

## **REGISTER OF ENTERPRISE AGREEMENTS**

**ENTERPRISE AGREEMENT NO:** EA06/257

**TITLE: F H Prager - New South Wales - National Union of Workers  
Comprehensive Enterprise Agreement 2006**

**I.R.C. NO:** IRC6/1424

**DATE APPROVED/COMMENCEMENT:** 17 March 2006 / 1 February 2006

**TERM:** 36

**NEW AGREEMENT OR  
VARIATION:** New.

**GAZETTAL REFERENCE:** 28 July 2006

**DATE TERMINATED:**

**NUMBER OF PAGES:** 23

**COVERAGE/DESCRIPTION OF**

**EMPLOYEES:** The agreement applies to all employees employed by F H. Prager, located at 73C Elizabeth Street, Wetherill Park NSW 2164, who fall within the coverage of the Storemen and Packers, General (State) Award.

**PARTIES:** F H Prager -&- the National Union of Workers, New South Wales Branch

**F H PRAGER – 73C ELIZABETH STREET, WETHERILL PARK/  
NATIONAL UNION OF WORKERS COMPREHENSIVE ENTERPRISE  
AGREEMENT 2006**

**Arrangement**

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## 1. AGREEMENT TITLE

This agreement shall be known as the F H Prager – New South Wales – National Union of Workers Comprehensive Enterprise Agreement 2006. This agreement is to apply from 1st February 2006.

## 2. DEFINITIONS

- (i) F H Prager means the business operated by F H Prager in NSW at 73C Elizabeth Street Wetherill Park
- (ii) NUW means National Union of Worker (NSW Branch) and the F H Prager employees they represent
- (iii) RDO means Rostered Day Off
- (iv) A "Casual employee" shall mean an employee who is engaged and paid as such.
- (v) A "Shift worker" shall mean a worker who is engaged and paid as such.
- (vi) A "Work cycle" shall mean any period of 28 consecutive days.
- (vii) In this agreement any reference to one gender shall mean a reference to the other gender.
- (viii) A "leading hand", for the purposes of this Agreement:
  - (a) shall be appointed by the employer to assist in the good order of work flow in an operating area by:
    - (1) receiving instructions and allocating the work flow to employees;
    - (2) determining shortages in labour, or material or equipment failures, and bringing any deficiencies to the employer for consideration;
  - (b) shall, where a failure in training or behaviour occurs, disengage himself/herself from further action and refer the matter to the employer (provided that this does not preclude a leading hand from giving training, but only on the general instructions of the employer);
  - (c) shall not become involved in planning annual leave rosters or rostered days off except by consultation with the employer to ensure an orderly overview of work cover;
  - (d) shall not become involved in disciplining of employees for behaviour, absenteeism or performance;
  - (e) shall give advice to the employer or other staff to assist with each of the above but only to the extent of ensuring good order and work flow;
  - (f) shall not breach any confidence placed in them by fellow employees or the employer;
  - (g) is appointed on merit and skill, taking into account the following factors:
    - (1) clerical aptitude;
    - (2) H.O.W. supervisor assessment;
    - (3) work performance experience;
    - (4) attendance;
    - (5) attention to detail;
    - (6) general attitude to company standards;
    - (7) training and education.

## 3. DURESS

The EBA has not been entered into under duress by any of the parties. All points have been discussed and all outcomes from it have been achieved through consultation.

## 4. PARTIES TO THE AGREEMENT

The EBA is made in accordance with:

the provisions of sections 32–47 of the NSW Industrial Relations Act 1996

**and**

the Principles for approving enterprise agreements as provided by section 33(1) of the Act.

The parties to this EBA are F H Prager, the National Union of Workers (NSW Branch) and the employees of F H Prager who are covered by the Storemen & Packers General (State) Award as at 5th October 2005.

## 5. PURPOSE OF THE AGREEMENT

The purpose of this agreement is:

- (i) the maintenance of a harmonious and productive working relationship between the parties to the agreement
- (ii) to develop a consultative approach to handling problems and issues

- (iii) to address the issue of productivity increases
- (iv) to reduce the costs of the work being performed by the employees.
- (v) to identify and develop the key performance indicators by which continuous improvement to productivity and profitability are achieved and decreases in costs are measured
- (vi) to identify and develop an appropriate structure by which benefits that flow from any improvements to productivity and profitability, and decreases in costs are passed onto the parties of the agreement

## **6. TERM**

The term of the agreement is for three years commencing on the 1st February 2006 and terminating on the 31st January 2009. The EBA will become effective and benefits will become payable from the 1st February 2006.

## **7. COMMITMENT**

The agreement aims to ensure that the parties to the agreement are committed to the purposes of the agreement as stated in Clause 5. It also aims for honest, open and up front communication building on the trust that already exists between the parties.

## **8. DISPUTE RESOLUTION PROCEDURE**

- (i) It is the intention of the agreement that all issues are handled at the shop floor through the Warehouse & Distribution Centre Manager and the NUW onsite delegates. Should an issue escalate beyond this level then the following shall apply.
- (ii) Any dispute arising out of employment shall be referred by the Delegate or an individual employee to the Company representative appointed for this purpose.
- (iii) Failing settlement at this level between the Company and the Delegate on the job, the Delegate shall refer the dispute within 24 hours to the union organiser who will take the matter up with the Company.  
All efforts shall be made by the Company and the union organiser to settle the matter but, failing settlement, the union organiser shall refer the dispute to the union Secretary and the Company shall refer the dispute to its employer association and the union Secretary shall take the matter up with the employer association.
- (iv) During the discussions the status quo shall remain and work shall proceed normally. "Status quo" shall mean the situation existing immediately prior to the dispute or the matter giving rise to the dispute.
- (v) At any time, either party shall have the right to notify the dispute to the Industrial Registrar.
- (vi) The company retains the right in extreme circumstances to stand down an individual on full pay until the dispute is resolved.

## **9. CONSULTATIVE COMMITTEE**

The agreement allows for the formulation of a consultative committee, of 2 store workers, nominated by a majority of employees and 2 management representatives to oversee and implement the following:

- (i) Implementation of the EBA and to be the point of contact for issues arising from the EBA and any issues raised in general
- (ii) Review of Skills based training, pay levels and gradings
- (iii) Flexibility with start, finish times and meal breaks
- (iv) Productivity measures – A process of benchmarking will be undertaken to establish a basis for improvement. Improvement targets will be set in conjunction with the consultative committee. Targets set will not be used to discipline or terminate staff.
- (v) Productivity improvements
- (vi) O H & S issues as designated by the O H & S committee
- (vii) Review of the classification structure, skills based training, pay levels and gradings.
- (viii) Flexibility with annual picnic day
- (ix) Workplace reforms:- Levels of absenteeism, availability for overtime when required, error rates, teamwork, continuous process improvement, cultural issues, damaged stock, cleanliness of the warehouse and distribution centre, punctuality, process waste elimination, span of hours.

## 10. UNION RECOGNITION AND MEMBERSHIP

- (i) For the duration of the agreement F H Prager recognises the National Union of Workers (NSW Branch) as being the union that shall have exclusive representation of all employees covered by the Agreement. This exclusive representation will extend to all terms and conditions of employment, whether those terms and conditions are subject to this agreement.
- (ii) It is agreed that all new employees subject to this agreement will be given the opportunity to join the National Union of Workers (NSW Branch) as part of the induction programme.
- (iii) F H Prager undertakes upon written authorisation to deduct union membership dues, as levied by the National Union of Workers (NSW Branch) in accordance with its rules, from the pay of employees, who are members of the National Union of Workers (NSW Branch). The amounts will be deducted weekly and remitted monthly together with all necessary information to enable reconciliation and crediting of subscriptions to members' accounts. There shall be no requirement to make deductions for direct casual employees with less than two month's service (continuous or otherwise)
- (iv) The Union shall advise the employer of any change to the amount of membership fees made under its rules, provided that this does not occur more than once in any calendar year. Such advice shall be in the form of a schedule of fees to be deducted specifying either weekly, fortnightly, monthly, or quarterly as the case may be. The Union shall give the employer a minimum of two months' notice of any such change.
- (v) An employee may at any time revoke in writing an authorization to the employer to make payroll deductions of Union membership fees.
- (vi) Where an employee who is a member of the Union and who has authorised the employer to make payroll deductions of Union membership fees resigns his or her membership of the Union in accordance with the rules of the Union, the Union shall inform the employee in writing of the need to revoke the authorisation to the employer in order for payroll deductions of union membership fees to cease.
- (vii) All new employees have access to the EBA and shall be introduced to the site NUW delegate upon being accepted for employment.

## 11. CLASSIFICATIONS

All storemen and packers covered by this Agreement shall be classified as follows:  
Five Grade Structure -

(i)

### **Grade 1 - Casual employees and permanent employees with less than 12 months continuous service.**

- *Produces quality work under instructions*
- *Able to work from procedures under supervision*
- *Follows safety directions/rules – Completion of Manual Handling, Fire Safety and MSDS training.*
- *Possesses good interpersonal and communication skills.*
- *Exercises discretion within level of skills and training*
- *Can perform general labouring and cleaning duties.*
- *Able to pick orders accurately*
- *Able to pack, despatch and sort customer orders*
- *Able to use hand trolleys and pallet trucks*
- *Able to understand invoice/documentation*
- *Able to unload containers*
- *Able to understand internal and external customer needs*
- *Able to assist in basic maintenance of picking floor*
- *Able to operate a keyboard to carry our stores work*
- *Able to complete replenishments to picking floor*

*Level 1 Wage classification will be applied to all permanent employees who have been employed for a period of less than 12 months. This 12 month period will include the period of employment that the permanent employee has worked as either a labour hire casual or a direct casual employee*

*for F H Prager. This 12 months introductory period must be over a continuous time period with no breaks and will be calculated from the date the employee started this continuous period. "Breaks" is to be understood as any period of non-employment greater than two week caused by a downtime in business and excludes sick leave, compassionate, bereavement or parental leave. No more than 5 employees will be on the introductory level at any one time. If there is a need for an additional new employee, the employee closest to the end of their 12 month introductory period will be reclassified as Level 2 and paid accordingly.*

**Grade 2 - Permanent employees with greater than 12 months continuous service. (includes continuous employment period spent as either a labour hire casual or as a F H Prager direct casual)**

- *All of Grade 1*
- *Enrolment and completion of Certificate II Transport and Distribution – Warehousing*
- *Reasonable level of overtime*
- *Training on driving Reach Truck/ Forklifts*
- *Able to assist in the development of a Grade 1 storeworker*
- *Possesses good interpersonal & communication skills*
- *Attendance at Stocktakes*
- *Training in handling and storage of dangerous goods*

*Certificate II and all the above criteria must be completed before promotion to Grade 3.*

**Grade 3 - Permanent employees with greater than 12 months continuous service, Certificate II Transport and Distribution – Warehousing and has completed all Grade 1 and 2 Requirements.**

- *Enrolment and completion of Certificate III in Transport and Distribution – Warehousing*
- *Able to work from complex instructions and procedures*
- *Able to co-ordinate team work under supervision*
- *Possesses sound interpersonal and communication skills*
- *Takes responsibility for quality of own work*
- *Has Reach Truck/ Forklift license*
- *Understands inventory and stores control*
- *Able to use electronic equipment to carry out stores work*
- *Able to undertake routine maintenance of equipment and machinery*
- *Able to undertake consolidation of stock and putaway into bulk storage*
- *Able to receive and deliver goods into store including required paperwork.*

*Certificate III and all other criteria in Grade 3 to be completed before promotion to Grade 4.*

**Grade 4 – Permanent employees with greater than 12 months continuous service (as outlined in Grade 3), have completed Certificate III Transport and Distribution – Warehousing and has completed all Grade 1,2 and 3 requirements.**

- *Enrolment and completion of Certificate IV in Transport and Distribution – Warehousing within 12 months of promotion.*
- *Able to allocate picking locations*
- *Responsible for own quality control*
- *Knowledge of all company products*
- *Able to handle credit returns*
- *Able to handle dispatch of goods*
- *Able to check orders accurately*
- *Stockpicker license*
- *Able to be in charge of an area in the warehouse*
- *Responsible for the application and maintenance of company O H & S standards*
- *Able to operate computer technology for high level inventory and stock control*
- *Able to undertake replenishment from bulk storage to picking floor and pick "large orders" from bulk*

Certificate IV and all other criteria in Grade 4 to be completed before appointment as Grade 5/Leading Hand.

Any warehouse employee who fails to complete all of the criteria for Grade IV within the first 12 months of being promoted to Grade IV will revert to Grade III level in both status and pay level. No employee will be returned to Grade III without first discussion between the Manager and the employee and with Consultative Committee approval.

Grade 5/Leading Hand can only be appointed when a position is available. No training for Grade 5 will commence until an appointment is made.

**Grade 5 – Leading Hand Permanent employees with greater than 12 months continuous service, Certificate III Transport and Distribution – Warehousing and has completed all Grade 1,2 and 3 requirements.**

- *Enrolment and completion of Warehouse and Distribution Course (No. 8502) at TAFE whilst employed as Grade 5*
- *Able to implement quality control techniques and procedures*
- *Able to assist in on-the-job training and standards*
- *Able to apply and maintain O H & S Standards*
- *Able to utilize highly developed level of communication skills*
- *Has sound knowledge of employer's products and operations*
- *Has attended training courses as set out by the employer with regard to people skills.*

(ii) Selection criteria to be used in appointing a Leading Hand will be based on merit and skill taking into account the following factors:

- Clerical aptitude
- Prior achievement of Grade 4
- Work performance and experience
- Attendance
- Attention to detail
- General attitude to company standards

All of the above criteria being equal, seniority will be taken into account.

(iii) General Information on Grading Levels

- Warehouse employees will be paid according to the level achieved regardless of the job they are asked to fulfill.
- All warehouse employees are expected to complete Certificate Level II.
- Employees will have a choice after achieving Certificate Level II and Grade II as to their participation in any further Grading levels.
- An employee will not be upgraded without achieving all the criteria for each level.
- Employees will be required to perform any work for the level at which they are paid including any work for lesser levels. Failure or refusal to work at these levels will be grounds for disciplinary procedures.
- Employees will be given 12 months to up-skill to their current Level. The company will undertake to provide all necessary training to up-skill its employees prior to the 1st May 2007.
- All grading levels are achieved based on the company providing the opportunity for training to achieve the required grading levels.
- Any disputes arising from grading levels will be referred to the consultative committee for discussion.
- Employees shall comply with all reasonable requests to perform any work required of them by the employer, including accepting instructions from authorised personnel.

- Employees shall take all reasonable steps to ensure the quality, accuracy and completion of any job or task assigned to the employee.

## 12. JOB SECURITY

- It is not the intention of the company to contract out any of the positions that are currently being carried out at this site at the date of this agreement.
- In the event that the company gives consideration to any major changes, the company commits to giving the union sufficient notice, as defined in the Agreement, in order to allow appropriate consultation and agreement about such changes.

**Note:** - The aim of this paragraph is to ensure that consultation is entered into should the company decide to contract out any positions.

## 13. RATES OF PAY

- This agreement allows for an increase of 4.5% on the current rates of pay on the 1st February 2006. These rates of pay are as per the current structured levels of pay outlined in Clause 11.
- The rates of pay as agreed will be payable from the first day of the EBA provided that the parties to the EBA have agreed to all terms in it.
- On the 1<sup>st</sup> February 2007 of the EBA a further increase will be paid of 4.5 % on the rates of pay applicable as of that date.
- On the 1st February 2008 of the EBA a further increase will be paid of 4.5% on the rates of pay applicable as of that date.

Table of grades and rates:

LEVEL	6th Oct 05 AWARD	1st Feb 05 CURRENT	1st Feb 06 EBA 4.5%	1st Feb 07 EBA 4.5 %	1st Feb 08 EBA 4.5%
1 Weekly	\$27,232.40 \$523.70	\$34,504.63 \$663.55	\$36,057.34 \$693.41	\$37,679.92 \$724.61	\$39,375.51 \$757.22
2 Weekly	\$28,012.40 538.70	\$36,193.58 \$696.03	\$37,822.29 \$727.35	\$39,524.29 \$760.08	\$41,302.89 \$794.29
3 Weekly	\$28,314.00 \$544.50	\$39,689.56 \$763.26	\$41,475.59 \$797.61	\$43,341.99 \$833.50	\$45,292.38 \$871.01
4 Weekly	\$29,291.6 \$563.30	\$40,953.69 \$787.57	\$42,796.61 \$823.01	\$44,722.45 \$860.05	\$46,734.96 \$898.75
5 Weekly	\$30,066.40 \$578.20	\$43,026.74 \$827.44	\$44,962.94 \$864.67	\$46,986.28 \$903.59	\$49,100.66 \$944.25

## 14. ALLOWANCES

- Allowances will be paid as per Table 1 – Other Rates and Allowances. An allowance for forklift is included in the rates of pay.
- Tea money will be paid on each occasion that employees are asked to work overtime for more than one hour on any one day. This practice does not apply to Saturday, Sunday or Public Holidays where normal Agreement conditions shall apply.
- Should an employee be notified of the intention to work overtime and then not be called upon to do so, he/she shall be paid the amount in Table 1.

## 15. CASUAL WORKERS

- (i) F H Prager has a policy of growth by expansion. We believe that the parties to this EBA share a common goal of increasing the numbers of permanent employees in the long term subject to expected demands for the company's products and services. We are very proud of our objective of maintaining the levels of permanent employees as the business continues to grow. It is recognised that should people leave through natural attrition replacement will not be automatic, but dependant on workloads at the time.
- (ii) It is recognised by the parties to this EBA that work done within F H Prager can be seasonal in its origin. Whenever this is so it is the company policy to employ casuals during these periods and at other times when the workloads demand it and to cease employment of those people when demand does not require using them.
- (iii) Should the circumstance occur where a casual worker is employed for a continuous period of six months and they have successfully completed Level I tasks then that casual worker will be offered fulltime employment with F H Prager. Casuals who do not accept permanent placement when offered will not be employed further and outside advertising can be undertaken to fill the position.
- (iv) F H Prager has a practice of drawing full time employees from the pool of casual workers on site. We confirm that during the life of the EBA, we have no intention of ceasing this practice.
- (v) The company retains the right to recruit from outside the pool of casual labour, in the warehouse and distribution centre, in the event that we require a person to fill a position that requires specific skills or other particular needs.
- (vi) Casual employees shall be paid an hourly rate equal to the rate as outlined in the table in Clause 13 at Level 1 and in addition the relevant casual loadings, i.e. 15% loading and 1/12th Annual Leave with a minimum payment on any day of four (4) hours.  
(NOTATION — The Annual Holidays Act 1944 provides that casual employees under this Agreement are entitled to receive an additional amount equal to 1/12 of their ordinary-time earnings in lieu of annual leave.)

## 16. REDUNDANCY

### 16.1

- (i) Where F H Prager has made a definite decision that they no longer wish the job the employee has been doing to be done by anyone, and this is not due to the ordinary and customary turnover of labour, and that decision may lead to termination of employment, the employer shall hold discussions with the employees directly affected and with the Union.
- (ii) The discussions shall take place as soon as it is practicable after the employer has made a definite decision which will invoke the provisions of paragraph (i) hereof, and shall cover, inter alia, the reasons for the proposed terminations, measures to avoid or minimise the terminations and measures to mitigate the adverse effects of any terminations on the employee/s concerned.
- (iii) For the purpose of the discussion F H Prager, shall as soon as practicable, provide in writing to the employee/s concerned and the Union, all relevant information about the proposed terminations including the reasons for the proposed terminations, the number and categories of employees likely to be affected, the number of workers normally employed and the period over which the terminations are likely to be carried out.
- (iv) Provided that F H Prager shall not be required to disclose confidential information, the disclosure of which would be inimical to its interests.

### 16.2 Transfer to Lower Paid Duties

Where an employee is transferred to other duties for reasons set out in clause 16.1, the employee shall be entitled to the same period of notice of transfer as they would have been entitled to if their employment had been terminated, and the employer may, at the employer's option, pay compensation in lieu of notice of an amount equal to the difference between the former ordinary time rate of pay and the new lower ordinary time rates for the number of weeks of notice still owing.

## **16.2 Transmission of Business**

For the purpose of this agreement, where the business is transmitted from the Company (in this clause the transmitter) to another Company (in this clause transmittee) and an employee who at the time of the transmission was an employee of the transmitter becomes as employee of the transmittee:

the continuity of service of the employee shall be deemed not to have been broken by reason of such transmission;

the period of service which the employee has had with the transmitter or any prior transmitter shall be deemed to be service with the transmittee; and

the employee will not have an entitlement to either severance pay or redundancy entitlements as a consequence of the transmission of business and that any persons to be employed or otherwise engaged by the transmittee, shall be employed or engaged in accordance with the terms of this Agreement and that this agreement shall apply wholly to the transmittee.

In this clause, business includes trade, process, business or occupational and includes part of any such business, and transmission includes the sale, transfer, conveyance, assignment or succession whether by agreement or by operation of law, and transmitted has a corresponding meaning.

## **16.3 Time Off During Notice Period -**

(i) Where a decision has been made to terminate an employee in the circumstances outlined in clause 16.1, the employee shall be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment.

(ii) If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee shall, at the request of the employer, be required to produce proof of attendance at an interview or the employee shall not receive payment for the time absent. For this purpose a statutory declaration will be sufficient.

## **16.4 Notice to Centerlink**

Where a decision has been made to terminate employees in the circumstances outlined in clause 16.1 the employer shall notify the Centerlink thereof as soon as possible giving relevant information including a written statement of the reasons for the terminations, the number of categories of the employee likely to be affected and the period over which the terminations are intended to be carried out.

## **16.5 Employee Leaving During Notice -**

An employee whose employment is terminated for reasons set out in sub-clause (i) of clause 16.1 clause may terminate their employment during the period of notice, and, if so, shall be entitled to the same benefits and payments under this clause had the employee remained with the employer until the expiry of such notice:

Provided that in such circumstances the employee shall not be entitled to compensation in lieu of notice.

## **16.6 Alternative Employment -**

An employer, in a particular case, may make application to the Commission to have the general severance pay prescription varied if the employer obtains acceptable alternative employment for an employee.

### **16.7 Employees With Less Than One Year's Service -**

This clause shall not apply to employees with less than one year's continuous service and the general obligation on employers should be no more than to give relevant employees an indication of the impending redundancy at the first reasonable opportunity, and to take such steps as may be reasonable to facilitate the obtaining by the employees of suitable alternative employment.

### **16.8 Employees Exempted -**

This clause shall not apply:-

where employment is terminated as a consequence of misconduct on the part of the employee;  
or to casual employees.

### **16.9 Severance Pay**

3.5 weeks per continuous year of service or pro-rata for part continuous year of service will be payable for any employee who is being made redundant capped at 52 weeks if the employee took voluntary redundancy, or is less than 45 years of age. If the employee is over 45 years of age, the redundancy payment is capped at 62 weeks.

"Weeks Pay" means the total amount the employer would have been liable to pay the employee if the employee was continued in employment for a week.

The total must be calculated on the basis of: -the ordinary time rate of pay for the employee; and the amounts payable to the employee for the hours, including (for example) allowances, loadings and penalties; and any other amounts payable under the employee's contract of employment.

## **17. SUPERANNUATION**

- (i) Definitions — In this clause the following definitions shall apply:
- (a) "L.U.C.R.F." shall mean the Labour Union Co-operative Retirement Fund.
  - (b) "Approved/Complying Fund" shall mean a superannuation fund which has been approved in accordance with the Commonwealth Operational Standards for Occupational Superannuation Funds.
  - (c) "Eligible Employee" shall mean a weekly or casual employee who is employed to work in an establishment pursuant to the terms of this Agreement and who has been so employed for four calendar weeks. In the case of casual employees, ordinary hours of service need not be continuous. All hours of service accumulated by a casual employee shall be included in the calculation of ordinary hours of service towards the attainment of the qualifying period.
  - (d) "Freedom of Choice" shall mean an individual choice of each employee as to which superannuation scheme he/she wishes to join. The options shall be either L.U.C.R.F. or the Plum Superannuation Fund – ITW Superannuation Plan or any other complying fund.
  - (e) "Ordinary-time Earnings" shall mean:
    - (1) In the case of a weekly employee, his/her classification's weekly rate of pay for ordinary hours of labour; or
    - (2) in the case of a casual employee, earnings for his/her classification during ordinary working hours (including 15% casual loading).
    - (3) A classification's rate shall include the rate per week and allowances related to work and/or conditions.
    - (4) Ordinary-time earnings shall also include any over-Agreement payment."Over-Agreement payment" means the amount (whether it be termed "over-Agreement payment", "attendance bonus", "service increment", or any term whatsoever) which an employee would receive in excess of an Agreement and/or industrial agreement rate of pay for the classification in which such an employee is engaged. Provided that such payment shall exclude payments related to overtime, meal money allowance and any other ancillary payment of a like nature prescribed by an Agreement and/or industrial agreement.

- (ii) Contributions -
  - (a) An employer may make a pro rata deduction from the weekly contribution for each hour that an employee is absent from work without pay.
  - (b) An employer shall remit to the Trustee of L.U.C.R.F. or an approved fund, whichever is applicable, all payments due in respect of eligible employees immediately at the conclusion of each calendar month or at such other times and in such other manner as may be agreed in writing between the employer and the Trustee.

## **18. TECHNOLOGICAL CHANGE**

- (i) It is recognised by the parties to the EBA that during the life of the agreement F H Prager will introduce technological change into the warehouse and distribution centre.
- (ii) Notification of the changes will be given with as much notice as possible and the implementation of it will be handled through the Consultative Committee.

## **19. NEW EMPLOYEES**

It is a condition of this EBA that whenever a new employee commences in the warehouse and distribution centre they are to be available for afternoon or night shift. This is providing it is made a condition of employment at the time of employing each person and a signed agreement is made at the same time.

## **20. ROSTERED DAY OFF (RDO)**

- (i) All employees will work 8 hours per day for a total of 19 days at which time they will have accumulated enough time to be entitled to an RDO.
- (ii) Because of the number of employees on site, F H Prager management will allocate RDO's to ensure the minimum disruption to the business and it's customers.
- (iii) RDO's will be rostered Monday to Friday in the month after it is accumulated. Accruing RDO's is not an option in this agreement. It is not the intention to roster employees off on a public holiday, however should this occur then the day prior to or the day after the public holiday will be substituted as the RDO.
- (iv) Employees may swap their RDO's with another employee provided there is an agreement between the employees and approval from the Company and full accrual of credits has been achieved prior to the nominated Rostered Day. Approval for such action shall not be unreasonably withheld.

## **21. UNION DELEGATE LEAVE**

The two site delegates will be given time off to attend four NUW meetings per year, where the NUW notifies the delegates in writing of the date, time and place and agenda of the meeting. The delegates can leave Smithfield to allow them sufficient time to attend the meeting, and this time away from work will be paid for. The delegates are also allowed up to two days per year to attend training courses sponsored by the NUW, if both parties see the training as relevant to this site. This leave is non cumulative, and lapses if no leave is taken during the year.

## **22. STAFF LEAVE ENTITLEMENTS**

- (i) Each month a summary of employee's entitlements will be available which employees can access by referring to the Warehouse Manager who will hold a copy of the entitlements.

## **23. SICK LEAVE**

- (i)
  - (a) An employee working under the agreement who is unable to attend for duty during ordinary working hours by reason of personal illness or incapacity (including incapacity resulting from injury within the *Workers' Compensation Act 1987*), not due to his/her own serious and wilful misconduct, shall be entitled to be paid at ordinary time rates of pay for the time of such non-attendance; provided that he/she shall not be entitled to paid leave of absence for any period in respect of which he/she is entitled to workers' compensation.

(b) An employee shall, within 6 hours of the commencement of such absence or within such time as is practicable for the employee, inform the employer of his/her inability to attend for duty and, as far as possible, state the estimated duration of the incapacity.

(c) Except as provided in subclause (d), the employee shall prove to the satisfaction of the employer (or in the event of a dispute, the Industrial Relations Commission of New South Wales) that he is or was unable, on account of such illness, to attend for duty on the day or days for which payment under this clause is claimed.

(d) An employee is not required to produce a medical certificate if they are off sick for five (5) single non-adjacent workdays. This does not apply if the workday is adjacent to a public holiday. For all single day sick leave occurrences, after five, a medical certificate must be produced, for the leave entitlement to be paid. Sick leave entitlement accrues from the commencement date, not the EBA date at the rate of 5 days in the first year, and 10 days in the second and subsequent years of employment. Sick pay entitlement for part-day absences shall be calculated on a proportionate basis by multiplying the duration of sick leave absence by the average daily pay for ordinary hours and dividing the sum by the ordinary hours normally worked that day.

(e) The rights under this clause shall accumulate from year to year, so that any part of the sick leave which has not been allowed in any year may, subject to the conditions prescribed by this clause, be claimed by the employee and shall be allowed by the employer in any subsequent year of employment. Any rights which accumulate pursuant to this subclause shall be available to the employee for a period of 12 years in addition to the current year, but no longer, from the end of the year in which they have accrued.

(f) The payment for any absence on sick leave in accordance with this clause during the first three months of employment of an employee may be withheld by the employer until the employee completes such three months of employment, at which time the payment shall be made.

(g) For the purpose of this clause, continuous service shall be deemed not to have been broken by any absence from work on leave granted by the employer. Provided that any time so lost shall not be taken into account in computing the qualifying period of three months.

## **24. PERSONAL/CARER'S LEAVE**

### **(1) Use of Sick Leave -**

(a) An employee, other than a casual employee, with responsibilities in relation to a class of person set out in subparagraph (ii) of paragraph (c) of this subclause, who needs the employee's care and support, shall be entitled to use, in accordance with this subclause, any current or accrued sick leave entitlement provided for in clause 23, Sick Leave, for absences to provide care and support for such persons when they are ill. Such leave may be taken for part of a single day.

(b) The employee shall, if required, establish either 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.

(c) The entitlement to use sick leave in accordance with this subclause is subject to:

(i) the employee being responsible for the care of the person concerned; and

(ii) the person concerned being:

(a) a spouse of the employee; or

(b) a de facto spouse who, in relation to a person, is a person of the opposite sex to the first mentioned person who lives with the first mentioned person as the husband or wife of that person on a bona fide domestic basis although not legally married to that person; or

(c) a child or an adult child (including an adopted child, a stepchild, a foster child or an ex nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the employee or spouse or de facto spouse of the employee; or

(d) a same sex partner who lives with the employee as the de facto partner of that employee on a bona fide domestic basis; or

(e) a relative of the employee who is a member of the same household where, for the purposes of this subparagraph:

(1) "relative" means a person related by blood, marriage or affinity;

- (2) "affinity" means a relationship that one spouse, because of marriage, has to blood relatives of the other; and
- (3) "household" means a family group living in the same domestic dwelling.
- (d) An employee shall, wherever practicable, give the employer notice 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 employer by telephone of such absence at the first opportunity on the day of absence.
- (2) Unpaid Leave for Family Purpose -
  - (a) An employee may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care and support to a member of a class of person set out in subparagraph (ii) of paragraph (c) of subclause (1) who is ill.
- (3) Annual Leave -
  - (a) An employee may elect, with the consent of the employer, subject to the *Annual Holidays Act 1944*, to take annual leave not exceeding five days in single-day periods, or part thereof, in any calendar year at a time or times agreed by the parties.
  - (b) Access to annual leave, as prescribed in paragraph (a) of this subclause, shall be exclusive of any shutdown period provided for elsewhere under this Agreement.
  - (c) An employee and employer may agree to defer payment of the annual leave loading in respect of single-day absences until at least five consecutive annual leave days are taken.
- (4) Time Off in Lieu of Payment for Overtime -
  - (a) An employee may elect, with the consent of the employer, to take time off in lieu of payment for overtime at a time or times agreed with the employer within 12 months of the said election.
  - (b) Overtime taken as time off during ordinary-time hours shall be taken at the ordinary time rate, that is, an hour for each hour worked.
  - (c) If, having elected to take time as leave in accordance with paragraph (a) of this subclause, the leave is not taken for whatever reason, payment for time accrued at overtime rates shall be made at the expiry of the 12- month period or on termination.
  - (d) Where no election is made in accordance with the said paragraph (a), the employee shall be paid overtime rates in accordance with the Agreement.
- (5) Make-up Time -
  - (a) An employee may elect, with the consent of the employer, 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 employer, 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.

## 25. ANNUAL LEAVE

- (i) See *Annual Holidays Act 1944*. Leave is reserved pending the outcome of any test case on this matter in the Industrial Relations Commission of New South Wales.
- (ii) All employees will have an equal opportunity to take accrued annual leave on times such as Christmas, Easter and the school holidays etc. In the event that the company receives too many applications for leave during these peak holiday periods, the company will utilise a fair and equal system that allocates annual leave evenly amongst the staff. Numbers of staff on annual leave at any one time will be in accordance with business requirements.

## 26. ANNUAL LEAVE LOADING

- (i) This clause takes effect on and from 1 January 1974. It applies only in relation to annual holidays to which employees become or have become entitled after 31 December 1973.
- (ii) In this clause, the *Annual Holidays Act 1944* is referred to as "the Act".
- (iii) Before an employee is given and takes an annual holiday or where, by agreement between the employer and the employee, the annual holiday is given and taken in more than one separate period, then before each of such separate periods the employee shall pay the employee a loading determined in accordance with this clause. (NOTE: The obligation to pay in advance

- does not apply where an employer takes an annual holiday wholly or partly in advance — see subclause (vii) of this clause.)
- (iv) The loading is payable in addition to the pay for the period of holidays given and taken and due to the employee under the Act.
  - (v) The loading is to be calculated in relation to any period of annual holiday to which the employee becomes or has become entitled since 31 December 1973 under the Act and this Agreement (but excluding days added to compensate for public or special holidays worked or public or special holidays falling on an employee's rostered day off not worked) and which commences on or after 1 January 1974 or, where such a holiday is given and taken in separate periods, then in relation to each such separate period. (NOTE: See subclause (vii) of this clause as to holidays taken wholly or partly in advance after 31 December 1973.)
  - (vi) The loading is the amount payable for the period or the separate period, as the case may be, stated in subclause (v) of this clause, at the rate per week of 17.5 per cent of the appropriate ordinary weekly time rate of pay prescribed by Table 1 — Minimum Agreement Wage Rates, of Part B, Monetary Rates, for the classification in which the employee was employed immediately before commencing his/her annual holiday, together with, where applicable, the rate prescribed by Item 5 (Single employee) of Table 2 — Other Rates and Allowances, of Part B, but shall not include any other allowances, penalty or disability rates, shift allowances, commissions, bonuses, incentive payments, overtime rates or any other payments prescribed by this Agreement.
  - (vii) No loading is payable to an employee who takes an annual holiday wholly or partly in advance; provided that if the employment of such an employee continues until the day when he/she would have become entitled under the Act to an annual holiday, the loading then becomes payable in respect of the period of such holiday and is to be calculated in accordance with subclause (vi) of this clause, applying the Agreement rates of wages payable on that day. This subclause applies where an annual holiday has been taken wholly or partly in advance of 31 December 1973 and the entitlement to the holiday arises on or after 1 January 1974.
  - (viii) Where, in accordance with the Act and on or after 1 January 1974, the employer's establishment or part of it is temporarily closed down for the purpose of giving an annual holiday or leave without pay to the employees concerned:
    - (a) An employee who is entitled under the Act to an annual holiday and who is given and takes such a holiday shall be paid the loading calculated in accordance with subclause (vi) of this clause.
    - (b) An employee who is not entitled under the Act to an annual holiday and who is given and takes leave without pay shall be paid, in addition to the amount payable to him/her under the Act, such proportion of the loading that would have been payable under this clause if he/she had become entitled to an annual holiday prior to the close-down as his/her qualifying period of employment in completed weeks bears to 52.
  - (ix) (a) When the employment of an employee is terminated by his/her employer on or after 1 January 1974 for a cause other than misconduct and at the time of the termination the employee has not been given and has not taken the whole of an annual holiday to which he/she became entitled after 31 December 1973 she/he shall be paid a loading calculated in accordance with subclause (vi) for the period not taken.
    - (b) Except as provided by paragraph (a) of this subclause, no loading is payable on the termination of an employee's employment.
  - (x) This clause extends to an employee who is given and takes an annual holiday and who would have worked as a shift worker if not on holiday; provided that, if the amount to which the employee would have been entitled by way of shift work allowances and weekend penalty rates for the ordinary time (not including time on a public or special holiday) which the employee would have worked during the period of the holiday exceeds the loading calculated in accordance with this clause, then that amount shall be paid to the employee in lieu of the loading.

**27. LONG SERVICE LEAVE**

- (i) See *Long Service Leave Act 1955*.
- (ii) An employee who leaves after five years service, but less than ten will be paid pro rata Long Service leave upon termination if (a) the employee leaves on account of illness or incapacity or domestic or other pressing necessity (b) the employee is terminated for any reason other than serious and willful misconduct.

**28. BEREAVEMENT LEAVE**

- (i) An employee shall be entitled on notice to bereavement leave, up to and including the day of the funeral, without deduction of pay for a period not exceeding the number of hours worked by the employee in two ordinary days' work on each occasion of the death of a person prescribed in subclause (iii) below.
- (ii) The employee shall provide proof of death to the satisfaction of the employer, if required by the employer.
- (iii) Bereavement leave shall be available to the employee in respect to the death of a person prescribed for the purposes of Personal Carer's Leave in subclause (1)(c)(ii) of Clause 24A provided that for the purpose of bereavement leave, the employee need not have been responsible for the care of the person concerned.
- (iv) An employee shall not be entitled to bereavement leave under this clause during any period in respect of which the employee has been granted other leave.
- (v) An employee shall be entitled to bereavement leave under this clause in the event of the death outside Australia of a person prescribed in subclause (iii) above, if the employee goes overseas to attend the funeral.
- (vi) Bereavement leave may be taken in conjunction with other leave available under subclauses 1(a), 2, 3, 4, 5 and 6 of Clause 24A, Personal/Carer's Leave. In determining such a request, the employer will give consideration to the circumstances of the employee and the reasonable operational requirements of the business.

**29. JURY SERVICE**

- (i) An employee shall be allowed leave of absence during any period when required to attend for jury service.
- (ii) During such leave of absence, an employee shall be paid the difference between the jury service fees received and the employee's Agreement rate of pay as if working. An employee shall be required to produce to the employer proof of jury service fees received and proof of requirement to attend and attendance on jury service and shall give the employer notice of such requirements as soon as practicable after receiving notification to attend for jury service.

**30. REPATRIATION LEAVE**

Upon the production of evidence satisfactory to the employer, an employee who is entitled to supervision by the Department of Veteran's Affairs shall be entitled to be paid the employee's Agreement rate of pay; provided that the employer shall be obliged to make such payments on not more than four occasions in any year and payment is not to exceed four hours' pay on each occasion.

**31. UNIFORMS**

- (i) Uniforms will be provided by F H Prager each year in the following quantities.

1<sup>st</sup> Year of employment

5 trousers  
5 shirts  
1 Jacket/sloppy joe  
1 pair of safety boots

2<sup>nd</sup> and subsequent Years

3 trousers  
5 shirts  
1 pair of safety boots  
1 Jackets/sloppy joe every second year unless required sooner.

- (ii) Wearing of uniforms will be part of the company health and safety policy and therefore mandatory. If not worn, the disciplinary process will be followed. Further discussion will be undertaken during the life of this agreement should the disciplinary process not be sufficient to ensure that the storeworkers comply.

### 32. ANTI-DISCRIMINATION

- (i) It is the intention of the parties bound by this Agreement to seek to achieve the object in section 3(f) of the *Industrial Relations Act 1996* to prevent and eliminate discrimination in the workplace. This includes discrimination on the grounds of race, sex, marital status, disability, homosexuality, transgender identity, age and responsibilities as a carer.
- (ii) It follows that in fulfilling their obligations under the dispute resolution procedure prescribed by this Agreement, the parties have obligations to take all reasonable steps to ensure that the operation of the provisions of this Agreement are not directly or indirectly discriminatory in their effects. It will be consistent with the fulfilment of these obligations for the parties to make application to vary any provision of the Agreement which, by its terms or operation, has a direct or indirect discriminatory effect.
- (iii) Under the Anti-Discrimination Act 1977, it is unlawful to victimise an employee because the employee has made or may make or has been involved in a complaint of unlawful discrimination or harassment.
- (iv) Nothing in this clause is to be taken to affect:
  - (a) any conduct or act which is specifically exempted from anti-discrimination legislation;
  - (b) offering or providing junior rates of pay to persons under 21 years of age;
  - (c) any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*;
  - (d) a party to this Agreement from pursuing matters of unlawful discrimination in any State or Federal jurisdiction.
- (v) This clause does not create legal rights or obligations in addition to those imposed upon the parties by legislation referred to in this clause.

#### NOTES —

- (a) Employers and employees may also be subject to Commonwealth anti-discrimination legislation.
- (b) Section 56(d) of the *Anti-Discrimination Act 1977* provides:  
“Nothing in this Act affects ... any other act or practice of a body established to propagate religion that conforms to the doctrines of that religion or is necessary to avoid injury to the religious susceptibilities of the adherents of that religion”.

### 33. HOURS

- (i) The ordinary working hours, exclusive of meal times, shall average 38 per week, Monday to Friday, worked as follows:
  - (a) The hours to be worked will be between the span of hours 6.00 a.m. to 6.00 p.m.
  - (b) Once having been fixed, the time for commencing and finishing work shall not be altered without at least 7 days' notice to the employees concerned or by mutual agreement between the employer and such employees. Where the majority of the employees and the employer so agree, the starting time may be varied to an earlier time.
- (ii) Except as provided in subclauses (iv) and (v) of this clause, the 38-hour average week may be implemented in any one of the following ways:
  - (a) by employees working less than 8 ordinary hours each day; or
  - (b) by employees working less than 8 ordinary hours on one or more days each week; or
  - (c) by fixing one weekday on which all employees will be off during a particular work cycle; or
  - (d) by rostering the employees off on various days of the week during a particular work cycle so that each employee has one weekday off during that cycle.

- (iii) The method of implementation of the 38-hour average week shall be at the discretion of the employer, who shall nominate which method prescribed in subclause (ii) of this clause shall apply.  
Provided that the employer shall not subsequently alter the method of implementation without advising the employee subject to the alteration at least 7 days in advance of the date on which the altered method of implementation is to take effect.
- (iv) Subject to the provisions of subclause (i) of this clause and (ii) and (iii) of clause 11, Shift Workers, should the employer and the majority of employees in any establishment agree, the ordinary working hours may exceed 8 on any day to enable a weekday off to be taken more frequently than would otherwise apply.
- (v) Different methods of implementation of a 38-hour week may apply to various groups or sections of employees in the plant or establishment concerned.
- (vi) Except as provided in subclause (vii) of this clause, in cases where an employee, in accordance with paragraphs (c) and (d) of subclause (ii) of this clause, is entitled to a day off during his/her work cycle, such employer shall be advised by the employee at least 4 weeks in advance of the weekday he/she is to take off.
- (vii) (a) An employer, with the agreement of a majority of employees in any establishment, may substitute the day an employee is to take off in accordance with paragraphs (c) or (d) of subclause (ii) of this clause, for another day in the case of a breakdown in machinery, a failure or shortage of electric power to meet the requirements of the business in the event of rush orders or some other emergency situation.  
(b) An employee who is required by his/her employer to work on his/her scheduled day off in circumstances other than those in paragraph (a) of this subclause shall be paid overtime rates or be granted an alternative day off. Such choice shall be at the option of the employee.  
(c) An individual employee, with the agreement of his/her employer, may substitute the day he/she is to take off for another day.  
(d) An employer may hold up to a maximum of 5 days accrued in accordance with paragraphs (c) and (d) of subclause (ii) of this clause. The accrued days are to be taken at a time mutually agreed between the employer and the employee.
- (viii) Normal working hours will be between 7.00am and 3.30pm Monday to Thursday and 6.00am to 2.30pm Friday

#### **34. SHIFT WORKERS**

- (i) Definitions — For the purposes of this clause:  
 "Early Morning Shift" means any shift commencing at or after 4.00 a.m. and before 6.00 a.m.  
 "Afternoon Shift" means any shift finishing after 6.00 p.m. and at or before midnight.  
 "Continuous Work" means work carried on with consecutive shifts of employees throughout the 24 hours of each of at least 6 consecutive days without interruption, except during breakdowns or meal breaks or due to unavoidable causes beyond the control of the employer.  
 "Night Shift" means any shift finishing subsequent to midnight and at or before 8.00 a.m.  
 "Rostered Shift" means a shift of which the employee concerned has had at least 48 hours' notice.
- (ii) Hours — Continuous Work Shifts — The ordinary working hours of shift workers employed on continuous work shall be an average of 38 per week as provided in clause 33, Hours. Such ordinary working hours:  
 (a) shall not exceed 152 in any work cycle; and  
 (b) except as provided in subclause (iv) of the said clause 33, shall not exceed:
  - (1) 8 in any 1 day; or
  - (2) 48 in any 1 week; or
  - (3) 88 in any 14 consecutive days; or
  - (4) 128 in any 21 consecutive days.
- (iii) Hours — Other Than Continuous Work — The ordinary working hours of shift workers not on continuous shifts shall be an average of 38 per week as Provided for in clause 33. Such ordinary working hours:  
 (a) shall not exceed 152 in any work cycle; and  
 (b) except as provided in subclause (iv) of clause 33, shall not exceed:
  - (1) 8 in any 1 day; or

- (2) 40 in any 1 week; or
  - (3) 80 in any 14 consecutive days; or
  - (4) 120 in any 21 consecutive days.
- (iv) Hours — General — The ordinary working hours of shift workers shall be worked at such times as the employer may require, provided that:
  - (a) Except at the regular changeover of shifts, an employee shall not be required to work more than one shift in any 24 hours.
  - (b) Twenty minutes shall be allowed to shift workers each shift for crib, which shall be counted as time worked.
  - (c) The ordinary working hours of any shift shall be worked continuously except for meal breaks, to be taken at such times as the employer may direct.
  - (d) No employee shall be required to work for more than 5 consecutive hours without a meal break.
- (v) Rosters — Subject to paragraph (a) of this subclause, shift rosters shall specify the commencing and finishing times of ordinary working hours of the respective shifts.
  - (a) An employee shall not be required by an employer to work an early morning shift where this would impose upon that employee any unreasonable personal hardship(s). Without limiting the generality of the concept "any unreasonable personal hardship", it shall include where an employee is unwilling to work a morning shift on account of "illness, incapacity, domestic or other pressing necessity". Provided further that an employer shall consult with the accredited representative of the union in relation to the implementation of an early morning shift.
- (vi) Variations by Agreement — The method of working shifts may, in any case, be varied by agreement between the employer and the accredited representative of the union to suit the circumstances of the establishment. The time of commencing and finishing shifts, once having been determined, may be varied by agreement between the employer and the accredited representative of the union to suit the circumstances of the establishment or, in the absence of agreement, by seven days' notice of alteration given by the employer to the employees.
- (vii) Early Morning Shift Allowances —
  - (a) A shift worker whilst on early morning shift shall be paid for such shift a penalty payment of 12.5 per cent in addition to his/her ordinary rate of pay.
  - (b) A shift worker who works on morning shift which does not continue for at least 5 successive mornings in a 5-day workshop, or for at least 6 successive mornings in a 6-day workshop shall be paid for each such shift 50 per cent for the first 3 hours thereof and 100 per cent for the remaining hours thereof in addition to his/her ordinary rate.
- (viii) Afternoon or Night Shift Allowances —
  - (a) A shift worker whilst on afternoon or night shift shall be paid for such shift 15 per cent more than his/her ordinary rate.
  - (b) A shift worker who works on an afternoon or night shift which does not continue for at least 5 successive afternoons or nights in a 5-day workshop or for at least 6-successive afternoons or nights in a 6-day workshop shall be paid for each such shift 50 per cent for the first 3 hours thereof and 100 per cent for the remaining hours thereof in addition to his/her ordinary rate.
  - (c) An employee who:
    - (1) during a period of engagement on shift, works night shift only; or
    - (2) remains on night shift for a longer period than 4 consecutive weeks; or
    - (3) works on a night shift which does not rotate or alternate with another shift or with day work so as to give him/her at least one-third of his/her working time off night shift in each shift cycle; shall, during such engagement period or cycle, be paid 30 per cent more than his/her ordinary rate for all time worked during ordinary working hours on such night shift.
- (ix) Saturday Shifts — The minimum rate to be paid to a shift worker for work performed between midnight on Friday and midnight on Saturday shall be time and one-half. Such extra rate shall be in substitution for and not cumulative upon the shift premiums prescribed in subclauses (vii) and (viii) of this clause.
- (x) Overtime — Shift workers for all time worked in excess of or outside the ordinary working hours prescribed by this Agreement or on a shift other than a rostered shift, shall:
  - (a) if employed on continuous work be paid at the rate of double time; or

(b) if employed on other shift work be paid at the rate of time and one-half for the first 2 hours and double time thereafter, except in each case when the time is worked:

(c) by arrangement between the employees themselves;

(d) for the purpose of effecting customary rotation of shifts; or

(e) on a shift to which an employee is transferred on short notice as an alternative to standing the employee off in circumstances which would entitle the employer to deduct payment for a day.

Provided that when not less than 8 hours' notice has been given to the employer by a relief employee that he/she will be absent from work and the employee whom he/she should relieve is not relieved and is required to continue to work on his/her rostered day off, the unrelieved employee shall be paid double time.

(xi) Requirements to Work Reasonable Overtime — An employer may require any employee to work reasonable overtime at overtime rates and such employee shall work overtime in accordance with such requirements.

(xii) Sundays and Holidays — Shift workers on continuous shifts for work on a rostered shift the major portion of which is performed on a Sunday or holiday shall be paid as follows:

(a) Sundays — at the rate of double time.

(b) Holidays — as prescribed by clause 36, Holidays, at the rate of double time. Shift workers on other than continuous work for all time worked on a Sunday or holiday shall be paid at the rates prescribed by clause 36, Holiday and Sunday Rates of Pay. Where shifts commence between 11.00 p.m. and midnight on a Sunday or holiday, the time so worked before midnight shall not entitle the employee to the Sunday or holiday rate; provided that the time worked by an employee on a shift commencing before midnight on the day preceding a Sunday or holiday and extending into a Sunday or holiday shall be regarded as time worked on such Sunday or holiday. Where shifts fall partly on a holiday, that shift the major portion of which falls on a holiday shall be regarded as the holiday shift.

(xiii) Daylight Saving — Notwithstanding anything contained elsewhere in this Agreement, in any area where, by reason of the legislation of a State, summer time is prescribed as being in advance of the standard time of that State, the length of any shift:

(a) commencing before the time prescribed by the relevant legislation for the commencement of a summer time period; and

(b) commencing on or before the time prescribed by such legislation for the termination of a summer time period, shall be deemed to be the number of hours represented by the difference between the time

recorded by the clock at the beginning of the shift and the time so recorded at the end thereof, the time of the clock in each case to be set to the time fixed pursuant to the relevant State legislation.

In this subclause the expressions "standard time" and "summer time" shall have the same meanings as are prescribed by the relevant State legislation.

(xiv) Clauses 35, Overtime, 42, Meal Hours, and subclause (i) of clause 33, Hours, shall not apply to shift workers.

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

An employee (other than a casual employee) who works so much overtime between the termination of his/her ordinary work on one day and the commencement of ordinary work on the next day that he/she has not had at least 10 consecutive hours off duty between those times shall,

subject to this subclause, be released after completion of such overtime until he/she has had 10 consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

If, on the instructions of the employer, such an employee resumes or continues work without having had such 10 consecutive hours off duty, he/she shall be paid at double rates until released from duty for such period and shall then be entitled to be absent until he/she has had 10

consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

The provisions of this subclause shall apply in the case of shift workers as if 8 hours were substituted for 10 hours when overtime is worked:

- (a) for the purpose of changing shift rosters; or
- (b) where a shift worker does not report for duty and a day worker or a shift worker is required to replace such shift worker; or
- (c) where a shift is worked by arrangement between the employees themselves.

### **35. OVERTIME**

- (i) All work done before the starting time and/or after the finishing time fixed in accordance with clause 33, Hours, Monday to Friday, inclusive, or on a Saturday, shall be overtime and shall be paid for at the rate of time and one-half for the first 2 hours and double time thereafter. Provided that all time worked after 12 noon on Saturday shall be paid for at the rate of double time. The minimum payment for work performed on a Saturday shall be four hours at the appropriate rate.
- (ii) An employee recalled to work overtime after leaving the employer's business premises (whether notified before or after leaving the premises) shall be paid for a minimum of four hours' work at the appropriate rate for each time he/she is so recalled. Provided that, except in the case of unforeseen circumstances arising, the employee shall not be required to work the full four hours if the job he/she was recalled to perform is completed within a shorter period. This subclause shall not apply in cases where it is customary for an employee to return to the employer's premises to perform a specific job outside ordinary working hours or where the overtime is continuous, subject to a reasonable meal break, with the completion or commencement of ordinary working time.
- (iii) When overtime work is necessary it shall, wherever reasonably practicable, be so arranged that employees have at least 10 consecutive hours off duty between the work of successive days. An employee (other than a casual employee) who works so much overtime between the termination of ordinary work on one day and the commencement of ordinary work on the next day that he/she has not had at least 10 consecutive hours off duty between those times shall, subject to this subclause, be released after completion of such overtime until he/she has had 10 consecutive hours off duty without loss of pay for ordinary working time occurring during such absence. If, on the instructions of the employer, such an employee resumes or continues work without having had such 10 consecutive hours off duty, he/she shall be paid at double rates until he/she is released from duty for such period and shall then be entitled to be absent until he/she has had 10 consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

### **36. HOLIDAYS**

- (i) The days upon which New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, Labour Day, Christmas Day, and Boxing Day are observed, together with any day gazetted or proclaimed as a public holiday for the district in which the employee is employed, shall be holidays.
- (ii) In addition to the holidays specified in subclause (i) of this clause, one additional paid holiday (in lieu of Picnic Day) shall apply in each calendar year to an employee on weekly hire. Such holiday shall be on the day prescribed in subclause 7.5.1(b)(ii) of Clause 7, Public Holidays, of the Metal Engineering and Associated Industries Award 1998 - Part I, as an additional holiday in New South Wales; provided that where any other day is observed as a picnic day by the general body of employees in any establishment, then such day shall be substituted for the additional holiday here-in-before prescribed. By agreement between any employer and the majority of the employees, another day may be substituted for the additional holiday prescribed by this subclause in such employer's undertaking.
- (iii) In the case of an employee whose ordinary hours of work rearranged in accordance with subclause (iv) or paragraphs (c) or (d) of subclause (ii) of clause 33, Hours, the weekday to be taken off shall not coincide with any holiday fixed in accordance with subclauses (i) and (ii) of this clause. Provided that in the event that a holiday is prescribed after an employee has been given notice of his/her weekday off in accordance with subclause (vi) of the said clause 33, and the holiday falls on the weekday the employee is to take off, the employer shall allow the employee to take the day off on an alternative weekday.

- (iv) An employee who works continuous work and who, by the circumstances of the arrangement of his/her ordinary hours of work is entitled to a rostered day off which falls on a public holiday described by this clause, shall, at the discretion of the employer, either be paid for that day, at ordinary rates, or have an additional day added to their annual leave. This provision shall not apply when the holiday on which he is rostered off falls on a Saturday or Sunday.
- (v) Where an employee is absent from his/her employment on the working day before or the working day after a public holiday without reasonable excuse or without the consent of the employer, the employee shall not be entitled to payment for such holiday. Reasonable excuse shall be satisfied by a certificate from a duly qualified medical practitioner or a statutory declaration. An employee shall notify the employer of such an absence prior to normal starting time wherever practicable.
- (vi) All time worked on Christmas Day and Good Friday shall be paid for at the rate of treble time.
- (vii) All time worked on Sunday shall be paid for at the rate of two and one-half times the ordinary rate and all time worked on holidays, other than the aforesaid, shall be paid for at double time and one-half.
- (iii) For work performed on a holiday which falls on a Saturday payment shall be made at the rate of double time and one-half.
- (iv) The minimum payment for work performed on Sundays and holidays shall be 4 hours at the appropriate rate.

### **37. PART TIME EMPLOYEES**

- (i) An employee may be engaged on a part-time basis. A part-time employee shall mean a weekly employee engaged to work regular days and regular hours, either of which are less than the number of days or hours worked by a full-time employee.
- (ii) A part-time employee is entitled to a minimum start per occasion of 3 continuous hours, except:
  - (a) where the employer and the employee concerned agree that there shall be a start of 2 continuous hours on 2 or more days per week, provided that:
    - (1) a 2-hour start is sought by the employee to accommodate the employee's personal circumstances, which must be specified, or
    - (2) the place of work is within a distance of 5 kilometres of the employee's place of residence.
- (iii) A part-time employee may work up to 38 hours per week without the payment of overtime.
- (iv) A part-time employee will be paid per hour 1/38 of the weekly rate of pay prescribed for a fulltime employee of the same classification contained in Table 1 of this Agreement.
- (v) Any hours worked by a part-time employee outside the ordinary hours of work as set out in clause 33, or in addition to the 38 hours per week shall be paid at overtime rates.
- (vi) Subject to this clause, all the provisions of this Agreement shall apply to a part time employee on a pro rata basis.

### **38. PAYMENT OF WAGES**

- (i) Wages of weekly employees shall be paid not later than Thursday of each week; provided that the pay day and the days held in hand for employees employed in a mixed industry shall be the same as for the majority of employees in that industry, conditional upon the employer notifying the National Union of Workers, New South Wales Branch.
- (ii) Except as otherwise provided for in this clause, no employer shall hold more than 1 day's wages in hand.
- (iii) Casual hands shall be paid at the place of their employment on termination of their service.
- (iv) Any person left waiting for more than 15 minutes shall be paid the casual rate for such waiting time.
- (v) In the event that an employee, by virtue of the arrangement of the ordinary working hours, is to take a day off on a day which coincides with pay day, such employee shall be paid no later than the working day immediately following pay day. Provided that where the employer is

- able to make suitable arrangements, wages may be paid on the working day preceding pay day.
- (vi) Subject to the remainder of this clause, payment of wages may be made by means of payment by cash or electronic funds transfer, provided that payment by electronic funds transfer shall not be used wherever its use would create harsh or unreasonable circumstances for employees.
  - (vii) Wherever wages are paid by electronic funds transfer under subclause (vi) hereof, the employer shall meet the following costs:
    - (a) The employee's account establishment cost.
    - (b) The cost of each deposit of wages in the employee's account, including Government charges.
    - (c) The cost of a single withdrawal of each deposit of wages from an employee's account.

#### **39. TERMS OF ENGAGEMENT**

- (i) Except as to casual employees, employment shall be on a weekly basis.
- (ii) Employment of weekly hands during the first week of service shall be from day to day at the weekly rate, terminable at a day's notice on either side; provided that the employer shall indicate, in writing, to an employee at the time of engagement whether he/she is being engaged as a casual worker or on a weekly basis.
- (iii) Subject as provided elsewhere in this Agreement, employment shall be terminated by a week's notice on either side, given at any time during the week, or by payment or forfeiture, as the case may be, of an amount equal to 1 week's wages.
- (iv) Notwithstanding any provisions of the foregoing subclauses, the employer shall have the right to dismiss an employee without notice for misconduct and/or refusing duty.
- (v) Provided that an employee whose employment is terminated by the employer on the working day immediately preceding a holiday or holidays, otherwise than from misconduct, shall be paid for such holiday or holidays. This subclause is not to apply to an employee during the first month of engagement.
- (vi) Each employee on the termination of his/her employment shall, on request, be given a statement in writing by his/her employer or his/her manager, stating the position held by the employee and the length of service.

#### **40. CRIB TIME**

An employee working overtime shall be allowed a crib of 20 minutes without deduction of pay after each 4 hours of overtime worked if the employee continues work after such crib time.

#### **41. FIRST AID**

The employee who is appointed as a first-aid attendant shall be paid an additional payment at the rate as set out in Item 3 of Table 1.

- (vii) Where an employee who is a member of the Union and who has authorised the employer to make payroll deductions of Union membership fees resigns his or her membership of the Union in accordance with the rules of the Union, the Union shall inform the employee in writing of the need to revoke the authorisation to the employer in order for payroll deductions of union membership fees to cease.
- (viii) The above variations shall take effect:
  - (a) In the case of employers which currently deduct union membership fees, or whose payroll facilities are carried out by way of an outsourcing arrangement, or whose payroll calculations are made through the use of computerised means, from the beginning of the first pay period to commence on or after 25 March 2003.
  - (b) In the case of employers who do not fall within subparagraph (i) above, but who currently make deductions, other than union membership fee deductions or mandatory deductions (such as for taxation instalments or superannuation contributions) from employees' pay, or have in place facilities to make such deductions, from the beginning of the first pay period to commence on or after 25 June 2003.

(c) For all other employers, from the beginning of the first pay period to commence on or after 25 September 2003.

#### **42. MEAL HOURS**

- (i) A 30 minute meal break shall be taken no later than to finish at 2.00 p.m., provided that no employee shall be required to work for more than 5 hours without a break for a meal. Such meal break shall not count as time worked.
- (ii) Where overtime is necessary for more than 1 hour after the usual finishing time, a break of not less than 30 minutes or more than 1 hour shall be allowed for tea and shall be taken within 1 hour of such finishing time. Where such overtime does not exceed 1 hour, there shall not be any break;  
provided that any employer and his/her employee may mutually agree to any variation of this subclause to meet the circumstances of the work in hand.
- (iii) Subject to subclauses (i) and (ii) of this clause, an employer may require an employee to work during his/her recognised meal break as part of his/her ordinary time.
- (iv) All employees shall be allowed fifteen minutes each morning as a rest period for morning tea, such time to be counted as time worked.
- (v) Employees are to be ready at workstations at the commencement of their shift.

#### **43. RE-NEGOTIATION**

The parties to the EBA agree to commence negotiations for a new EBA at 3 months prior to the termination date of the agreement.

#### **44. NO EXTRA CLAIMS**

The parties to the agreement agree that there will be no extra claims during the life of the agreement.

#### **45. SIGNATORIES TO THE EBA**

Signed for on behalf of F H Prager

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**David Morris**  
**General Manager**

Signed for and on behalf of the National Union of Workers

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**Branch Secretary**  
**National Union of Workers NSW Branch**

**Table 1 - Other Rates and Allowances**

Item No.	Clause No.	Description	Amount \$
1	35	Overtime - more than 1 hour	9.95 per meal
2	35	Notified and not called upon	9.95 per meal
3	41	First-aid	2.00 per day