry Permits and/or enter Confined Spaces is no longer required by the role.

15.6 Health and Safety Representative - A person who has been elected as a Health and Safety Representative, and who

- (a) regularly attends Health and Safety Committee meetings; and
- (b) actively participates in Health and Safety initiatives

will receive a weekly Health and Safety Representative allowance as per clause 37 (Table 2, Item 9).

- 15.7 Designated Assessor** - A person may be appointed at the Company's discretion to conduct skills and/or knowledge assessments, generally related to key skills a person needs to achieve a grade promotion, demonstrate a pre-requisite skill for their current position (eg fork truck operation) and/or for a move to another part of the factory.

An appointed person:

- would generally be regarded as an internal expert in the skills and/or knowledge in the area of the Factory being assessed.
- will receive the allowance set out in Clause 37 (Table 2, Item 10)

The parties agree that the Company will determine whether a Designated Assessor will be appointed in a particular area of the Factory.

16. MIXED FUNCTIONS

An Employee performing duties of a higher grade job for more than 1 hour on any day (except when working or relieving whilst undergoing training) shall be paid at the higher grade rate for all hours worked on that day including overtime.

17. PUBLIC HOLIDAYS

- 17.1 Subject to 17.2, the following days shall be Public Holidays:

New Years Day, Australia Day - 26 January, Good Friday, Easter Saturday, Easter Sunday, Easter Monday, Anzac Day – 25 April, Queen's Birthday, Labour Day, Christmas Day - 25 December, Boxing Day – 26 December, Picnic Day, any other day proclaimed and gazetted as a Public Holiday in the State of New South Wales.

- 17.2 Substitute Public Holidays

For other than 12-Hour Continuous Shiftwork Employees

If a day is proclaimed and/or gazetted as a Public Holiday in substitution for any day specified in 17.1, then the substitute day will be the public holiday.

For 12-Hour Continuous Shiftwork Employees.

The actual day, as distinct from a substitute day, will be the public holiday.

- 17.3 By agreement with an Employee or all Employees a day other than the proclaimed/gazetted day may be observed as the holiday.

- 17.4 In substitution for the Kempsey Show Day and the Kempsey Cup Day, a local holiday shall be allowed and observed as follows:

For other than 12-Hour Continuous Shiftwork Employees, the Local Day shall be allowed and observed on a mutually agreed day on or after the first Tuesday in August.

- Full Time Employees – 8 hours will be credited to employee P/D balance

- Casual and Temporary Permanent Employees – shall be paid single extra time for the time worked

For 12-Hour Continuous Shiftwork Employees, the Kempsey Show Day and Kempsey Cup Day shall be observed as the first Tuesday in August. This day has been built into the AWS calculation at 7.6 hours.

- 17.5 For other than 12-Hour Continuous Shiftwork Employees, the Picnic Day shall be allowed and observed on a mutually agreed day on or after the first Monday in August.
- Full Time Employees - 8 hours will be credited to employee P/D balance
 - Casual and Temporary Permanent Employees – shall be paid single extra time for the time worked

For 12-Hour Continuous Shiftwork Employees, the Picnic Day shall be recognised as the first Monday in August. This day has been built into the AWS calculation at 7.6 hours.

- 17.6 Casual Employees shall be paid single extra time for time worked on a holiday falling on a Monday to Friday inclusive.
- 17.7 Daywork Employees and Five (5) Day Shiftwork Employees shall receive a day's pay for each holiday falling on a Monday to Friday inclusive.
- 17.8 Seven (7) Day Shiftwork and Twelve (12) Hour Continuous Shiftwork Employees shall receive a day's pay for each holiday, whether rostered to work that holiday or not.
- 17.9 An Employee rostered to work on a holiday shall in addition to the payment under subclause 17.7 or 17.8 of this clause be paid single time extra for the time worked.
- 17.10 An Employee not rostered to work on a holiday but required to work on a holiday shall in addition to payment under paragraph 17.7 or 17.8 of this clause be paid time and one half, for the time worked.
- 17.11 Day work employees and 5 day shift work employees who work on a public holiday that falls on a weekend shall receive double time and one half for all time worked on that day.

18. ANNUAL LEAVE

- 18.1 The provisions of the Fair Work Act 2009 (the Act) apply, which allows for four (4) weeks paid annual leave per annum.
- 18.2 Seven (7) Day Shift Work Employees (who are shiftworkers for the purposes of the National Employment Standards) shall have an additional annual leave entitlement of one (1) weeks leave.
- 18.3 All Employees on taking annual leave that has fallen due in accordance with the Act shall be paid an allowance in advance being the greater of:
- a) 17.5% of the Employees relevant weekly Grade Wage Rate per week of leave taken; or
 - b) The applicable shift allowance for the projected roster.

- 18.4 In relation to mixed functions, for the purpose of calculating an Employee's ordinary pay it shall be the rate applicable at the date of commencement of leave.

Casual Employees - refer to Clause 29.11.

Temporary Permanent Employees - refer to Clause 29.12.

- 18.5 Where employees are pre-planning annual leave, discussions should be held with the Department Manager to ascertain business needs at that time and the practicality of such leave.

18.6 Management of Excessive Leave

- (i) Employees may accumulate annual leave up to the equivalent of two (2) years' accrual.
- (ii) Where an employee has accrued the equivalent of 1.5 years accrual the employee's Manager should commence discussions to develop a reasonable plan (by mutual agreement) to ensure the accumulation does not exceed the equivalent of two (2) years' accrual.
- (iii) The Company may require an employee to take leave with 4 weeks' notice but only if the remaining balance of leave accrued does not fall below the equivalent of one year's leave accrual. However, by mutual agreement an employee may accrue more than two (2) years accrual.

18.7 Cashing out of paid annual leave

Where an Employee has accrued an annual leave entitlement exceeding 2 years' accrual, an Employee may elect with the consent of the Company to cash out a period of annual leave provided that:

- (i) The Company may refuse any request(s) at its discretion;
- (ii) Paid annual leave must not be cashed out if the cashing out would result in the Employee's remaining accrued entitlement to paid annual leave being less than one year's accrual;
- (iii) Each cashing out of a particular amount of paid annual leave must be by a separate agreement in writing between the Company and the Employee; and
- (iv) The Employee must be paid at least the full amount that would have been paid to the Employee had the Employee taken the leave that the Employee has foregone.

- 18.8 Discussions of the shutdown and its intended duration will commence three (3) months in advance. As far as practicable, six (6) weeks' notice shall be given by the employer of the intended shutdown timeframe. Employees will need to ensure that they have sufficient Annual Leave accumulated for these shut downs and requests for Annual Leave prior to shut downs where employees have low balances may be rejected. Employees who present the Company with Annual Leave requests for exceptional circumstances will be favourably considered on a case by case basis.

19. LONG SERVICE LEAVE

- 19.1 Employees may request to take periods of long service leave in accordance with the relevant legislation, however upon request and agreement with the employer, long service leave may be taken by employees in a greater number of periods than specified in the relevant legislation.
- 19.2 An employee may take a period of leave that is less than one week by Agreement.
- 19.3 As much notice as possible should be provided by employees for requests to take long service leave, but not less than 4 weeks. Note, the period of notice provided by the employee will be taken into consideration by the Company in deciding whether to grant an employee's request for leave.
- 19.4 Taking long service leave at half pay - an employee can request to take a period of long service leave for twice as long as the period to which they are entitled, at half their ordinary pay; provided that:
- (i) the period that will be taken will not be less than 2 continuous weeks; and
 - (ii) the employee does not have an excessive annual leave balance as defined in clause 18.6, and where relevant, takes steps to comply with 18.6 (ii).
- 19.5 All other matters in relation to long service leave shall be in accordance with the provisions of the NSW Long Service Leave Act 1955.

20. COMPASSIONATE LEAVE

For the life of this Agreement employees covered by it will be entitled to Compassionate Leave in accordance with Nestlé Bereavement Leave policy. Any more generous Bereavement leave provision that applies during the life of this Agreement arising from a company policy, or any legislation/regulation, will apply to employees covered by this Agreement.

21. JURY SERVICE LEAVE

Permanent and Temporary Permanent Employees required to perform jury service during his or her normal work hours shall be paid the difference between the Employees relevant Grade Wage Rate for the period and the jury service payment.

22. PARENTAL LEAVE

In addition to the National Employment Standards, the Company's Parental Leave Policy, applicable at the time of approval of this agreement, shall continue to apply for the duration of this agreement, provided employees shall not be excluded from any improvement to the policy which may occur during that period.

23. REMUNERATION PACKAGING

The Company may offer remuneration packaging. Neither the Company nor an employee may be compelled to enter into a remuneration packaging agreement.

Remuneration packaging shall mean that the employee will have part of their wage packaged into a fringe benefit which does not constitute a direct payment to the employee but is payable to a bona fide third party.

The terms and conditions of such a package shall not, when viewed objectively, be less favourable than the entitlements otherwise available under this agreement and shall be subject to the following provisions:

- (i) the structure of any agreed remuneration package must comply with taxation and other relevant legislation. Accordingly, the employer has the right to vary or withdraw from a remuneration packaging agreement and/or withdraw from offering remuneration packaging in the event of changes to the operation of legislation that are detrimental to, or increase the costs of, remuneration packaging arrangements
- (ii) in the event that the Company withdraws from a salary packaging agreement, the individual employee's salary will revert to the employee's gross rate of pay specified in this Agreement.
- (iii) notwithstanding any of the above arrangements, the Company and/or an employee may cancel a remuneration packaging agreement by the giving of one month's notice of cancellation to the other party;
- (iv) the calculation of entitlements concerning occupational superannuation will be based on the employee's actual ordinary time rate of pay; and
- (v) the employee may seek independent advice prior to entering into any salary packaging agreement.

24. PERSONAL (SICK) / CARERS LEAVE

24.1 Employees, other than casual employees, are entitled to paid Personal/Carer's leave in accordance with this clause.

24.2 Amount of Leave

For each year of service with his or her employer, an employee is entitled to 10 days (76 hours) of paid personal/carer's leave.

24.3 Accrual of leave

An employee's entitlement to paid personal/carer's leave accrues progressively during a year of service, and accumulates from year to year.

24.4 Taking paid personal/carer's leave

An employee may take paid personal/carer's leave if the leave is taken:

- (a) because the employee is not fit for work because of a personal illness, or personal injury, affecting the employee; or
- (b) to provide care or support to a member of the employee's immediate family, or a member of the employee's household, who requires care or support because of:
 - (i) a personal illness, or personal injury, affecting the member; or
 - (ii) an unexpected emergency affecting the member.

immediate family of an employee means:

- (a) a spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the employee; or
- (b) a child, parent, grandparent, grandchild or sibling of a spouse or de facto partner of the employee.

24.5 A Part-time employee is entitled to a proportionate amount of personal/carer's leave based on the provisions above.

24.6 Unpaid Absences

Personal/Carer's Leave will continue to accrue whilst an employee is on unpaid leave to a maximum duration of unpaid leave of 52 weeks.

24.7 Notice

An Employee, unable to attend work shall notify the Company:

- For personal (sick) leave, as soon as practicable, of the nature of the illness and the estimated duration of absence in the case of personal(sick) leave.
- For carer's leave, wherever practicable, prior to the absence of the intention to take leave, the name of the person requiring care and that person's relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the employee to give prior notice of absence, the employee shall notify the Company by telephone of such absence at the first opportunity on the day of absence.

24.8 Evidence

Personal/Sick Leave

An employee shall prove to the satisfaction of the Company that he/she was unable on account of illness or injury to attend duty for any absence of more than two days. Where an employee has had two such instances in a calendar year, all further instances of sick leave of more than one day must be proved to the satisfaction of the Company.

Where an employee's single day absences indicate misuse, the Company will review such single day absences with the employee.

Twelve (12) hour shift work employees who work on a public holiday and fall ill the previous or following day, shall not be required to produce evidence of the absence unless the absence is longer than two days.

Carer's Leave

The Employee shall, if required, establish by production of a medical certificate or statutory declaration the illness of the person concerned and that the illness is such as to require care by another person. In normal circumstances an employee must not take carer's leave under this subclause where another person has taken leave to care for the same person.

24.9 An employee on Workers Compensation with sick leave entitlements, will not be entitled to claim sick leave payments, but upon request to the employer, will be entitled to the difference between the amount received as Workers Compensation and full pay. If the employer pays the difference, the

employee's sick leave entitlement under this clause will for each week during such difference is paid, be reduced by that proportion of thirty eight (38) hours which the difference paid bears to full pay.

24.10 Entitlement to unpaid carer's leave

An employee is entitled to 2 days of unpaid carer's leave for each occasion when a member of the employee's immediate family, or a member of the employee's household, requires care or support because of:

- (a) a personal illness, or personal injury, affecting the member; or
- (b) an unexpected emergency affecting the member.

24.11 Make-up time

- a) An Employee may elect, with the consent of the Company to work 'make-up time', under which the Employee takes time off ordinary hours and works those hours at a later time, during the spread of ordinary hours provided in the Agreement, at the ordinary rate of pay.
- b) An Employee on shift work may elect, with the consent of the Company to work 'make-up time' (under which the Employee takes time off ordinary hours and works those hours at a later time) at the shift work rate which would have been applicable to the hours taken off.

24.12 Cash Out of Personal (Sick) / Carer's Leave

An person may elect to cash out up to 5 days' leave once in a calendar year, provided:

- (i) He/she has a sick leave balance greater than 30 days; and
- (ii) He/she has an annual leave balance less than 40 days.

25. CONDITIONS OF EMPLOYMENT

25.1 CONTRACT OF EMPLOYMENT

Contracts of Employment shall be as defined in Clause 6.

Each Employee will be advised before commencing employment, the terms of their employment.

An Employees' terms of employment will not be changed unless by mutual agreement.

25.2 PROBATIONARY PERIOD FOR PERMANENT EMPLOYEES

Appointment as a Permanent Employee is subject to a three (3) months probationary period during which performance will be reviewed at monthly intervals and if satisfactory the Employee will remain a Permanent Employee of the Company. If unsatisfactory, employment will be terminated. If within the next three (3) months the Employee's performance becomes unsatisfactory the Company shall take appropriate disciplinary action up to and including termination. However such action will be taken only after the Employee has been afforded the opportunity, should they so chose, to advise the Union and request the Union to participate in the process.

25.3 PROMOTIONS/TRANSFERS - PERFORMANCE REVIEW

The criteria for assessment of Employees for promotion, transfer between departments etc. will include the Performance Review and will be in accordance with the published Discrimination Free Workplace Policy and in the case where all things are equal seniority will be a factor taken into consideration. Employees will be encouraged to participate in an annual Performance Review.

The review sets the minimum frequency for a formal review of the Employees performance against the prescribed assessment criteria. The process provides a forum for Management and the Employee to discuss ongoing development and training in order to improve productivity and efficiency, increase personal skill development, motivation, self esteem and the development of agreed skills related career paths that satisfy the Employees' aspirations and the Company's future needs.

It is recognised that some Employees may not wish to participate in the Performance Review process.

25.4 TERMINATION OF EMPLOYMENT

25.4.1 Notice of Termination by Employer

25.4.1(a) In order to terminate the employment of an employee the employer must give to the employee the following notice:

Period of Service	Period of Notice
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

25.4.1(b) In addition to the notice in 25.4.1(a) employees over 45 years of age at the time of the giving of the notice with not less than two years service, are entitled to an additional week's notice.

25.4.1(c) Payment in lieu of the notice prescribed in 25.4.1(a) and (b) must 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.

25.4.1(d) In calculating any payment in lieu of notice, the wages an employee would have received in respect of the ordinary time he or she would have worked during the period of notice, had their employment not been terminated, must be used.

25.4.1(e) The period of notice in this clause does not apply in the case of dismissal for serious misconduct, or in the case of casual employees, apprentices, or employees engaged for a specific period of time or for a specific task or tasks.

25.4.2 Notice of Termination by Employee

The notice of termination required to be given by an employee shall be the same as that required of an employer, except that there is no additional notice based on the age of the employee concerned. If an employee fails to give notice the employer has the right to withhold moneys due to the employee to a maximum amount equal to the ordinary time rate of pay for the period of notice.

25.4.2 WITHOUT NOTICE

Employment may be terminated without notice for serious misconduct, including neglect of duty, inefficiency, malingering, pilfering, physical or verbal abuse of another person, abuse of alcohol or drugs affecting the Employee's work performance and payment will be up to the time of termination.

25.5 STANDDOWN

The Company shall have the right to deduct payment for any day the Employee cannot be usefully employed because of any strike or through any breakdown in machinery or any cause for which the Company cannot reasonably be held responsible.

25.6 ABANDONMENT OF EMPLOYMENT

The absence of an Employee from work for a continuous period of three (3) working days without the consent of the Company and notification to the Company will be deemed abandonment of employment and wages will be paid up to the last time of work. This is recognised as a resignation by the Employee unless, within a period of fourteen (14) days since the last attendance at work the Employee establishes to the satisfaction of the Company he or she was absent and could not notify the Company for a reasonable cause.

25.7 WORK TO BE PERFORMED

The Company may direct an Employee to carry out such duties as are within the limits of the employees' skill, competence and training.

26. PAYMENT OF WAGES

Unless otherwise agreed at the site, the payment of wages will occur by EFT no later than Wednesday of each working week. Payment will be for the hours worked between Monday to Sunday of the previous week.

27. SHIFT WORKERS

Notwithstanding anything in this Agreement, the following principles will apply:

27.1 Twelve Hour Shifts

Without limiting the areas where a 12 hour shift arrangement could apply in the future,

- a) the shift roster in the Scott Plant is currently a Continuous 12 Hour Shift Roster, 4 days on 4 days off, 2 early shifts followed by a 24 hour break followed by 2 late shifts.
 - i) Employees working this shift roster will be paid according to the “Annualised Wage System”, see Clause 28.
 - ii) Annual Leave, Sick Leave and Long Service Leave shall be deducted and paid for the Ordinary Hours taken.
- b) The shift roster in the Malt Extract Plant is currently a 5 day, 12 Hour Shift Roster as set out in Malt Extract Appendix.

27.2 Shift Allowances

A shiftwork employee shall be paid the following allowance for each ordinary hour worked:

	Grade Wage Rate %
Five (5) Day Shiftwork Employee (two shift rotation - Day, Afternoon)	10
Five (5) Day Shiftwork Employee (three shift rotation - Day, Afternoon, Night)	15
Seven (7) Day Shiftwork Employee	30
Twelve (12) Hour Shiftwork Employee	30
Fixed afternoon shift	15
Fixed night shift	30

Where:

Fixed afternoon shift is a shift which does not rotate or alternate with another shift.

Fixed Night shift occurs when a person:

- (i) during a period of engagement on shift, works night shift only; or
- (ii) remains on night shift for a longer period than four consecutive weeks; or
- (iii) works on a night shift which does not rotate or alternate with another shift or with day work so as to give the person at least one third of their working time off night shift in each shift cycle,

27.2A Alternative Shift Arrangements

Alternative shift allowances and arrangements may apply where agreement is reached with a majority of employees in a work area to implement an alternative roster which may be cost neutral relative to the existing roster.

27.3 Shift times and Handovers

Shiftworkers working on an 8 hour shift which hands over to another shift will be rostered to work 8 hours and 5 minutes to provide time for a handover, without additional payment. Where a person is required to remain at the line for more than 5 minutes at the end of their shift, he/she will receive overtime upon approval from his/her Line Manager / Supervisor.

The indicative shift times will be as follows:

3 Shift Rotation

Day Shift	6:00 am	2:05 pm
Afternoon Shift	2:00 pm	10:05 pm
Night Shift	10:00 pm	6:05 am

2 Shift Rotation		
Day Shift	6:00 am	2:05 pm
Afternoon Shift	2:00 pm	10:00 pm

28. TWELVE HOUR SHIFTWORK EMPLOYEES - AWS

- 28.1 Employees working the continuous 12-hour shiftwork roster will be paid according to the Annualised Wage System ('AWS').
- 28.2 An employee shall receive the weekly AWS payment for his/her Level/Grade for each week he/she is working the continuous 12-hour shiftwork roster. The weekly AWS Payments that will apply from the commencement of this Agreement are contained in the AWS Appendix at the end of this Agreement.
- 28.3 The concept of the AWS is to annualise the weekly pay of continuous 12 Hour Shift Employees ("Employees"). This is achieved by totalling:
- 45 ordinary weeks,
 - 76 hour of sick leave
 - 190 hours of annual leave
 - 13 Public Holidays at 7.6 hours per day
 - Shift Loadings
 - Rostered Overtime
- to arrive at a weekly average rate of pay that is payable while an employee works on the roster.
- 28.4 See the AWS Appendix at the end of this Agreement for detailed calculations.
- 28.5 An AWS employee will work 28 shifts in an 8 week cycle as follows:

Cycle A							
Week 1	12	12	12	12	R	R	R
Week 2	R	12	12	12	12	R	R
Week 3	R	R	12	12	12	12	R
Week 4	R	R	R	12	12	12	12

Cycle B							
Week 5	R	R	R	R	12	12	12
Week 6	12	R	R	R	R	12	12
Week 7	12	12	R	R	R	R	12
Week 8	12	12	12	R	R	R	R

28.6 ACTUAL HOURS OF WORK

28.6.1 The actual hours of work per cycle will be:

$$28 \text{ shifts} \times 12 \text{ hours} = 336 \text{ hours}$$

28.6.2 The actual hours of work per shift will be:

$$336 \text{ hours} / 28 \text{ shifts} = 12 \text{ hours}$$

28.7 ORDINARY HOURS OF WORK

28.7.1 The ordinary hours of work per week will be 38 hours.

28.7.2 The ordinary hours of work per cycle will be:

$$8 \text{ weeks} \times 38 \text{ hours} = 304 \text{ hours}$$

28.7.3 The ordinary hours of work per shift will be:

$$304 \text{ hours} / 28 \text{ shifts} = 10.857 \text{ hours}$$

28.8 OVERTIME

28.8.1 Rostered overtime has been built into the AWS rate.

28.8.2 An employee will work an average of 42 hours over an 8 week continuous shift roster cycle, and therefore, will average 4 hours of rostered overtime per week over the cycle.

28.8.3 For the purpose of calculating the AWS Payment, the 4 hours of rostered overtime will be divided into 1 hour of time and a half (1 ½) and 3 hours double time (2x).

28.8.4 Overtime that is worked outside of the continuous shift roster will be paid in addition to the weekly AWS payment at a rate per hour that is double the base hourly rate for the employee's classification as set out in Table 1 of Clause 37.

28.9 ANNUAL LEAVE

Each day of AL will consist of 10.857 hours (the annualised week equals 3.5 days).

It will be assumed that an employee will take half of their annual leave (2.5 weeks) for the purpose of calculating the AWS Payment. There will be no annual reconciliation to establish whether an employee took more or less the leave than has been assumed.

28.10 SICK LEAVE

Each day of SL will consist of 10.857 hours.

It will be assumed that an employee will take half of their sick leave (1 week) for the purpose of calculating the AWS Payment. There will be no annual reconciliation to establish whether an employee took more or less the leave than has been assumed.

28.11 PUBLIC HOLIDAYS

For the purpose of clause 17 Public Holiday payments of 7.6 hours per day to a total of 13 days have been totalled and are to be paid over the term of the year on a weekly basis.

Employees rostered off on a Public Holiday will receive payment as per Clause 17.4, 17.5 and 17.8, already being paid in weekly instalments.

Employees rostered to work will receive an additional 4.4 hours at single time based on the Ordinary Base Rate. A shift will be regarded as a public holiday shift where the majority of hours fall on the public holiday.

Employees engaged on a Public Holiday but not rostered to work will be paid at time and a half for all hours worked, as per Clause 17.9 based on the Ordinary Base Rate.

Where a Public Holiday falls on a rostered day during an employee's period of AL, 10.857 AL hours will be paid and deducted from the Employees accrual.

In the event of an additional Public Holiday being declared, this will be paid during the corresponding pay week as follows: Employees rostered off will receive payment as per Clause 17.8, 7.6 hours at the Ordinary Base Rate; Employees rostered to work will receive single time extra at the Ordinary Base Rate for all hours worked as per Clause 17.9.

28.12 PAYMENT FOR LEAVE

When employees working on the continuous 12-hour shiftwork roster take annual leave, sick leave or long services, they will be paid at the rate they would have received if they had been at work instead of being on paid leave.

28.13 REDUNDANCY

For the purpose of subclause 31.5, the relevant Weekly AWS Payment will be the ordinary pay for employees holding positions on the continuous 12-hour shiftwork roster at the time they receive notice of termination due to a redundancy.

28.14 ROSTER CHANGE

The Company shall not change the roster for a person working 12-hour shiftwork, except by mutual agreement or in the case of an emergency, unless twenty eight (28) days' notice is given to the person concerned.

29. ENGAGEMENT OF TEMPORARY WORKERS: CASUAL EMPLOYEES, TEMPORARY PERMANENT EMPLOYEES AND LABOUR ENGAGED THROUGH LABOUR HIRE AGENCIES

29.1 General Principles

The engagement of Temporary Workers whether as Casual Employees, Temporary Permanent Employees, or labour engaged through Labour Hire Agencies is not intended to affect job security or undermine site rates of pay.

The Company will require that employees of a Labour Hire Agency shall be paid a rate that is at least equivalent to the current site rates for the relevant grade and or pay structure for the duties performed.

- 29.2 Ordinary hours for a Casual Employee or Temporary Permanent Employee can be worked up to 12 hours per day and up to 38 hours per week.
- 29.3 Subject to clause 8.9, a Casual Employee shall be engaged for a minimum of four hours per day.
- 29.4 Casual Employees will be engaged at the Level 1 rate for the first 500 hours of work completed. Following 500 hours, Casual Employees will complete a competency assessment as administered by the Company. On successful completion of this assessment, the Casual Employee will be engaged at the Level 2 rate.
- 29.5 Subject to 29.4, a Casual Employees' ordinary hourly rate is 120% of a Weekly Employees' hourly rate for the relevant grade. This loading is in lieu of personal leave (sick leave), public holidays and compassionate leave. Casual Employees will be paid an additional 1/12th of their ordinary earnings as pro-rata annual leave at the end of the period of engagement.
- 29.6 All ordinary hours worked by a Casual Employee or Temporary Permanent Employee are payable at the appropriate shift penalty.
- 29.7 For a shift consisting of ordinary hours that are worked Monday – Friday between the hours of 6.00am – 4.00pm, the hours are classified as daywork and no shift loading is payable. Provided that ordinary hours may be worked up to 6.00pm, Monday-Friday, where shifts exceed 8 hours in duration.
- 29.8 For a shift that includes ordinary hours worked Monday – Friday outside of the hours of 6.00am – 4.00pm, or 6.00am – 6.00pm where shifts exceed 8 hours in duration, all hours on that shift are classified as 5 day shiftwork and a 15% loading is payable.
- 29.9 For ordinary hours worked Saturday – Sunday, the hours are classified as 7 day shiftwork and a 30% loading is payable.
- 29.10 A Casual Employee or Temporary Permanent who works more than 12 hours per day or 38 hours per week is entitled to overtime at the rate specified in clause 10.2. Overtime worked on weekends shall be at the appropriate rate specified in clauses 10.8 and 10.9.
- 29.11 By agreement between a Temporary Permanent Employee and the Company, a Temporary Permanent Employee may be engaged and paid in accordance with the AWS structure in clause 28 rather than paid hours and overtime in accordance with 29.1 – 29.7.
- 29.12 Temporary Permanent Employees will accrue annual leave entitlements. The balance of untaken leave shall be paid at the end of the period of engagement.

- 29.13 Where a Casual Employee is available, he/she will be provided with access to available casual shifts in preference to an employee of a Labour Hire Agency where practicable.
- 29.14 A Labour Hire Employee who is appointed to a Nestle permanent position will have his/her service date for long service leave purposes recognised as the later of 1 July 2019 or the person's commencement date with the Labour Hire Agency, provided:
- (i) The person's service would be regarded as continuous service under the Long Service Leave Act; and
 - (ii) The person has not activated a long service leave entitlement with the Labour Hire Agency (there will be no double dipping).

30. SUPERANNUATION

- 30.1 The Company will make superannuation contributions on behalf of employees' in accordance with the relevant legislation, currently the Superannuation Guarantee (Administration) Act 1992.

Such contributions will be made to Nestlé Super (which is the Nestlé Super Category of the Russell Investments Master Trust), the Meat Industry Employees Superannuation Fund or any other complying fund or scheme. Employees shall have the choice, upon engagement and as at 1 January each year, to have contributions directed to an appropriate fund. The cost of any change will be the responsibility of the Employee.

- 30.2 Salary Sacrifice - Superannuation

An employee may request that their pre-tax rate of pay be reduced by the amount which they elect in writing to sacrifice each pay period. This will enable the company to make a superannuation contribution equal to this amount for the benefit of the employee to their superannuation. This reduction in pay for superannuation purposes will be known as a "salary sacrifice" arrangement. This contribution will be treated as an employer contribution and taxed accordingly.

Employees may review their salary sacrifice arrangements consistent with the rules of the fund into which these salary sacrifice contributions will be paid. It is recommended that employees seek financial advice before electing to salary sacrifice superannuation contributions.

Payments; including annual leave loading redundancy, paid out entitlements, overtime and any allowances which are calculated using a wage rate, are based on the pre-salary sacrifice rate of pay.

31. REDUNDANCY

This Clause is applied in respect of Permanent Employees of the Company who are employed in the classifications set out in this Agreement.

- 31.1 CONSULTATION AND PROCESS

Clause 2, Consultation shall apply to ensure all circumstances have been considered and alternative opportunities examined. Wherever possible, the Company shall endeavour to minimise the need for redundancies by utilising:

- a) natural attrition
- b) redeployment of Employees into other roles/areas accompanied by necessary training
- c) utilisation of Employees to provide relief cover for Employees on annual leave, long service leave or undergoing training

before voluntary redundancies are sought.

The Company will arrange, wherever possible, for an Employee who is to be redeployed into another area within their current location, to gain experience and/or commence training in the new area prior to the permanent redeployment occurring.

Where confirmation has been given that the employment of an Employee is to be terminated as a consequence of their job being redundant, and a vacancy exists which would not normally constitute a suitable alternative to the Employee's previous position, an Employee may elect to trial such position for a period no longer than the notice period.

If at the completion of the trial period the Employee does not wish to continue in that position, then the Employee will be made redundant.

Where redundancies are necessary, the Employees directly affected will receive the first opportunity to accept a redundancy package. This will be subject to the Company retaining the experience and skills necessary to meet its business requirements. Where there are more volunteers than redundancies, Employees with longer service will have preference in accessing a package.

If, during the term of this agreement, the Company has to invoke a redundancy, the Union may seek further discussions with the Company to ensure all aspects of such a move were fully addressed.

31.2 REDUNDANT EMPLOYEES

Where a decision is taken that a job currently being at the Smithtown Factory is not to be done by anyone that job will become redundant.

Where the employment of any Employee(s) to whom this Agreement applies is terminated as a consequence of jobs being made redundant a redundancy benefit shall become payable.

A redundancy benefit shall not become payable in the following circumstances:

- a) Where an Employee is dismissed for other than redundancy.
- b) Unless an earlier date is agreed, where an Employee leaves of his/her own accord prior to the Company nominated date of termination.

This clause does not apply in the case of Probationary Employees, Casual Employees, apprentices or employees engaged for a specific period of time or for a specified task or tasks.

31.3 TIMING OF DEPARTURE

Where the employment of an Employee is to be terminated as a consequence of jobs being made redundant, the Employee concerned will, wherever possible, receive confirmation of this two months prior to the nominated date of termination.

Once the date of termination has been confirmed, should the Employee request an earlier date of departure due to an offer of alternative employment, the Company will endeavour, wherever reasonable to facilitate this either through the use of casual, temporary or existing permanent staff. If this is not possible, the Employee should be notified at the earliest opportunity. Where an earlier date of departure is agreed, calculation of the redundancy benefit shall be to date of departure.

31.4 GENERAL ASSISTANCE

During the notice period, the Company will consult with each Employee and provide relevant assistance. Examples of this might include attendance at a job search and/or resumé writing workshop; retirement seminar; financial or individual counselling; skills expansion training. Employees will be given a reasonable amount of time off to attend such programmes.

31.5 REDUNDANCY BENEFIT

Each redundant Employee shall be entitled to a payment equal to three weeks' ordinary pay as a severance payment (see definition of "ordinary pay" in Clause 31.6).

Each redundant Employee shall also receive a service payment which shall be calculated as follows:

A redundant Employee with 3 years service or less will be paid on termination 3 weeks ordinary pay for each year of service or part thereof.

A redundant Employee with more than 3 years service will be paid 4 weeks ordinary pay for each year of service or part thereof.

Special Notice Arrangements - the following special notice will be paid in lieu (calculated at an employee's ordinary pay per week) in addition to the service based payments prescribed in this clause 31.5:

Age	Notice Period
45 years of age to 49 years of age	<i>5% of the total weeks calculated in accordance with clause 31.5</i>
50 years of age to 54 years of age	<i>10% of the total weeks calculated in accordance with clause 31.5</i>
55 years of age to 59 years of age	<i>15% of the total weeks calculated in accordance with clause 31.5</i>

60 years of age and over	<i>20% of the total weeks calculated in accordance with clause 31.5</i>
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Years of service will be calculated with any part year treated as a whole year.

Where an Employee has had a break in service, years of service will be calculated on actual service deemed to be continuous with the current period of service according to the Long Service Leave Act and the Agreement.

31.6 ORDINARY PAY

In this Agreement, “ordinary pay” means the remuneration for the Employee’s normal weekly number of ordinary hours of work calculated at the ordinary time rate of pay at the time of receiving notice of their redundancy, including shift penalties.

The calculation of the shift penalties will be as follows:

For the Employee on a fixed shift it would be the appropriate shift penalties.

For an Employee on a rotating shift it would be the average of the shift penalties over a normal cycle. In the absence of a normal cycle it will be the average over the previous six (6) months.

In cases where the Employee has worked shift within the past twelve (12) months but on the date of termination is not working shift and therefore not in receipt of shift penalties the calculation is to consider the period of time that shift was worked within the past twelve (12) months on a pro rata basis.

31.7 ANNUAL LEAVE

Redundant Employees shall receive payment of pro rata annual leave.

Redundant Employees shall receive the applicable annual leave loading, as prescribed in the Agreement, on all annual leave both accrued and pro rata on termination.

31.8 LONG SERVICE LEAVE

Redundant Employees shall receive a pro rata payment, which shall commence after one (1) year of continuous employment.

31.9 SUPERANNUATION

Redundant Employees’ superannuation benefits shall be calculated in accordance with the relevant Superannuation Trust Deeds and the Agreement.

31.10 SICK LEAVE

Employees made redundant shall receive payment of accrued sick leave at their ordinary rate up to a maximum of \$180.38 per day.

For the purposes of this clause an employee’s accrual of sick leave hours would be divided by 7.6 hours to determine the number of days accrued.

32. DEDUCTION OF UNION FEES

Where authorised by an Employee, the Company shall deduct from wages Union Membership fees which shall then be forwarded to the Union.

33. TRADE UNION TRAINING

A pool of ten (10) days in total, without loss of ordinary pay, in any one calendar year will be allowed for Union Delegates to attend Company approved Trade Union Courses at an agreed time. A request for leave is to be made at least three months in advance unless otherwise mutually agreed.

34. UNION RELATED MATTERS

Leave to Attend Union Business

The Company may grant leave of absence without loss of pay to Union members to attend Union business ie. ordinary rostered hours of work

The Company will grant unpaid leave of absence to Union members to attend Union business if it is advised 14 days prior to the leave the intended duration of the absence and the Company is satisfied as to the relevance of the business to the Smithtown Factory.

Paid or unpaid leave to attend Union business shall be granted to only one Employee at a time unless agreed between the parties.

Union Meetings

Subject to Part 3-4 of the Fair Work Act, the Company will where practicable, facilitate up to two union meetings per year. Such meetings:

- will coincide with the dates of the CC Meetings where possible; and
- must not disrupt production.

The parties acknowledge that these conditions mean that it may not be possible to meet with all members on the appointed date/time.

Induction of New Employees

As part of the Company's Induction Procedure the Union Delegate(s) will be given the opportunity to meet with new Employees during the Induction Programme.

Existing facilities will be available for the purpose of the meeting and discussions.

35. AREA INCIDENCE, DURATION and PARTIES COVERED

This Agreement shall take effect from the earliest possible date in accordance with the Fair Work Act 2009 and shall remain in force until 29 April 2025.

This Agreement shall apply to all employees employed:

- under the classifications outlined in this Agreement; and

- by Nestle Australia Ltd at its Smithtown Site.

Subject to the requirements of the Fair Work Act, the parties covered by this Agreement are:

- Nestle Australia Ltd;
- The Australasian Meat Industry Employees Union (Newcastle and Northern Branch); and
- The employees covered by this agreement
-

36. NO EXTRA CLAIMS

No claims will be pursued during the period covered by this agreement.

37. GRADE WAGE RATES

Table 1 – Grade Wage Rates

		First Full Pay Period on or after:		29-Apr-22		29-Oct-22	
		Current		1.50%		1.50%	
		Weekly	Hourly	Weekly	Hourly	Weekly	Hourly
Level	1	\$ 1,243.43	\$32.72184	\$ 1,262.08	\$ 33.21267	\$ 1,281.01	\$ 33.71086
Level	2	\$ 1,266.65	\$33.33289	\$ 1,285.65	\$ 33.83289	\$ 1,304.93	\$ 34.34038
Level	3	\$ 1,302.11	\$34.26605	\$ 1,321.64	\$ 34.78004	\$ 1,341.47	\$ 35.30174
TCO		\$ 1,338.20* or Weekly Grade Wage Rate + TCO Allowance	\$ 35.21579* or Weekly Grade Wage Rate + TCO Allowance	\$ 1,358.27* or Weekly Grade Wage Rate + TCO Allowance	\$ 35.74403* or Weekly Grade Wage Rate + TCO Allowance	\$ 1,378.65* or Weekly Grade Wage Rate + TCO Allowance	\$ 36.28019* or Weekly Grade Wage Rate + TCO Allowance
Historic	G2	\$ 1,266.65	\$33.33289	\$1,285.65	\$ 33.83289	\$ 1,304.93	\$ 34.34038
Historic	G3	\$ 1,302.11	\$34.26605	\$1,321.64	\$ 34.78004	\$ 1,341.47	\$ 35.30174
Historic	G4	\$ 1,338.24	\$35.21684	\$1,358.31	\$ 35.74509	\$ 1,378.69	\$ 36.28127
Historic	G5	\$ 1,338.24 + TCO Allowances	\$35.21684 + TCO Allowances	\$1,358.31 + TCO Allowances	\$ 35.74509 + TCO Allowances	\$ 1,378.69 + TCO Allowances	\$ 36.28127 + TCO Allowances
		29-Apr-23		29-Oct-23			
		1.50%		1.50%			
		Weekly	Hourly	Weekly	Hourly		
Level	1	\$ 1,300.23	\$ 34.21652	\$ 1,319.73	\$ 34.72977		
Level	2	\$ 1,324.51	\$ 34.85549	\$ 1,344.38	\$ 35.37832		
Level	3	\$ 1,361.59	\$ 35.83127	\$ 1,382.01	\$ 36.36874		
TCO		\$ 1,399.33* or Weekly Grade Wage Rate + TCO Allowance	\$ 36.82439* or Weekly Grade Wage Rate + TCO Allowance	\$ 1,420.32* or Weekly Grade Wage Rate + TCO Allowance	\$ 37.37676* or Weekly Grade Wage Rate + TCO Allowance		
Historic	G2	\$ 1,324.51	\$ 34.85549	\$ 1,344.38	\$ 35.37832		
Historic	G3	\$ 1,361.59	\$ 35.83127	\$ 1,382.01	\$ 36.36874		
Historic	G4	\$ 1,399.37	\$ 36.82549	\$ 1,420.36	\$ 37.37787		
Historic	G5	\$ 1,399.37 + TCO Allowances	\$ 36.82549 + TCO Allowances	\$ 1,420.36 + TCO Allowances	\$ 37.37787 + TCO Allowances		

29-Apr-24 1.50%				29-Oct-24 1.50%	
Weekly		Hourly		Weekly	Hourly
Level	1	\$ 1,339.53	\$ 35.25072	\$ 1,359.62	\$ 35.77948
Level	2	\$ 1,364.54	\$ 35.90899	\$ 1,385.01	\$ 36.44763
Level	3	\$ 1,402.74	\$ 36.91427	\$ 1,423.78	\$ 37.46798
TCO		\$ 1,441.62* or Weekly Grade Wage Rate + TCO Allowance	\$ 37.93741* or Weekly Grade Wage Rate + TCO Allowance	\$ 1,463.25* or Weekly Grade Wage Rate + TCO Allowance	\$ 38.50647* or Weekly Grade Wage Rate + TCO Allowance
Historic	G2	\$ 1,364.54	\$ 35.90899	\$ 1,385.01	\$ 36.44763
Historic	G3	\$ 1,402.74	\$ 36.91427	\$ 1,423.78	\$ 37.46798
Historic	G4	\$ 1,441.66	\$ 37.93854	\$ 1,463.29	\$ 38.50762
Historic	G5	\$ 1,441.66 + TCO Allowances	\$ 37.93854 + TCO Allowances	\$ 1,463.29 + TCO Allowances	\$ 38.50762 + TCO Allowances

*Applicable to TCOs in the Scott Plant - see clause 7

Table 2 – Allowances

			First Full Pay Period on or after:	29/04/2022 (29 Apr 2019)	29/10/2022 (4 May 2020)	29/04/2023 (3 May 2021)
Item	Allowances	Current		1.5%	1.5%	1.5%
1	Emergency Response Allowance	11.04		11.20560	11.37368	11.54429
2	First Aid Allowance	15.41		15.64115	15.87577	16.11390
3	Occupational First Aid	30.78		31.24170	31.71033	32.18598
4	Meal Allowance	9.26		9.39890	9.53988	9.68298
5	Forklift Allowance per hour	1.01		1.02515	1.04053	1.05614
6	Forklift Allowance per week	38.06		38.63090	39.21036	39.79852
7	Confined Space Allowance	10.69		10.85035	11.01311	11.17830
8	Technical Co-Ord	2.42		2.45630	2.49314	2.53054
9	Health & Safety Representative	11.04		11.20560	11.37368	11.54429
10	Designated Assessor	N/A		15.00000	15.22500	15.45338

Item	Allowances	29/10/2023 (29 Apr 2019)	29/04/2024 (4 May 2020)	29/10/2024 (3 May 2021)
		1.5%	1.5%	1.5%
1	Emergency Response Allowance	11.71745	11.89322	12.07161
2	First Aid Allowance	16.35561	16.60095	16.84996
3	Occupational First Aid	32.66877	33.15880	33.65618
4	Meal Allowance	9.82823	9.97565	10.12528
5	Forklift Allowance per hour	1.07198	1.08806	1.10438
6	Forklift Allowance per week	40.39550	41.00143	41.61645
7	Confined Space Allowance	11.34598	11.51617	11.68891
8	Technical Co-Ord	2.56850	2.60703	2.64613
9	Health & Safety Representative	11.71745	11.89322	12.07161
10	Designated Assessor	15.68518	15.92045	16.15926

38. FLEXIBILITY

- 38.1 The terms of this Agreement may be varied by an individual flexibility arrangement that is genuinely agreed by the employer and an employee.
- 38.2 The employer must ensure that any individual flexibility arrangement entered into under this term will result in the employee being better off overall than the employee would have been if no individual flexibility arrangement was made.
- 38.3 The employer must ensure that any individual flexibility arrangement made under this term:
- Must be in writing and signed by the employer and employee, and if the employee is under 18, by a parent or guardian of the employee;
 - Can be terminated by either party by giving, written notice of not more than 28 days;
 - Can be terminated at any time by the parties if they agree; and that a copy of the individual flexibility arrangement must be given to the employee within 14 days after it is made.
 - Except for the requirement for employees under 18 the employer must ensure that any individual flexibility arrangement made by an employer and an employee under this term does not require the approval or consent of another person.
- 38.4 Where the employer intends to reach any individual flexibility arrangement under this agreement the employer will inform the Union of the employer's intent to enter such an arrangement. When informing the Union under this sub-clause the employer will:
- Include details of the terms(s) of the agreement and/or incorporated award(s), and which classification of employees are proposed to be subject to such an arrangement.
 - Not disclose the name of any employee who the employer proposes to be subject to the individual flexibility arrangement without the consent of that employee.

For the avoidance of doubt, informing the Union under this sub-clause does not mean that the Union must approve or consent to the individual flexibility arrangement.

38.5 The terms that may be subject to an individual flexibility arrangement are:

- When an RDO is taken;
- Meal breaks; and
- Spread of Hours of Work/Shiftwork hours where the Company accommodates an employee's request to adjust their hours of work having regard to a personal circumstance or need.

39. SIGNATURES OF PARTIES

Signed on behalf of

Nestlé Australia Limited: Factory Manager

Print Name:

MATTHEW ORAM

Address:

RANSON STREET SMITHTOWN, NSW, 2440

Date:

15/06/2022

Witness (sign):



Witness (print):

Kim Jones

Australasian Meat Industry
Employees Union
(Newcastle and Northern Branch):

Secretary



Print Name:

Justin James Brane Smith

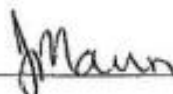
Address:

34 Union Street Newcastle West 230

Date:

14/6/2022

Witness (sign):



Witness (print):

Janine Mann

AWS APPENDIX

AWS PAYMENT LEVEL 2 & HISTORICAL Grade 2 (as at first pay period on or after 29/4/22)

Payment Type	Amount 29/04/2022					
Weekly Base Rate	\$ 1,285.65					
Ordinary Base Rate	\$ 33.833					
Ordinary Time & 1/2	\$ 50.7493					
Double Time	\$ 67.6658					
Shift Rate	30%					
Weekly Shift	\$ 385.69					
Type	Weekly Base	Shift	Overtime	Subtotal	Duration (weeks)	Annual
Ordinary Week	\$ 1,285.65	\$385.69	\$ 253.75	\$1,925.09	48.5	\$ 93,366.93
Annual Leave	\$ 1,285.65	\$385.69	\$ -	\$1,671.34	2.5	\$ 4,178.36
Sick Leave	\$ 1,285.65	\$ -	\$ -	\$1,285.65	1	\$ 1,285.65
Public Holidays				\$ 64.28	52	\$ 3,342.69

Total	\$102,173.63
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Weekly Average	\$ 1,964.88
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Loaded Hourly	\$51.70730
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Date	Weekly Average	Loaded Hourly Rate
First full pay period on or after 29 Apr 2022	\$1964.88	\$51.70730
First full pay period on or after 29 Oct 2022	\$1994.35	\$52.48291
First full pay period on or after 29 Apr 2023	\$2024.27	\$53.27016
First full pay period on or after 29 Oct 2023	\$2054.63	\$54.06921
First full pay period on or after 29 Apr 2024	\$2085.45	\$54.88025
First full pay period on or after 29 Oct 2024	\$2116.73	\$55.70345

AWS PAYMENT LEVEL 3 & HISTORICAL Grade 3 (as at first pay period on or after 29//22)

Payment Type	Amount 29/04/2022
Weekly Base Rate	\$ 1,321.64
Ordinary Base Rate	\$ 34.7800
Ordinary Time & 1/2	\$ 52.1701
Double Time	\$ 69.5601
Shift Rate	30%
Weekly Shift	\$ 396.4925

Type	Weekly Base	Shift	Overtime	Subtotal	Duration (weeks)	Subtotal
Ordinary Week	\$ 1,321.64	\$396.49	\$ 260.85	\$1,978.98	48.5	\$ 95,980.75
Annual Leave	\$ 1,321.64	\$396.49	\$ -	\$1,718.13	2.5	\$ 4,295.34
Sick Leave	\$ 1,321.64	\$ -	\$ -	\$1,321.64	1	\$ 1,321.64
Public Holidays a				\$ 66.08	52	\$ 3,436.27

Total	\$105,033.99
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Weekly Average	\$ 2,019.88
Loaded Hourly	\$53.15485

Date	Weekly Average	Loaded Hourly Rate
First full pay period on or after 29 Apr 2022	\$2,019.88	\$53.15485
First full pay period on or after 29 Oct 2022	\$2,050.18	\$53.95218
First full pay period on or after 29 Apr 2023	\$2,080.94	\$54.76146
First full pay period on or after 29 Oct 2023	\$2,112.15	\$55.58288
First full pay period on or after 29 Apr 2024	\$2,143.83	\$56.41662
First full pay period on or after 29 Oct 2024	\$2,175.99	\$57.26287

AWS PAYMENT TCO* & HISTORICAL Grade 4 and Grade 5 (as at first pay period on or after 29/4/22)

Payment Type	Amount 29/04/2022
Weekly Base Rate	\$ 1,358.31
Ordinary Base Rate	\$ 35.7451
Ordinary Time & 1/2	\$ 53.6176
Double Time	\$ 71.4902
Shift Rate	30%
Weekly Shift	\$ 407.4941

Type	Weekly Base	Shift	Overtime	Subtotal	Duration (weeks)	Subtotal
Ordinary Week	\$ 1,358.31	\$407.49	\$ 268.09	\$2,033.90	48.5	\$ 98,643.95
Annual Leave	\$ 1,358.31	\$407.49	\$ -	\$1,765.81	2.5	\$ 4,414.52
Sick Leave	\$ 1,358.31	\$ -	\$ -	\$1,358.31	1	\$ 1,358.31
Public Holidays a				\$ 67.92	52	\$ 3,531.62

Total	\$107,948.40
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Weekly Average	\$ 2,075.93
Loaded Hourly	\$54.62976

*Applicable to TCOs in the Scott Plant - see clause 7

Date	Weekly Average	Loaded Hourly Rate
First full pay period on or after 29 Apr 2022	\$2,075.93	\$54.62976
First full pay period on or after 29 Oct 2022	\$2,107.07	\$55.44920
First full pay period on or after 29 Apr 2023	\$2,138.68	\$56.28094
First full pay period on or after 29 Oct 2023	\$2,170.76	\$57.12519
First full pay period on or after 29 Apr 2024	\$2,203.31	\$57.98185
First full pay period on or after 29 Oct 2024	\$2,236.37	\$58.85178

POLICIES APPENDIX

The following Company policies/guidelines are expressly referred to in this Agreement. They will apply in accordance with the Agreement only to the extent they provide an outcome that is at least equal to any corresponding benefit that would be derived from the National Employment Standards.

7-300: Compassionate Leave

Guidelines for Australia

General

All permanent employees are entitled to compassionate leave, which is granted following the death of a close family member. Generally, "close family member" includes:

- a spouse (including a former spouse, de facto spouse, and a former de facto spouse;
- Child (including an adopted child or step child) of the employee or of their spouse/de facto spouse;
- Parent, grandparent, or grandchild of the employee;
- Sibling of the employee or spouse of the employee.

However, these guidelines should be flexibly applied if the above list does not include a particular person for whom the employee genuinely requires time to grieve.

Period of leave

The period of leave should be determined on an individual case basis by the relevant department manager. As a guideline, up to **three days** is typically considered appropriate. If substantial travel is required, up to one week may be appropriate.

Salary

Compassionate leave is usually paid (ie. employees receive their base salary for the period of leave). For extended absences, however, the department manager may determine that a portion of the leave period should be unpaid. Alternatively, the employee may be allowed to take available annual leave, long service leave or sick leave immediately following the paid compassionate leave period.

Notification

Employees who require compassionate leave should notify their manager or supervisor as soon as possible.

A leave application form should be completed immediately upon returning to work. For extended absences, the form should be completed on behalf of the absent employee by their manager or supervisor at the end of each pay period.

Control Information

Australia

Number:	HR 7-300
Subject:	Compassionate Leave
Authorised by:	Rob Murray Head of Region - Nestlé Oceania
Distribution:	All Employees
Original Issue Date:	1 July, 1985
Revision Date:	1 November, 1996 1 November, 2002

HR 7-400: Parental Leave Guidelines for Australia

These guidelines should be read in conjunction with our *Supporting Parents in Oceania* Policy.

Unpaid Parental Leave

The National Employment Standards (NES) (made under the *Fair Work Act 2009*) give eligible employees an entitlement to unpaid parental leave.

The NES effectively provides two types of unpaid parental leave, Primary Parental Leave and Partner Leave, which are explained below.

1. Who is eligible?

Unpaid parental leave is available to employees (parents):

1. who have completed at least 12 months' continuous service with us, immediately before the child's date of birth (or the date of placement in the case of adoption).

Casual employees are not entitled to unpaid parental leave unless they are a long term casual (who has worked on a regular and systematic basis for a sequence of periods over at least 12 months), with a reasonable expectation of continuing employment with us.

and

2. who have, or will have, responsibility for the care of a child. The leave must be associated with:
 - the birth of a child to the employee, the employee's spouse, or the employee's de facto partner, or
 - the placement of a child under 16 with the employee for adoption.

See also our *Supporting Parents in Oceania* Policy which provides an amount of leave to a birth-giving parent with less than 12 months' continuous service with us.

2. Primary Parental Leave

Definitions:

An 'Employee Couple' describes a relationship in which both parents, who are in a spousal or de facto spousal relationship, are employed (not necessarily by the same employer) and each is eligible for parental leave with their respective employers.

The 'Primary Caregiver' is the parent who will have the primary responsibility for the care of the child at the relevant time.

An eligible employee who is not a parent in an employee couple relationship is entitled to take up to 12 months' unpaid parental leave.

Eligible employees who are parents in an employee couple relationship are entitled to take separate periods of up to 12 months' unpaid parental leave each if/when they are the Primary Caregiver.

There are different rules for taking Primary Parental Leave, depending on:

- if one parent will take leave, or
- if both parents in an employee couple relationship will take leave.

2.1 One Parent Taking Primary Parental Leave

The following rules apply where one parent takes Primary Parental Leave:

- The parent is entitled to take **up to 12 months' leave** which generally must be taken in a single continuous period not extending past the child's first birthday.
- For pregnant employees taking leave, leave can start up to six weeks before the expected date of birth, or earlier if the employer and employee agree.
- Generally, Primary Parental Leave will be taken by a person who will be the Primary Caregiver.
- It is possible for a person who is not in an employee couple relationship (that is, the person's spouse or de facto spouse is not employed) to take Primary Parental Leave at any time within 12 months after the birth or placement of the child when the person's spouse or de facto spouse has responsibility for the care of the child. [Note: The person would not be eligible for Nestlé Paid Parental Leave in those circumstances because he/she would not be regarded as the Primary Caregiver]
- Paid leave, such as annual leave, may be taken at the same time as unpaid parental leave.

A parent may request a further period of leave up to 12 months - see *Extending Parental Leave* below.

2.2 Both Parents in an Employee Couple Relationship Taking Primary Parental Leave

The following rules apply to parents in an employee couple relationship if both parents will take unpaid parental leave:

- The parents are entitled to no more than **24 months of leave between them (up to 12 months each** if/when they are the Primary Caregiver), which must be taken separately in a single continuous period.
- If the parent who takes leave first is pregnant or gives birth, they may start their leave up to 6 weeks before the expected date of birth (or earlier by agreement), but no later than the date of birth of their child .

- If the parent who takes leave first is not pregnant/giving birth, their leave must start on the date of birth or placement of the child.
- Paid leave, such as annual leave, may be taken at the same time as unpaid parental leave.

Both parents in an employee couple relationship may take leave at the same time for a maximum period of 8 weeks - see *Partner Leave* below.

Either parent may request a further period of leave up to 12 months - see *Extending Parental Leave* below.

Partner Leave

A parent can take up to 8 weeks of unpaid Partner Leave at the time of the birth or placement of the child (but agreement may be reached for leave to start at a different time) to support their spouse or de facto spouse who is the Primary Caregiver.

Partner Leave may be taken at the same time that the Primary Caregiver is taking Primary Parental Leave (referred to in the legislation as Concurrent Leave).

Any period of Partner Leave taken by a parent in an employee couple relationship will be deducted from the 12 months of Primary Parental Leave available to that parent.

3. Applying for Parental Leave

A parent applying for parental leave must provide us with:

- Written notice of their intention to take Primary Parental Leave, including the anticipated start and end dates of leave.

This notice must be provided at least 10 weeks before leave starts, or if that is not possible, as soon as practicable.

- For Partner Leave, notice must also be provided 10 weeks before the leave starts.
- Confirmation of the leave dates or changes of dates by completing a Leave Application at least four weeks before the intended start date of leave (unless it is not practicable to do so e.g. in an adoption where short notice has been provided);
- Attach to your Leave Application:

A Statutory Declaration stating:

- the dates of any parental leave which you and your spouse/ de facto partner will be taking;
- that you will not engage in any conduct inconsistent with your contract of employment (e.g. seek alternative employment, make improper use of confidential Company Information, etc) while on Parental leave.
- whether or not you will be the Primary Care Giver while you are on a period of parental leave.

If you are taking leave in relation to the birth of a child:

A certificate from your Doctor that states:

- that you or your spouse / de facto partner (naming your spouse or de facto partner as relevant) are/is pregnant; and
- the expected date of the baby's birth; or

A birth certificate, if you are taking leave after the baby has been born

If you are taking leave in relation to the adoption of a child:

A statement from the relevant agency confirming the adoption and the expected date of the placement.

4. Varying Parental Leave

If a parent takes less than 12 months' Primary Parental Leave in the first instance, they are entitled to extend the period of leave once without requiring our agreement (provided the extension does not take the total unpaid parental leave over 12 months).

At least four weeks' notice of the change of leave dates must be provided.

Further extensions of leave within the 12 months from the birth of the child are subject to agreement.

A parent can reduce the agreed period of Primary Parental Leave only by agreement.

5. Extending Parental Leave

Parents are also entitled to request an extension of their Primary Parental Leave, beyond the 12 month entitlement, for up to an additional 12 months.

The request must be made in writing at least 4 weeks before the end of the original leave period and we will provide a response to the request as soon as practicable. [Note: the legislation permits an employer to decline a request having regard to its reasonable business requirements].

For a parent in an employee couple relationship, extended leave can be taken by one of the parents by agreement, provided they will continue to be the primary carer. In such a case, the amount of leave available to other parent will be reduced by the amount of leave taken in excess of 12 months.

6. Right to return to work

Employees should give their Managers a minimum of 1 months' notice in writing of their intention to return to work at the end of the of the Primary Parental Leave period.

On returning to work from unpaid parental leave, a person is generally entitled to return to their pre-parental leave position.

If the pre-parental leave position no longer exists, the person is entitled to an available position for which they are qualified and suited, nearest in status and pay to the pre-parental leave position.

Paid Parental Leave

1. Nestlé-paid Paid Parental Leave – *Supporting Parents in Oceania* Policy

Our *Supporting Parents in Oceania* Policy provides parents with Nestlé-paid Parental Leave in the following circumstances:

Eligibility	Paid Leave Amount
When a parent takes Primary Parental Leave to be the Primary Caregiver	Up to the first 14 weeks of Primary Parental Leave will be paid at the person's ordinary rate of pay. An eligible casual employee's paid parental leave is calculated on their average hours worked over the preceding 12 months.
When a parent takes Partner Leave	The first week of Partner Leave will be paid at the person's ordinary rate of pay. An eligible casual employee's paid parental leave is calculated on their average hours worked over the preceding 12 months.

Any paid leave will be calculated on a person's ordinary rate of pay at the time their parental leave commences. Ordinary Time Rate of Pay consists of a person's:

- base salary/wages, expressed as a weekly amount; and
- car allowance (if applicable), expressed as a weekly amount.

Paid parental leave under *Supporting Parents* will be counted as service for the purpose of the accrual of person's service and entitlements, and as ordinary time earnings for superannuation purposes.

Employees with a Tool of Trade (Company) Car

- A person may retain the company car for their personal use during the first 14 weeks of parental leave (in addition to any annual leave or long service leave taken), provided that he/she must cover any petrol costs in full.
- A person is able to retain the company car beyond the 14 week period however they will be responsible for **all** costs associated with the car, including leasing (or equivalent) fees, fringe benefits tax, registration, insurance, running costs etc.
- When a person with a company car advises his/her manager that he/she will be taking a period of parental leave, they should contact their Human Resources Business Partner to obtain cost estimates that will allow them to make an informed decision, based on his/her individual circumstances.

Refer to the company car policy for further information.

2. Government-funded Paid Parental Leave

In addition to the paid parental leave provided under *Supporting Parents*, a parent may also be entitled to Federal Government-funded paid parental leave under the *Paid Parental Leave Act 2010*, which provides up to 18 weeks of paid parental leave to eligible employees, at the federal minimum wage.

Not all parents are eligible for Government-funded Parental Leave. The eligibility tests are stipulated by the *Paid Parental Leave Act 2010*. For more information about eligibility go to www.familyassist.gov.au.

Frequently Asked Questions

I am married / in a de facto relationship and my spouse/de facto partner intends to take parental leave with his/her employer

Q. Can I also take parental leave?

A. You and your spouse/partner are independently entitled to up to 12 months' Primary Parental Leave with your respective employers, provided that with one exception, the leave is not taken at the same time. The one exception is an 8 week period after the birth or placement of the child where leave you may and your spouse/partner may concurrently take Partner Leave and Primary Parental Leave.

The leave taken by the second spouse/partner must not extend beyond the 2nd birthday of the child.

Q. Can I qualify for any paid parental leave?

A. You may qualify for paid parental leave on the following bases:

- 1 week's paid leave if you are taking Partner Leave to support your spouse/partner who is the Primary Caregiver; or
- Up to 14 weeks' pay if you are taking Primary Parental Leave to be the Primary Care Giver.

My spouse/partner is not employed

Q. Am I entitled to take parental leave?

A. You may take up to 12 months' Primary Parental Leave on condition that you have a responsibility for the care of the child.

Q. Do I qualify for any paid parental leave?

A. You may qualify for paid parental leave on the following basis:

- 1 week's paid leave if you are taking Partner Leave to support your spouse/partner who would be regarded the Primary Caregiver.

Continuity of Service, Leave Accruals etc

Q. How does parental leave affect my employment?

A. Paid parental leave under *Supporting Parents* will be counted as service for the purpose of the accrual of person's service and entitlements, and as ordinary time earnings for superannuation purposes.

Unpaid parental leave does not break the continuity of your employment, but your employment is effectively placed in suspense for the duration of the leave period. This means that:

- Your annual leave, sick leave and long service leave balance will be frozen for the duration of the leave period and accrual will resume when you return to work.
- The period of parental leave will not count towards your years of service with the Company.
- Company contributions to your Superannuation Fund(s) and, if applicable, other paid benefits will be suspended during the leave period.

Q. Can I take annual leave and long service leave in addition to unpaid parental leave?

A. No. You may take annual leave and/or long service leave in conjunction with a period of unpaid parental leave – the total amount of leave taken together would not exceed 12 months.

Extending Leave

Q. Can I extend Primary Parental Leave beyond 12 months' leave?

A. You can make a written request to extend your leave beyond 12 months. It is good practice to discuss the matter with your manager many weeks prior to making a written request. There are a number of conditions that must be met in order to grant an employee's request, including:

- The extension is feasible having regard to business requirements.
- The leave must not extend beyond the child's 2nd birthday

Short Term Bonus (STB) (Salaried Employees)

Q. If I take parental leave will I still qualify for a STB Payment?

A. Any STB Payment would be determined on a pro rata basis having regard to:

- Your service in a calendar year excluding any unpaid parental leave period; and
- The relevant STB Guidelines.

MALT EXTRACT APPENDIX

Proposal Nestlé Smithtown 12 hour Roster 5 Days Malt Extract Crew 2020

Document Updated: 02.06.2020

Objective: To provide an alternative 5 day 24 hour Shift Roster that provides a better opportunity for fatigue management and is also cost neutral to the business. The intention is to provide an arrangement that is much simpler to manage.

Current Shift Structure:

The Malt Extract plant commence production at 11pm on Sunday night, and work in 8 hour blocks, on a 3 shift per day basis. I.e. Day, Afternoon and Night Shift. The hours of work are as follows :-

Night Shift – 11pm to 7am, Day Shift – 7am to 3pm and Afternoon Shift – 3pm to 11pm

Future Shift Structure: 6 Employees

To be clear, there is no change in pay between current state or future state, the changes are cost neutral.

Shift Crew Changes:

The plan is to move to a 12 hour shift pattern in the Extract area as outlined below, 6 man crew:

		Early 11pm to 11 am		Late 11am to 11pm					
		Sat	Sun	Mon	Tue	Wed	Thu	Fri	
Wk 1	A			Early	Early	R	Late	Late	48 Hrs
	B			Late	Late	Late	R	R	36 Hrs
	C			R	R	Early	Early	Early	36 Hrs
Wk 2	A			R	R	Early	Early	Early	36 Hrs
	B			Early	Early	R	Late	Late	48 Hrs
	C			Late	Late	Late	R	R	36 Hrs
Wk 3	A			Late	Late	Late	R	R	36 Hrs
	B			R	R	Early	Early	Early	36 Hrs
	C			Early	Early	R	Late	Late	48 Hrs

The 'three week' cycle is then averaged to 40 hours per week – $36 + 36 + 48 = 120 / 3 \text{ weeks} = 40 \text{ hours}$

The Malt Extract plant would still commence at 11pm on a Sunday night however they would work 12 hour blocks, on a 2 shift per day basis. I.e. Early, Late. The hours of work are as follows :-

Late Shift – 11pm to 11am

Early Shift – 11am to 11pm

These shifts then rotate on a routine basis in accordance with the above pattern.

Shift Handover: as outlined in Clause 27.3. the 5 minute unpaid Shift Handover would commence at 11pm or 11am, depending on shift.

Classification: Classified as a 5 Day Shift Work employee as defined by Clause 6.7

Breaks: are in accordance with Clause 11.3 and 12.1 – 40 mins paid meal break and two x 10 min rest breaks.

Leave Accruals:

The leave entitlements:

Sick leave – 10 days/76 hours Clause 24.2

Annual leave – 4 weeks Clause 18.

RDO – accrues one per month, 2 hours per week

Total normal time worked in a week = 40 hours

Leave Coverage: will either backfill or cover with overtime or another suitable trained person

Under the new shift structure, should Malt Extract complete their program for the week then RDO time will be required to be taken or redeployment to another area will take up the balance of the available occupied time.

Leave Type:	Rostered Shift:	Hrs:	Notes:
Annual Leave	12	11.4	No RDO accrual
Sick Leave	12	12	
LSL	12	12	
RDO	12	11.4	No RDO accrual

Public Holidays:

The following is how we agreed we would handle public holidays :

Current Pattern (Current)											Days	
Week 1						Week 2						
	M	T	W	T	F	M	T	W	T	F		
A	D	D	D	D	D	A	A	A	A	A	Public Holiday	2
											Shifts / Day	3
B	A	A	A	A	A	N	N	N	N	N	Length of PH Shift	7.6
											Crew Size	2
C	N	N	N	N	N	D	D	D	D	D	Total	91.2

Standard Cycle / 2 PH / Proposed Pattern (Proposed)											Days	
Week 1						Week 2						
	M	T	W	T	F	M	T	W	T	F		
A	E	E	R	L	L	R	R	E	E	E	Public Holiday	2
											Shifts / Day	2
B	L	L	L	R	R	E	E	R	L	L	Length of PH Shift	11.4
											Crew Size	2
C	R	R	E	E	E	L	L	L	R	R	Total	91.2

1/ If you are rostered on to work, and required to work the shift, then you will be paid normal time and an additional 11.4 hours Public Holiday

2/ If you are rostered on to work, but not required to work the shift, then you will be paid 11.4 hours Public Holiday

3/ If you are not rostered on to work, you do not get the public holiday paid

Consultation Process:

The above shift proposal was raised by Malt Extract employees as an option for consideration.

The Production Manager met with all Malt Extract employees during April and May to discuss the proposal and field any questions raised from the team. Final consultation meetings held on 1/06/2020 with SS, SM, MP and 2/06/2020 RO and MC. No further questions raised at that time and agreement reached on the above proposal.



Nestlé

Good food, Good life

Nestlé Australia Ltd

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7 July 2022

FWC Matter No.:

AG2022/1930

Applicant:

Nestlé Australia Ltd

Section 185 – Application for approval of a single enterprise agreement

UNDERTAKING – SECTION 190

I, Justin De Celis, Head of Employee Relations, have the authority to give the following undertakings with respect to the *Nestle Smithtown Enterprise Agreement 2022* ("the Agreement"):

1. Clause 4 will operate as intended, as follows:

This Agreement will be read and interpreted in conjunction with the National Employment Standards (NES). Where there is an inconsistency between this agreement and the NES, and the NES provides a greater benefit, the NES provision will apply to the extent of the inconsistency

The following specific undertakings are made accordingly:

- 1.1 17.3 - Public Holiday substitution will only occur in a manner consistent with the NES.
- 1.2 17.7 – 'day's pay' for the purpose of subclause 17.7 will equate to the base rate of pay a person would have received for their ordinary hours pay if they had not been absent from work.
- 1.3 25.4 - the purpose of termination with or without notice, serious misconduct will have a meaning that is consistent with s123(1) of the Fair Work Act.
- 1.4 25.4.2 – any deduction will not be inconsistent with s117 of the Fair Work Act.
- 1.5 25.6 – a termination without notice will only occur in the event of serious misconduct.
- 1.6 31.5 - an employee with 1-2 years' service will not receive less than 4 weeks' severance pay in the event of a termination caused by a redundancy.



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ABN 77 000 011 316

2. Shift work

Employees will not be rostered to work on a “non-continuous afternoon or night shift” as defined in the *Food, Beverage and Tobacco Manufacturing Award 2020*, unless overtime will be paid in accordance with subclauses 10.2, 10.8 and 10.9 of the Agreement.

3. Casual Employees (Sunday Work)

In the unlikely event that a casual employee works a Sunday in isolation in a week, the employer will ensure that such an employee will not receive less than he/she would be entitled to receive under the award across the full roster cycle.

These undertakings are provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.

Signed for and on behalf of Nestlé Australia Ltd.

Justin De Celis
Head of Employee Relations

Schedule 2.2—Model flexibility term

(regulation 2.08)

Model flexibility term

- (1) An employer and employee covered by this enterprise agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the agreement if:
 - (a) the agreement deals with 1 or more of the following matters:
 - (i) arrangements about when work is performed;
 - (ii) overtime rates;
 - (iii) penalty rates;
 - (iv) allowances;
 - (v) leave loading; and
 - (b) the arrangement meets the genuine needs of the employer and employee in relation to 1 or more of the matters mentioned in paragraph (a); and
 - (c) the arrangement is genuinely agreed to by the employer and employee.
- (2) The employer must ensure that the terms of the individual flexibility arrangement:
 - (a) are about permitted matters under section 172 of the *Fair Work Act 2009*; and
 - (b) are not unlawful terms under section 194 of the *Fair Work Act 2009*; and
 - (c) result in the employee being better off overall than the employee would be if no arrangement was made.
- (3) The employer must ensure that the individual flexibility arrangement:
 - (a) is in writing; and
 - (b) includes the name of the employer and employee; and
 - (c) is signed by the employer and employee and if the employee is under 18 years of age, signed by a parent or guardian of the employee; and
 - (d) includes details of:
 - (i) the terms of the enterprise agreement that will be varied by the arrangement; and
 - (ii) how the arrangement will vary the effect of the terms; and
 - (iii) how the employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement; and
 - (e) states the day on which the arrangement commences.
- (4) The employer must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.

- (5) The employer or employee may terminate the individual flexibility arrangement:
 - (a) by giving no more than 28 days written notice to the other party to the arrangement; or
 - (b) if the employer and employee agree in writing—at any time.