

AW805128CRV [loose-leaf version]

AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

AUSTRALIAN INDUSTRIAL REGISTRY LOOSE-LEAF CONSOLIDATION

FEDERAL MEAT INDUSTRY (SMALLGOODS) AWARD 2000

This award as varied to 5 August 2005 (variation PR960895) comprises pages:

1 2 3 4 5 6 7 8 9 10 11-1 12-1 12A 12B 12C

13 14 **15-4** 16 **17-4** **18-3** **18A-2** 19 20 21 22

23-1 23A 24 25 26 27 28 29-1 29A-1 30-1

31 32 33 34 35 36-1 37-1 38-1 39-1 40-1

Appendices:

41-1 42-1 43-1 44-1 45-1 46-1 47-1 48-1

49-1 50-1 51-1 52-1 53 54 55 56

<Total number of pages = 63>

DISCLAIMER

Please note that this consolidated award is prepared by the Australian Industrial Registry, and is believed to be accurate but no warranty of accuracy or reliability is given and no liability is accepted for errors or omissions or loss or damage suffered as a result of a person acting in reliance thereon.

Official copies of Australian Industrial Relations Commission decisions, awards and orders can be purchased from the Australian Industrial Registry in each capital city.

Printed by authority of the Commonwealth Government Printer

AW805128CRV [loose-leaf version]

AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

*Workplace Relations Act 1996*

Review of award pursuant to Item 51 of Part 2 of Schedule 5 of the

*Workplace Relations and Other Legislation Amendment Act 1996*  
(C No. 00790 of 1998)

**FEDERAL MEAT INDUSTRY (SMALLGOODS) AWARD 1996**  
(ODN C No. 21814 of 1993)  
[Print N7478 [F0511]]

Various employees	Meat industry
DEPUTY PRESIDENT LEARY	HOBART, 15 FEBRUARY 2001

*Award simplification.*

**ORDER**

A. The above award is varied as follows:

By deleting all clauses, schedules and appendices and inserting the following:

**PART 1 - APPLICATION AND OPERATION OF AWARD**

**1. AWARD TITLE**

This award will be known as the Federal Meat industry (Smallgoods) Award 2000.

**2. ARRANGEMENT**

**2.1** This award is arranged as follows:

**Part 1 - Application and operation of award**

1. Award title
2. Arrangement
3. Definitions
4. Commencement date of award
5. Where and who the award covers
6. Parties bound

**Part 2 - Award flexibility**

7. Enterprise flexibility/facilitative provisions

**Part 3 - Employment relationship**

8. General provisions

9. Termination of Employment, Introduction to change

10. Redundancy

11. Procedure to avoid industrial disputation

12. Anti-discrimination

**Part 4 - Wages and related matters**

13. Weekly, hourly and hourly overtime rates

14. Mixed functions

15. Payment by results

16. Payment of wages

17. Stand-down of employees

18. Allowances

19. Superannuation

**Part 5 - Hours of work and breaks**

20. Hours of work

21. Make-up time

22. Rosters

23. Breaks

24. Overtime

25. Shift work

**Part 6 - Leave of absence and public holidays**

26. Annual leave

- 27. Sick leave
- 28. Bereavement leave
- 29. Special family leave
- 30. Parental leave
- 31. Public holidays
- 32. Long service leave

### **Part 7 - Miscellaneous**

- 33. Posting of award

### **Appendices**

Appendix A - Minimum rates adjustment process

Appendix B - Accident pay, Victoria

Appendix C - Castle Bacon Pty Ltd.

Appendix D - Smallgoods plants in Victoria

### **3. DEFINITIONS**

**3.1 Abattoir** means an abattoir associated with a ham and bacon factory or smallgoods factory and may include a rendering operation and, so far as slaughtering staff are concerned, where:

**3.1.1** not more than three adult slaughterers (excluding any employee not engaged in knocking down, pithing, sticking, bleeding, dressing, skinning, necking off or cutting down) are employed and which is owned or operated by a person or persons bound by this award any one of whom also operates a smallgoods factory or factories or ham and bacon factory or factories and the abattoir is partly used for slaughtering meat for the smallgoods factory or factories or ham and bacon factory or factories; or

**3.1.2** not more than seven adult slaughterers (excluding any employee not engaged in knocking down, pithing, sticking, bleeding, dressing, skinning, necking off or cutting down) are employed and which is owned or operated by a person or persons bound by this award any one of whom also operates a smallgoods factory or factories or ham and bacon factory or factories and the abattoir is killing exclusively for such small goods factory or factories or ham and bacon factory or factories.

**3.2 Act** means the *Workplace Relations Act 1996* (Cth) including the Regulations.

**3.3 Commission** shall mean the Australian Industrial Relations Commission.

**3.4 General butcher** means an adult who has served a relevant apprenticeship or has had at least four years' experience in general butchering and is employed in the making of smallgoods or, in such other cases, where an employer engages or calls upon an employee to perform tradesperson's functions of a general butcher.

**3.5 Smallgoods maker** means an employee who has served a relevant apprenticeship or has at least four years' general in smallgoods-making and who is responsible for the making of smallgoods and who may be required to perform all tasks relating to smallgoods manufacturing including that of mixing-machine operator, butcher, boner, salter and/or pickle pumper, cooker, filler, linker and table hand.

**3.6 Smallgoods seller** means an employee in charge of a vehicle and involved in soliciting wholesale business and fulfilling sales from stocks of meat products carried in the van in exchange for cash or cheque received in payment for such sales or goods sold on credit.

**3.7 Union** shall mean the Australasian Meat Industry Employees' Union.

**3.8 Boner** shall mean an employee who is required to use a knife to remove meat from the bones, sides, quarters or other piece of a carcase in accordance the employer's specifications and requirements.

**3.9 Slaughterperson** shall mean an employee who is competently able to perform slaughtering tasks as required by the employer.

**3.10 Continuous service**

For the purposes of this award a year of continuous service is unbroken by any of the following:

**3.10.1** any annual leave or long service leave taken;

**3.10.2** any interruption or ending of the employment by the employer if such interruption or ending is made with the intention of avoiding obligations in under this award;

**3.10.3** any absence from work of not more than fourteen days in the year of employment on account of sickness or accident;

**3.10.4** any absence on account of leave (other than paid leave) granted, imposed or agreed to by the employer;

**3.10.5** any absence on any other account not involving termination of employment;

### **3.10.6** any parental leave taken; and

in calculating a year of service any absence of a kind mentioned in 3.10.1, 3.10.2 or 3.10.3 (less than fourteen days) of this subclause will be counted as part of the year of service but in respect of absences of a kind mentioned in 3.10.3 (more than fourteen days), 3.10.4, 3.10.5 and 3.10.6 while they do not break continuity of service of an employee, they are not taken into account in calculating the period of service for any relevant award entitlement.

## **3.11 Ordinary hourly rate and overtime**

For all purposes of the award, except where otherwise expressly provided:

**3.11.1 Ordinary hourly rate** shall mean the award rate of pay per week prescribed in clause 13 - Classifications and wage rates of this award for the classification of the employee, divided by 38.

**3.11.2 Time and one quarter** shall mean the ordinary hourly rate increased by 25%.

**3.11.3 Time and one half** shall mean the ordinary hourly rate increased by 50%.

**3.11.4 Double time** shall mean the ordinary hourly rate increased by 100%.

## **4. COMMENCEMENT DATE OF AWARD**

This award shall operate from 1 December 2000 and shall remain in operation for a period of twelve months.

## **5. WHERE AND WHO THE AWARD COVERS**

### **5.1 Where does the award apply?**

This award applies in:

- Queensland;
- New South Wales (with the exception of the city of Broken Hill);
- Victoria;
- South Australia;
- Northern Territory.

### **5.2 Who does the award apply to?**

**5.2.1** This award applies in respect of all employees in establishments whose principal business is the smallgoods manufacturing.

**5.2.2** At the date of making this award, where an employer was bound by a state award then this award will not apply, regardless of whether such employers are members of the National Meat Association of Australia, or not.

## **6. PARTIES BOUND**

**6.1** This award will be binding on:

**6.1.1** the Australasian Meat Industry Employees Union, its officers and its members; and

**6.1.2** the National Meat Association of Australia and its members in respect of all their employees in classifications contained herein, whether members of the union or not.

### **6.2 Succession and replacement of awards**

This award supersedes and replaces the Federal Meat Industry (Smallgoods) Award 1996 [Print N7478 [F0511]].

### **6.3 Savings**

No right, obligation or liability accrued or incurred by an employer or an employee in accordance with the provisions of any awards superseded or replaced by this award shall be affected by the making of this award.

## **PART 2 - AWARD FLEXIBILITY**

### **7. ENTERPRISE FLEXIBILITY**

( See ss. 113A and 113B of the Act )

**7.1** Where an employer or employees wish to pursue an agreement at the enterprise or workplace about how the award should be varied so as to make the enterprise or workplace operate more efficiently according to its particular needs the following process shall apply:

**7.1.1** A consultative mechanism and procedures appropriate to the size, structure and needs of the enterprise or workplace shall be established.

**7.1.2** For the purpose of the consultative process the employees may nominate the union or another body or person to represent them.

**7.1.3** Where agreement is reached an application shall be made to the Commission.

### **7.2 Facilitative provisions**

#### **7.2.1 Agreement to vary award - general provisions**

**7.2.1(a)** This award contains facilitative provisions which allow agreement between an employer and employees on how specific award provisions are to apply at the workplace or section or sections of it.

**7.2.1(b)** The specific award provisions establish both the standard award condition and the framework within which agreement can be reached as to how the particular provisions should be applied in practice. Facilitative provisions are not to be used as a device to avoid award obligations nor should they result in unfairness to an employee or employees covered by this award.

### **7.3 Facilitation by individual agreement only**

**7.3.1** The following facilitative provisions can be utilised upon agreement between employer and an employee provided that the agreement complies with 7.3.2 and 7.3.3:

Transfer from one employment category to another	8.1 8.6.2
Variation to hours for part-time employment	
Make-up time	21
Meal break	23.1.1
Time off in lieu of payment for overtime	24.3
Annual leave in one or more separate periods	26.5
Single day periods of annual leave	26.8
Payment of annual leave and leave loading	26.10
Deferment of payment of leave loading	26.11.1
Payment for work on a public holiday	31.3.3

**7.3.2** The agreement reached must be recorded in the time and wage record kept by the employer in accordance with Division 1 of Part 9A of the *Workplace Relations Regulations*.

**7.3.3** If an employee is a member of a union bound by the award, the employee may be represented by the union in meeting and conferring with the employer about the implementation of the facilitative provisions.

### **7.4 Facilitation by majority or individual agreement**

**7.4.1** The following facilitative provisions can be utilised upon agreement between the employer and the majority of employees in the workplace or a section or sections of it or, the employer and an individual employee.

**7.4.2** In the case of a majority agreement it must comply with 7.4.3. In the case of individual agreement it must comply with 7.4.4.

Payment by result Payment of wages	15.3 16.1
Ordinary hours of work for day workers on Saturday	20.3
Variation to spread of hours for day workers	20.1.2
Methods of arranging ordinary working hours	20.9.1
Working in excess of five hours without a meal break	23.1.1
Shift definitions	25.5
Starting time of shift	25.8
Employees rotating between shifts Time of taking annual leave	25.9 26.5
Substitution of public holidays	31.2.4

#### **7.4.3 Majority Agreement under 7.4**

Where agreement has been reached with the majority of employees in the workplace or a section or sections of it to implement a facilitative provision in 7.4.1 the employer may not implement that agreement unless it complies with 7.3.2, 7.3.3 and where specified 7.6.

#### **7.4.4 Individual Agreement under 7.4**

Where no agreement has been sought by the employer with the majority of employees in accordance with 7.4.3, the employer may seek to reach agreement with individual employees in the workplace, and such agreement will be binding on individual employees provided it complies with 7.3.2 and 7.3.3 and provided that the agreement is only with an individual employee or a number of individuals less than the majority in the workplace or a section or sections of it.

#### **7.5 Facilitation by majority agreement**

**7.5.1** The Following listed clauses may be the subject of facilitative provisions to be utilised upon agreement between the employer and the majority of employees in the workplace or a section or sections of it.

Ordinary hours of work, shift workers	25
Public holiday shifts	31
Annual close-down	26.13

**7.5.2** Where agreement has been reached with the majority of employees in the workplace, or a section or sections of it, to implement a facilitative provision in 7.5 that agreement shall be binding on all such employees, provided the requirements of 7.3.2, 7.3.3 and where specified 7.6 have been met.

#### **7.6 Additional safeguard**

**7.6.1** An additional safeguard applies to:

Period of payment of wages
----------------------------

16
----

**7.6.2** The additional safeguard requires that if an employee is a member of a union bound by the award, the employee may be represented by the union in meeting and conferring with the employer about the implementation of the facilitative provisions. Union involvement in this process does not mean that the consent of the union is required prior to the introduction of agreed facilitative arrangements at the enterprise.

**7.7 Majority vote at the initiation of the employer**

A vote of employees in the workplace, or a section or sections of it, taken in accordance with 7.4 or 7.5 to determine if there is majority employee support for implementation of a facilitative provision, will be of no effect, unless taken with the agreement of the employer.

**7.8 Dispute over facilitation**

In the event that a dispute or difficulty arises over the implementation or continued operation of a facilitative provision, the matter will be handled in accordance with the dispute resolution procedure in clause 11 - Procedure to avoid industrial disputation.

**PART 3 - EMPLOYMENT RELATIONSHIP**

**8. GENERAL PROVISIONS**

**8.1** Employees may be engaged on a full-time or part-time basis or on a casual basis. At the point of an offer of employment, the employer shall inform the employee which category of employment is being offered. The employee and the employer may agree to the transfer of the employee from one category to another.

**8.2** Employees will perform such work as the employer directs on the days and hours so requested.

**8.3** An employer may direct an employee to perform any duties within the employee's skill, competence and knowledge. The employee will follow such directions.

**8.4** Notwithstanding anything contained in the award, an employee who has been given, and has accepted, managerial responsibility shall not be subject to the provisions of this award nor shall the employee be subject to the provisions of any State award or Determination.

**8.5** An employee not attending work or not performing duties shall, except where otherwise expressly provided in the award, forfeit pay for the actual time of non-attendance.

## **8.6 Employment categories**

### **8.6.1 Full-time employment**

A full-time employee is a continuing employee who is engaged to work an average of 38 hours per week.

### **8.6.2 Part-time employment**

**8.6.2(a)** An employer may employ part-time employees in any classification in this award.

**8.6.2(b)** A part-time employee is an employee who:

**8.6.2(b)(i)** works less than the full-time hours of 38 per week; and

**8.6.2(b)(ii)** has reasonably predictable hours of work of not less than four consecutive hours per day; and

**8.6.2(b)(iii)** receives on a pro rata basis, equivalent pay and conditions to those of full-time employees who do the same work.

**8.6.2(c)** The terms of any agreement concerning part-time employment or any variation to it shall be in writing and retained by the employer.

**8.6.2(d)** A copy of the agreement and any variation to it shall be provided to the employee by the employer.

### **8.6.3 Casual employment**

**8.6.3(a)** A casual employee is one who is engaged and paid as such and shall perform such work as the employer shall from time to time require during the period of engagement. The minimum period of engagement will be four hours each day or shift which may be comprised of hours within or outside the ordinary hours of work otherwise prescribed by 20.5 of this award.

**8.6.3(b)** Employment of a casual will terminate at the end of each engagement. This shall not affect the right of an employer to dismiss a casual employee prior to the conclusion of the period of engagement for malingering, inefficiency, neglect of duty or misconduct, in which case wages shall be paid up to the time of dismissal only. A casual employee who terminates their employment prior to the end of the engagement will not be entitled to payment in respect of any time actually worked.

**8.6.3(c)** Subject to clause 8.6.3(d) a casual employee will be paid for each hour employed at the ordinary hourly rate for the classification in which they are employed plus a loading of 20% based on that employee's ordinary hourly rate for each hour employed. The loading is in lieu of payment for annual leave, sick leave, public holidays, bereavement leave, special family leave, parental leave and long service leave (whether under any other federal award or any state legislation).

**8.6.3(d)** The ordinary hours of a casual shall not exceed 38 per week. The span of daily ordinary hours shall be as prescribed in clause 20.5. Casuals working ordinary hours on a Saturday shall be only be paid in accordance with clause 20.5.2. For time worked in excess of the prescribed ordinary hours in any one day or shift, casuals shall only be paid the ordinary overtime rates as defined.

**8.6.3(e)** A casual employee may be employed on shift work provided that the casual receives the appropriate shift allowance in clause 25 - Shift work excepting that the 20% casual loading in 8.6.3(c) shall not be inclusive of the shift work allowance

**8.6.3(f)** Casual employees will be notified wherever possible of their starting and finishing times for the period of their engagement at the commencement of their engagement.

**8.6.3(g)** Where a casual employee is required to perform more than one class of work during a period of engagement during a day or shift, the employee shall be paid for the whole of the period of engagement that day, at the highest wage classification in which he has been employed.

**8.6.3(h)** A casual adult or junior cleaner employed to clean premises may be employed for not less than two hours per engagement.

#### **8.6.4 Apprentices**

[8.6.4 varied by PR907720 ppc 03Aug01]

Subject to 8.6.4(a) and the wage percentages set out in clause 13.6 apprentices indentured will be employed in accordance with arrangements approved by State or Territory accredited training authorities.

#### **8.6.4(a) The State of Queensland - Apprentices**

**8.6.4(a)(i)** Apprentices indentured in Queensland shall have training conditions prescribed by the Meat Industry Order for Apprentices' and Trainees' Wages and Conditions (B1184 of 1999 of the Queensland Industrial Relations Commission)

or such other order of that Commission in substitution thereof.

**8.6.4(a)(ii)** Federal indentures for apprentices indentured in the State of Queensland shall, for the purposes of administration, be deemed to be training agreements in accordance with the provisions of the *Training and Employment Act (Qld.) 2000* or such other Queensland Act made in substitution thereof.

### **8.6.5 Trainees other than in Queensland**

Except in the State of Queensland trainees will be employed in accordance with the terms and conditions of the federal award known as the National Training Wage Award 2000 [Print T0813 [N0277]].

### **8.6.6 Trainees in Queensland**

Trainees employed in Queensland shall have wages and conditions prescribed by the Meat Industry Order for Apprentices' and Trainees' Wages and Conditions (B1184 of 1999 of the Queensland Industrial Relations Commission) or such other Order of that Commission in substitution thereof.

## **9. NOTICE OF TERMINATION**

[9 substituted by PR949008 ppc 03Aug04]

### **9.1 Notice of termination by employer**

**9.1.1** 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:

<b>Period of continuous service</b>	<b>Period of notice</b>
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

**9.1.2** In addition to the notice in 9.1.1, 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.

**9.1.3** Payment in lieu of the prescribed notice in 9.1.1 and 9.1.2 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.

**9.1.4** 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:

**9.1.4(a)** the employee's ordinary hours of work (even if not standard hours); and

**9.1.4(b)** the amounts ordinarily payable to the employee in respect of those hours, including (for example) allowances, loading and penalties; and

**9.1.4(c)** any other amounts payable under the employee's contract of employment.

**9.1.5** The provisions of this clause do not apply:

**9.1.5(a)** in the case of dismissal for serious misconduct;

**9.1.5(b)** to apprentices;

**9.1.5(c)** to employees engaged for a specific period of time or for a specific task or tasks;

**9.1.5(d)** 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; or

**9.1.5(e)** to casual employees.

**9.1.6** Continuous service is defined in clause 3.10.

## **9.2 Notice of termination by an employee**

**9.2.1** The notice of termination required to be given by an employee is the same as that required of an employer, save and except that there is no requirement on the employee to give additional notice based on the age of the employee concerned.

**9.2.2** If an employee fails to give the notice specified in 9.1.1 the employer has the right to withhold monies due to the employee to a maximum amount equal to the amount the employee would have received under 9.1.4.

## **9.3 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.

#### **9.4 Transmission of business**

Where a business is transmitted from one employer to another, as set out in clause 10 - Redundancy, the period of continuous service that the employee had with the transmittor or any prior transmittor is deemed to be service with the transmittor 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.

### **10. REDUNDANCY**

#### **10.1 Definitions**

**10.1.1 Business** includes trade, process, business or occupation and includes part of any such business.

**10.1.2 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.

**10.1.3 Small employer** means an employer who employs fewer than 15 employees.

**10.1.4 Transmission** includes transfer, conveyance, assignment or succession whether by agreement or by operation of law and **transmitted** has a corresponding meaning.

**10.1.5 Week's pay** means the ordinary time rate of pay 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.

## 10.2 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 ordinary rate of pay and the new ordinary time rate for the number of weeks of notice still owing.

## 10.3 Severance pay

### 10.3.1 Severance pay - other than employees of a small employer

An employee, other than an employee of a small employer as defined in 10.1, 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 defined in 10.1.

### 10.3.2 Severance pay - employees of a small employer

An employee of a small employer as defined in 10.1 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:

<b>Period of continuous service</b>	<b>Severance pay</b>
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 over	8 weeks' pay

**Week's pay** is defined in 10.1.

**10.3.3** Provided that the severance payments shall not exceed the amount which the employee would have earned if employment with the employer had proceeded to the employee's normal retirement date.

**10.3.4** Continuity of service shall be calculated in the manner prescribed by clause 3.10. Provided that service prior to 2 July 2004 shall not be taken into account in calculating an entitlement to severance pay for an employee of a small employer pursuant to 10.3.2.

**10.3.5** Application may be made for variation of the severance pay provided for in this clause in a particular redundancy situation in accordance with the *Redundancy Case Decision* [PR032004, 26 March 2004] and the *Redundancy Case Supplementary Decision* [PR062004, 8 June 2004].

#### **10.4 Employee leaving during notice period**

An employee given notice of termination in circumstances of redundancy may terminate his/her employment during the period of notice set out in clause 9 - Notice of Termination. 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.

#### **10.5 Alternative employment**

**10.5.1** An employer, in a particular redundancy 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.

**10.5.2** This provision does not apply in circumstances involving transmission of business as set in 10.7.

#### **10.6 Job search entitlement**

**10.6.1** During the period of notice of termination given by the employer in accordance with 9.1, 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.

**10.6.2** 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 he or she shall not receive payment for the time absent. For this purpose a statutory declaration will be sufficient.

**10.6.3** The job search entitlements under this subclause apply in lieu of the provisions of 9.3.

### **10.7 Transmission of business**

**10.7.1** The provisions of this clause are not applicable where a business is before or after the date of this award, transmitted from an employer (in this subclause called the **transmittor**) to another employer (in this subclause called the **transmittee**), in any of the following circumstances:

**10.7.1(a)** Where the employee accepts employment with the transmittee which recognises the period of continuous service which the employee had with the transmittor and any prior transmittor to be continuous service of the employee with the transmittee; or

**10.7.1(b)** Where the employee rejects an offer of employment with the transmittee:

(i) 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 transmittor; and

(ii) which recognises the period of continuous service which the employee had with the transmittor and any prior transmittor to be continuous service of the employee with the transmittee.

**10.7.2** The Commission may vary 10.7.1(b) if it is satisfied that this provision would operate unfairly in a particular case.

### **10.8 Employees exempted**

This clause does not apply to:

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

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

## **10.9 Incapacity to pay**

The Commission may vary the severance pay prescription on the basis of an employer's incapacity to pay. An application for variation may be made by an employer or a group of employers.

## **11. PROCEDURE TO AVOID INDUSTRIAL DISPUTATION**

**11.1** In the event of a dispute arising in the workplace the procedure to be followed to resolve the matter will be as follows:

**11.2** The employee and the supervisor will meet and confer on the matter (this step may be bypassed if thought inappropriate by either party).

**11.3** If the matter is not resolved at such a meeting, the parties shall arrange for further discussions between the employee and his or her nominated representative, if any, and more senior levels of management.

**11.4** If the matter is still not resolved a discussion shall be held between representatives of The National Meat Association or other representative of the employer and the Union or other employee representative.

**11.5** If the matter cannot be resolved it may be referred to the Commission.

**11.6** While the parties attempt to resolve the matter work will continue as normal unless an employee has a reasonable concern about an imminent risk to his or her health and safety.

## **12. ANTI-DISCRIMINATION**

**12.1** It is the intention of the respondents to this award to achieve the principal object in s.3(j) of the *Workplace Relations Act 1996* through respecting and valuing the diversity of the work force by helping to prevent and eliminate discrimination on the basis of race, colour, sex, sexual preference, age, physical or mental disability, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin.

**12.2** Accordingly, in fulfilling their obligations under the dispute avoidance and settling clause, the respondents must make every endeavour to ensure that neither the award

provisions nor their operation are directly or indirectly discriminatory in their effects.

**12.3** Nothing in this clause is taken to affect:

**12.3.1** any different treatment (or treatment having different effects) which is specifically exempted under the Commonwealth anti-discrimination legislation;

**12.3.2** junior rates of pay, until 22 June 2000 or later date determined by the Commission in accordance with s.143(1E) of the Act;

**12.3.3** an employee, employer or registered organisation, pursuing matters of discrimination in any State or federal jurisdiction, including by application to the Human Rights and Equal Opportunity Commission;

**12.3.4** the exemptions in s.170CK(3) and (4) of the Act.

## **PART 4 - WAGES AND RELATED MATTERS**

### **13. WEEKLY, HOURLY AND HOURLY OVERTIME RATES**

#### **13.1 Wage rates**

[13.1 substituted by PR907719 PR923101 PR935551 PR949008; PR960895 from 05Aug05]

<b>Employee classification level</b>	<b>Award rate per week</b>
	\$
Level 6	578.20
Level 5	538.30
Level 4	527.00
Level 3	512.20
Level 2	504.85
Level 1	484.40

**13.2** The six wage levels have been agreed and set as a result of the minimum rates adjustment on the following basis:

#### **13.2.1 Level 6 100%**

This is the tradesman rate that will apply only to a general butcher and a smallgoods maker as defined.

### **13.2.2 Level 5 92.3%**

This rate will apply to an employee who performs the tasks of slaughtering, boning.

### **13.2.3 Level 4 90%**

This rate will apply to an employee who performs the tasks of slicer, cutter operator, mixing operator, packing/scaling, ham and bacon curing, cooking, selling, heavy vehicle driving, washing/drying/smoking.

### **13.2.4 Level 3 87%**

This rate will apply to an employee who performs the tasks of salting/pickle pumping, packing room hand, clerk.

### **13.2.5 Level 2 85.5%**

This rate will apply to any other employee other than a Level 1 employee.

### **13.2.6 Level 1 81%**

This rate will apply to an employee who is new to the industry and who is under on the job training for an initial trial period of at least three months.

**13.3 Note:** The rates in 13.1 represent the levels following the minimum rates adjustment process. Employers should refer to Appendix “A” to ascertain the appropriate classification for each employee. the columns in 13.1 represent the rates for each level as at 1/12/2000, 1/3/2001 and 1/6/2001.

**13.4 Note:** No present employee, as at the day the award is made, of an employer bound by this award shall be disadvantaged by the implementation of the minimum rates adjustment process. This means at the commencement of this award and until the rates listed in the last column of 13.1 apply, the minimum rate of pay for a weekly employee, pro rata for part-time and casual, shall not be less than the current rate for the current grade applying the day before this award is made. the rates for those grades are set out in Appendix “A”.

### **13.5 Junior rates**

Juniors may be employed at the following percentage rates of the adult rate of pay for the appropriate classification in which they are employed:

Under 17 years = 50%

17 to 18 years = 60%

18 to 19 years = 75%

19 to 20 years = 85%

**Note:** For juniors other than clerks and those working in smallgoods factories/abattoirs, the relevant Grade is Level 4. For clerks it is Grade 3. In smallgoods factories/abattoirs it is Level 2.

### **13.6 Wage Rates for Indentured Apprentices.**

[13.6 inserted by PR907720 ppc 03Aug01]

For each year of an apprenticeship the following percentages of the tradeperson's rate apply (Level 6 in clause 13.1):

#### **Four year term Per cent**

First year 50

Second year 65

Third year 85

Fourth year 95

### **13.7 Safety Net Review - May 2001**

[13.7 inserted by PR907719; substituted by PR923101 PR935551 PR949008; PR960895 from 05Aug05]

**13.7** The rates of pay in this award include the arbitrated safety net adjustment payable under the *Safety Net Review-Wages June 2005* decision [PR002005]. This arbitrated safety net adjustment may be offset against any equivalent amount in rates of pay received by employees whose wages and conditions of employment are regulated by this award which are above the wage rates prescribed in the award. Such above-award payments include wages payable pursuant to certified agreements, currently operating enterprise flexibility agreements, Australian workplace agreements, award variations to give effect to enterprise agreements and overaward arrangements. Absorption which is contrary to the terms of an agreement is not required.

Increases made under previous National Wage Case principles or under the current Statement of Principles, excepting those resulting from enterprise agreements, are not to be used to offset arbitrated safety net adjustments.

## **14. MIXED FUNCTIONS**

An employee engaged for two hours or more on any day or shift on duties carrying a

higher rate than the ordinary classification will be paid the higher rate for such day or shift, and if for less than two hours of the employee's total time worked on such day or shift, the employee will be paid for two hours at the rate of the higher classification and the balance of the employee's working time at the rate pertaining to the employee's ordinary classification.

## **15. PAYMENT BY RESULTS**

**15.1** As an alternative to the time work system provided under this award, an employer may elect to operate under a payment by results or incentive system (including piece work).

**15.2** Subject to the stand-down clause, in any such system employees will receive a weekly wage not less than that prescribed in 13.1.

**15.3** The employer and each employee or a majority of employees may agree to modify or terminate the system in operation.

## **16. PAYMENT OF WAGES**

**16.1** Wages will be paid on a regular weekly basis or in a manner agreed between the employer and employee. If there is no agreement, payment shall be made on the usual pay day each week Monday to Thursday.

**16.2** Upon termination of employment, wages due to an employee will be paid on the day of such termination or, at the employee's option, forwarded to them by post on the next working day.

**16.3** On each pay day each employee will receive a pay slip in accordance with the requirements of the Act.

## **17. STAND-DOWN OF EMPLOYEES**

An employer may deduct payment for any day on which an employee cannot be usefully employed, because of any strike other than in the meat industry, or through any breakdown of machinery or any stoppage of work in the meat industry by any cause for which the employer cannot reasonably be held responsible, or for any day or part of a day on which an employee cannot be usefully employed because of any strike in the meat industry.

## **18. ALLOWANCES**

**18.1** In addition to the rates otherwise set out in this award the following rates will be paid.

**18.2 Leading hand allowance**

A leading hand who is required to supervise other employees, will be paid the following additional rates:

[18.2.1 varied by PR927728 PR949008; PR960895 from 05Aug05]

**18.2.1** \$9.10 per week where the number of employees (including juniors and apprentices) is three or more but does not exceed ten; and

[18.2.2 varied by PR927728 PR949008; PR960895 from 05Aug05]

**18.2.2** \$13.56 per week where the number of such employees exceeds ten.

### **18.3 Cold temperatures allowance**

[18.3 varied by PR927728 PR949008; PR960895 from 05Aug05]

Where a person employed under this award is required to work in a temperature artificially reduced below -2 degrees Celsius the employee will be paid at the rate set out in the schedule below for every hour or part of an hour for which the aggregate the employee is so required to work:

<b>TEMPERATURE RANGE (CELSIUS SCALE)</b>	<b>RATE PER HOUR</b>
Below -2 but not below -16	38cents
Below -16 but not below -18	66 cents
Below -18 but not below -21	94 cents
Below -21	\$1.27

**Note:** The above rates are not cumulative. If the temperature of the room falls below 26 degrees Celsius the employee may, after one hour, refuse to continue to work in such a room until the temperature rises to 26 degrees.

### **18.4 First aid allowance**

[18.4 varied by PR927728; PR960895 from 05Aug05]

An allowance of \$2.20 per day will be paid to an appropriately qualified employee, who acts in lieu of and performs the duties of a full-time first-aid officer or nurse.

### **18.5 Meal allowance**

[18.5 varied by PR927728 ppc 19Feb03]

An employee required to work overtime for one and half hours or more after the rostered finishing time will be paid the sum of \$9.13 meal money.

## **18.6 Travelling and transfer**

Where an employee is temporarily transferred during working hours from one shop or factory to another the employer will reimburse such employee all reasonable costs of transit and travelling time.

## **19. SUPERANNUATION**

The following sets out the conditions under which superannuation is to be implemented by the employers bound by this award.

**19.1 The fund** - for the purpose of this clause, all references to **the fund** shall mean:

**19.1.1** The Australian Meat Industry Superannuation Trust established and governed by a trust deed dated 11 July 1986 as may be amended from time to time and includes any superannuation scheme which may be made in succession thereto.

**19.1.2** The Meat Industry Employees' Superannuation Fund established and governed by a trust deed dated. 3 April 1981, amended from time to time, and includes any superannuation scheme which may be in succession thereto.

**19.1.3** Such other superannuation scheme established and conforming to the Commonwealth Government's operational standards for occupational superannuation funds as at 1 July 1987 and agreed to by the union as at 3 November 1988 or otherwise approved by the Commission.

### **19.1.4 Choice of funds**

**19.1.4(a)** Providing each fund set out in 19.1.1 and 19.1.2 of this award remains an approved and complying superannuation fund, each employee upon engagement shall be given information regarding both funds and within one month shall nominate either fund as the fund to which the employer contribution shall be paid.

**19.1.4(b)** Employees employed as at the date of making of the award, shall be given information regarding both funds set out in 19.1.1 and 19.1.2 and shall within three months nominate either fund as the fund to which the employer contribution shall be paid.

**19.1.4(c)** The employer shall pay to the Trustees of the fund thus nominated on behalf of each employee who is a member of such approved fund a contribution in accordance with the requirements of this award.

**19.1.4(d)** A respondent employer shall contribute to the fund in respect of each employee such contributions as required to comply with the *Superannuation Guarantee (Administration) Act 1992* and the *Superannuation Guarantee Charge Act 1992* as amended from time to time.

**19.1.4(e)** All contributions and employee advice detail's shall be forwarded monthly to the appropriate fund.

**19.1.4(f)** All contributions shall be clearly identified on the employee's pay slip.

## **19.2 Contributions to superannuation**

**19.2.1** Contributions shall be no less than 8% of ordinary time earnings on behalf of each employee, provided that a casual employee who has earned less than \$450 in a calendar month shall have payments made in accordance with 19.2.2.

**19.2.2** Where a casual employee has earned less than \$450 in a calendar month a contribution as provided in 19.2.1 shall be made one calendar month after the casual employee has been engaged where the casual employee remains in the employment of the employer or continues to seek regular employment as a casual for a period of one month or has been re-employed after the one month initial period of employment with the employer. Contributions shall be made from the date of the first engagement based on the aggregate ordinary time earnings within the one month period, provided that payments need not be made on behalf of a casual employee whose ordinary earnings during the said calendar month do not exceed \$50 in any one week.

## **19.3 Cessation of contributions**

As an employee's eligibility for contributions to the fund to be paid on his or her behalf will cease on the last day of employment with the respondent employer, the respondent employer shall not make any contributions to the fund in respect of any period beyond that last day of employment.

## **19.4 Contributions to fund**

For the purposes of this clause, contributions on behalf of employees shall be made to a single fund defined in 19.1 hereof on the following basis:

**19.4.1** The Meat Industry Employees Superannuation Fund is to apply in respect of the contributions on behalf of the employees of those respondents who were, as a result of their agreement with the Australasian Meat Industry Employees Union, making occupational superannuation contributions to the Meat Industry Employees' Superannuation Fund as at 3 November 1988.

**19.4.2** The Meat Industry Employees' Superannuation Fund is to apply in respect of the contributions on behalf of the employees at a particular establishment who are

eligible to receive occupational superannuation pursuant to this clause where a

majority of those employees decide to have the contributions made to the Meat Industry Employees' Superannuation Fund and the employer of those employees consents thereto provided that a once only request for the employer to consider giving consent must be made within six months of the date of this order.

**19.4.3** A fund which was operative on 3 November 1988 and which conformed to the relevant guidelines established by the Commonwealth Government may also be utilised for the purpose of making contributions as required by this clause.

**19.4.4** In all other cases, the relevant contributions are to be made to the Australian Meat Industry Superannuation Trust.

## **PART 5 - HOURS OF WORK AND BREAKS**

### **20. HOURS OF WORK**

#### **20.1 Summary**

**20.1.1** This clause describes the ordinary hours of work.

**20.1.2** The ordinary hours of work for all workers is 38 per week to be averaged over the period of the work cycle that applies in the particular enterprise. There is provision in this award for the employer, by agreement with employees, to arrange working hours to achieve maximum flexibility in order to suit the needs of both the enterprise and the employees.

**20.2** The ordinary working hours for day workers are to be an average of 38 per week but not exceeding 152 hours in 28 days.

**20.3** Subject to the provisions of this award, ordinary hours may be worked on any day or all the days of the week Monday to Saturday. Agreement in this respect may also be reached between the employer and an individual employee,

**20.4** Any work performed outside the spread of hours is to be paid for at overtime rates subject to this clause.

#### **20.5 Standard ordinary hours**

**20.5.1** Monday to Saturday - between 6.00 a.m. and 6.00 p.m.

**20.5.2** Up to ten ordinary hours, on any day Monday to Friday, may be worked provided that also that up to four (4) ordinary hours may be worked on a Saturday and these Saturday hours shall be paid at time and one quarter.

**20.6** Ordinary hours will be continuous except for meal breaks.

## **20.7 Rosters**

**20.7.1** The employer shall post a roster in the premises, showing the starting and finishing times for ordinary hours for employees.

**20.7.2** This roster may be amended by the employer provided 36 hours notice is given.

**20.7.3** Starting and finishing times appearing on the roster shall be for a period which is not less than one week in length.

## **20.8 Cleaners**

**20.8.1** Cleaners may be employed on ordinary hours between 6.00 a.m. and midnight.

**20.8.2** A maximum of 7.6 ordinary hours per day may be worked Monday to Saturday inclusive.

**20.8.3** Where ordinary hours are worked:

**20.8.3(a)** Commencing after 8.30 a.m. and before 12 noon, adult employees shall receive the Level 2 rate, and juniors the prescribed rate plus 5%.

**20.8.3(b)** Commencing at 12 noon or later and finishing at or before midnight, adult employees shall receive the Level 2 rate, and juniors the prescribed rate, plus 12.5%.

## **20.9 Methods of arranging ordinary working hours**

**20.9.1** Matters upon which agreement may be reached include:

**20.9.1(a)** how the hours are to averaged within a work cycle established;

**20.9.1(b)** the duration of the work cycle for day workers provided that such duration does not exceed three months;

**20.9.1(c)** rosters which specify the starting and finishing times of working hours;

**20.9.1(d)** a period of notice of a rostered day off which is less than four weeks;

**20.9.1(e)** substitution of rostered days off;

**20.9.1(f)** accumulation of rostered days off;

**20.9.1(g)** arrangements which allow for flexibility in relation to the taking of rostered days off;

**20.9.1(h)** arrangements of ordinary hours.

## **21. MAKE-UP TIME**

An employee may elect, with the consent of their 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 award.

## **22. ROSTERS**

**22.1** The employer will post a roster in the premises, showing the starting and finishing times for ordinary hours for all employees and will be for a period not less than one week in length.

**22.2** This roster may be amended by the employer provided that for day workers, 36 hours notice is given or for afternoon or night shift workers, seven days notice is given, unless otherwise agreed by the employee.

**22.3** Employees required to alter their starting time to enable management to make provision for replacement employees will be given 24 hours notice of change, unless otherwise agreed by the employee.

## **23. BREAKS**

### **23.1 Meal breaks**

**23.1.1** No employee will work for longer than five hours without a 30 minute unpaid meal break, unless otherwise agreed by the employee.

**23.1.2** Any employee called upon to work during a meal interval will be paid at overtime rates for that period.

### **23.2 Interruption of work**

If an interruption of work for any cause occurs within twenty minutes of the commencement of a break or within twenty minutes of a normal meal break, the employer may direct that the paid break or meal break be taken forthwith. Provided that where there is a breakdown of machinery within one hour of the time of the normal meal, the employer may require employees to have their meal break at an earlier time.

## **24. OVERTIME**

**24.1** All time worked outside the ordinary working hours on any day will be deemed to be overtime and will be paid for at time and one half for the first three hours and double time thereafter, excepting:

### **Saturday work**

**24.1.1** Except for ordinary hours worked on a Saturday in accordance with clause 20.5.2, any hours worked on Saturday shall be overtime, paid at the rate of time and one half for the first three hours and double time thereafter.

### **Sunday work**

**24.1.2** All work performed on Sundays shall be paid for at double time with a minimum payment of four hours at double time

[24.2 substituted by PR957054 ppc 01Apr05]

**24.2** Subject to clause 24.2.1 an employer may require an employee to work reasonable overtime at overtime rates as defined, including an employee working to the Payment by Results clause.

**24.2.1** An employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working hours which are unreasonable having regard to:

**24.2.1(a)** any risk to employee health and safety;

**24.2.1(b)** the employee's personal circumstances including any family responsibilities;

**24.2.1(c)** the needs of the workplace or enterprise;

**24.2.1(d)** the notice (if any) given by the employer of the overtime and by the employee of his or her intention to refuse it; and

**24.2.1(e)** any other relevant matter.

### **24.3 Time off in lieu of payment for overtime**

**24.3.1** Where an employee with the consent of the employer has accrued an entitlement to time off in lieu of overtime, they will be able to use that entitlement for any leave purpose.

**24.3.2** Time off in lieu must equate to the overtime rate - that is, if the employee works one hour overtime and elects to take time off in lieu of payment the time off would equal one and a half hours or, where the rate of pay for overtime is double time, two hours.

## **25. SHIFT WORK**

**25.1** Shifts may be worked on any work covered by this award.

**25.2** The ordinary hours of work for a shift worker shall be 38 hours per week to be worked in five shifts of 7.6 hours each. Such shifts will be worked on five days,

except where a night shift is in operation in which case the night shift may finish no later than 9.00 a.m. on Saturday morning.

**25.3** Transfer of an employee from day work to shift work, or from shift work to day work, will be by agreement between the employer and the employee.

**25.4** Shifts may be worked on a one-shift, two-shift or three-shift system.

**25.5** For the purposes of this clause:

**25.5.1 Afternoon shift** means any shift commencing at 2.00 p.m. or after and finishing at or before midnight.

**25.5.2 Night shift** means any shift finishing subsequent to midnight and at or before 9.00 a.m.

**25.5.3 Fixed night shift** means a night shift on which an employee is not allowed to rotate so as to give the employee at least one week in each three consecutive weeks on some other shift or shifts.

**25.5.4 Day shift in a three-shift system** means any shift finishing at or after 2.00 p.m. and at or before 4.00 p.m.

## **25.6 Shift allowances**

**25.6.1** An employee on afternoon shift will be paid the appropriate rate for the classification in which the employee is employed under this award, plus 15% thereof.

**25.6.2** An employee on night shift will be paid the appropriate rate for the classification in which the employee is employed under this award, plus 25% hereof.

**25.6.3** An employee on a fixed night shift will be paid the appropriate rate for the classification in which the employee is employed under this award, plus 30% thereof.

**25.6.4** A shiftworker who works on an afternoon shift which does not continue for at least five successive afternoon or night shifts shall be paid for each shift 50% for the first three hours thereof and 100% for the remaining hours thereof in addition to this ordinary rate.

**25.6.5** A casual employee employed in shift work will receive the appropriate percentage loading (shift allowance) prescribed in this subclause and an additional 20% casual loading (as prescribed by 8.6.3 of this award) of the appropriate award rate (i.e. not inclusive of the shift percentage loading as prescribed by clause 25.6).

## **25.7 Meal intervals**

A shift worker except when engaged on a three-shift system, may either be allowed:

**25.7.1** a meal interval of no less than 30 minutes; or

**25.7.2** a crib time of 30 minutes after working five hours, which will be counted as time worked to be taken at a time agreed between the employer and a majority of employees.

**25.8** The starting and finishing times of the ordinary hours of work of shift workers shall be fixed by the employer and once fixed may only be altered by agreement between the employer and a majority of the employees concerned in accordance with clause 7 - Enterprise flexibility or, in the absence of such agreement, by the giving of not less than seven day's notice by the employer to each employee of such proposed change of times. This subclause does not apply to an employee who is required to alter their starting time to enable the management to make provision for replacement but the employee will be given at least 24 hours notice of the change unless the employee otherwise agrees.

**25.9** Employees engaged on a three-shift system will rotate between shifts unless otherwise agreed between the employer and employees.

## **PART 6 - LEAVE OF ABSENCE AND PUBLIC HOLIDAYS**

### **26. ANNUAL LEAVE**

[26.1 corrected by PR907721 from 01Dec00]

**26.1** An employee, other than casual, under this award is entitled to a period of 28 consecutive days leave, including non-working days (i.e. 4 weeks) after each period of 12 months continuous service.

#### **26.2 Shift workers**

[26.2 corrected by PR907721 from 01Dec00]

In addition to the leave prescribed in 26.1, a seven day shift worker who is regularly rostered to work on Sundays and public holidays will be entitled to an additional seven consecutive days leave including non-working days (i.e. 1 week). An employee who is engaged for part of the twelve month period as a seven day shift worker, will be entitled to have the period of annual leave increased by a half day for each month in which the employee is required to perform shift work.

#### **26.3 Public holidays during leave**

Where any public holiday falls within an employee's period of annual leave and is observed on a day which in the case of that employee would have been an ordinary working day, there shall be added to the period of annual leave time equivalent to the ordinary time which the employee would have worked if the day had not been a

public holiday. leave, the period of that leave will be increased by one day in respect of that holiday.

**26.4** Where an employee, without reasonable excuse (proof of which shall lie with the employee), is absent from employment on the working day prior to the commencement of annual leave, or the working day immediately following the last day of the period of annual leave the employee will not be entitled to payment for the public holidays which fall within the period of annual leave.

### **26.5 Taking and periods of leave**

Annual leave will be given and taken in one continuous period unless the employer and the employee agree for it to be taken in more than one period.

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

**26.7** An employee will be granted annual leave to which they become entitled to within three calendar months of the leave becoming due. However, if due to operational requirements, the employer cannot grant the leave, the leave may be postponed to a later date as agreed between the employer and employee.

### **26.8 Single day periods of annual leave**

An employee may elect, with the agreement of the employer, to take annual leave in single day periods not exceeding five days in any calendar year at a time or times agreed between them.

### **26.9 Leave allowed before due date**

An employer may allow an employee to take annual leave either wholly or partly in advance before the leave becomes due. In such a case, a further period of annual leave will not commence to accrue until after the expiration of the twelve months in respect of which the annual leave or part of it had been taken before it accrued.

### **26.10 Payment of annual leave and leave loading**

**26.10.1** Unless otherwise agreed, each employee will be paid prior to the commencement of annual leave

**26.10.1(a)** their annual leave loading;

**26.10.1(b)** their ordinary time earnings that would have been earned during the period of leave.

**26.10.2** In the event of an employee being engaged four weeks prior to the commencement of leave, or termination of employment, in two or more classifications entitling the employee to different rates of pay, the wages to be

paid to the employees will be the average of the weekly wage rates for the classifications in which the employee was engaged.

### **26.11 Annual leave loading**

An employee before going on annual leave will receive a loading of 17.5% calculated on the appropriate classification rate. In the case of a shift worker the employee will be paid the greater of the shift loading or the 17.5 % annual leave loading.

**26.11.1** An employee and the 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.

**26.11.2** An employee whose employment is terminated for malingering, neglect of duty or misconduct or who leaves the employment of the employer shall not be entitled to the loading in clause.

**26.11.3** No annual leave loading is due for periods of leave paid out for less than one year.

### **26.12 Payment of annual leave on termination of employment**

**26.12.1** Where an employee leaves or is terminated by the employer during the course of any qualifying period the employer shall pay that pro rata wages calculated at the rate of 2.93 hours for each completed week of work. Provided that in the case of seven day shift workers the proportionate payment will be calculated on the basis of 3.66 hours for each completed week of work.

[26.12.2 corrected by PR907721 from 01Dec00]

**26.12.2** Where employment has been for less than 28 consecutive days, including non-working days, and is terminated, the employer will not be liable to make any payment to the employee.

**26.12.3** Where leave has been taken in advance by an employee and the employment of the employee is then terminated, the employer will use the amount already paid to offset any sums which would otherwise be paid under 26.12.1. If the moneys already paid to the employee are still in excess of whatever monies would be payable under 26.12.1, the excess will be deducted from any remuneration payable to the employee upon termination.

### **26.13 Annual close-down**

**26.13.1** Where an employer closes down a plant or a section for the purpose of allowing annual leave to all or the bulk of the employees in the plant or sections concerned, the employer should, where possible, give the employees concerned not less than three months notice of intention to stand down for the duration of the close-down all employees in the plant or sections concerned.

**26.13.2** For those employees who have not qualified for annual leave in accordance with 26.1 and 26.2, paid leave on a proportionate basis at the appropriate rate of wage and loading prescribed will be granted.

**26.13.3** An employee who has then qualified for annual leave in accordance with 26.1 and 26.2 and has also completed a further month or more of continuous service will be allowed leave and will also be paid leave on a proportionate basis for the period worked since the close of the employee's last twelve monthly qualifying period.

**26.13.4** The next twelve monthly qualifying period for each employee affected by the close-down will commence from the day on which the plant or section concerned is re-opened for work. Provided that all time during which an employee is stood off without pay for the purposes of this subclause will be deemed to be time of service in the next twelve monthly qualifying period.

**26.13.5** If in the first year of service with an employer an employee is allowed proportionate annual leave under 26.13.2 and subsequently within such year leaves employment or employment is terminated by the employer through no fault of the employee, the employee will be entitled to the benefit of 26.12.1 subject to the adjustment for any proportionate leave which may have been allowed.

**26.14** Annual leave will not be cashed out.

## **27. SICK LEAVE**

**27.1** For the purpose of this clause, year will mean a calendar year.

**27.2** An employee other than a casual employee who is absent from work on account of personal illness or on account of injury will be entitled to paid sick leave equivalent to 60.8 hours of working time per year. The leave will accrue at the rate of five hours and four minutes for each completed month of service.

**27.3** The employee will not be entitled to paid leave of absence for any period in respect of which the employee is entitled to workers' compensation.

**27.4** The employee shall, where practicable, notify the employer as soon as possible on the first day of absence, of the inability to attend for duty, and as far as practicable, state the nature of the injury or illness and the estimated duration of the absence. The employee will continue to advise of any continuation of absence from work.

**27.5** The employee will prove to the satisfaction of their employer that the employee was unable on account of such illness or injury to attend for duty on the day or days for which leave is claimed.

- 27.6** An employer may by agreement with any employee grant an employee eight days holiday per year on full pay in lieu of payment for absence through sickness or, if such additional holiday cannot be granted, give eight days pay in lieu thereof.
- 27.7** Sick leave not taken will accumulate for a period of no longer than four years from the end of the year in which it occurs.
- 27.8** Any employee whose employment is terminated by the employer through no fault of the employee whilst absent on any period of paid sick leave will be entitled to payment for any accrued sick leave up to such time as the employee is fit to again work. The employee will prove to the satisfaction of the employer that the employee was unable on account of illness or injury to attend for duty on the day or days for which accrued sick leave payment is claimed.
- 27.9** Any employee, other than a casual, whose employment has been terminated by the employer through no fault of the employee, and who reports for and accepts employment when next notified by the employer that work is available, will be entitled to have credited any sick leave which stood to the employee's credit at the time of the termination of the employee's services.
- 27.10** Where an employee is sick or injured on a day they are not due to attend work, the employee will not be entitled to sick pay nor will the employee's sick pay entitlement be reduced as a result of such sickness or injury for that day.

## **28. BEREAVEMENT LEAVE**

[28.1 substituted by PR927728 ppc 19Feb03]

- 28.1** An employee, other than a casual, will be entitled to a maximum of two days leave without loss of pay on the death within Australia of:
- 28.1.1(a)** a member of the employee's immediate family; or
- 28.1.1(b)** a member of the employee's household.
- 28.1.2** The term immediate family includes:
- 28.1.2(a)** spouse (including a former spouse, a de facto spouse and a former de facto spouse) of the employee. A de facto spouse means a person of the opposite sex to the employee who lives with the employee as his or her husband or wife on a bona fide domestic basis; and
- 28.1.2(b)** child or an adult child (including an adopted child, a step child or an ex-nuptial child), parent, grandparent, grandchild or sibling of the employee spouse of the employee.
- 28.2** Notice will be given by the employee to the employer prior to the commencement of bereavement leave and proof of such death will be furnished by the employee to the

satisfaction of the employer. Provided that leave will not be granted under this clause, where the leave coincides with any other period of approved leave.

## **29. SPECIAL FAMILY LEAVE**

**29.1** The provisions of this clause do not apply to a casual employee.

### **29.2 Use of sick leave for family leave purposes**

[29.2 varied by PR927728 ppc 19Feb03; corrected by PR929847 ppc 19Feb03]

An employee, other than a casual, with responsibilities in relation to either members of their immediate family or members of their household who need their care and support will be entitled to use, in accordance with this clause, any accrued sick leave entitlement for absences to provide care and support for such person when they are ill.

**29.3** The employee shall, if required, establish by production of a medical certificate or statutory declaration, the illness of the person concerned.

**29.4** The entitlement to use sick leave in accordance with this clause is subject to:

**29.4.1** the employee being responsible for the care of the person concerned; and

**29.4.2** the person concerned being either

**29.4.2(a)** a member of the employee's immediate family; or

**29.4.2(b)** a member of the employee's household.

**29.5** The term **immediate family** includes:

**29.5.1** a spouse (including a former spouse, a de facto spouse and a former de facto spouse) of the employee. A de facto spouse, in relation to a person, means 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; and

**29.5.2** a child or an adult child (including an adopted child, a step-child or an ex-nuptial child), parent, grandparent, grandchild or sibling of the employee or spouse of the employee.

**29.6** The 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 their 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 will notify the employer by telephone of such absence at the first opportunity on the day of absence.

### **29.7 Unpaid leave for family purpose**

An employee may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care to a family member who is ill.

## **30. PARENTAL LEAVE**

**30.1** The provisions of this clause do not apply to a casual employee.

### **30.2 Definition**

For the purpose of this clause **child** means a child of the employee under the age of one year except for adoption of a child where **child** means a person under the age of five years who is placed with the employee for the purposes of adoption, other than a child or step-child of the employee or of the spouse of the employee or a child who has previously lived continuously with the employee for a period of six months or more

### **30.3 Basic entitlement**

**30.3.1** After twelve months continuous service, parents are entitled to a combined total of 52 weeks unpaid parental leave on a shared basis in relation to the birth or adoption of their child.

**30.3.2** For females, maternity leave may be taken and for males, paternity leave may be taken. Adoption leave may be taken in the case of adoption.

**30.4** Parental leave is to be available to only one parent at a time, except that both parents may simultaneously access the leave in the following circumstances:

**30.4.1** for maternity and paternity leave, an unbroken period of one week at the time of the birth of the child; and

**30.4.2** for adoption leave, an unbroken period of up to three weeks at the time of placement of the child.

### **30.5 Variation of period of parental leave**

Unless agreed otherwise between the employer and employee, an employee may apply to their employer to change the period of parental leave on one occasion. Any such change to be notified at least four weeks prior to the commencement of the changed arrangements.

### **30.6 Parental leave and other entitlements**

An employee may in lieu of or in conjunction with parental leave, access other paid leave entitlements which they have accrued, such as annual leave or long service leave, subject to the total amount of leave not exceeding 52 weeks.

### **30.7 Returning to work after a period of parental leave**

An employee will notify the employer of their intention to return to work after a period of parental leave at least four weeks prior to the expiration of the leave.

**30.8** An employee will be entitled to the position which they held immediately before proceeding on parental leave. In the case of an employee transferred to a safe job pursuant to 30.18, the employee will be entitled to return to the position they held immediately before such transfer.

**30.9** Where such position no longer exists but there are other positions available which the employee is qualified for and is capable of performing, the employee will be entitled to a position as nearly comparable in status and pay to that of their former position.

### **30.10 Replacement employees**

A replacement employee is an employee specifically engaged or temporarily promoted or transferred, as a result of an employee proceeding on parental leave.

**30.11** A replacement employee will be informed of the temporary nature of the employment and of the right of the employee who is being replaced.

### **30.12 Maternity leave**

An employee will provide to the employer at least ten weeks in advance of the expected date of commencement of parental leave with:

**30.12.1** a certificate from a registered medical practitioner stating that she is pregnant and the expected date of confinement;

**30.12.2** written notification of the date on which she proposes to commence maternity leave, and the period of leave to be taken; and

**30.12.3** a statutory declaration stating particulars of any period of paternity leave sought or taken by her spouse and that for the period of maternity leave she will not engage in any conduct inconsistent with her contract of employment.

**30.13** Subject to 30.4 or unless agreed otherwise between the employer and employee, an employee may commence parental leave at any time within six weeks immediately prior to the expected date of birth.

**30.14** Where an employee continues to work within the six week period immediately prior to the expected date of birth, or where the employee elects to return to work

within six weeks after the birth of the child, an employer may require the employee to provide a medical certificate stating that she is fit to work on her normal duties.

**30.15** Where the pregnancy of an employee terminates after 28 weeks and the employee has not commenced maternity leave, the employee may take unpaid special maternity leave of such period as a registered medical practitioner certifies as necessary, except that where an employee is suffering from an illness not related to the direct consequences of the birth an employee may be entitled to paid sick leave in lieu of, or in addition to, special maternity leave.

**30.16** Where leave is granted under this clause, during the period of leave an employee may return to work at any time as agreed between the employer and the employee provided that time does not exceed four weeks from the recommencement date desired by the employee.

**30.17** Where an employee has not yet commenced maternity leave, but suffers from an illness related to the pregnancy the employee may be granted paid sick leave which, collectively, shall not exceed the entitlement in 30.3.

### **30.18 Transfer to a safe job**

Where an employee is pregnant and, in the opinion of a registered medical practitioner, illness or risks arising out of the pregnancy or hazards connected with the work assigned to the employee make it inadvisable for the employee to continue at her present work, the employee shall, if the employer deems it practicable, be transferred to a safe job at the rate and on the conditions attaching to that job until the commencement of maternity leave.

**30.19** If the transfer to a safe job is not practicable, the employee may elect, or the employer may require the employee to commence parental leave.

### **30.20 Paternity leave**

An employee will provide to the employer at least ten weeks prior to each proposed period of paternity leave, with:

**30.20.1** a certificate from a registered medical practitioner which names his spouse, states that she is pregnant and the expected date of confinement:, or states the date on which the birth took place;

**30.20.2** written notification of the dates on which he proposes to start and finish the period of paternity leave; and

**30.20.3** a statutory declaration stating:

**30.20.3(a)** he will take that period of paternity leave to become the primary caregiver of the child;

**30.20.3(b)** particulars of any period of maternity leave sought or taken by her spouse; and

**30.20.3(c)** that for the period of paternity leave he will not engage in any conduct inconsistent with his contract of employment.

### **30.21 Adoption leave**

The employee will notify the employer at least ten weeks in advance of the date of commencement of adoption leave and the period of leave to be taken. An employee may commence adoption leave prior to providing their employer such notice, where through circumstances beyond the control of the employee, the adoption of a child takes place earlier.

**30.22** Before commencing adoption leave, an employee will provide the employer with a statutory declaration stating:

**30.22.1** the employee is seeking adoption leave to become the primary care-giver of the child;

**30.22.2** particulars of any period of adoption leave sought or taken by the employee's spouse; and

**30.22.3** that for the period of adoption leave the employee will not engage in any conduct inconsistent with their contract of employment.

**30.23** An employer may require an employee to provide confirmation from the appropriate government authority of the placement.

**30.24** Where the placement of a child for adoption with an employee does not proceed or continue, the employee will notify the employer immediately and the employer will nominate a time not exceeding four weeks from receipt of notification for the employees return to work.

## **31. PUBLIC HOLIDAYS**

**31.1** Full-time and part-time employees will be entitled to the following holidays without loss of pay:

<b>HOLIDAY</b>	<b>QLD</b>	<b>NSW</b>	<b>VIC</b>	<b>SA</b>	<b>NT</b>
New Year's Day	✓	✓	✓	✓	✓
Australia Day	✓	✓	✓	✓	✓
Good Friday	✓	✓	✓	✓	✓
Easter Monday	✓	✓	✓	✓	✓

Anzac Day	✓	✓	✓	✓	✓
Commemoration Day	-	-	-	✓	-
Sovereign's Birthday	✓	✓	✓	✓	✓
Labor Day	✓	✓	✓	✓	✓
Christmas Day	✓	✓	✓	✓	✓
Boxing Day	✓	✓	✓	-	✓
Melbourne Cup Day (or other agreed day)	-	-	✓	-	-
Union Picnic Day	✓	✓	✓	✓	✓
Exhibition or Show Day	✓	-	-	-	-

[31.1.1 inserted by PR907721 from 01Dec00]

**31.1.1** Picnic day in each State shall be observed as follows:

**31.1.1(a)** New South Wales branch of the union (including ACT) - the first Monday in November in each year.

**31.1.1(b)** Newcastle and Northern branch of the union - the first Monday in November each year.

**31.1.1(c)** Victorian branch of the union - the third Wednesday in January of each year.

**31.1.1(d)** South Australian Branch of the union - the first Monday in March of each year.

**31.1.1(e)** Queensland Branch of the union (including the Northern Territory):

**31.1.1(e)(i)** employees employed in the cities of Brisbane and Redcliffe and the shires of Pine Rivers, Caboolture, Landsborough, Kilcoy, Esk, Laidley, Moreton (including the city of Ipswich), Boonah, City of Logan, Beaudesert, Albert (including the city of Gold Coast), Redlands, Maroochy and Noosa - the last Monday in October each year.

**31.1.1(e)(ii)** employees employed elsewhere than those areas in (i) - the first Monday in August of each year.

**31.2 Substitution of public holidays**

**31.2.1** When Christmas Day or Boxing Day is a Saturday or Sunday, a holiday in lieu will be observed on 27 December and/or 28 December respectively, if it has been gazetted.

**31.2.2** When New Year's Day or Australia Day is a Saturday or Sunday, a holiday in lieu will be observed on the next Monday, if it has been gazetted.

**31.2.3** Where in a State, Territory or locality, public holidays are declared or prescribed on days other than those set above, those days will constitute additional holidays for the purpose of this award.

**31.2.4** An employer, with the agreement of their employees may substitute another day for any prescribed in this clause. For this purpose, the consent of the majority of affected employees will constitute agreement.

### **31.3 Payment for work on public holidays**

**31.3.1** Employees including casuals who work on:

**31.3.1(a)** Christmas Day or Anzac Day will be paid at double the ordinary hourly rate for all time worked;

**31.3.1(b)** Good Friday will be paid for all time worked at the rate of time and a half for the first four hours and double time thereafter based on the ordinary hourly rate; and

**31.3.1(c)** any other public holiday will be paid at time and a half for the first two hours and double time thereafter based on the ordinary hourly rate.

**31.3.2** For full-time and part-time employees, the above payments will be in addition to the ordinary weekly rate of pay.

**31.3.3** Notwithstanding any other provision of this clause, when an employee agrees to work on a public holiday which is part of their ordinary working week, they will be paid at the rate prescribed by this clause for the particular holiday or by agreement between the employee and employer they may be paid the ordinary daily rate and given a paid day off in lieu within 28 days of the holiday occurring unless other arrangements are agreed to.

**31.3.4** Where an employee is absent from employment on the working day (or part thereof) before or after (or part thereof), a public holiday without reasonable excuse or without the consent of the employer, the employee will not be entitled to payment for such holiday, provided that an employee will not lose payment for more than one holiday where consecutive public holidays occur.

**31.3.5** If any employee other than a casual employee is dismissed within fourteen days before any of the holidays and is re-engaged within fourteen days after any of the holidays, the employee will be deemed to have been dismissed for the

purpose of evading payment for such holiday and any payment so evaded will be due and payable to the employee.

**31.3.6** Employees who would not attend work on the public holiday because of their hours of work arrangement will not be required to take a day off on a day which is to be observed as a public holiday.

## **32. LONG SERVICE LEAVE:**

[32 inserted by PR928384 from 04Mar03]

**32.1.** An employee to whom this award applies shall be entitled to long service leave with pay in respect of service with an employer as provided in this clause.

### **32.2 Service entitling to leave:**

For the purposes of this clause the service of an employee with an employer means the period during which the employee has been employed by their employer under an unbroken contract of employment; provided that a contract of employment shall be deemed not to have been broken by reason only of an interruption or determination thereof if the interruption or determination:

**32.2.1** has been made by the employer with the intention of avoiding any obligation imposed on him by this award or by State law dealing with long service leave; or

**32.2.2** has arisen directly or indirectly from a dispute concerning industrial matters, if the employee returns to duty with the same employer in accordance with the terms of settlement of the said dispute; or

**32.2.3** has been made redundant by the employer by reason of slackness of trade (including unavailability of stock for slaughter) if the employee is re-employed by the same employer within six months of such interruption or determination; or

**32.2.4** has been made redundant by the employer for any reason other than those referred to in sub-clauses 32.1.2.1, 32.1.2.2 and 32.1.2.3 hereof, if the employee is re-employed by the same employer within two months of such interruption or determination.

Provided further that the period during which the employment has been so interrupted or determined shall not, except when due to the reasons referred to in paragraph 32.1.2.1 hereof, be taken into account in calculating the period of service.

**32.3** Where an employee has entered or enters into a contract of employment with an employer within a period of twelve months after the completion of an apprenticeship or traineeship shall be taken into account for the purpose of

calculating the period of service with that employer under that contract of employment.

**32.4** Any period of service as a member of the naval, military or air forces (other than as a member of the permanent forces) of the Commonwealth of Australia shall be deemed to be service with the employer by whom the employee concerned was last employed before he commenced to serve as such member.

### **32.5 Transmission of Business**

**32.5.1** Where a business is, whether before or after the date of operation of this award, transmitted from an employer (in this sub-clause called “the transmittor”) to another employer (in this sub-clause called the “transmittee”) and an employee who at the time of such transmission was an employee of the transmittor in that business becomes an employee of the transmittee:-

**32.5.2** The continuity of the service of the employee shall be deemed not to have been broken by reason of such transmission.

**32.5.3** The period of service which the employee has had with the transmittor or any prior transmittor shall be deemed to be service of the employee with the transmittee.

**32.5.4** In the sub-clause “business” includes trade process business or occupation and includes part of such business, and “transmission” includes transfer conveyance assignment or succession whether by agreement or by operation of law, and “transmitted” has a corresponding meaning.

### **32.6 Amount of Leave**

The Long service leave to which an employee is entitled shall be as follows:-

**32.6.1** in the case of an employee who has completed at least fifteen years of service with an employer;

**32.6.1.1** in respect of fifteen years service so completed; thirteen weeks;

**32.6.1.2** in respect of each ten years service with the employer completed since he last became entitled to long service leave, eight and two thirds weeks;  
and

**32.6.1.3** on the termination of the employees’ employment or his death, in respect of the number of years service with the last employer completed since he last became entitled to an amount of long service leave, a proportionate amount on the basis of thirteen weeks for fifteen years service;

**32.6.2** in the case of an employee who has completed less than fifteen years service with an employer and whose employment is terminated;

**32.6.2.1** by the employer for any cause other than serious and wilful misconduct; or

**32.6.2.2** by the employee on account of illness incapacity or domestic or any other pressing necessity where such illness incapacity or necessity is of such nature as to justify such termination; or

**32.6.2.3** by death of the employee;

a proportionate amount on the basis of thirteen weeks for fifteen years service.

**32.6.3** in the case of an employee who has completed at least ten but less than fifteen years' service with an employer and whose employment is terminated by the employer, other than as provided in sub-paragraphs 32.6.2.2 and 32.6.2.3, a proportionate amount on the basis of thirteen weeks for fifteen years' service.

**32.6.4** Such leave shall be granted and taken and, except as permitted by this award, payment in lieu thereof shall not be made or accepted.

### **32.7 Payment for Leave**

The rate of payment to which an employee on leave shall be entitled shall be the actual rate of pay to which the employee would be entitled if the employee was performing their ordinary hours of work during the period of such leave, provided however that:-

**32.7.1** if the employee was, immediately prior to the taking of such leave, employed wholly or partly under a tally, piecework or incentive scheme under which the amount of the employee's pay was regulated wholly or substantially by the quantum or work performed, then the actual rate of pay shall be the average (calculated on weekly rests) pay actually received by such employee during the 12 months preceding the taking of leave, for all work done, or time spent at the employer's establishment during the ordinary hours of work prescribed for such employee; and

**32.7.2** the rate of pay calculated under this clause shall not include overtime, penalty rates, disability allowances, shift allowances, special rates, fares and travelling time allowances, protective clothing allowance or any other extraneous payments of a like nature; and

**32.7.3** in no case shall the actual rate of pay be less than the minimum timework rate prescribed in this Award for the classification in which the employee is engaged.

### **32.8 Taking Leave - Time of Taking Leave**

**32.8.1** When an employee becomes entitled pursuant to this clause to long service leave such leave shall be granted by the employer as soon as practicable having regard to the needs of his establishment, or subject to paragraph 32.8.4 hereof

at such time or times as may be agreed between the employer and the employee.

**32.8.2** Subject to the provisions of paragraph 32.6.2 an employer shall not be required to grant an employee leave to which he has become entitled pursuant to this clause until the amount of leave to which he has become entitled equals thirteen weeks in respect of his first period of entitlement and eight and two thirds weeks in respect of any subsequent period or entitlement.

**32.8.3 Notice to Take Leave**

Except where an employee agrees otherwise the employer shall give an employee at least twenty-eight days' notice of the date from which his leave is to be taken;

**32.8.4 Broken Leave**

Leave shall be granted and taken in one continuous period; or if the employer and the employee so agree, in not more than three separate periods in respect of the first thirteen weeks entitlement, and not more than two separate periods in respect of any subsequent period of entitlement.

**32.8.5 Holidays and Annual Leave**

Long service leave is exclusive of annual leave but is inclusive of all other holidays occurring during the taking of any period of long service leave.

**32.8.6 Restriction Upon Employment While on Leave**

No employee shall during any period when he is on leave pursuant to this award engage in any employment for hire or reward with an employer known to him to be bound by this clause. No employer bound by this clause shall employ any such employee for hire or reward during any period when such employee is known by him to be on leave pursuant to this clause.

**32.9 Payment on Termination for Leave not taken**

**32.9.1** Where the employment of an employee is terminated otherwise than by his death and any long service leave -

**32.9.1.1** to which the employee was entitled has not been taken or;

**32.9.1.2** accrues to the employee upon such termination; then the employer shall forthwith pay to the employee in full the amount in respect of such leave calculated as at the date of termination in the manner set out in sub-clause 7, less any amount already paid to the employee in respect of that leave;

**32.9.2** where an employee dies and any long service leave -

**32.9.2.1** to which the employee was entitled has not been taken; or

**32.9.2.2** accrues upon termination of the employment by reason of his death;

the employer shall upon request by the employee's personal representative pay to the employee's personal representative in full the amount in respect of such leave calculated as at the date of the death of the employee in the manner set out in sub-clause 32.7 of this clause less any amount already paid to the employee in respect of that leave.

### **32.10 Granting leave in advance**

**32.10.1** An employer may by agreement with an employee allow long service leave to such employee before the right thereto has accrued, but where leave is so taken the employee shall not become entitled to any further leave under this award or to payment in lieu thereof for the period in respect of which such leave was taken before it accrued.

**32.10.2** Where leave has been granted to an employee pursuant to the preceding sub-clause before the right thereto has accrued and the employment is subsequently terminated the employer may deduct from whatever remuneration is payable upon the termination of the employment such amount as represents payment for any period from which the employee has been granted leave to which he was not entitled at the date of termination of his employment.

## **PART 7 - MISCELLANEOUS**

### **33. POSTING OF AWARD**

This award shall be exhibited by each employer on its premises in a place accessible to all employees. The employer shall permit the place to facilitate communication between the employer, employees and/or their union representative.

## **APPENDIX A - MINIMUM RATES ADJUSTMENT**

The proposed new levels of rates in this award have been adjusted in accordance with the Minimum Rates Adjustment Principles of the Commission. This Appendix sets out the process and a guide for employers.

- 1.** Clause 24 of the Federal Meat Industry (Smallgoods) Award 1996 dealt with wage rates.
- 2.** Previously there were 10 grades under the time-work provisions. After the MRA process was completed, the number of levels of wage rates has been reduced from 10 to 6. These levels are found in 13.1 of the award along with a description of the skill based tasks for each particular level. The implementation of the wage rates

attaching to some levels is to be staggered. This staggering is listed in the table in 13.1 and is subject to 13.2.2.

3. Having regard to the MRA process, the weekly wage rates attached to each of the classifications have been amended. The amendments are shown in the tables below.
4. During this transitional period, employers will need to identify the previous classification and the new levels attached to each classification.

## 5. CLASSIFICATIONS AND WEEKLY WAGES

	<b>Classification</b>	<b>Current grade</b>	<b>Current amount</b>	<b>Proposed new level</b>
<b>Smallgoods section</b>				
1	Slaughterperson in an abattoir	9	455.00	5
2	Slaughterperson - 20 hours or less per week	<u>deleted</u>		
3	Smallgoods maker	8	450.00	6
4	Silent - cutter operator	6	440.00	4
5	Filerman	4	430.00	3
6	MIXING MACHINE OPERATOR	5	434.00	4
6a	Strapping or wiring machine operator or vacuum machine operator	2	421.00	2
7	Butcher	7	445.00	6
8	Smallgoods seller from vehicle who collects cash_(a) non-refrigerated vehicle (b) refrigerated vehicle	5	440.00	4
9	Boner	7	445.00	5
10	Slicer, etc	6	440.00	4
10a	Cutter Up, Guillotine Operator, Derinding Machine Operator	6	440.00	4
11	Salter and/or pickle pumper (arterial or stab)	4	430.00	3
12	Packer and/or scaler	5	434.00	4
13	Packing - room hand	3	426.00	3
	<b>Classification</b>	<b>Current grade</b>	<b>Current amount</b>	<b>Proposed new level</b>
14	Linker, tablehand	2	421.00	2
15	Employee wrapping, weighing, packing etc	1	415.00	2
16	All others	1	415.00	2
17	Clerk or Cashier	3	426.00	3

<b>Carters and drivers</b>				
1	Driver of motor vehicles			
	(a) not exceeding 1.25 tonnes capacity	2	421.00	2
	(b) exceeding 1.25 tonnes but not exceeding 3 tonnes capacity	3	426.00	2
	(c) exceeding 3 tonnes but under 6 tonnes capacity	4	430.00	4
	(d) for each tonne over 5 tonnes - \$1.38 per week	5	434.00	-
	(e) motor (not being a tractor) drawing trailer - 99 cents per day	5	434.00	-
	(F) REFRIGERATED VAN	5	434.00	4
2	Forklift driver	4	430.00	4
3	Tractor driver	4	430.00	4
4	Auto-truck or tow motor driver	4	430.00	4
5	Hanging wagon driver	-	-	4
<b>Ham and bacon section</b>				
1	Slaughterer	9	455.00	5
2	Slaughterer's assistant	2	421.00	2
3	Cutter-up, trimmer and/or derinder	6	440.00	4
4	Ham and bacon curer	8	450.00	4
5	Pickle pumper (arterial or slab)	5	434.00	3
6	Curing section assistant required to do salting	2	421.00	2
7	Employee responsible for washing, drying, smoking hams and bacon	6	440.00	4
8	Washing, drying, smoking section assistant	2	421.00	2
9	Boner	7	445.00	5
10	Tunnel boner	8	450.00	5
11	Cooker	5	434.00	4
12	Employee slicing and/or operating scales (canning department), packing ham or bacon in cans and/or operating closing machine	3	426.00	3
12A	Strapping or wiring machine operator or	2	421.00	2

	vacuum machine operator			
	<b>Classification</b>	<b>Current grade</b>	<b>Current amount</b>	<b>Proposed new level</b>
13	Retort	2	421.00	2
14	Employee in lard section etc	2	421.00	2
15	Employee wrapping etc	1	415.00	2
16	Packing-room hand	3	426.00	3
17	Ham and bacon seller from vehicle who collects cash -			
	(a) non-refrigerated vehicle -			
	(B) REFRIGERATED VEHICLE	6	440.00	4
18	All others	1	415.00	2

**Note A:** Once the appropriate Level is established for the relevant classification, refer to table of weekly wage rates in clause 13 - Classifications and wage rates of the award.

**Note B:** The “All other” classifications do not include QA employees, Company employed meat inspectors and employees permanently employed in medical centres.

## **APPENDIX B - ACCIDENT PAY, VICTORIA**

### **1. TOTAL INCAPACITY**

Subject to clause 4 - Injury herein in the case of an employee other than a casual employee who is deemed to be totally incapacitated within the meaning of the Act and arising from an injury covered by this clause means a weekly payment of an amount representing the difference between the total weekly amount of compensation paid under Section 9.1(B) of the Act of Victoria; for the week in question and the total 38 hour weekly award rates for a time-worker, or the minimum award tally rates for a pieceworker (inclusive of leading hand allowance) being paid to such employee at the date of injury giving rise to the said payments of compensation together with or less as the case may be any variation in award rates which would have been applicable to the classification of such employee for the week in question if the employee had been performing normal duties provided further that in making such calculation any payment for overtime earnings, shift allowance, site disability allowances, fares and travelling allowances, penalty-stock payments, bonus, laundry allowance, cold temperature rates, or other like payments payable by the employer will not be taken into account.

### **2. PARTIAL INCAPACITY**

**2.1** In the case of an employee other than a casual employee who is or is deemed to be partially incapacitated within the meaning of the Act and arising from an injury

covered by this clause means a weekly payment of an amount representing the difference between the total amount of compensation paid to the employee pursuant to Section 9.1(b)(ii) of the Act of Victoria; for the week in question together with the total amounts the employee is earning or is able to earn in some suitable employment or business as determined expressly or by implication by the Workers' Compensation Commission (or body set up under the appropriate State Act for the determination of such questions) or as agreed between the parties and the total 38 hour weekly award rate for a time-worker or the minimum tally rate for a pieceworker (inclusive of leading hand allowance) being paid to such employee at the date of the injury giving rise to the said payments of compensation together with or less as the case may be any variation in award rates which would have been applicable to the classification of such employee for the week in question if the employee had been performing normal duties providing that in making such calculation any payment for overtime earnings, bonus, shift allowance, site disability allowances, fares, travelling allowances, penalty-stock payments, laundry allowance, cold-temperature payments, special rates, or other like payments payable by the employer will not be taken into account.

**2.2** The total 38 hour weekly award rate and the minimum tally rate referred to above, will be the same as that applying for the total incapacity provided that where an employee receives a weekly payment under this section and subsequently such payment is reduced pursuant to Section 9.6(1) of the Act of Victoria; such reduction will not increase the liability of the employer to increase the amount of accident pay in respect of that injury.

### **3. PAYMENT FOR PART OF A WEEK**

Where an employee receives accident pay and such pay is payable for incapacity for part of a week, the amount will be direct pro rata.

### **4. INJURY**

Means an injury within the meaning of the Act for which compensation is being paid pursuant to the Act.

### **5. INCAPACITY**

Incapacity will have the same meaning as in the Act.

### **6. THE ACT**

Means the relevant Workers' Compensation Act as amended from time to time of the State of Victoria.

### **7. QUALIFICATION FOR PAYMENT**

**7.1** Always subject to the terms of this clause, an employee other than a casual employee covered by this clause will upon receiving payment of compensation and

continuing to receive such payment in respect of weekly incapacity within the meaning of the Act be paid accident pay by the employer, who is liable to pay compensation under the Act, which said liability by the employer for accident pay may be discharged by another person on the employers behalf provided that:

**7.2** Accident pay will only be payable to an employee whilst such employee remains in the employment of the employer by whom the employee was employed at the time of the incapacity, and then only for such period as the employee receives a weekly payment under the Act. Provided that if an employee on partial incapacity cannot obtain suitable employment from their employer but such alternative employment is available with another employer, then the relevant amount of accident pay will still payable by the first employer.

**7.3** Provided further that in the case of termination of an employee, who is incapacitated and receiving accident pay, by the employer, accident pay will continue to apply subject to the provisions of this clause except where the termination is due to serious and/or willful misconduct of the employee.

To qualify for continued payments on termination the employee may be required to provide evidence to the employer of continued compensation payments.

**7.4** No accident pay shall be payable in respect of any period of incapacity commencing during the first month of employment of an employee by an employer, unless such incapacity continues beyond the first month of employment and then, subject to clause 8 - Maximum period of payment hereof and 7.6 hereof will only apply to incapacity occurring after the first month.

**7.5** In the cases of diseases contracted by gradual process or injuries subject to recurrence, aggravation, or acceleration for which the employer is liable to pay compensation (as 67 provided in Section 3 of the Act of Victoria;) such injuries or diseases will not be subject to accident pay unless the employee has been employed with the employer at the time of the incapacity for a minimum period of three months and is still employed by the employer under a then subsisting contract of service or apprenticeship.

**7.6** Accident pay will not apply in respect of any injury for which Workers' Compensation is payable for the first five normal working days of incapacity.

**7.7** An employee on engagement may be required to declare all Workers' Compensation claims made in the previous five years; and in the event of false or inaccurate information being deliberately and knowingly declared, the employer may require the employee to forfeit entitlement to accident pay under this clause.

## **8. MAXIMUM PERIOD OF PAYMENT**

The maximum period or aggregate of periods of accident pay to be made by an employer will be a total of 26 weeks for any one injury as defined in clause 4 - Injury, hereof.

## **9. ABSENCES ON OTHER PAID LEAVE**

An employee will not be entitled to the payment of accident pay in respect of any period of paid annual leave, or long service leave or for any paid public holiday or any other paid leave in accordance with the appropriate provisions of this award.

## **10. NOTICE OF INJURY**

An employee upon receiving an injury for which the employee claims to be entitled to receive accident pay will give notice in writing of the said injury to the employer as soon as reasonably practicable after the occurrence thereof; provided that such notice may be given by a representative of the employee.

## **11. MEDICAL EXAMINATIONS**

In order to receive entitlement to accident pay, an employee will conform to the requirements of the Act as to medical examination. Where in accordance with the Act a medical referee gives a certificate as to the condition of the employee and fitness for work, or specifies work for which the employee is fit, and such work is made available by the employer and refused by the employee, or the employee fails to commence to work, accident pay will cease from the date of such refusal or failure to commence work.

## **12. REDEMPTION OF WEEKLY PAYMENTS**

Where there is redemption of weekly compensation payments under the Act, the employer's liability to pay accident pay will cease as from the date of such redemption.

## **13. CIVIL DAMAGES CLAIM**

**13.1** An employee receiving or who has received accident pay will advise the employer of any action the employee may institute or any claim the employee may make for damages. Further, the employee shall, if requested, provide an authority to the employer entitling the employer to a charge upon any money payable pursuant to any verdict or settlement on that injury.

**13.2** Where an employee obtains a verdict for damages or is paid an amount in settlement of any claim for damages in respect of an injury for which the employee has received accident pay the employer's liability to pay accident pay will cease from the date of such verdict and/or the date of such settlement; provided that if verdict for damages or settlement is not reduced either in whole or part by the amount of accident pay made by the employer, the employee will pay to the employer any amount of accident pay already received in respect of that injury by which the verdict or settlement has not been so reduced.

**13.3** Where an employee obtains a verdict for damages or is paid an amount in settlement of any claim for damages against a person other than the employer in respect of an injury for which the employee has received accident pay the employer's liability to

pay accident pay will cease from the date of such verdict or the date of such settlement; provided that if the verdict for damages or settlement is not reduced either in whole or in part by the amount of accident pay made by the employer the employee will pay to the employer any amount of accident pay already received in respect of that injury by which the verdict or settlement has not been so reduced.

#### **14. VARIATIONS IN COMPENSATION RATES**

Any changes in compensation rates under the Act will not increase the amount of accident pay above the amount that would have been payable had the rates of compensation remained unchanged.

#### **15. DEATH OF AN EMPLOYEE**

Entitlements to accident pay will cease on the death of an employee.

### **APPENDIX C - CASTLE BACON PTY LTD**

#### **1. APPLICATION**

This Appendix shall apply to the employment of any person covered by this award who is employed by Castle Bacon Pty Ltd of 64 Richards Road, Castlemaine in the State of Victoria. Where there is any inconsistency between the terms of this Appendix and the terms of the award the terms of this Appendix shall prevail but otherwise the terms of the award shall govern employment by Castle Bacon Pty Ltd. ("Castle Bacon") of persons to whom this award applies.

#### **2. HOURS OF WORK**

**2.1** For the purposes of 20.4.1 of the award no time worked before 4.00 a.m. or after 7.00 p.m. on Monday to Friday shall be reckoned as part of ordinary hours and the said clause shall be read as if, in relation to Castle Bacon, the times "4.00 a.m." and "7.00 p.m." replaced the times "6.00 a.m." and "6.00 p.m." respectively.

**2.2** No employee employed prior to 5 October 1988 will be required to commence work earlier than the commencing time he or she worked prior to that date.

**2.3** No employee employed prior to 5 October 1988 will be required to alter his or her usual working hours if the result will be to reduce the amount the employee receives by way of payment for working outside ordinary hours.

**2.4** Employees who prior to 5 October commenced at 6.00 a.m. will continue to be paid at overtime rates in accordance with the practice in existence at that time.

#### **3. MEAL INTERVALS**

**3.1** Employees called upon to start work before 7.00 a.m. shall be allowed a paid meal interval of not less than fifteen minutes for breakfast. This meal interval is to count as a meal break.

**3.2** Employees shall be allowed not less than half an hour for the lunch meal interval.

#### **4. HOLIDAYS**

In relation to the Melbourne Cup Day holiday prescribed by clause 31 - Public holidays of this award where, pursuant to that clause by agreement between the employee and the employer, a paid day off in lieu is to be taken it shall be taken within one calendar year of the date of the Melbourne Cup Day.

#### **5. OTHER CONDITIONS**

**5.1** The paid washing time each ordinary working day shall be five minutes.

**5.2** The paid afternoon tea break shall be ten minutes.

**5.3** Where by agreement between the employee and the employer a day in lieu of the allowed Melbourne Show Day holiday is to be taken such day shall be taken within one calendar year of the Melbourne Show Day.

#### **6. SUPERANNUATION**

**6.1** Each employee subject to this Appendix shall be able to choose to be a member of either the Meat Industry Employees' Superannuation Fund (MIESF), The Australian Meat Industry Superannuation Trust (AMIST) or The Australian Retirement Fund (ARF) and to choose to which of MIESF, AMIST or ARF Castlemaine Bacon Pty Ltd shall pay the superannuation contributions required to be paid by this award, by legislation or by agreement. Castlemaine Bacon Pty Ltd shall abide by the choice of each employee and take all such steps as may be necessary to give effect to that choice.

**6.2** Each employee can make the choice referred to in 6.1 only once in each financial year.

### **APPENDIX D**

#### **1. APPLICATION OF THIS APPENDIX**

**1.1** This Appendix to the award shall apply in respect of employment in smallgoods factories and ham and bacon factories in Victoria by the following employers:

- Otto Wurth Pty Ltd, 248 Blackshaws Road, Altona North
- Castle Bacon Pty Ltd., PO Box 51 Castlemaine

- Dyson Meat Supply Pty Ltd, 22 Buckland Street Clayton
- Lago Smallgoods Pty Ltd, 3 Cobham Street Reservoir
- Tibaldi Smallgoods (Aust) Pty Ltd, 7 Lens Street Coburg

**1.2** It shall operate in addition to and notwithstanding the provisions of the Federal Meat Industry (Smallgoods) Award 2000.

## **2. CALCULATION OF CONTINUOUS SERVICE FOR ANNUAL LEAVE**

For annual leave purposes prescribed under clause 26 - Annual leave of the award, any absences from work on account of sickness or accident totaling not more than 160 working hours in the twelve months or absences on jury service or paid bereavement leave shall be deemed continuous service and shall be counted as service in calculating a period of twelve months' continuous service.

## **3. JURY SERVICE**

**3.1** If an employee, other than a casual employee, is required on any day or days to attend at Court in compliance with a summons to appear as a juror the employee shall for each day in which they so attend be granted leave of absence by the employer for that day and be paid an amount equal to the difference between the fee to which the employee is entitled for attending on that day and the amount of ordinary pay to which the employee would have been entitled under this award had the employee worked on that day, provided:

**3.1.1** that the employee notifies the employer of receipt of such a summons and produces it to the employer on the first working day after receiving it;

**3.1.2** that the employee qualifies for a jury fee on that day; and

**3.1.3** that the employee attends for work and works as required on the working day before and the working day after the day or days on which the employee is required to attend and attends for jury service as aforesaid.

**3.2** In the case of a shift worker, "day" for the purpose of this clause shall include any shift commencing on that day for which the employee is rostered for work.

**3.3** For the purposes of this clause, the qualifications for entitlement to payment for an award holiday as provided in clause 31 - Public holidays of the award shall apply.

**3.4** In the event that a juror's fee is calculated by reference to an award entitlement, the employer's obligation under this clause shall be deemed to have terminated.

## **4. BEREAVEMENT LEAVE**

The provisions of clause 28 - Bereavement leave of the award shall apply in respect of the death outside Australia of a near relative, as specified in that clause, including mother-in-law or father-in-law of employee, upon the employee being advised of such death, the period of leave without deduction of pay being two ordinary days' work.

## **5. OVERTIME**

**5.1** The provisions of clause 24 - Overtime of this award shall apply to employees of respondents to this Appendix provided that the following subclause shall apply in lieu of 24.1.

**5.2** All time worked outside the ordinary working hours on any day shall be deemed to be overtime and shall be paid for at time and a half for the first two and a half hours and double time thereafter.

## **6. SICK LEAVE**

**6.1** The following sick leave provisions shall apply to employees of respondents to this Appendix of the award in lieu of clause 27 - Sick leave of the award.

**6.2** An employee other than a casual who is absent from work on account of personal illness or on account of injury by accident shall be entitled to leave of absence without deduction of pay, subject to the following conditions and limitations:

**6.2.1** The employee shall not be entitled to be paid leave of absence for any period in respect of which the employee is entitled to Workers' Compensation.

**6.2.2** The employee shall within 24 hours of the commencement of such absence inform the employer of the inability to attend for duty and as far as is practicable state the nature of the injury or illness and the estimated duration of the absence during which the employee is unable to attend for duty. The employee shall notify the employer forthwith to this effect and as far as is practicable state the estimated duration of the further absence.

**6.2.3** An employee shall be required to produce a medical certificate or other reasonable proof of illness to the employer for any period of absence of two days or more in any year of service in order to be entitled to payment for such absence.

**6.2.4** The employee shall prove to the satisfaction of the employer (or, in the event of a dispute, the matter shall be taken to a Board of Reference for decision) that the employee was unable on account of illness or injury to attend for duty on the day or days for which leave is claimed.

**6.2.5** Any employee eligible for sick leave shall be paid sick pay at the rate of five and one third hours' ordinary pay for each completed month of service. For the purposes of this sub-clause hourly ordinary pay shall mean the daily or weekly rate for the relevant classification as prescribed herein plus any

“bonus” payment the employee would have received had he worked, but excluding overtime or shift allowance payment, divided by 7.6 or 38, respectively.

- 6.3** The minimum payment of sick leave shall be as for one day, unless payment is being made as provided in 6.5 hereof.
- 6.4** If the full period of sick leave as prescribed above is not taken, such portion that is not taken shall, provided the employee remains in the service of the one employer or successor, transmittee or assignee, be cumulative from month to month up to a maximum of 128 hours.
- 6.5** Any employer may, by agreement with any employee, pay such employee for the portion of sick leave so accrued; or, should the employee accrue in excess of 128 hours' sick leave, that additional accrual shall be paid to the employee at the expiration of each twelve completed months of service.
- 6.6** Should an employee being eligible for sick leave, leave employment for any reason, or be dismissed for any cause whatsoever, the employee shall be paid for all sick leave that has been accumulating up to a maximum of 128 hours. The rate of such payment shall be, for time workers and shift workers, an hourly rate based on the average weekly earnings that the employee earned during normal working hours, excluding overtime' and shift allowance, for the previous 50 weeks; or if the employee has not been employed for 50 weeks, for such lesser period of employment.
- 6.7** Any sick leave accumulated in excess of 128 hours before 1 November 1979 shall be available to the employee concerned in accordance with the provisions of this clause.

## **DECLARATION**

[Common rule declared by PR953229 from 01Jan05]

Further to the Decision issued by the Commission on 18 November 2004 [PR953309] and pursuant to ss.141 and 493A of the *Workplace Relations Act 1996* (the Act), the Commission makes the following declaration for a common rule award:

**1.** In this Declaration:

**1.1 the award** means the Federal Meat Industry (Smallgoods) Award 2000 as varied from time to time;

**1.2 employees** means employees in the industry who perform work of a kind that is covered by the award;

**1.3 employers** means employers who employ employees; and

**1.4 the industry** means the smallgoods industry consisting of any establishment whose principal business is the manufacturing of smallgoods.

2. That save for and subject to the matters referred to in clauses 4 to 7 below, the whole of the terms of the award, as varied from time to time, except those specified in clause 3 below, shall be:

2.1 a common rule for the industry in Victoria and known as the Federal Meat Industry (Smallgoods) Victorian Common Rule Declaration 2005;

2.2 binding on all employers in respect of the employment by them of employees;

2.3 binding on all employees; and

2.4 binding on The Australasian Meat Industry Employees Union and registered organisations respondent to the Award.

3. The following clauses of the award are not included in the Federal Meat Industry (Smallgoods) Victorian Common Rule Declaration 2005:

3.1 clause 4 - Commencement date of award;

3.2 clause 5 - Where and who the award covers; and

3.3 clause 6 - Parties bound.

4. Subject to 4.1 to 4.5 below, all provisions in the Federal Meat Industry (Smallgoods) Victorian Common Rule Declaration 2005 are to operate from 1 January 2005:

4.1 With respect to annual leave, only periods of annual leave commencing on or after 31 January 2005 attract leave loading;

4.2 With respect to redundancy payments for employees of employers who have less than 15 employees, only service on or after 1 January 2005 is to be taken into account for the purpose of calculating **service**;

4.3 With respect to redundancy payments for employees of employers who have 15 employees or more, only service on or after 1 January 2004 is to be taken into account for the purpose of calculating **service**. [Note: the agreement in respect of this issue is without prejudice to the position a party may put in roping-in proceedings.];

4.4 Any accident make-up pay clause is to apply in relation to any injury on or after 3 August 2004; and

4.5 The wages clauses (including all allowances and penalty payments) are to commence operation from the first pay period on or after Monday 3 January 2005 provided

that in all cases the wages clauses commence operation no later than 5 January 2005.

5. The Federal Meat Industry (Smallgoods) Victorian Common Rule Declaration 2005 shall not apply to employers respondent by any means to any other award of the Commission in respect of the employment by them of employees covered by that award.
6. This declaration shall not apply to a person with a disability who is eligible for a Disability Support Pension and who is employed by a supported employment service that receives funding under the *Disability Services Act 1986* (Cth) to provide support for that person. [See Note 1 below.]
7. An employer who is making superannuation contributions into a complying superannuation fund, within the meaning of the *Superannuation Industry (Supervision) Act 1993* (Cth), on behalf of an employee covered by this declaration prior to the date of effect of this declaration is exempt from any provision in the award which specifies the fund or funds into which superannuation contributions are to be paid. [See Note 2 below.]
8. In the event of a dispute about the entitlement of an employer to set-off entitlements and benefits required to be provided under a contract of employment made prior to the date of this declaration against entitlements and benefits required to be provided under the Federal Meat Industry (Smallgoods) Victorian Common Rule Declaration 2005, the matter may be referred to a Board of Reference consisting of a Member of the Commission which shall determine whether or not such a set-off should be permitted having regard to what is fair and equitable in all the circumstances of the case, without regard to technicalities and legal forms.
  - 8.1 An appeal lies from a decision of a Board of Reference to a Full Bench of the Commission.
  - 8.2 This clause shall apply for a period of twelve months from the commencement date of the Federal Meat Industry (Smallgoods) Victorian Common Rule Declaration 2005.
  - 8.3 Any registered organisation bound by the terms of the Federal Meat Industry (Smallgoods) Victorian Common Rule Declaration 2005 shall be notified of the time and date of hearing in relation to any application made pursuant to this provision.
9. Nothing in this declaration reduces or in any way detracts from any accrued rights to any forms of leave including sick leave, annual leave, long service leave or parental leave to which employees or any of them have become entitled by accrual or otherwise prior to the commencement date in clause 10 below.
10. This declaration shall be an award of the Commission, shall come into force on 1 January 2005 and shall remain in force for a period of three months and thereafter in accordance with the Act. [See Note 3 below.]

## Note 1

1. Disability Support Pension means the Commonwealth pension scheme to provide income security for persons with a disability as provided for under the *Social Security Act 1991* (Cth), as amended from time to time, or any successor to that scheme.
2. The intention of this provision is limited to preventing the award from applying to sheltered workshops (i.e. supported employment services) - it does not prevent the award from applying to employees with disabilities in open employment.
3. Leave is reserved for any party to have this issue reconsidered in the light of any developments in the national process which is currently considering workplace relations issues for sheltered workshops. This national process includes the Disability Sector National Industry Consultative Council and any related applications that seek award coverage for sheltered workshops.

## Note 2

1. The purpose of the exception above is to maintain the status quo in respect of employers who, as at the date of effect of the common rule declaration, are making superannuation contributions into a complying superannuation fund. These employers will not be required to change their existing arrangements. Nor will there be any requirement for the existing arrangements to be the subject of an agreement between the employer and employees. For the avoidance of doubt, the exception continues to apply to employers who are making superannuation contributions to complying superannuation funds which are successor funds (as defined in Regulation 1.03 of the *Superannuation Industry (Supervision) Regulations 1994* (Cth), or as amended or replaced by other legislation) into which benefits are transferred, after the date of effect of the common rule declaration, in accordance with the *Superannuation Industry (Supervision) Act 1993* (Cth) and the Regulations thereunder. Further, “existing arrangements” includes the making of contributions to such funds.
2. The exception is in respect of current and future employees of the employers who are entitled to the benefit of the exemption.
3. The exception does not apply to new businesses which are established after the date on which the award is declared to have effect as a common rule.
4. The exception only applies to employers who are required to apply the terms of the award by virtue of the Common Rule declaration. It does not apply to employers who are named respondents to the award or who are parties bound by virtue of the membership of an employer organisation.
5. The exception applies subject to any Commonwealth legislation to the contrary.

### Note 3

1. Subject to s.113 of the *Workplace Relations Act 1996* and any order of the Commission, an award dealing with particular matters continues in force until a new award is made dealing with the same matters (see s.148 of the *Workplace Relations Act 1996*).