



DECISION

Fair Work Act 2009
s.185—Enterprise agreement

JBS Australia Pty Limited
(AG2018/6306)

JBS AUSTRALIA PTY LIMITED - BROOKLYN MAINTENANCE ENTERPRISE AGREEMENT 2018

Manufacturing and associated industries

COMMISSIONER CIRKOVIC

MELBOURNE, 7 MARCH 2019

Application for approval of the JBS Australia Pty Limited - Brooklyn Maintenance Enterprise Agreement 2018.

[1] An application has been made for approval of an enterprise agreement known as the *JBS Australia Pty Limited - Brooklyn Maintenance Enterprise Agreement 2018* (the Agreement). The application was made pursuant to s.185 of the *Fair Work Act 2009* (the Act). It has been made by JBS Australia Pty Limited. The Agreement is a single enterprise agreement.

[2] The Employer has provided written undertakings. A copy of the undertakings is attached in Annexure A. I am satisfied that the undertakings will not cause financial detriment to any employee covered by the Agreement and that the undertakings will not result in substantial changes to the Agreement.

[3] Subject to the undertakings referred to above, I am satisfied that each of the requirements of ss.186, 187, 188 and 190 as are relevant to this application for approval have been met. The Agreement does not cover all of the employees of the employer, however, taking into account the factors in Section 186(3) and (3A) I am satisfied that the group of employees was fairly chosen.

[4] The “Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union” known as the Australian Manufacturing Workers’ Union (AMWU) 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) I note that the Agreement covers the organisation.

[5] The Agreement was approved on 7 March 2019 and, in accordance with s.54, will operate from 14 March 2019. The nominal expiry date of the Agreement is 15 March 2022.



COMMISSIONER

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Annexure A

IN THE FAIR WORK COMMISSION

FWC Matter No.:
AG2018/6306

Applicant:

JBS Australia Pty Limited

Section 185 – Application for approval of a single enterprise agreement

Undertaking- Section 190

I, Howard Powell, Group General Manager Industrial Relations for JBS Australia Pty Limited give the following undertakings with respect to the JBS Australia Pty Limited – Brooklyn Maintenance Enterprise Agreement 2018 ("the Agreement"):

1. I have the authority given to me by JBS Australia Pty Limited to provide this undertaking in relation to the application before the Fair Work Commission.
2. **Shiftworkers**
The Employer undertakes that for the purposes of the NES a shiftworker is defined as per clause 17.1.4.
3. **Shift penalty.**
The Employer undertakes where an employee who works on an afternoon or night shift which does not continue:
 - For at least five successive afternoon or night shifts or six successive afternoon or night shifts in a six day workshop (where no more than eight ordinary hours are worked on each shift); or
 - for at least 38 ordinary hours (where more than eight ordinary hours are worked on each shift and the shift arrangement is in accordance with clauses 16.2)the employee shall be paid for each shift at the rate of 50% extra for the first three hours and 100% extra thereafter.
4. **Clause 18.4**
The Employer undertakes that where an employee volunteers to work more than one additional shift in any particular week, the employee shall be paid in accordance with clause 18.1.
5. These undertakings are provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.



Signature

5/23/19
Date



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 the agreement.

JBS Australia Pty Limited

Brooklyn Maintenance

Enterprise Agreement 2018

17 October 2018

PART 1 - AGREEMENT FORMALITIES-**1 AGREEMENT TITLE**

This agreement shall be known as the JBS Australia Pty Limited – Brooklyn Maintenance Enterprise Agreement 2018 (“Agreement or agreement”).

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3 AIMS

- 3.1 The objectives of this Agreement are:
- 3.1.1 to establish a profitable and enduring enterprise through the efficient and effective provision of high quality product for the benefit of the employees, the shareholders, the Company's customers and the community;
 - 3.1.2 to establish a profitable business as the provider of product of the highest quality to the Company's customers; and
 - 3.1.3 to develop a workforce with the skills to enable the Company to provide these products on a consistent basis in order to help expand the enterprise's opportunities.
- 3.2 The Company and its employees acknowledge that an essential factor in these objectives is the development and maintenance of harmonious and productive working relationships between all employees, management and the Company so as to ensure the employees are committed to their jobs and the success of the enterprise. The parties agree that the achievement of these working relations and commitments requires:
- 3.2.1 that employees be involved in the making of decisions in their work areas;
 - 3.2.2 that employees have the opportunity to achieve their full potential within the context of the enterprise;
 - 3.2.3 the employees benefit from the success of their efforts;
 - 3.2.4 the willingness of employees to accept flexibility of jobs and duties across the Company, subject to individual skills or abilities to perform particular tasks, to eliminate demarcation problems; and
 - 3.2.5 the willingness of employees to avoid any action which might disrupt the continuity of the delivery of product or reduce the effectiveness of the Company's business.
- 3.3 To ensure the objectives of this Agreement are met, the parties agree that the following measures form an integral part of the Company's operations:
- 3.3.1 the Company and its employees will constantly seek improvements in safety, work organisation, quality, and any other areas which will enhance the quality of the working environment and the effectiveness of the Company's operations;
 - 3.3.2 the avoidance of any action which disrupts or impedes delivery of product by the prompt resolution of employee concerns through effective communication and the agreed processes of consultation and grievance handling;
 - 3.3.3 the training and development of employees to ensure that they have the opportunity to achieve their potential within the enterprise and meet the changing needs of the enterprise;
 - 3.3.4 the undertaking of work in a flexible and efficient manner;
 - 3.3.5 the development of working relationships between employees and management to promote mutual trust, open communication of relevant information and ideas, and cooperation generally;
 - 3.3.6 the maintenance of standards of conduct and attendance necessary to ensure a safe and efficient operation; and
 - 3.3.7 the implementation of a system of remuneration which gives encouragement to employees to improve their skills, abilities and performance in line with the operational needs of the enterprise.

4 DEFINITIONS

- 4.1 “**Act**” shall mean the *Fair Work Act 2009*.
- 4.2 “**Casual Employee**” shall mean an employee engaged as such and paid on an hourly basis and whose employment terminates at the conclusion of each period of engagement without notice.
- 4.3 “**Company or company**” shall mean JBS Australia Pty Limited.
- 4.4 “**Double Time**” shall mean the ordinary hourly rate plus 100%.
- 4.5 “**Employee or employee**” shall mean an employee engaged in maintenance work associated with and incidental to the meat processing establishment located at Brooklyn.
- 4.6 “**Employee representative**” shall mean an elected employee representative member of the Consultative Committee.
- 4.7 “**Employer or employer**” shall mean JBS Australia Pty Limited.
- 4.8 “**Employer representative**” shall mean a nominated employer representative member of the Consultative Committee.
- 4.9 “**FWC**” shall mean Fair Work Commission.
- 4.10 “**Industrial Action**” shall mean industrial action as defined in Section 19 of the Act or any provision enacted in substitution thereof during the life of this Agreement, but shall not include protected industrial action.
- 4.11 “**NES**” shall mean the National Employment Standards as set out in the Act.
- 4.12 “**Ordinary Hourly Rate**” shall mean the appropriate hourly rate of an employee pursuant to clause 20.
- 4.13 “**Probation**” or “**Probation Period**” shall be up to three months.
- 4.14 “**Time and one half**” shall mean the ordinary hourly rate plus 50%.
- 4.15 “**Union/s**” shall mean the Australian Manufacturing Workers’ Union (AMWU) and/or the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia.
- 4.16 “**Week**” shall mean Monday to Sunday inclusive.
- 4.17 “**Weekly Rate**” shall mean the employee’s relevant all-purpose weekly rate pursuant to clause 17, 20 and 21 of this Agreement.

5 DATE AND PERIOD OF OPERATION

This Agreement shall take effect 7 days after the date of approval of this Agreement by the FWC and shall continue in force for a period of 3 years from that date.

6 COVERAGE

- 6.1 This Agreement will cover:
- 6.1.1 JBS Australia Pty Limited (ABN: 14 011 062 338), in respect of all its maintenance employees employed at its Brooklyn meat processing establishment for whom rates of pay and conditions of employment are prescribed herein, whether such employees are members of the Union or not.
- 6.1.2 Maintenance employees of JBS Australia Pty Limited at the Brooklyn Meat processing establishment who are covered by the classifications set out in clause 20 of the Agreement.

- 6.1.3 The Australian Manufacturing Workers' Union (AMWU) (ABN: 59 459 725 116), 1st Floor, 251 Queensberry Street, Carlton South, Vic 3053; and
- 6.1.4 Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia (CEPU) (ABN: 37 211 681 988), Level 1, 200 Arden Street, North Melbourne Vic 3051;
provided written notice is given in accordance with section 183(1) of the Act and the FWC notes in the document to approve the Agreement that the agreement covers the AMWU and CEPU.

6.2 This Agreement does not aim to cover or apply to employees who are covered by individual employment contracts, including but not limited to processing, administrative, support, supervisory or managerial roles within the business.

6.3 Prior Awards and Agreements

This Agreement supersedes and replaces in its entirety the JBS Australia Pty Limited Brooklyn Maintenance Enterprise Agreement 2012 and any applicable industrial agreement or Modern Award as set out in the Act including but not limited to the Manufacturing and Associated Industries and Occupations Award 2010. It is acknowledged by the parties that no award shall have effect in relation to employees covered by this Agreement whilst this Agreement remains in force.

7 NOT TO BE USED AS A PRECEDENT

This Agreement shall not be used in any manner whatsoever to obtain similar benefits in any other establishment or enterprise and will not be used to base or progress a claim against any other business unit or division of JBS Australia Pty Limited

8 NO EXTRA CLAIMS

It is agreed by the parties that up to the nominal expiry date of this Agreement:

- 8.1 In consideration for the benefits of this Agreement, the parties agree not to pursue any claims relating to wages or conditions of employment whether dealt with in this Agreement or not, during the life of this Agreement.
- 8.2 Up to the expiry date, this Agreement covers all matters or claims which could otherwise be the subject of protected action under the Act.
- 8.3 Up to the expiry date of this Agreement, neither the Union nor its members employed by the Employer will engage in protected action under the Act.

PART 2 - CONSULTATION AND DISPUTE RESOLUTION

9 CONSULTATION

9.1 Consultation regarding major workplace change

9.1.1 Employer to Notify:

9.1.1.1 Where an employer has made a definite decision to introduce major changes in production, program, organisation, structure or technology that are likely to have significant effects on employees, the employer must notify the employees who may be affected by the proposed changes and their representatives, if any.

9.1.1.2 Significant effects include termination of employment; major changes in the composition, operation or size of the employer's workforce or in the skills required; the elimination or diminution of job opportunities, promotion opportunities or job tenure; the alteration of hours of work; the need for retraining or transfer of employees to other work or locations; and the restructuring of jobs. Provided that where this Agreement makes provision for alteration of any of these matters an alteration is deemed not to have significant effect.

9.1.2 Employer to discuss change

9.1.2.1 The employer must discuss with the employees affected and their representatives, if any, the introduction of the changes referred to in clause 9.1, the effects the changes are likely to have on employees and measures to avert or mitigate the adverse effects of such changes on employees and must give prompt consideration to matters raised by the employees and/or their representatives in relation to the changes.

9.1.2.2 The discussions must commence as early as practicable after a definite decision has been made by the employer to make the changes referred to in clause 9.1.1.

9.1.2.3 For the purposes of such discussion, the employer must provide in writing to the employees concerned and their representatives, if any, all relevant information about the changes including the nature of the changes proposed, the expected effects of the changes on employees and any other matters likely to affect employees provided that no employer is required to disclose confidential information the disclosure of which would be contrary to the employer's interests.

9.2 Consultation about changes to rosters or hours of work

9.2.1 Where an employer proposes to change an employee's regular roster or ordinary hours of work, the employer must consult with the employee or employees affected and their representatives, if any, about the proposed change.

9.2.2 The employer must:

9.2.2.1 provide to the employee or employees affected and their representatives, if any, information about the proposed change (for example, information about the nature of the change to the employee's regular roster or ordinary hours of work and when that change is proposed to commence);

9.2.2.2 invite the employee or employees affected and their representatives, if any, to give their views about the impact of the proposed change (including any impact in relation to their family or caring responsibilities); and

9.2.2.3 give consideration to any views about the impact of the proposed change

that are given by the employee or employees concerned and/or their representatives.

9.2.3 The requirement to consult under this clause does not apply where an employee has irregular, sporadic or unpredictable working hours.

9.2.4 These provisions are to be read in conjunction with other Agreement provisions concerning the scheduling of work and notice requirements.

9.3 Consultative Committee Agenda

The Consultative Committee will be convened to discuss any matters that members of the committee may wish to raise concerning or in any way relating to conditions of employment, the welfare and achievements of employees or the objectives of the Company.

Any Agreements entered into and signed by the Consultative Committee, the Company and the Union/s shall be binding on the parties, provided that no Agreement shall have any effect to the extent that it operates to reduce any term of condition of employment covered by this Agreement, and provided further that such Agreements shall not contain matters which are prohibited by the Act from being contained in an enterprise agreement.

10 SETTLEMENT OF DISPUTES PROCEDURE

10.1 Matters which may be resolved using the procedure in this clause are all matters that pertain to the application of this Agreement and the National Employment Standards to the employees and employer covered by this Agreement.

10.2 The following procedure for the resolution of disputes shall apply:

10.2.1 The employee/s concerned shall first meet and confer with their immediate supervisor. At any time during the dispute the employee/s may appoint a representative of their choice to act on their behalf.

10.2.2 If the matter is not resolved at such a meeting further discussions involving more senior management and employee representatives will take place.

10.2.3 The representative shall be allowed, at a place designated, by the Company, a reasonable period of time during working hours to interview any further employees or managers pertinent to the dispute requested by the employee representative, in the workplace.

10.3 To facilitate the speedy and efficient resolution of disputes:

10.3.1 The party with the grievance must notify the other party at the earliest opportunity of the problem.

10.3.2 Throughout all stages of the procedure all relevant facts must be clearly identified and recorded; and

10.3.3 Sensible time limits must be allowed for completion of the various stages of discussion. However, the parties must co-operate to ensure that the disputes resolution procedure is carried out as quickly as possible.

10.4 If the matter remains unresolved any party may refer to Fair Work Commission for mediation and/or conciliation and if necessary arbitration.

10.5 Work shall continue in accordance with the direction of the employer whilst matters in dispute are being dealt with unless Fair Work Commission determines otherwise on an interlocutory basis.

PART 3 - THE EMPLOYMENT RELATIONSHIP

11 FORMS OF EMPLOYMENT

11.1 Weekly Employment

11.1.1 Except as elsewhere provided, employment shall be by the week.

11.1.2 The ordinary hours of work shall be as prescribed by clause 16 and clause 17.

11.2 Part Time Employment

11.2.1 A part time employee, will be an employee who works for less than 38 ordinary hours a week, and has reasonably predictable hours of work of not less than four consecutive hours per day and will receive the ordinary hourly rate for all hours worked.

11.2.2 At the time of appointment, a part-time employee will be advised of the number of ordinary hours per week that they will work. This can only be varied by agreement by both parties.

11.2.3 A part time employee will have a minimum engagement period of four hours on any one day.

11.2.4 A part-time employee will receive proportionate pay and conditions to those of a weekly employee.

11.2.5 Where a public holiday falls on a day upon which a part-time employee is normally employed, that employee shall be paid in accordance with clause 27.3. An employee's regular roster will not be altered to avoid this obligation.

11.2.6 Where an employee and their employer agree in writing, part-time employment may be converted to full-time and vice-versa on a permanent basis or for a specified period of time. If such an employee transfers from full-time to part-time (or vice-versa), all accrued entitlements shall be maintained. Following transfer to part-time employment accrual will occur in accordance with the provisions relevant to part-time employment.

11.3 Casual Employment

11.3.1 A casual employee will be engaged for a minimum of 4 hours and their employment will terminate at the conclusion of each period of employment. The ordinary hours of a casual shall be up to 38 hours per week to be worked at such times as are agreed between the employer and the employee.

11.3.2 Casuals will be paid for all ordinary hours worked and a 25% loading in addition to the ordinary hourly rate in lieu of paid personal/carer's leave, annual leave and compassionate leave.

11.3.3 The 25% loading shall not be used in the calculation of overtime rates or any other penalty or loading that might otherwise apply.

11.3.4 Casual conversion to full-time or part-time employment

11.3.4.1 A casual employee, other than an irregular casual employee, who has been engaged by the employer for a sequence of periods of employment under this Agreement during a period of six months, thereafter has the right to elect to have their contract of employment converted to full-time or part-time employment if the employment is to continue beyond the conversion process.

11.3.4.2 The employer of such an employee must give the employee notice in writing of the provisions of clause 11.3.4 within four weeks of the employee having attained such period of six months. The employee retains their right of election under clause 11.3.4 if the employer fails to

comply with clause 11.3. 4.2.

- 11.3.4.3 Any such casual employee who does not within four weeks of receiving written notice elect to convert their contract of employment to full-time or part-time employment is deemed to have elected against any such conversion.
- 11.3.4.4 Any casual employee who has a right to elect under clause 11.3. 4.1, on receiving notice under clause 11.3. 4.2 or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that they seek to elect to convert their contract of employment to full-time or part-time employment, and within four weeks of receiving such notice the employer must consent to or refuse the election but must not unreasonably so refuse.
- 11.3.4.5 Once a casual employee has elected to become and been converted to a full-time or part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- 11.3.4.6 If a casual employee has elected to have their contract of employment converted to full-time or part-time employment in accordance with clause 11.3.4.4, the employer and employee must, subject to clause 11.3.4.4 discuss and agree on:
- 11.3.4.6.1 which form of employment the employee will convert to, being full-time or part-time; and
- 11.3.4.6.2 if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked, as set out in clause 11.2.
- 11.3.4.7 An employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert their contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert their contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed on between the employer and employee.
- 11.3.4.8 Following such agreement being reached, the employee converts to full-time or part-time employment.
- 11.3.4.9 Where, in accordance with clause 11.3.4.4 an employer refuses an election to convert, the reasons for doing so must be fully stated to and discussed with the employee concerned and a genuine attempt made to reach agreement.
- 11.3.4.10 For the purposes of clause 11.3.4, an irregular casual employee is one who has been engaged to perform work on an occasional or non-systematic or irregular basis.
- 11.3.4.11 An employee must not be engaged and re-engaged to avoid any obligation under this agreement.

12 CONTRACT CONDITIONS OF EMPLOYMENT

- 12.1 The employer may require an employee to work reasonable additional hours and such employee shall work those additional hours in accordance with such requirement.
- 12.2 Each employee is required to be at their work station at the commencement of work and shall not leave their work station until the expiration of their hours of work inclusive of overtime, except for meal/rest breaks as outlined in clause 19.

- 12.3 Notwithstanding anything elsewhere contained in this Agreement, the Company shall have the right to close down a plant or a section of a plant, for any time an employee cannot be usefully employed because of any strike or major breakdown in machinery or any stoppage of work by any cause for which the Company cannot reasonably be held responsible. The employee may take any annual leave that the employee has accrued at the date or may take unpaid leave. Employees will also be entitled to use any other leave entitlements they have accrued. Employees covered by this agreement will not be stood down due to seasonal closure of a plant or section of a plant unless that closure extends beyond a period of 2 months.

13 TERMINATION OF EMPLOYMENT

13.1 Termination

- 13.1.1 The employment of an employee (other than a casual employee) may be terminated only by the giving of notice as set out in the NES by either party or by the payment or forfeiture of wages for the period of notice not worked. Save and except that there is no requirement on the employee to give any additional notice based on the age of the employee concerned as set out in the NES.

- 13.1.2 In order to terminate the employment of an employee the employer must give to the employee the period of notice specified in the table below:

Period of continuous service	Period of notice
1 year or less	1 week
Over 1 year and up to the completion of 3 years	2 weeks
Over 3 years and up to the completion of 5 years	3 weeks
Over 5 years of completed service	4 weeks

- 13.1.3 In addition to the notice in clause 13.1.2, employees over 45 years of age at the time of the giving of the notice with not less than two years' continuous service, are entitled to an additional week's notice.

- 13.1.4 The notice of termination by either party may apply as from the end of the ordinary hours of work on the day on which the notice is given, whether the employee is employed on that day or not, or at any later time specified by the notice.

- 13.1.5 The employment of a casual employee may be terminated by the employer by giving one day's notice or payment in lieu.

- 13.1.6 A casual employee may terminate their employment by giving one day's notice. If one day's notice is not given the employer may deduct one day's wages from the employee's final pay.

- 13.1.7 Payment in lieu of the prescribed notice in clauses 13.1.2 and 13.1.3 must be made if the appropriate notice period is not required to be worked. Provided that employment may be terminated by the employee working part of the required period of notice and by the employer making payment for the remainder of the period of notice.

- 13.1.8 The required amount of payment in lieu of notice must equal or exceed the total of all amounts that, if the employee's employment had continued until the end of the required period of notice, the employer would have become liable to pay to the employee because of the employment continuing during that period. That total must be calculated on the basis of:

- 13.1.8.1 the employee's usual specified hours of work (even if not standard hours); and
- 13.1.8.2 the amounts ordinarily payable to the employee in respect of those hours, including (for example) allowances, loading and penalties; and
- 13.1.8.3 any other amounts payable under the employee's contract of employment.

- 13.1.9 The provisions of this clause do not apply:
- 13.1.9.1 in the case of dismissal for serious misconduct;
 - 13.1.9.2 to employees engaged for a specific period of time or for a specific task or tasks;
 - 13.1.9.3 to trainees whose employment under a traineeship agreement or an approved traineeship is for a specified period or is, for any other reason, limited to the duration of the agreement; and
 - 13.1.9.4 to casual employees.

13.2 Job search entitlement

Where an employer has given notice of termination to an employee, an employee shall be allowed up to one day's time off without loss of pay for the purpose of seeking other employment. The time off shall be taken at times that are convenient to the employee after consultation with the employer.

13.3 Transmission of business

Where a business is transmitted from the employer to another, as set out in clause 14 - Redundancy, the period of continuous service that the employee had with the transmitter or any prior is deemed to be service with the transmittee and taken into account when calculating notice of termination. However, an employee shall not be entitled to notice of termination or payment in lieu of notice for any period of continuous service in respect of which notice has already been given or paid for.

13.4 Continuous Service

13.4.1 For the purpose of this clause, a year of continuous service is unbroken by any of the following:

- 13.4.1.1 any annual leave or long service leave taken;
- 13.4.1.2 any interruption or ending of the employment by the employer if such interruption or ending is made with the intention of avoiding obligations under this Agreement;
- 13.4.1.3 any absence from work of not more than fourteen working days (for an employee who works five days per week) in the year of employment on account of sickness or accident;
- 13.4.1.4 any absence on account of leave (other than paid leave) granted, imposed or agreed to by the employer;
- 13.4.1.5 any absence on any other account not involving termination of employment; and
- 13.4.1.6 any parental leave taken.

13.4.2 In calculating a year of continuous service any absence of a kind mentioned in clauses 13.4.1.1, 13.4.1.2 or 13.4.1.3 (less than fourteen days for an employee who works five days per week), will be counted as part of the year of service but, in respect of absences of a kind mentioned in clauses 13.4.1.3 (more than fourteen days for an employee who works five days per week), 13.4.1.4, 13.4.1.5 and 13.4.1.6, while they do not break continuity of service of an employee, they are not to be taken into account in calculating the period of continuous service for the purpose of this clause.

14 REDUNDANCY

14.1 Definitions

- 14.1.1 Business includes trade, process, business or occupation and includes part of any such business.
- 14.1.2 Redundancy occurs where an employer has made a definite decision that the employer no longer wishes the job the employee has been doing done by anyone and that decision leads to the termination of employment of the employee, except where this is due to the ordinary and customary turnover of labour.
- 14.1.3 Transmission includes transfer, conveyance, assignment or succession whether by agreement or by operation of law and transmitted has a corresponding meaning.
- 14.1.4 Week's pay

A week's pay for an employee paid in accordance with clause 20. –shall mean, the Weekly Rate provided under this agreement for working the ordinary hours each week for the employee concerned. Provided that such rate shall exclude:

- overtime;
- penalty rates;
- disability allowances;
- shift allowances;
- special rates;
- fares and travelling time allowances;
- bonuses; and
- any other ancillary payments of a like nature.

14.2 Transfer to lower paid duties

Where an employee is transferred to lower paid duties by reason of redundancy the same period of notice must be given as the employee would have been entitled to if the employment had been terminated and the employer may at the employer's option, make payment in lieu thereof of an amount equal to the difference between the former Weekly Rate and the new Weekly Rate for the number of weeks of notice still owing.

14.3 Severance pay

- 14.3.1 An employee whose employment is terminated by reason of redundancy is entitled to the following amount of severance pay in respect of a period of continuous service:

Period of continuous service	Severance pay
Less than 1 year	Nil
1 year and less than 2 years	4 weeks' pay*
2 years and less than 3 years	6 weeks' pay
3 years and less than 4 years	7 weeks' pay
4 years and less than 5 years	8 weeks' pay
5 years and less than 6 years	10 weeks' pay
6 years and less than 7 years	11 weeks' pay
7 years and less than 8 years	13 weeks' pay
8 years and less than 9 years	14 weeks' pay
9 years and less than 10 years	16 weeks' pay
10 years and over	12 weeks' pay

* **Week's pay** is as set out in clause 20

- 14.3.2 Continuous service shall be calculated in the manner prescribed by clause 13.4 of this Agreement.

14.4 Employee leaving during notice period

An employee given notice of termination in circumstances of redundancy may terminate their employment during the period of notice set out in clause 13.1.2. In this circumstance the employee will be entitled to receive the benefits and payments they would have received under this clause had they remained with the employer until the expiry of the notice, but will not be entitled to payment in lieu of notice.

14.5 Alternative employment

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

14.5.2 This provision does not apply in circumstances involving transmission of business as set in clause 14.7.

14.6 Job search entitlement

14.6.1 During the period of notice of termination given by the employer in accordance with clause 13 an 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.

14.6.2 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.

14.6.3 The job search entitlements under this clause 14.6 apply in lieu of the provisions of clause 13.2.

14.7 Transmission of business

14.7.1 The provisions of this clause are not applicable where a business is before or after the date of this Agreement, transmitted from the employer to another employer, in any of the following circumstances:

14.7.1.1 Where the employee accepts employment with the transmittee which recognises the period of continuous service which the employee had with the transmitter and any prior transmitter to be continuous service of the employee with the transmittee; or

14.7.1.2 Where the employee rejects an offer of employment with the transmittee:

- in which the terms and conditions are substantially similar and no less favourable, considered on an overall basis, than the terms and conditions applicable to the employee at the time of ceasing employment with the transmitter; and
- which recognises the period of continuous service which the employee had with the transmitter and any prior transmitter to be continuous service of the employee with the transmittee.

14.7.1.3 FWC may vary clause 14.7.1.2 if it is satisfied that this provision would operate unfairly in a particular case.

14.8 Employees exempted

This clause does not apply to:

- employees terminated as a consequence of serious misconduct that justifies dismissal without notice;

- employees engaged for a specific period of time or for a specified task or tasks; or
- casual employees.

15 PRODUCTIVITY AND EFFICIENCY

All parties to this Agreement agree to be fully committed to improve productivity and efficiency.

PART 4 - HOURS OF WORK**16 ORDINARY HOURS OF WORK**

- 16.1 The ordinary hours of work of an employee, plus reasonable additional hours of work other than for a part-time or casual employee, subject to the relevant shifts in clause 17 shall be 40 hours per week.
- 16.2 Unless otherwise agreed by the Company and the employee, the ordinary hours of work for a day worker will be between 4:00am and 6:00pm.
- 16.3 The two additional hours to make up the 40 hours per week shall be paid at the ordinary hourly rate.
- 16.4 Notwithstanding the provisions of clause 16.1 and 16.2, each employee may be required to work reasonable additional hours in excess of their 40 hours per week of which shall be paid at the relevant overtime rates.
- 16.5 Following consultation with employees, the company shall implement a work roster/s. Such work roster/s will be binding on all employees. Changes to the work roster/s will be at the direction of the company following consultation with employees.
- 16.6 Where consultation fails to reach agreement the employer may alter the roster after the completion of the current week's roster. The ordinary starting and finishing times and the number of hours worked by an employee each day will be at the direction of the company to suit operational requirements.
- 16.7 Notwithstanding any other provision of this agreement, the employer may implement a work roster that provides for less than 40 ordinary hours in any week, provided that over an agreed period (such as an agreed roster), the actual hours of work average 40 ordinary hours per week.
- 16.8 An employee who works an ordinary shift on a Saturday or a Sunday or Public Holidays will be paid for all time worked at the rate of time and a half.
- 16.9 Unless otherwise agreed between the employer and an employee in a particular position, employees employed prior to August 1, 2008 shall not be required to work their ordinary hours of work on a Sunday.
- 16.10 During the life of this agreement the Company is prepared to discuss the implementation of an RDO on the basis of a 42 hour week and should production demands change and manning allows the implementation of an RDO.
- 16.11 Notwithstanding any other provision of this agreement and other than engine drivers/boiler attendants and waste water operators, the employer may implement a work roster that provides for less than 40 ordinary hours in any week, provided that over an agreed period (such as an agreed roster), the actual hours of work average 40 ordinary hours per week.
- 16.12 12 hour shift arrangements
- 16.12.1 It is agreed that 12-hour shift arrangements will apply only to engine drivers/boiler attendants and waste water operators.
- 16.12.2 The Company and engine drivers/boiler attendants and waste water operators agree to working six and/or seven day roster arrangements that cover up to 24 hours a day and that provides coverage on Saturday and Sunday. In any such six and/or seven day roster, ordinary hours worked on Saturday and Sunday will be paid at the penalty rate of time and one half for all time worked.
- 16.12.3 Any work performed on a gazetted public holiday or public holidays will be paid at double time and one half inclusive of the public holiday.
- 16.12.4 Any leave (personal/carers, long service leave, annual leave, bereavement leave) taken will be deducted on the basis of 12 hours, unless only part day is taken and in this case only the time taken will be deducted.

- 16.12.5 The roster arrangements will be developed and altered by agreement between the engine drivers/boiler attendants and/or waste water operators and the Company.
- 16.12.6 Hours and wages will be averaged over a 12 month period. Any shortfalls or overpayments will be adjusted on termination.
- 16.12.7 Personal/Carer's Leave will be at ten (10) days at the ordinary hours of work.
- 16.12.8 By agreement hours and wages can be averaged over a 12 month period.

17 SHIFT WORK

17.1 Shift Work

- 17.1.1 Shifts may be worked on a one-shift, two-shift or three-shift system.
- 17.1.2 Afternoon shift means any shift commencing on or after 12.00pm and finishing at or before midnight.
- 17.1.3 Night shift means any shift finishing after midnight and at or before 9:00am.
- 17.1.4 A seven day shift worker who is regularly rostered to work on Sundays and public holidays will be entitled to an additional week of leave.
- 17.1.5 Continuous shiftwork means work carried on with consecutive shifts of employees throughout the 24 hours of at least six consecutive days without interruption except for breakdowns or meal breaks or due to unavoidable causes beyond the control of the employer.

17.2 Shift Allowances

- 17.2.1 An employee on afternoon shift will be paid the ordinary hourly rate for the classification in which the employee is employed under this Agreement plus 15% thereof.
- 17.2.2 An employee on night shift will be paid the ordinary hourly rate for the classification in which the employee is employed under this Agreement plus 25% thereof.
- 17.2.3 A casual employee employed on shift work will receive the appropriate percentage loading (shift allowance) prescribed in this clause on their ordinary hourly rate plus the casual loading on their ordinary hourly rate prescribed by clause 11.3.2 i.e. not calculated as a percentage of the ordinary hourly rate with the shift allowance added but rather as a percentage of the ordinary hourly rate alone.
- 17.2.4 Unless otherwise agreed, an individual employee who is required to alter their starting time to enable the Company to make provision for replacement of unplanned absences will be given at least 24 hours' notice of the change.
- 17.2.5 Employees engaged on a three-shift system will rotate between shifts unless otherwise agreed between the employer and an employee or the majority of employees directly concerned.
- 17.2.6 Employees will be given a minimum of one week's notice or more by agreement when changing shifts on a permanent basis.

18 OVERTIME, WEEKEND PENALTIES AND ADDITIONAL HOURS

- 18.1 Where an employee is required by the employer to work in excess of their normal rostered hours on any one day, the employee shall be paid at the rate of time and a half for the first three hours and double time thereafter.
- 18.2 An employee who is required by the employer to work in excess of their normal rostered hours

on a Sunday shall be paid for all hours worked at the rate of double time.

- 18.3 Where a seven day shiftworker is required to work an additional shift, the employee shall be paid for all hours at the rate of time and one half the ordinary hourly rate.
- 18.4 If an employee volunteers to undertake an additional shift then the hours worked during the additional shift will be paid for at the ordinary hourly rate.
- 18.5 An employee who works an ordinary shift on a Saturday or a Sunday will be paid for all time worked at the rate of time and one half.

19 MEAL TIMES AND REST PERIODS

- 19.1 No employee shall be required to work for more than 6 hours without a meal break.
- 19.2 Each meal break shall be taken at the direction of the Company.
- 19.3 Notwithstanding any other provision of this clause, a meal break may be deferred or interrupted if an employee is required to continue or resume work to rectify a breakdown or interruption to any production or process.
- 19.4 Meal breaks are to be staggered whenever necessary to suit the employer requirements.
- 19.5 An employee who does not receive notice on the previous day and who is required to work for more than two (2) hours after the normal ceasing time shall be paid a meal allowance of \$14.25 or be provided with a meal by the employer. After each further completed four (4) hour period, the employee will be provided with a meal or paid a further meal allowance.
- 19.6 An employee shall be entitled to a paid twenty (20) minute rest period which will be taken at a suitable time determined by the employer.
- 19.7 Rest period after overtime
 - 19.7.1 An employee who works so much overtime between the termination of work on one day or shift, and the commencement of ordinary hours on the next day or shift, that the employee will not have at least 10 consecutive hours off duty between these times shall, subject to clause 19.7.2 be released after completion of such overtime until the employee has had 10 consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.
 - 19.7.2 If, on the instructions of the employer, an employee resumes work without having had 10 consecutive hours off duty the employee shall be paid at the rate of double time until the employee is released from duty for such period. The employee is then entitled to be absent until the employee has had 10 consecutive hours off duty without loss of pay for ordinary hours occurring during the absence.

PART 5 - WAGES

20 RATES OF PAY

20.1 From 7 days after the date of approval of this agreement by FWC the ordinary rate of pay in relation to the following classifications shall be (first increase):

CLASSIFICATION	All Purpose 40 Hour Weekly Rate	Ordinary Hourly Rate	SAP Codes Payroll purposes only
Team Leader	\$1615.05	\$40.3763	BRMATL
Level 1A Maintenance Technician	\$1520.00	\$38.0000	BRMA1A
Level 1 Maintenance Tradesperson	\$1497.39	\$37.4349	BRMA1
Level 2A Maintenance Tradesperson	\$1449.00	\$36.2250	BRMA2A
Level 2 Maintenance Employee	\$1321.36	\$33.0339	BRMA2
Level 3 Maintenance Employee	\$1223.60	\$30.5900	BRMA3
Level 4 Maintenance Employee	\$1174.74	\$29.3685	BRMA4
Level 5 Maintenance Employee	\$978.80	\$24.4701	BRMA5

20.2 From the first pay period commencing 12 months on or after the date of the first increase, the ordinary rate of pay in relation to the following classifications shall be increased by 2.5%.

Subject to conditions as set out in clause 20.4 an additional 1% increase may apply.

20.3 From the first pay period commencing on or 24 months after the date of the first increase, the ordinary rate of pay in relation to the following classifications shall be increased by 2.5%:

Subject to conditions as set out in clause 20.4 an additional 1% increase may apply.

20.4 Productivity and Efficiency

12 and 24 months after the first increase as set out by clauses 20.2 and 20.3 the maintenance employees covered by this Agreement shall be entitled to receive an additional 1% increase to their rates of pay, based on achieving a target of an average of 2.5% maintenance related downtime of a combined beef and smalls kill floors.

Maintenance Downtime achieved	Increase to Weekly Wage Rate
0-2.50%	1%
>2.51%	0%

It is agreed that the maintenance downtime data will be compiled by the site Maintenance Planners, checked and approved by the Engineering Manager and Plant Manager and reported on a weekly basis.

The final calculation will be Maintenance Downtime as a % of total run time – Beef and Small Kill Floor combined.

20.5 Australian Electrical or plumbing licence holder

An employee who holds a recognised Australian Electrical or plumbing license and is employed to undertake work in the relevant trade at the site will be paid a 4% all-purpose allowance based on the ordinary hourly rate of the classification.

20.6 First Aid Allowance

An appropriately qualified employee who is appointed to act in lieu of and performs the duties of a full-time first-aid officer or nurse, shall be paid an allowance of \$5.00 per day for each occasion appointed to do so.

20.7 The rates contained in clauses 20.1, 20.2, and 20.3, incorporate all award, over award and non-award payments which might otherwise be payable.

Without limiting the generality of this definition, the weekly rate, or hourly rate is payable in lieu of any and all entitlements by way of wages, allowances, special rates and disability allowances or any other additional allowance or payments provided for in any previous award, agreement or the Act including all site allowances or payments not provided for in any previous award or agreement.

20.8 The classification of employees shall be based on the skills that are possessed and used by each employee as required by the Company. Progress from one level to the next will require a higher level of responsibility, plant knowledge, experience and application. The descriptors for each tradesperson level are set out below.

20.8.1 Maintenance Employee Level 5:

This is an employee who is ancillary to the Maintenance Department at JBS Brooklyn, who is not trade qualified. This classification will include, but is not limited to, roles such as trades assistant, greaser, and truck drivers.

20.8.2 Maintenance Employee Level 4:

Any qualified tradesperson, other than mechanical fitters, electricians, plumbers and boilermakers and other non-trades employees (including Storeman), suitable for employment within the plant maintenance team and working in their trade, would be classified at this level.

20.8.3 Maintenance Employee Level 3:

Employees competent in waste water operations would be classified at this level.

20.8.4 Maintenance Employee Level 2:

This is the entry level position for Engine Drivers/Boiler Attendants. Employees will be able to demonstrate their skill, commitment, dedication, application and willingness to learn and understand the plant.

20.8.5 Maintenance Tradesperson Level 2A

This is the experienced level position for a maintenance tradesperson. It is also available to Engine Drivers/Boiler Attendants by appointment who exhibit skill, dedication, application & willingness to work at an advanced trade level within the plant.

20.8.6 Maintenance Tradesperson Level 1:

This level is only available to employees with a minimum classification of Tradesperson Level 2A who hold a relevant trade qualification for the position they are employed in. It is by appointment only and available to tradespersons who demonstrate a high level of ownership, extensive plant knowledge combined with skill, commitment, dedication and application to their role.

20.8.7 Maintenance Technician Level 1A

This level is by appointment only and available to tradespersons who have been at level 1 for a period of time and can demonstrate skill beyond their trade including dual trade qualifications & application.

20.8.8 Team Leader:

Achieving this level is by appointment only. This is a senior leadership position within the Maintenance Team, requiring complete plant knowledge and the ability to work effectively and lead the Maintenance team. It is anticipated that each shift crew would include one mechanical and one electrical team leader.

A team leader is an employee who is entrusted by the employer with the supervision of employees within a team. A team leader is responsible to ensure the satisfactory performance of both the entire team and each member of the team in accordance with designated employer outcomes.

Whilst a team leader is responsible for the supervision and satisfactory performance of other employees within their team they are not responsible for formally administering any disciplinary action against the employees they supervise.

20.9 A written application, including justification, is required for consideration for reclassification to a higher level. Any application will be reviewed by the Plant Engineer, HR Manager and Plant Manager for consideration.

21 APPRENTICES

The Company is committed to providing increased employment opportunities for apprentices and trainees by reviewing its ability to employ apprentices and apprenticeship places in the TAFE system and agrees it will employ apprentices on the basis of business needs.

All apprentices shall be supervised by an appropriately qualified tradesperson, and will be paid according to the rates set out in this agreement and will be paid for attending the required schooling and fees to complete their apprenticeship.

21.1 An apprentice shall receive the following percentage of the applicable rate:

First year apprentice	55%
Second year apprentice	65%
Third year apprentice	75%
Fourth year apprentice	90%

21.2 An adult apprentice shall receive the following percentage of the applicable rate:

First year adult apprentice	75%
Second year adult apprentice	80%
Third year adult apprentice	85%
Fourth year adult apprentice	90%

21.3 The applicable ordinary hourly rate for use in the calculation of an apprentice's ordinary hourly rate will be the same as the ordinary hourly rate for the classification of Maintenance Trades Person Level 2A as set out in clause 20 of the Agreement.

22 CALL BACK

22.1 An employee recalled to work after completing their work and leaving the employers premises shall be paid for a minimum of four hours' work at the appropriate rate for each time so recalled at the rate of time and a half.

22.2 Except in the case of unforeseen circumstances, an employee so recalled shall not be required to work the full four hours if the job the employee was recalled to perform is completed within a shorter period.

- 22.3 Where an employee is recalled at or after 4.00 am, the supervisor may declare it to be an early start and shall advise the recalled employee to that effect. In this case the provisions of clauses 22.1 and 22.2 shall not apply.
- 22.4 Each employee is required to be available for call back in accordance with Company requirements.

23 SUPERANNUATION

23.1 Application

In addition to all other entitlements prescribed by this agreement, all eligible employees will be entitled to superannuation contributions paid by the employer, subject to the following provisions.

23.2 Contributions

23.2.1 The employer, in respect of any employee, shall contribute to the fund an amount as set out in the *Superannuation Guarantee (Administration) Act 1992*.

23.2.2 The employer may suspend contributions on behalf of any employee for any period when an employee is absent from work on unpaid leave. However the employer will continue to make contributions to an eligible employee in respect of any period during which an employee is absent from work on Workers' Compensation up to a maximum of 26 weeks.

23.3 General

23.3.1 The employer will remit the contributions to the approved fund on a monthly basis.

23.3.2 An employee shall be permitted to contribute pre-tax earnings into the superannuation scheme to which the Company contributes on behalf of the employee in accordance with the Superannuation Guarantee Levy and any other legislative obligations that may apply. Where agreed, the employer will, at the employee's written request, make arrangements for such authorised deductions from the employee's pay to be forwarded to the administrators of the approved fund.

23.3.3 No additional amount will be charged by the employer for the establishment, administration, management, or any other charges in connection with the approved fund.

23.4 Definitions

"The Fund" shall mean an approved fund, as required by government legislation, of the employee's choice.

In the event a new employee fails to nominate a Fund, the JBS Australia Pty Limited MySuper compliant default fund shall apply.

23.5 Pre-tax Earnings

An employee shall be permitted to contribute pre-tax earnings into the superannuation scheme to which the Company contributes on behalf of the employee in accordance with the Superannuation Guarantee Levy and other legislative obligations that may apply.

24 PAYMENT OF WAGES

- 24.1 Wages shall be paid weekly to all employees including casuals by electronic bank transfer to an account nominated by the employee.
- 24.2 Upon termination of employment, wages due to an employee shall be paid into the employee's nominated account on the next pay run.

- 24.3 The employer will provide an electronic payment advice.
- 24.4 The employer shall not keep more than 5 days' pay in hand.

PART 6 - LEAVE ARRANGEMENTS**25 ANNUAL LEAVE**

- 25.1 A fulltime employee shall accumulate over each period of 12 months continuous service with the employer annual leave of 4 weeks (160 hours) as set out in the NES. A part-time employee shall accumulate a pro-rata proportion based on their hours of work in proportion to fulltime engagement. A casual employee is not entitled to paid annual leave.
- 25.1.1 As set out in the National Employment Standards a period of 4 weeks leave with pay shall be allowed annually to an employee other than a casual employed under this Agreement, and 5 weeks (200 hours) leave with pay shall be allowed annually to a shiftworker as defined in clause 25.1.2.
- 25.1.2 *Shiftworker* for the purposes of the National Employment Standards shall mean an employee:
- Who is employed to work where shifts are continuously rostered 24 hours a day for 7 days a week; and
 - Regularly rostered to work those shifts; and
 - Regularly rostered to work on Sundays and public holidays.
- 25.2 Employees shall be entitled to the following annual leave conditions:-
- 25.2.1 Annual leave shall be exclusive of public holidays prescribed by this Agreement.
- 25.2.2 If a public holiday falls within an employee's period of annual leave and is observed on the day which in the case of that employee would have been an ordinary working day as prescribed in clause 16 there shall be added to that period one day, being an ordinary working day, for each public holiday observed.
- 25.2.3 Unless otherwise agreed, at least fourteen (14) days' notice shall be given to an employee as to when the employee is to commence annual leave.
- 25.2.4 Unless otherwise agreed, at least fourteen (14) days' notice shall be given to the employer as to when an employee would like to commence annual leave.
- 25.2.5 Payment for annual leave accrued subsequent to the date this Agreement commences to operate, shall include a loading of 17.5% of the Ordinary Hourly Rate for each hour of accrued annual leave taken, unless;
- 25.2.5.1 the employee terminates their own employment; or
- 25.2.5.2 the employee is dismissed by the employer for any reason.
- 25.3 It is expressly agreed that an employee who has accrued annual leave in excess of 4 weeks (160 hours) may, by written application, forego the entitlement to the amount of annual leave credited to the employee which is in excess of 4 weeks, in exchange for a payment by the employer in lieu of the amount of annual leave foregone, at the same rate of pay to which the employee would have been entitled if the leave had been taken commencing on the date that the employee elected in writing for foregoing the leave. The payment of this annual leave will be by agreement between the employer and the employee.
- 25.4 All other conditions of the Act applying to the cashing out of annual leave shall apply.
- 25.5 Leave Allowed Before Due Date

The employer may allow annual leave to an employee before the right thereto has accrued due. Where leave has been granted to an employee pursuant to this subclause before the right thereto has accrued and the employee subsequently leaves or is discharged from the service of the employer before completing the continuous service in respect of which the leave was granted, the employer may deduct from whatever remuneration is payable upon the termination of the employment the amount of the wage paid on account of the annual leave which amount shall not include any sums paid for any of the holidays prescribed by clause 27 - Public Holidays.

26 LONG SERVICE LEAVE

An employee covered by this agreement shall be entitled to long service leave at the employee's ordinary weekly rate, subject to, and in accordance with the *Long Service Leave Act 2018 (Victoria)*.

27 PUBLIC HOLIDAYS

Subject to the other provisions of this clause, employees (other than casual employees) shall be entitled to the following paid Public Holidays, and for the purposes of this clause a Public Holiday shall be deemed as being:

New Year's Day, Australia Day, Labour Day, Good Friday, Easter Saturday, Easter Sunday, Easter Monday, Anzac Day, Queen's Birthday, Melbourne Cup, Christmas Day, Boxing Day or any other day which may be awarded by applicable legislation.

27.1 Public holidays will be observed on the day it is proclaimed and/or gazetted by either State, Federal or Local Government to be observed. For the purposes of this Agreement only 1 public holiday will be observed for each of the public holidays set out in this clause 27. Where 2 days are proclaimed and/or gazetted in relation to a public holiday set out in this clause 27 then the first calendar day on which the public holiday falls shall be the day recognised as the public holiday for the purposes of this Agreement.

Notwithstanding this clause 27.1, in the event an additional day is proclaimed and/or gazetted by either State, Federal or Local Government to be observed, then as prescribed by clause 27.2, an employee shall be entitled to payment for both days.

27.2 Subject to the provisions of this clause, an employee shall be entitled to payment for a public holiday only when the public holiday is proclaimed and/or gazetted on a day that is a rostered ordinary working day for that employee.

27.3 Payment for a public holiday and/or work performed on a public holiday shall be subject to the following:

27.3.1 Where a public holiday falls on a day that is the employee's ordinary rostered working day and the employee is not required to work, the employee shall be paid for the public holiday according to the number of ordinary hours the employee was required by their roster to work on that day.

27.3.2 Where a public holiday falls on a day that is an employee's ordinary rostered working day and the employee is required to work, the employee shall in addition to payment for the public holiday at ordinary time, be paid time and one half for all hours worked on that public holiday, with a minimum period of 4 hours.

27.3.3 Where a public holiday falls on a day that is not the employee's ordinary rostered working day and the employee is required to work on that day, the employee shall be paid at the rate of time and one half for all hours worked on that day.

27.4 Any employee with 2 weeks or more of continuous service, whose employment has been terminated by the employer or who has been stood down by the employer during the month of December, and who is reemployed before the end of the month of January of the following year, shall be entitled to payment at the ordinary rate payable to that employee when they were dismissed or stood down, for any one or more of the following holidays, namely Christmas Day, Boxing Day and the 1st January (New Year's Day).

27.5 All time worked on any of the above holidays outside the employee's ordinary rostered working hours will be paid for at the ordinary overtime rate prescribed by this agreement.

28 PAID PERSONAL/CARER'S LEAVE

- 28.1 An employee, other than a casual employee, shall be entitled to personal/carer's leave in accordance with Chapter 2, Part 2-2, Division 7 of the Act.
- 28.2 An employee shall not be entitled to paid leave of absence for any period in respect of which the employee is entitled to workers' compensation.
- 28.3 In order to be entitled to paid Personal/Carer's leave the employee must, prior to the scheduled commencement of their shift, or as soon as practicable after the commencement of their shift notify the supervisor of their intended absence and state the reason for the absence. An employee must indicate the likely length of their absence and must inform the supervisor of any change to this advice at the earliest practicable time. An employee may also be required to produce a medical certificate setting out the reason for any absence of 2 or more consecutive days and/ or after 5 single days of absences within the 12 months anniversary period. In any event an employee must satisfy the Company as to the reason for their absence to qualify for payment. If it is impracticable to supply a medical certificate a statutory declaration may be provided. Such statutory declaration must state the reason for not producing a medical certificate.
- 28.4 Personal/Carer's leave will not be paid unless payment is applied for on the approved form.
- 28.5 It is expressly agreed that an employee who has accrued personal / carer's leave in excess of 15 days (120 hours) may, by written election, forego the entitlement to the amount of personal / carer's leave credited to the employee which is in excess of 15 days (120 hours), in exchange for a payment by the employer in lieu of the amount of personal /carer's leave foregone, at the same rate of pay to which the employee would have been entitled if the leave had been taken commencing on the date that the employee elected in writing for foregoing the leave. The payment of this personal/carer's leave will be by agreement between the employer and the employee.
- 28.6 An employee who terminates their own employment or who is dismissed for any cause whatsoever shall be paid for any personal/Carer's leave accrued provided that the employee has completed at least 3 months continuous service as a weekly employee.

29 COMMUNITY SERVICE

Notwithstanding clause 38, the provisions of Chapter 2, Part 2-2, Division 8 of the Act shall apply.

30 PARENTAL LEAVE

The provisions of Chapter 2, Part 2-2, Division 5 of the Act shall apply.

31 COMPASSIONATE LEAVE

The provisions of Chapter 2, Part 2-2, Division 7 of the Act shall apply.

32 LEAVE TO DEAL WITH FAMILY AND DOMESTIC VIOLENCE

- 32.1 This clause applies to all employees, including casuals.
- 32.2 Definitions
- 32.2.1 In this clause:
- 32.2.1.1 *family and domestic violence* means violent, threatening or other abusive behaviour by a family member of an employee that seeks to coerce or control the employee and that causes them harm or to be fearful.
- 32.2.1.2 *family member* means:
- 32.2.1.2.1 a spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the employee; or
- 32.2.1.2.2 a child, parent, grandparent, grandchild or sibling of a

spouse or de facto partner of the employee; or

32.2.1.2.3 a person related to the employee according to Aboriginal or Torres Strait Islander kinship rules.

32.2.2 A reference to a spouse or de facto partner in the definition of family member in clause 32.2.1.2 includes a former spouse or de facto partner.

32.3 Entitlement to unpaid leave

An employee is entitled to 5 days' unpaid leave to deal with family and domestic violence, as follows:

32.3.1 the leave is available in full at the start of each 12-month period of the employee's employment; and

32.3.2 the leave does not accumulate from year to year; and

32.3.3 is available in full to part-time and casual employees.

Note:

1. A period of leave to deal with family and domestic violence may be less than a day by agreement between the employee and the employer.
2. The employer and employee may agree that the employee may take more than 5 days' unpaid leave to deal with family and domestic violence.

32.4 Taking unpaid leave

An employee may take unpaid leave to deal with family and domestic violence if the employee:

32.4.1 is experiencing family and domestic violence; and

32.4.2 needs to do something to deal with the impact of the family and domestic violence and it is impractical for the employee to do that thing outside their ordinary hours of work.

Note: The reasons for which an employee may take leave include making arrangements for their safety or the safety of a family member (including relocation), attending urgent court hearings, or accessing police services.

32.5 Service and continuity

The time an employee is on unpaid leave to deal with family and domestic violence does not count as service but does not break the employee's continuity of service.

32.6 Notice and evidence requirements

32.6.1 Notice

An employee must give their employer notice of the taking of leave by the employee under clause 32. The notice:

32.6.1.1 must be given to the employer as soon as practicable (which may be a time after the leave has started); and

32.6.1.2 must advise the employer of the period, or expected period, of the leave.

32.6.2 Evidence

An employee who has given their employer notice of the taking of leave under clause 32 must, give the employer evidence that would satisfy a reasonable person that the leave is taken for the purpose specified in clause 32.4

- Note:
1. Depending on the circumstances such evidence may include a document issued by the police service, a court or a family violence support service, or a statutory declaration.
 2. A statutory declaration must be signed in the presence of an authorised witness. Common examples of an authorised witness include a doctor, lawyer or Justice of the Peace.

A person who intentionally makes a false statement in a statutory declaration is guilty of an offence, the punishment for which is imprisonment for a term of 4 years — see section 11 of the Statutory Declarations Act 1959.

Chapter 2 of the Criminal Code applies to all offences against the Statutory Declarations Act 1959 — see section 5A of the Statutory Declarations Act 1959.

32.7 Confidentiality

32.7.1 Employers must take steps to ensure information concerning any notice an employee has given, or evidence an employee has provided under clause 32.6 is treated confidentially, as far as it is reasonably practicable to do so.

32.7.2 Nothing in clause 32 prevents an employer from disclosing information provided by an employee if the disclosure is required by an Australian law or is necessary to protect the life, health or safety of the employee or another person.

Note: Information concerning an employee's experience of family and domestic violence is sensitive and if mishandled can have adverse consequences for the employee. Employers should consult with such employees regarding the handling of this information.

32.8 Compliance

An employee is not entitled to take leave under clause 32 unless the employee complies with clause 32.

PART 7 - OTHER PROVISIONS

33 CLOTHING

- 33.1 The employer shall supply and launder work clothes of an employee subject to the following conditions:-
- 33.1.1 The clothing shall remain the property of the employer.
 - 33.1.2 If an employee fails to take reasonable care of or fails to return such clothing, the employer may recover from the employee concerned the value of such clothing or may deduct the value of such clothing from any monies payable to such employee, in which case the employee will be notified.
 - 33.1.3 Work clothes shall be defined as work shirts, work trousers (or alternatively overalls to replace both the work shirt and trousers) and safety boots. Additional clothing will be supplied for external work in cold or wet weather, which will be discussed with maintenance employees, and issued by plant management at their discretion.

34 SAFETY BOOTS

The employer shall provide safety boots to an employee on the commencement of employment and such boots shall be replaced as required, provided the employer is satisfied the boots have sustained fair wear and tear.

35 FLEXIBILITY AGREEMENTS

- 35.1 The terms in clause 35.3.1 and 35.3.2 of the Agreement may be varied by an individual flexibility arrangement ("IFA").
- 35.2 The Employer will not make an IFA unless the following conditions are satisfied:
- 35.2.1 The IFA must be about matters that would be permitted matters if the arrangement were an enterprise agreement;
 - 35.2.2 The IFA must not include a term that would be an unlawful term if the arrangement were an enterprise agreement;
 - 35.2.3 The IFA must be genuinely agreed to by the employer and the employee;
 - 35.2.4 The IFA must result in the employee being better off overall than the employee would have been if no individual flexibility arrangement were agreed to;
 - 35.2.5 The IFA must be able to be terminated:
 - 35.2.5.1 by either the employee, or the employer, giving written notice of not more than 28 days; or
 - 35.2.5.2 by the employee and the employer at any time if they agree, in writing, to the termination.
 - 35.2.6 The IFA must be in writing and signed:
 - 35.2.6.1 in all cases—by the employee and the employer; and
 - 35.2.6.2 if the employee is under 18—by a parent or guardian of the employee; and
 - 35.2.6.3 the IFA must be given to the employee within 14 days after it is agreed to.
- 35.3 The terms that may be subject to an IFA are:

- 35.3.1 Annual Leave single day absences - Upon the request of the employee, the employer may agree to single day annual leave absences to be taken up to a maximum of 10 days.
- 35.3.2 RDOs scheduled may be moved by agreement.

36 SKILL DEVELOPMENT PROGRAM

- 36.1 The employer will develop a program to ensure that appropriate skills are obtained by employees to ensure the continued operation of the plant. The Company is committed to developing its employees to be able to meet the operational needs of the business.
- 36.2 During the life of this agreement the Company will coordinate a number of training programs that are designed to develop and maintain the skills of Maintenance employees. Such training will be organised by the Company taking into consideration the skills of the current employees, the skills required to maintain the plant, and the scheduling of such training.
- 36.3 An employee, who is required by the Company to attend training on a rostered day off, will be paid for their attendance at the training at the rate of time and a half for all hours attended at the training course with a minimum payment of four hours.
- 36.4 An employee who is not required by the Company to attend training, but accepts an offer to attend the training from the Company on their rostered day off, will be paid for their attendance at the training at the ordinary rate for all hours attended at the training course with no minimum payment.
- 36.5 Where an employee undertakes training required by the Company it shall be at the Company's expense and as far as practicable in the employee's usual working time and the employee will not lose pay for attendance or travel costs associated with such training. Where an employee seeks to undertake further training and development that is consistent with the needs of the Company, the Company will provide assistance to the employee if the Company approves this training.
- 36.6 The Company agrees that duly elected Health and Safety Representatives (HSRs) will be allowed to attend an initial Health and Safety Representative training course of 5 days duration, providing the provider and course is accredited by Worksafe. The HSR may select the approved training course as defined by the act. In addition, HSRs are entitled to a one day refresher course and to attend the HSR conference per year. Costs associated with this training, refresher and conference are at the Companies expense.

37 RADIOS

As such employees issued with radios will undertake to use them as required and in the manner intended by the employer.

38 APPLICATION OF NATIONAL EMPLOYMENT STANDARDS

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

39 JURY SERVICE

- 39.1 A full time or part time employee required to attend for jury service during the employee's ordinary working hours shall be reimbursed by the Company an amount equal to the difference between the amount paid in respect of the employee's attendance for such jury service and the amount of wage the employee would have received in respect of the ordinary time the employee would have worked had the employee not been on jury service.
- 39.2 An employee shall notify the Company as soon as possible of the date upon which the employee is required to attend for jury service. Further, the employee shall give the Company proof of attendance, the duration of such attendance and the amount received in respect of such jury service.

40 EMPLOYEE REPRESENTATIVES

- 40.1 The Company must recognise duly elected employee representatives
- 40.2 Employee representatives must be given reasonable time off with pay (at the prevailing rate) to carry out their duties as an employee representative. Wherever practicable, before attending to the employee's duties as an employee representative, the employee representative will notify the employer.
- 40.3 The employee representative will be given access to reasonable facilities and services such as a phone to conduct union related business.
- 40.4 In each work area the employer will ensure that employee representatives will have a prominent notice board for the posting of Union notices.
- 40.5 Employee representatives will be allowed up to 5 days' unpaid leave per annum to attend Union approved training.

41 SIGNATORIES TO THE AGREEMENT

41.1 The Company
Signed for and on behalf of
JBS Australia Pty Limited
ABN: 14 011 062 338

Signed: [Signature]
Name: Pauline Rhodes
Address: 30 Industry Park Dve Brooklyn
Position: State HR manager
Date: 30-10-2018

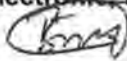
Witness
Signed: [Signature]
Name: SENTHIL SOKKALINGAM
Address: 30 INDUSTRY PARK DRIVE BROOKLYN
Position: PLANT ACCOUNTANT
Date: 30/10/2018


41.2 The Employees
Signed for and on behalf of the
~~Australian Manufacturing Workers' Union~~ [Signature]
ABN: 59 459 725 116

Signed: [Signature]
Name: GERARD LILLIS
Address: 30 INDUSTRY PARK DRIVE
Position: TRADES ASSISTANT/GREASER
Date: 1/3/2019

Witness
Signed: [Signature]
Name: Domenic Morelli
Address: 30 industry Park Drive
Position: Plumber
Date: 1/3/19

41.3 The Employees

Signed for and on behalf of the ~~Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia~~ 
ABN: 37 211 681 988

Signed: 

Name: BISBY JOB

Address: 30, INDUSTRY PARK DRIVE

Position: ELECTRICIAN

Date: 1/3/2019

Witness 

Signed:

Name: Domenic Morelli

Address: 30 Industry Park Drive

Position: Plumber

Date: 1/3/19

IN THE FAIR WORK COMMISSION

FWC Matter No.:
AG2018/6306

Applicant:


JBS Australia Pty Limited

Section 185 – Application for approval of a single enterprise agreement

Undertaking- Section 190

I, Howard Powell, Group General Manager Industrial Relations for JBS Australia Pty Limited give the following undertakings with respect to the JBS Australia Pty Limited – Brooklyn Maintenance Enterprise Agreement 2018 ("the Agreement"):

1. I have the authority given to me by JBS Australia Pty Limited to provide this undertaking in relation to the application before the Fair Work Commission.
2. **Shiftworkers**
The Employer undertakes that for the purposes of the NES a shiftworker is defined as per clause 17.1.4.
3. **Shift penalty.**
The Employer undertakes where an employee who works on an afternoon or night shift which does not continue:
 - For at least five successive afternoon or night shifts or six successive afternoon or night shifts in a six day workshop (where no more than eight ordinary hours are worked on each shift); or
 - for at least 38 ordinary hours (where more than eight ordinary hours are worked on each shift and the shift arrangement is in accordance with clauses 16.2)the employee shall be paid for each shift at the rate of 50% extra for the first three hours and 100% extra thereafter.
4. **Clause 18.4**
The Employer undertakes that where an employee volunteers to work more than one additional shift in any particular week, the employee shall be paid in accordance with clause 18.1.
5. These undertakings are provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.


Signature


Date