

Woolworths Ltd (Trading as Woolworths / Safeway Supermarkets)

and

AUSTRALASIAN MEAT INDUSTRY EMPLOYEES' UNION

AGREEMENT 2008

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## **PART 1 APPLICATION OF THE AGREEMENT**

### **1. GENERAL**

#### **1.1 TITLE**

This Agreement shall be known as the Woolworths Ltd (trading as Woolworths/ Safeway Supermarkets) and Australasian Meat Industry Employees' Union Agreement 2008.

#### **1.2 APPLICATION OF AGREEMENT**

1.2.1 This Agreement is binding on the Australasian Meat Industry Employees' Union, its officers and its members and on Woolworths Ltd (trading as Woolworths/ Safeway supermarkets) in respect of all its employees, eligible to be members of the Union, whether members of the said Union or not, employed by Woolworths Ltd in the State of Victoria.

1.2.2 This Agreement shall apply to all employees for whom rates of pay and general conditions are prescribed herein employed by Woolworths Ltd (trading as Woolworths/ Safeway supermarkets) in the State of Victoria.

1.2.3 This agreement comprehensively regulates the terms and conditions of employment of employees to whom it applies and operates to the exclusion of any other industrial agreements and awards.

1.2.4. This Agreement wholly replaces the Woolworths Ltd (trading as Safeway) and Australasian Meat Industry Employees' Union Agreement 2005.

#### **1.3 DURATION AND RENEWAL**

1.3.1 This Agreement shall come into operation from the beginning of the first pay period commencing on or after Monday 29 September 2008 and shall continue in force for a period of 3 years and expires on 26 September 2011.

#### **1.4 EXTRA CLAIMS**

1.4.1 The parties and employees agree that there will be no extra claims, for the duration of this Agreement.

#### **1.5 DEFINITIONS**

##### **1.5.1 Commission**

Means the Australian Industrial Relations Commission.

##### **1.5.2 Juveniles**

A Juvenile shall mean a person under twenty years of age.

##### **1.5.3 Union**

Means the Victorian Branch of the Australasian Meat Industry Employees' Union.

#### 1.5.4 Union Delegate

Means the Union representative for the meat department of the supermarket.

#### 1.5.5 Week

Means the worker's ordinary working week.

#### 1.5.6 Transmission

For the purposes of the Agreement transmission includes transfer, conveyance, assignment or succession whether by agreement or by operation of law and "transmitted" has a corresponding interpretation.

#### 1.5.7 Workers Compensation

Means compensation of any type for work related injury or disease under the applicable state legislation.

1.5.8 **"Butcher"** means an adult who has served a relevant apprenticeship or has had at least four years general experience in butchering. The Butcher is responsible for providing customer service and courtesy by answering customer requests as well as preparing a full range of meat products for display in the meat cabinet. The Butcher is also responsible for providing training for Apprentice Butchers. The Butcher will also ensure that personal hygiene, as well as clean and safe work practices are adhered to at all times.

1.5.9 **Meat Assistant'** means an employee engaged to perform slicing, cutting or trimming fresh meat as prescribed by the relevant competencies within Certificate II Meat Retailing, as determined by National Industry Standards.

The Company will support employees who wish to continue the relevant training required to obtain a Trade Qualification for the nominal life of the Agreement.

The introduction of this classification will not result in any current meat room employee being displaced. Butchers will remain the majority in Supermarket meat rooms (unless otherwise agreed).

1.5.10. **"Packer/Cabinet Attendant"** means an adult employee (not being a Butcher) who is employed in wrapping, weighing, pricing, packaging and packing uncooked meat whether manually or by means of machinery, and who may also be employed in the replenishing of display cabinets or work associated therewith. The Packer/Cabinet Attendant will also ensure personal hygiene, as well as clean and safe work practices are adhered to at all times.

Provided that nothing in this definition shall remove the right of employers to employ (i) juniors in wrapping, weighing, pricing, packaging and packing uncooked meat whether manually or by means of a machine, or (ii) juniors of 18 years of age and over in the replenishing of display, or storage cabinets or work association therewith.

1.5.11 **'Ordinary Time Earnings'** means payment based on the stipulated weekly wage rate for the appropriate classification as defined in Clause 3 of this Agreement.

1.5.12 **"Second in Charge"** means any employee of a Meat Room who is a designated as such and assists with the daily running of the department and assumes the responsibility for supervising the department in the Meat Managers absence.

1.5.13 "Employer" or "Company" means Woolworths Ltd trading as Woolworths/Safeway supermarkets.

## **PART 2            ENGAGEMENT, PAYMENT AND TERMINATION**

### **2.            CONDITIONS OF EMPLOYMENT**

#### **2.1          NATURE OF EMPLOYMENT**

An employee upon engagement shall be informed of the nature of their employment as a full time employee, part time employee, or as a casual employee and shall be advised of their classification and wage rates.

#### **2.2          QUALIFYING PERIOD**

There will be a qualifying period of the first six months of employment. Either party may terminate qualifying employment during this qualifying period.

#### **2.3          FULL TIME EMPLOYMENT**

Except as hereinafter provided, employment shall be by the week. Any employee not specifically engaged as a casual or part time employee shall be deemed to be employed full time by the week. Except as may hereinafter be provided, an employee, to become entitled to payment on a weekly basis, shall perform such work as the employer shall from time to time require consistent with the terms of this Agreement.

#### **2.4          PART TIME EMPLOYMENT**

2.4.1 The employer may employ persons on a part time basis. The ordinary hourly time rate of pay for part time employees shall be one thirty-eighth (1/38th) of the appropriate weekly rate.

2.4.2 Part time employees shall receive pro-rata payment for annual leave, sick leave, public holidays, superannuation and long service leave and for any other entitlement contained in this Agreement for full time employees.

#### **2.5          CASUAL EMPLOYMENT**

2.5.1 The employer may employ persons on a casual basis. The ordinary time rate of pay for casuals shall be one thirty-eighth of the appropriate weekly rate plus 25% loading in lieu of annual leave, sick leave, public holidays, rostered days off and for any other leave entitlement.

2.5.2 Casual employees shall be employed by the day.

2.5.3 For so long as the casual employee is subject to this agreement the casual loading that is payable to the employee will not be less than the default casual loading percentage within the meaning of the Workplace Relations Act 1996

## 2.6 APPRENTICES AND JUNIORS

2.6.1 Subject to the provisions contained in this Agreement the employment of apprentice butchers shall be as determined by the provisions of the Industrial Training Act (Victoria) 1975.

2.6.2 The number of apprentices and juniors on probation in any establishment shall not exceed one to two or fraction of two butchers employed by the same employer in the same establishment.

Provided that in any establishment where three butchers are employed by the same Employer in the same establishment and where an apprentice has completed his third year of service, the appropriate State Apprenticeship body shall have the power to grant an Employer the right to engage an additional apprentice.

2.6.3 The number of unapprenticed juniors employed in any establishment shall not exceed one to every three or fraction of three adult weekly employees employed by the same Employer in the same establishment as Packer/Cabinet Attendants.

## 2.7 TEMPORARY EMPLOYMENT

(A) The Employer shall have the right to engage employees on a limited tenure basis as either full-time or part-time employees provided that such period of limited tenure shall:

- (i) not be less than one month, provided that the minimum engagement may be 1 week where the sole purpose is the replacement of an employee on annual leave, sick leave, long service leave or any other period of paid or unpaid leave;
- (ii) not be more than 12 month's duration; and
- (iii) not run consecutively but may be extended by agreement with the employee provided that it shall not exceed 12 months.

(B) Prior to the commencement of a period of limited tenure, the employee shall be advised in writing of the hours to be worked and the commencing and ceasing dates of their limited tenure employment.

(C) Limited tenure employment may be terminated by either party in accordance with the provisions of clause 2.9 Termination of Employment.

(D) Limited tenure employment shall be voluntary.

## 2.8 SUPPORTED WAGES

(a) This clause defines the conditions, which will apply to employees who because of the effects of a disability are eligible for a supported wage under the terms of this Agreement. In the context of this clause, the following definitions will apply:

- (i)... "Supported Wage System" means the Commonwealth Government System to promote employment for people who cannot work at full agreement wages because of a disability, as documented in "{Supported Wage System: Guidelines and Assessment Process}".
- (ii).. "Accredited Assessor" means a person accredited by the management unit established by the Commonwealth under the Supported Wage System to perform

assessments of an individual's productive capacity within the Supported Wage System.

- (iii). "Disability Support Pension" means the Commonwealth pension scheme to provide income security for persons with a disability as provided under the Social Security Act 1991, as amended from time to time, or any successor to that scheme.
- (iv). "Assessment instrument" means the form provided for under the Supported Wage System that records the assessment of the productive capacity of the person to be employed under the Supported Wage System.

### Eligibility Criteria

(b) Employees covered by this clause will be those who are unable to perform the range of duties to the competence level required within the class of work for which the employee is engaged under this Agreement, because of the effects of a disability on their productive capacity and who meet the impairment criteria for receipt of a Disability Support Pension.

(The clause does not apply to any existing employee who has a claim against the Employer, which is subject to the provisions of workers' compensation legislation or any provision of this Agreement relating to the rehabilitation of employees who are injured in the course of their current employment).

The Agreement does not apply to Employers in respect of their facility, programme, undertaking service or the like which receives funding under the Disability Services Act 1986 and fulfils the dual role of service provider and sheltered employer to people with disabilities who are in receipt of or are eligible for a disability support pension, except with respect to an organisation which has received recognition under s.10 or under s12A of the Act, or if a part only has received recognition, that part.

### Supported Wage Rates

- (c) Employees to whom this clause applies shall be paid the applicable percentage of the minimum rate of pay prescribed by this Agreement for the class of work which the person is performing according to the following schedule:

Assessed Capacity (Subclause (d))	% of prescribed agreement rate
10%*	10%
20%	20%
30%	30%
40%	40%
50%	50%
60%	60%
70%	70%
80%	80%
90%	90%

(Provided that the minimum amount payable shall be not less than \$69 per week).

\*Where a person's assessment capacity of 10%, they shall receive a high degree of assistance and support.

### **Assessment Capacity**

- (d) For the purpose of establishing the percentage of the agreement rate to be paid to an employee under this Agreement, the productive capacity of the employee will be assessed in accordance with the Supported Wage System and documented in an assessment instrument by either:
  - (i) the Employer and the Union party to the Agreement, in consultation with the employee or, if desired by any of these;
  - (ii) the Employer and an accredited Assessor from a panel agreed by the parties to the Agreement and the employee.

### **Lodgement of Assessment Instrument**

- (e) (i) All assessment instruments under the conditions of this clause, including the appropriate percentage of the Agreement wage to be paid to the employee shall be lodged by the Employer with the Registrar of the Commission.
- (ii) All assessment instruments shall be agreed and signed by the parties to the assessment provided that where the Union which is party to the Agreement, is not a party to the assessment, it shall be referred by the Registrar to the union by certified mail and shall take effect unless an objection is notified to the Registrar within 10 working days.

### **Review of Assessment**

- (f) The assessment of the applicable percentage should be subject to annual review or earlier on the basis of a reasonable request for such a review. The process of review shall be in accordance with the procedures for assessing capacity under the Supported Wage System.

### **Other Terms and Conditions of Employment**

- (g) Where an assessment has been made, the applicable percentage shall apply to the wage rate only. Employees covered by the provisions of the clause will be entitled to the same terms and conditions of employment as all other workers covered by this Agreement paid on a pro rata basis.

### **Workplace Adjustment**

- (h) An Employer wishing to employ a person under the provisions of this clause shall take reasonable steps to make changes in the workplace to enhance the employee's capacity to do the job. Changes may involve re-design of job duties, working time arrangements and work organisation in consultation with other workers in the area.

### **Trial Period**

- (i) In order for an adequate assessment of the employee's capacity to be made, an Employer may employ a person under the provisions of this clause for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding 4 weeks) may be needed.
- (ii) During that trial period the assessment of capacity shall be undertaken and the proposed wage rate for a continuing employment relationship shall be determined.
- (iii) The minimum amount payable to the employee during the trial period shall be no less than \$69 per week.
- (iv) Work trials should include induction or training as appropriate to the job being trialled.
- (v) Where the Employer and employee wish to establish a continuing employment relationship following the completion of the trial period, a further contract of employment shall be entered into based on the outcome of assessment under subclause (d) hereof.

## 2.9 TERMINATION OF EMPLOYMENT

### Notice of termination by Employer

2.9.1 In order to terminate the employment of a full time or part time employee the Employer shall give to the employee the following notice -

Period of continuous service:

1 year or less	1 week
1 year and up to the completion of 3 years	2 weeks
3 years and up to the completion of 5 years	3 weeks
5 years and over	4 weeks

2.9.2 In addition to the notice in Sub-Paragraph 2.9.1 hereof, employees over 45 years of age at the time of the giving of the notice with not less than two years continuous service, shall be entitled to an additional week's notice.

2.9.3 Such notice may be given at any time during the week, but if given at any time within the employee's rostered working hours shall apply from the rostered finishing time for the day except where payment is made either partially or totally in lieu of notice, in which case time is calculated from the time of the notice.

2.9.4 Payment in lieu of the notice prescribed in Sub-Paragraph 2.9.1 and/or 2.9.2 hereof shall be made if the appropriate notice period is not given. Provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof.

2.9.5 In calculating any payment in lieu of notice the wages an employee would have received in respect of the ordinary time they would have worked during the period of notice had their employment not been terminated, shall be used.

## **2.10 NOTICE OF TERMINATION BY EMPLOYEES**

The notice of termination required to be given by a full time or part time employee shall be the same as that required of the Employer in clause 2.9.1, save and except that there shall be no additional notice based on the age of the employee concerned.

If an employee fails to give the notice required the Employer shall have the right to withhold monies due to the employee with a maximum amount equal to the ordinary time rate of pay for the period of notice required to be given under this clause.

## **2.11 TIME OFF DURING NOTICE PERIOD**

Where an Employer has given notice of termination to any 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 a time that is convenient to the employee after consultation with the Employer.

## **2.12 STATEMENT OF EMPLOYMENT**

The Employer shall, upon receipt of a request from an employee whose employment has been terminated, provide to the employee a written statement specifying the period of their employment and the classification of or the type of work performed by the employee.

## **2.13 WARNINGS AND DISMISSAL**

2.13.1 Should an employee, be accused of faulty and/or inefficient work or any other misdemeanour then the Employer shall serve a warning notice on that employee of the allegation. If the employee so choses then the employee can request the employer to provide a copy of the notice to the union or his/ her representative.

2.13.2 If the circumstances referred to in paragraph (2.13.1) occur again another notice will be issued.

2.13.3 If a third allegation of faulty and/or inefficient work or any other misdemeanour is made and proven then a notice of termination shall be issued to that employee.

2.13.4 Nothing in the Agreement shall affect the right of the Employer to dismiss an employee without notice for malingering, inefficiency, neglect of duty or proven misconduct. In such a case wages shall be paid up to the time of dismissal only.

2.13.5 The written warnings given under 2.13.1 shall apply for a period of 12 months.

## **2.14 NON ATTENDANCE**

2.14.1 An employee not attending for duty shall, except as provided for by this Agreement, lose pay for the actual time of such non-attendance.

2.14.2 The absence of an employee from work for a continuous period exceeding 5 working days, without the consent of the Employer and without notification to the Employer, shall be taken

that the employee has abandoned his/her employment and the Employer will be entitled to treat the employment as having been terminated.

## 2.15 REDUNDANCY

### 2.15.1 Discussions before termination

- (i) Where the Employer has made a definite decision that the Employer no longer wishes the job, the weekly employee has been doing, done by anyone and this is not due to the ordinary and customary turnover of labour and that decision may lead to termination of employment of an employee(s), the Employer shall hold discussions with the employees directly affected and with the Union.
- (ii) The discussions shall take place as soon as is practicable after a definite decision which will invoke the provisions of paragraph (i) hereof, and shall cover, inter alia, any reasons for the proposed terminations, measures to mitigate any adverse effects of any terminations on the employees concerned.
- (iii) For the purpose of the discussion the Employer shall, as soon as practicable, provide in writing to the employees concerned and the Union, all relevant information about the proposed terminations including the reasons for the proposed terminations, the number and categories of employees likely to be affected, and the number of workers normally employed and the period over which the terminations are likely to be carried out. Provided that the Employer shall not be required to disclose confidential information the disclosure of which would be inimical to the Employer's interests?
- (iv) Nothing in this clause is to be construed as requiring the employer to disclose information contrary to the Workplace Relations regulations

### 2.15.2 Transfer to lower paid duties

Where an employee is transferred to lower paid duties for reasons set out in Clause 2.15.1 (i) in this Agreement, the employee shall be entitled to the same period of notice of transfer as he or she would have been entitled to if his or her employment had been terminated and the Employer may at the Employer's option, make payment in lieu thereof of an amount equal to the difference between the employee's former classification rate and the new lower classification rate for the number of weeks of notice still owing.

### 2.15.3 Severance Pay

In addition to the period of notice prescribed for ordinary termination in Clause 2.9, and subject to further order of the Commission, a full time or part time (in accordance with clause 2.4) employee whose employment is terminated for reasons set out in Clause 2.15.1 (i) of this Agreement, shall be entitled to the following amount of severance pay in respect of continuous period of service -

Period of continuous service	Severance Pay	
1 year or less	Under 45 years	45 years and over
1 year and up to the completion of 2 years	Nil	Nil
	4 wks pay	5 wks pay

2 years and up to the completion of 3 years	7 wks pay	8.75 wks pay
3 years and up to the completion of 4 years	10 wks pay	12.5 wks pay
4 years and up to the completion of 5 years	12 wks pay	15 weeks pay
5 years and up to the completion of 6 years	14 wks pay	17.5 wks pay
6 years and over	16 wks pay	20 wks pay

"Week's pay" means the classification rate for the employee concerned.

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.

#### 2.15.4 Employee leaving during notice period

An employee whose employment is terminated for reasons set out in Clause 2.15.1(i) hereof may terminate his or her employment during the period of notice and, if so, shall be entitled to the same benefits and payments under this Clause had he or she remained with the Employer until the expiry of such notice. Provided that in such circumstances the employee shall not be entitled to payment in lieu of notice.

#### 2.15.5 Alternative Employment

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 an offer of acceptable alternative employment for an employee.

#### 2.15.6 Time off during notice period

- (i) During the period of notice of termination given by the Employer for reasons set out in Clause 2.15.1(i) an employee shall be allowed up to one days time off without loss of pay during each week of notice for the purpose of seeking other employment.
- (ii) If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee shall, at the request of the Employer, be required to produce proof of attendance at an interview or he or she shall not receive payment for the time absent. For this purpose a statutory declaration of the employee will be sufficient.

#### 2.15.7 Notice to Centrelink

Where a decision has been made to terminate 15 or more employees in circumstances outlined in Clause 2.15.1 (i), the Employer shall notify Centrelink thereof as soon as possible giving relevant information including the number and categories of the employees likely to be affected and the period over which the terminations are intended to be carried out.

#### 2.15.8 Transmission of business

- (i) Where a business is before or after the date of this Agreement, transmitted from an Employer (in this clause called "the transmitter") to another Employer (in this clause called 'the transmittee') and an employee who, at the time of

such transmission was an employee of the transmitter in that business becomes an employee of the transferee:

- (a) the continuity of the employment of the employee shall be deemed not to have been broken by reason of such transmission; and
  - (b) The period of employment which the employee has had with the transmitter or any prior transmitter shall be deemed to be service of the employee with the transferee.
- (ii) In this clause "business" includes trade, process, business or occupation and includes part of any such business and "transmission" includes transfer, conveyance, assignment or succession whether by agreement or by operation of law and "transferred" has a corresponding meaning.

#### **2.15.9 Employees with less than one year service**

This clause 2.15 shall not apply to employees with less than one year's continuous service and the general obligation on Employers should be not more than to give relevant employees an indication of the impending redundancy at the first reasonable opportunity and to take such steps as may be reasonable to facilitate the obtaining by the employees of suitable alternative employment.

### **2.16 EXEMPTIONS FROM TERMINATION, CHANGE AND REDUNDANCY**

#### **2.16.1 Employees exempted**

Clauses 2.9, 2.10, 2.11, 2.12, 2.13, 2.14 and 2.15 shall not apply where employment is terminated as a consequence of conduct of the employee that justifies instant dismissal, including malingering, inefficiency, neglect of duty or misconduct, or in the case of casual employees, apprentices, or employees engaged for a specific period of time or for a specified task or tasks.

#### **2.16.2 Incapacity to pay**

The Employer, in a particular redundancy case, may make application to the Commission to have the general severance pay prescription varied on the basis of the Employer's incapacity to pay.

## PART 3

## WAGES AND RELATED MATTERS

### 3.1 WEEKLY WAGE RATES

- a) From the first full pay period beginning on or after the following dates the applicable full time wage rates per week shall be as follows:

	% of			
	Adult	RATES		
	Rates	29Sep-08	29Sep-09	29Sep-10
<b>DESCRIPTION</b>				
Butcher		747.50	777.40	808.50
Cabinet Attendant (no junior rates)	100%	659.66	686.05	713.49
Meat Assistant	90%	672.74	699.65	727.64
Wrapper/Packer - 20 Years	100%	659.66	686.05	713.49
Wrapper/Packer - 19 Years	85%	560.72	583.14	606.47
Wrapper/Packer - 18 Years	75%	494.75	514.54	535.12
Wrapper/Packer - 17 Years	60%	395.79	411.62	428.08
Wrapper/Packer - 16 Years	50%	329.83	343.02	356.74
	% of			
	Adult	RATES		
	Rates	Sep-08	Sep-09	Sep-10
<b>Apprentices</b>				
1 <sup>st</sup> Year	50%	373.73	388.68	404.23
2 <sup>nd</sup> Year	65%	485.87	505.30	525.51
3 <sup>rd</sup> Year	85%	635.38	660.79	687.22
final Year	95%	710.11	738.51	768.05

- b) **Second in-charge allowance:**

Any employee who is a designated Second in Charge of a Meat Room as defined in clause 1.5.12 shall be paid an allowance of \$29.82 per week, payable for all purposes.

- c) **Allowance**

In addition to the above weekly wage rates all employees shall receive a \$3.34 per week cold preparation area allowance. This allowance is in recognition of the chilled climate that meat department staff must work in. The allowance is not for all purposes of the Agreement and will be paid on a pro-rata hourly basis.

- d) **Basic Periodic rate of Pay**

So long as an employee is subject to this agreement the basic periodic rate of pay that will be paid to the employee will not be less than the basic periodic rate of pay that would have been applicable to the employee but for this agreement.

Basic periodic payment has the same meaning as in the Workplace relations Act 1996.

## **3.2 PAYMENT OF WAGES**

- 3.2.1 Wages shall be paid on the usual pay day of the Employer (which shall be no later than Thursday in each week) following the end of the pay period.
- 3.2.2 Payment shall be made by deposit of wages in a bank account or similar account to be nominated by the employee.
- 3.2.3 Upon termination of employment, any outstanding monies owed to the employee will be processed in the regular manner and be paid into the employee's account on the normal pay day after termination. In genuine cases of hardship or special circumstances, to be examined on a case by case basis, an employee may have their termination monies paid in cash. The employee will need to apply in writing at least 7 days prior to their termination date, for cash payments to be made. Provided further that all termination monies will be withheld until property belonging to the Employer is returned, including the Employer discount card.
- 3.2.4 On each pay day each employee shall receive a pay slip showing the total amount of ordinary wages and overtime and all deductions made.

## **3.3 SUPERANNUATION**

- 3.3.1 The Employer shall be a participating employer in the Meat Industry Employees' Superannuation Fund Pty Ltd., and the Retail Employees' Superannuation Trust. Employees shall have the right to choose which of these two funds the Employer shall make contributions to on the employee's behalf.
- 3.3.2 The Employer shall make superannuation contributions on behalf of employees from the date that employment commences and in accordance with this clause.
- 3.3.3 The Employer's contribution for full-time and part-time employees shall be the minimum percentage as prescribed by the Superannuation Guarantee (Administration) Act 1992 and Superannuation Guarantee Charge Act 1992 whichever is the greater.
- 3.3.4 The Employer's contribution for casual employees is the amount required by the Superannuation Guarantee (Administration) Act 1992 and Superannuation Guarantee Charge Act 1992.
- 3.3.5 An employee may direct the Employer to pay a portion of the employees wage into the Meat Industry Employees Superannuation Fund Pty Ltd or Retail Employees Superannuation Trust for the benefit of the employee, subject to the amounts prescribed in the Australian taxation office aged based Employer tax deduction limits. Any amounts paid in accordance with such direction are deemed to be paid in satisfaction of the Employers obligation to pay wages set out in the Agreement. Accordingly no breach of this Agreement will occur if the actual wages paid to the employee fall below the rates set by this Agreement solely because of the Employer paying additional superannuation contributions under this clause.

## PART 4 HOURS OF WORK, SHIFTWORK, PENALTIES AND OVERTIME

### 4.1 HOURS OF WORK

#### 4.1.1 Full-time Employees

- (a) Full-time employees shall work a five-day shift per week unless otherwise agreed by the employee in which case the employee may work a four-day shift. In the event agreement is not reached the matter shall be resolved through the Grievance Procedure.
- (b) An employee's agreement to work a four-day shift shall be in line with provision of trial rosters and Rostering provisions in this Agreement.
- (c) Full-time employees working a five-day shift/ 40 hours shall be paid at an hourly rate of one fortieth (1/40th) of their applicable weekly rate as specified in Clause 3.
- (d)
  - (i) Full-time employees working a four day shift shall be paid at an hourly rate of one thirty-eighth (1/38th) of their applicable weekly rate as specified in Clause 3.
  - (ii) A Full-time employee may request to work a five day shift of 38 hours per week – if mutually agreed to by the employer then they shall be paid at an hourly rate of one thirty-eighth (1/38th) of their applicable weekly rate as specified in Clause 3. The employee can at anytime request to revert back to a 5 day shift / 40 hours with an RDO
- (e) Hours of work for full-time employees shall be rostered on a regular and pre-determined basis. Ordinary rostered weekly hours for a full-time employee shall be up to 10 hours per day and shall be worked between 5am and 9pm Monday to Friday and 6am to 6pm Saturday inclusive.
  - (i) For ordinary rostered weekly hours worked between 6pm and 9pm Monday to Friday a loading of 50% in addition to the ordinary time earnings shall apply.
  - (ii) For ordinary rostered weekly hours worked between 6am and 6pm Saturday a loading of 75% in addition to the ordinary rate shall apply.
  - (iii) The hours of work are subject to the provisions of Clause 4.2.1.
- (f) Employees shall be paid overtime pursuant to Clause 4.5 in respect of hours worked in excess of their regularly rostered hours or in excess of their ordinary weekly hours, except where day work employees work beyond their rostered hours of 9pm Monday to Friday or after 6pm on a Saturday, they shall be paid double time for all such hours worked.
- (g) Ordinary weekly hours shall be 38 hours in respect of full-time employees working a four-day shift and 40 hours in respect of full-time employees working a five-day shift.
- (h) By agreement with an employee, hours worked outside the spread of hours as prescribed in Clause 4.1.1(e) may be counted as part of the employee's ordinary

weekly hours notwithstanding that the employee has been paid at overtime rates under Clause 4.5 for having worked such hours.

- (i) Full-time employees working a 40 hour week are compensated by receiving a rostered day off (RDO) pursuant to Clause 4.3. However, full-time employees working a four-day shift or 38 hours over 5 days shall not receive a RDO.
- (j) No employee may be rostered to work more than (2) late nights between Monday and Friday in any week, but they may agree to do so.

#### 4.1.2 Part-time Employees

- (a) Part-time employees shall be rostered to work ordinary, specific hours each week.
- (b) The ordinary specified weekly hours rostered to a part-time employee shall be worked between 5am and 9pm Monday to Friday and 6am and 6pm on Saturdays and Sundays. Ordinary hours for a part-time employees on Sundays, shall be voluntary.
- (c) The ordinary, specified weekly hours rostered to a part-time employee shall be a minimum of 3 hours per shift and 10 hours per week and shall not exceed a maximum of 38 hours per week.
- (d) Provided that, a part time employee who works in excess of their contracted hours shall be paid as follows.
  - i. In conjunction with, or in addition to any rostered shift and on a voluntary basis, a part-time employee may be offered on an ad hoc basis additional hours up to a maximum of 38 hours in any week.
  - ii. If accepted, the additional hours shall be paid at the employee's ordinary part-time rate, subject to any relevant penalties and provisions
  - iii. Part-time employees who, by mutual agreement, accept additional hours at the ordinary rate of pay, do so on the basis of such additional hours being included in the calculation of:
    - (1) Entitlements to sick leave and annual leave and long service leave.
    - (2) Annual Leave and sick leave entitlements for part-time employees shall be calculated pro-rata, based on the entitlements for full-time employees.
    - (3) Where the number of rostered hours varies during any anniversary year, (including where an employee transfers from full-time to part-time and vice versa) entitlements shall be calculated upon the average number of ordinary hours worked during the anniversary year.
- (e) Part-time employees who work between 6pm and 9pm Monday to Friday or who work any ordinary hours on a Saturday shall be paid a 25% penalty rate in addition to their

ordinary hourly rate of pay. Part-time employees, who work any ordinary hours on a Sunday, shall be paid a 100% penalty rate in addition to their ordinary hourly rate of pay.

- (f) Part-time employees who work additional hours in excess of the 38 hour maximum per week will be paid overtime pursuant to Clause 4.5.

#### 4.1.3 Casual Employees

- (a) Casual employees shall not be rostered for regular and specified hours such that they would be classified as a part-time employee.
- (b) Casual employees shall not be employed for less than three hours per day and ordinary hours shall be worked between 5am and 9pm Monday to Friday and 6am and 6pm Saturdays.
- (c) Wherever possible, the Employer shall notify casual employees of their starting and finishing times for the day of their employment.
- (d) Casual employees may be paid at their ordinary time rate (as defined in clause 2.5) for a maximum of 38 hours a per clause 4.1.3 (b) above. Any work performed outside these hours shall be paid in accordance with clause 4.5 overtime.

#### 4.2 Rostering Procedures

In addition to the above the following rostering procedures shall apply -

- (a) All rosters for full-time employees shall provide for 152 hours over any 4 week cycle.
- (b) All rosters for part-time employees shall provide for an agreed number of hours with a minimum of 48 hours and a maximum of 128 hours over any 4 week cycle.
- (c) The minimum engagement an employee can be rostered on any day shall be:
  - 5 hours for Full time
  - 3 hours for part time or casual

The maximum engagement any employee can be rostered on any day shall be 10 hours (excluding meal breaks) provided no more than two 10 hour days are worked in any one week. More than two, ten hour shifts per week may be worked by agreement.

- (d) Rostered hours shall be worked on not more than 5 days in each week, provided that rostered hours may be worked on 6 days in one week and not more than 4 days are worked in the following week.
- (e) An employee may be rostered to a maximum of 6 consecutive days in any fortnight.
- (f) A part-time employee may be rostered to a maximum of 20 days in any 4 week cycle.
- (g) A full-time employee may be rostered to work to a maximum 19 days in any 4 week cycle.

- (h) The maximum hours an employee may be rostered to work in any week shall be 48 for a full-time employee and 38 for a part-time employee.
- (i) Where an employee works a rostered Saturday shift as part of their normal hours, the employee will be entitled to have 2 consecutive days off.
- (j) Full time and part time employees shall be provided with rosters on a permanent basis.
- (k) An employee's roster may not be changed with the intent of avoiding payment of penalties or loadings, or other benefits applicable. Should such circumstances arise, the employee shall be entitled to such penalty, loading or benefit, as if their roster had not been changed. The provisions of this sub-clause shall not apply where the change in rosters is as a result of substantiated operational need.
- (l) Rosters of full time and part time employees may be changed by agreement or by the giving of 14 days notice or by not less than 48 hours in the case of an emergency or unforeseen circumstances ' Rosters shall not be continually changed at the end of each cycle or to avoid obligations under this Agreement.
- (m) The Employer agrees that any problem that may arise out of rostering will be resolved through the Disputes Procedure.  
In preparing or changing rosters the Employer will, as far as is practicable, have regard for genuine family responsibilities.  
In rostering of RDO's, should an employee seek to change their RDO during any particular cycle to accommodate personal commitments, on the basis that adequate notice is given then every effort will be made in a genuine attempt to meet their wishes.

#### 4.2.1 Alternative Rosters

Notwithstanding the requirements of Clause 4.2, employees may agree to other roster arrangements and be paid the appropriate rates as prescribed by Clause 4.1.1(e) (i) and (ii).

### 4.3 ROSTERED DAYS OFF

- 4.3.1. (a) Subject to Clause 4.1.1(i) full time employees will be entitled to one day off in each twenty (20) day, four (4) week cycle.
- (b) Payment for the day off will be calculated on the following basis.
  - (i) Each employee shall accrue a money credit based on one nineteenth (1/19th) of the actual ordinary earnings paid each day (excluding rostered or deferred days off).
  - (ii) Any paid absence from work shall accrue a money credit based on one nineteenth (1/19th) of the actual amount paid for such absence. This includes regular payments received whilst in receipt of weekly payment under the Accident Compensation Act 1985 and/or in receipt of Accident Pay subject to Clause 9.2.5 Accident Pay but excludes payments for rostered or deferred days off.

- (c) Each employee will accrue a time credit on the basis of one nineteenth (1 /1 9th) of the ordinary hours worked on each calendar day, Monday to Saturday (excluding rostered or deferred days off).
- (d) A day's pay for the purposes of a day off will be calculated by dividing the amount of money accrued by the numbers of days accumulated.

4.3.2 Payment shall not be made by an Employer to an employee in lieu of any accumulated day off to which the employee is entitled under this part nor shall any such payment be accepted by the employee, except under the following circumstances only:

- (a) Any entitlement accumulated in accordance with clause 4.3.1 of this part shall be paid to the employee on termination of employment for any reason.
- (b) When an employee is absent in receipt of weekly payments under the Accident Compensation Act 1985 entitlements accumulated in accordance with clause 4.3.1(b) during such absence shall be paid to the employee provided that the minimum payment made shall be the equivalent of a day's pay calculated in accordance with clause 4.3.1(d).

Where such payment is made to an employee any entitlement accumulated in accordance with clause 4.3.1(b) (ii), during such period of absence, shall be deemed to have been taken by the employee.

Any entitlements accumulated in accordance with sub-clause 4.3.1(b) and (c) by the Employee prior to such absence shall remain to the credit of the employee.

- 4.3.3 (a) An employee may be regularly rostered off during a particular work cycle, or
- (b) An employee may, by agreement, be rostered off on any day of the week with fourteen (14) days notice of the day to be rostered off, or
- (c) An employee may be required to accumulate their entitlement up to a total of nine (9) days.

In this case such accumulated days off and others subsequently accumulated must:

- (i) be taken at such time as is agreed between the Employer and the employee, and
- (ii) be taken before the expiration of twelve (12) months from the anniversary of the date on which such accumulation began.

4.3.4 The method of implementation of this part shall be determined by consultation between the management and Union at store level.

4.3.5 Rostered days off on Saturdays and Sundays

- (a) A full-time employee, who has an RDO on a Saturday or a Sunday, shall be paid their ordinary rate of pay, including the Saturday or Sunday loading.

#### **4.4 TRAVELLING EXPENSES**

Where an employee is required to use their own motor vehicle in the performance of their duties they shall be paid a transport allowance of .54c per kilometre up to a maximum of 200kms in any week.

For travel in excess of 200kms the employee shall be paid, in addition to the allowance for the first 200kms, an allowance of .27c per kilometre for such distance over 200kms.

#### **4.5 OVERTIME**

Except as elsewhere provided:

- 4.5.1 An employee shall be paid overtime in accordance with clause 4.5.2 and 4.5.3 for hours worked outside their ordinary weekly hours as defined in Clause 4.1.
- 4.5.2 Overtime worked by an employee on any day Monday to Saturday shall be paid at the rate of time and a half for the first two hours and double time thereafter.
- 4.5.3. Any work performed by an employee on a Sunday shall be paid at the rate of double time.
- 4.5.5 The Employer may request an employee to work reasonable overtime.
- 4.5.6 Time off in lieu of payment of the penalty rate prescribed for work at overtime rates pursuant to this clause, may be provided if an employee so elects and it is agreed to by the Employer.

Such time off in lieu is to be taken at a mutually convenient time and within four weeks of the overtime being worked.

Time off in lieu must equate to the penalty rate.

#### **4.6 EMPLOYMENT FLEXIBILITY**

- 4.6.1 An employee may work up to 49% of their ordinary contracted hours (for casual employees, 49% of their hours), in the main body of the supermarket, following prior discussion and agreement with the employee and a nominated representative of the employees choice.
- 4.6.2 The purpose of this clause is to overcome issues associated with weekly employees potentially having to reduce their ordinary hours due to new or additional competition, refurbishments, cyclical downturns or any other relevant factor.
- 4.6.3 Where an employee is required to work part of their hours in the main body of the supermarket, the employee will continue to receive the same pay rates, penalty rates and other conditions of employment, as if they were working all of their hours within the meat department.
- 4.6.4 Where an employee has requested additional hours, the employee will be paid in accordance with the provisions of the Agreement applicable to the department within which they work. If the employee has not requested additional hours under this clause then the provisions of this Agreement would otherwise apply.
- 4.6.5 Notwithstanding clause 4.1.1 an employee working in accordance with clause 4.6.4 will not be entitled to the 75% loading for working on a Saturday and the loading will remain at 25%.

## **PART 5 MEAL BREAKS AND TEA BREAKS**

### **5.1 MEAL BREAKS AND REST PERIODS**

- 5.1.1 No employee shall be required to work for more than five (5) hours without a break for a meal. An employee may however agree to delay a meal break to a time more than five hours after commencement.
- 5.1.2 Each employee shall be granted a meal interval of not more than one (1) hour on a full working day except where by agreement between an employee and his/her Employer an employee chooses to take a meal interval of one half (1/2) hour.
- 5.1.3 An employee rostered to work a 9 hr shift or more on any day shall be entitled to request a further unpaid meal break of 30 mins.
- 5.1.4 An employee required to work overtime for one and one half (1 and 1/2) hours or more after their rostered finishing time shall be allowed a meal interval of not less than one half (1/2) hour provided, however, that if by continuing at work the employee can complete the work in not more than two (2) hours the Employer shall not be obliged under this sub-clause to grant a break for a meal.
- 5.1.5 Except in the case of emergency, the time for meal intervals shall not be altered except with twenty-four (24) hours notice to the employee concerned.
- 5.1.6 Meal intervals where allowed shall not, except as otherwise prescribed, be counted as part of the weekly or daily hours worked.
- 5.1.7 Any employee called upon to work during a meal interval shall be paid at overtime rates for the period so employed and such overtime rates shall continue until a meal break is allowed.
- 5.1.8 An employee required to work over time for one and one half (1 and 1/2) hours or more after their rostered finishing time shall be paid the sum of \$8.94 meal money.
- 5.1.9 All employees working 7 hours or more per day shall receive 2 paid rest periods of 10 minutes. The first rest period to be taken between the time of starting work and the meal break, the second rest period to be taken between the end of the meal break and the normal finishing time.
- 5.1.10 All employees working 4 hours but less than 7 hours per day, shall receive 1 paid rest period of 10 minutes. If the employee is entitled to a meal break, then the rest period is to be taken either between the normal commencing time and the meal break or between the end of the meal break and the normal finishing time, whichever has the greater duration.

## **PART 6 PUBLIC HOLIDAYS AND LEAVE**

### **6.1 PUBLIC HOLIDAYS**

#### **6.1.1 Holidays**

Permanent employees shall be entitled to holidays on the following days:

i) New Year's Day, Good Friday, Easter Saturday, Easter Monday, Christmas Day and Boxing Day; and

ii) The following days as prescribed in relevant State, Territories and localities: Australia Day, Anzac Day, Queen's Birthday, Melbourne Cup Day and Labour Day: and

Permanent employees shall be entitled, without loss of pay, to public holidays as:

Picnic Day (3<sup>rd</sup> Wednesday in January each year). An employee may request in writing an alternative day in lieu of the fixed picnic day in January. Such employees will be paid normal rates for working the 3<sup>rd</sup> Wednesday in January.

#### Melbourne Cup Day

In non-metropolitan areas some other day mutually agreed upon in writing between an employer and his employees in any particular establishment, such agreement to be entered into on or before the 31st day of January in each year. In the event of failure to agree on the part of the parties concerned or any dispute arising in respect of the observance of Melbourne Cup Day or on the day to be observed in lieu thereof the matter may be referred to the Disputes Settlement Procedure.

### 6.1.2 Additional Holidays

Permanent employees shall also be entitled without loss of pay to an additional public holiday in a State or territory when such public holiday is proclaimed or gazetted by the authority of the Commonwealth Government or of a State or Territory Government and such proclaimed or gazetted holiday is to be observed generally by persons throughout the State or Territory.

### 6.1.3 Holidays in Lieu

(i) When Christmas Day is a Saturday or a Sunday, a holiday in lieu thereof shall be observed on the 27th December.

(ii) When Boxing Day is a Saturday or a Sunday, a holiday in lieu thereof shall be observed on the 28th December.

(iii) When New Year's Day or Australia Day is a Saturday or a Sunday, a holiday in lieu thereof shall be observed on the next Monday.

### 6.1.4 Substitution Agreement

When work is required to be performed on an actual public holiday, which has had the substitution provision of sub-clause 6.1.3 applied, the following shall apply:

(i) If an employee is ordinarily rostered to work on the actual public holiday and the substituted day, then the employee is to elect which day is to be their public holiday and receive the standard public holiday benefits on that day. The other day shall then be a normal rostered day subject to (iv) of this sub-clause.

(ii) If an employee is rostered to work on the actual public holiday and not the substituted day, the employee shall receive the standard public holiday benefits on the actual day.

(iii) If an employee is rostered to work on the substitute day and not the actual public holiday, the employee shall receive the public holiday benefits on the substituted day.

(iv) Additional Christmas Holiday Loading:

In the case of Christmas Day where substitution occurs, work on the 25th December will attract an additional loading of half a normal (ordinary time) day's wage for a full day's work in addition to the Saturday/Sunday rate and the employee will also be entitled to the benefits of the substituted public holiday.

#### 6.1.5 Non Working Day falls on a Public Holiday

Full-time employees, whose non-working day falls on a Public Holiday, shall be entitled by mutual agreement to either:

- (i) an additional days wages; or
- (ii) an addition of one day to the employee's annual holiday, exclusive of annual leave loading; or
- (iii) an alternative day off as agreed between the employer and the employee taking into consideration the operational requirements of the store; or
- (iv) if the full-time employee has not been granted or taken an alternative day off within 28 days after the nominated public holiday, the full-time employee shall receive an additional day's pay. The additional day's pay shall be paid on the normal payday after the 28-day period has elapsed.

For the purpose of this paragraph, a full-time employees "day" shall mean the normal rostered hours the employee would have worked on the day.

The provisions of this sub-clause shall not apply to Easter Saturday or Anzac Day.

#### 6.1.7 Part Time Employees

- (i) Where the work days of the normal roster of a part time employee include a public holiday listed at 6.1.1 of this clause, the employee shall be entitled to be absent from work without loss of pay on that day.
- (ii) If a part time employee works on a public holiday the employee shall receive the public holiday benefits, prescribed in 6.1.8 of this clause.
- (iii) If a part time employee whose work days of a normal roster include a Saturday or Sunday which would be a prescribed public holiday but for the substitution of an alternative day:
  - a) the employee may be granted leave with pay on the 'actual' day without any substitution, or
  - b) the employee may work on the 'actual' day at normal Saturday or Sunday rates and shall be allowed to take another day as agreed with the employer, which may or may not be the prescribed substitute day, as a paid holiday. (In the case of Christmas Day an additional loading of half a normal ordinary time hour's wage for each hour worked), or
  - c) the employee may work on the 'actual' day at normal Saturday or Sunday rates (with the Christmas Day loading if applicable and receive, in addition, payment at ordinary time rates for an additional day of equal length (with no substitution of an alternative day).

### 6.1.8 Rate of Pay

If the employee also works on the prescribed substitute day the employee shall do so at ordinary time rates.

All employees working on a public holiday shall be paid at the rate of 250% of the ordinary time rate capped for all purposes under this Agreement with a minimum payment as for:

Full time, Part time and Casual: 3 hours worked.

Time off in lieu of payment of the penalty rate prescribed for work on a public holiday, pursuant to this clause, may be provided if an employee so elects and it is agreed to by the Company.

Such time off in lieu is to be taken at a mutually convenient time and within four weeks of the public holiday.

Time off in lieu must equate to the penalty rate.

## 6.2 NON TRADING DAY

### 6.2.1 Application

This clause 6.2 applies to the Employer's stores that are unable to open due to a Government declaration that the day is a "Non Trading Day".

### 6.2.2 Calling for Volunteers

(A) Where a store to which this clause applies requires any employees to work on the Non Trading Day and the store is unable to open, volunteers will first be called from among the employees who would normally be rostered at that store on the day in question.

(B) If this step does not result in sufficient volunteers with sufficient skills to meet the needs of the store, volunteers will then be sought from among appropriately skilled employees in the department not normally rostered on the day

(C) Any employee who volunteers to work on the Non Trading Day shall receive the appropriate rate for that day.

### 6.2.3 Other Staffing Arrangements

(A) Where a full time or part time employee who would normally be rostered to work on the day in question and is not required to work due to it being a Non Trading Day for that store, such as if an employee has not volunteered, the employee must elect one of the following;

(1) The employee may take a scheduled R.D.O; or

(2) The employee may take an annual leave day; or

(3) The employee may take leave without pay for the day.

(B) As an alternative to the paragraphs in 6.2.3(A), above, through agreement with the store manager and subject to the availability of other work, an employee who would normally be

rostered to work on the Non Trading Day and who did not work on the Non Trading Day may work another day within their roster cycle equal to the hours which they would normally have been rostered on the Non Trading Day. Where this occurs, the employee will receive the applicable rate attached to the actual "Non Trading Day" for the alternative day, unless the alternative day worked is a Sunday or public holiday, in which case the Sunday or public holiday rate will apply.

(C) Where an excess of volunteers occurs, the arrangements outlined in paragraph 6.2.3(B) will apply.

#### 6.2.4

i. Where the government has declared a "Non Trading Day" and a store is allowed to open due to the appropriate exemptions from the "Non Trading Day" provisions, the arrangements outlined in paragraphs 6.2.2 will apply.

ii. If the above steps still result in a lack of sufficient volunteers with sufficient skills to meet the needs of the store described in paragraph 6.2.4(i) then employees normally rostered to work on this day may be required to work.

### 6.3 LEAVE

#### 6.3.1 ANNUAL LEAVE

##### 6.3.1.1 Entitlement

Except as hereinafter provided, an employee (excluding a casual employee) at the completion of each twelve months of continuous service (less the period of annual leave) shall be allowed a period of paid annual leave, of four weeks. This entitlement will be in accordance with the Workplace Relations Act 1996.

##### 6.3.1.2 Public Holidays Excluded

(i) the annual leave prescribed by this clause shall be exclusive of agreement holidays prescribed by clause 6.1 of this Agreement, but shall include all other non working days.

(ii) If any public holiday falls within an employee's period of annual leave and is observed on the day in which, in the case of the employee, would have been an ordinary working day, there shall be added to that period one day, being an ordinary working day, for each such holiday observed as aforesaid.

(iii) Where an employee without reasonable excuse, proof whereof shall lie upon them, is absent from their employment on the working day prior to the commencement of their annual leave, or fails to resume work at their ordinary starting time on the working day immediately following the last day of the period of their annual leave, the employee shall not be entitled to payment for the public holidays which fall within this period of annual leave.

##### 6.3.1.3 Broken Leave

The annual leave shall be given and taken in a continuous period or, if the employee and the employer so agree, in two separate periods (neither of which shall be less than one week), or in such other periods as may be mutually agreed one period of which shall be a minimum of two weeks.

#### **6.3.1.4 Notice of Leave to be given**

At least fourteen days notice shall be given to an employee by the Employer as to when he/she is to commence his/her leave. If such notice is withdrawn by an employer and the employee postpones his/her leave, the employee shall be compensated by the Employer for any reasonable out of pocket loss occasioned by the employee, but in the case of dispute the amount shall be settled by the grievance procedure.

#### **6.3.1.5 Leave to be given and taken**

The annual leave provided for by this clause shall be allowed and shall be taken, and except as provided in sub-clauses 6.3.1.1, 6.3.1.5 and 6.3.1.9 of this clause payment shall not be made or accepted in lieu of annual leave. If an employer fails to grant leave within the period of any postponement thereof mentioned in this clause and is convicted on that ground for a breach of this agreement, and the employee is not a consenting party to such failure, the employer shall in addition to the wages payable under sub-clause 6.3.1.6 and to the loading thereof prescribed by sub-clause 6.3.1.7 of this clause, also pay such employee a further sum equal to the wages and loading payable under the said sub-clauses 6.3.1.6 and 6.3.1.9.

#### **6.3.1.6 Payment of wages**

(a) Each employee before going on leave shall be paid the amount of wages they would have received in respect of the rostered hours which they would have worked had they not been on leave during the relevant periods due to them for the period for which they are entitled to leave.

(b) For the purpose of this sub-clause and sub-clause 6.3.1.10 hereof, the wages shall not be less than the appropriate rate to which the employee is entitled in accordance with their contract of employment for ordinary time earnings for the roster on which the employee was ordinarily employed immediately prior to the commencement of their leave or the termination of their employment as the case may be but in the event of an employee being given notice by the employer to change their roster during a period of four weeks prior to such commencement or termination and such change of roster results in a reduction in wages then the wages to be paid to such employee shall be an amount being the average of the weekly wages, excluding overtime, paid during the period for which the annual leave accrued.

#### **6.3.1.7 Loading on Annual Leave**

During a period of annual leave an employee shall receive a loading of 17.5% calculated on the weekly wage as prescribed by Clause 3.1(a) or (b).

#### **6.3.1.8 Leave in Advance**

(i) An employer may grant annual leave to an employee before the right thereto has accrued, but where leave is taken in such a case a further period of annual leave shall not commence to accrue until the expiration of the twelve months in respect of which annual leave had been taken before it accrued.

(ii) Where the leave has been taken by an employee pursuant to paragraph (i) of this sub-clause before the right thereto has accrued due and the employee subsequently leaves or is discharged from the services of the employer before completing the twelve months continuous service in respect of which the leave was granted, the employer may deduct from whatever remunerations are payable on the termination of the employment a sum being equivalent to the proportion of the payment for such leave applicable to that period of the qualifying period not served by the employee at the time of termination, but such deduction shall not include any sums paid for any of the holidays prescribed in clause 6.1 of this Agreement.

Provided that in cases where such leave is granted at the request of the employee the employer may, when making payment under sub-clause 6.3.1.6 of this clause, withhold from the employee a sum being the equivalent of the proportion of such payment applicable to that period of the qualifying period not served by the employee at the time of going on such leave and retain such sum until the expiration of such qualifying period.

#### 6.3.1.9 Proportionate Payment

When an employee (not being a casual employee) leaves the employment of his employer, or when his services are terminated by the employer during the course of any qualifying twelve monthly period, proportionate payments shall be made on the basis of one twelfth of the payment prescribed by sub-clause (g) of this clause for that employment.

Provided further that employees (not being casual employees) shall be entitled under the provisions of this sub-clause to payment of the 17.5% loading prescribed by sub-clause 6.3.1.7 of this clause except where an employee is dismissed for a proven act of theft, violence or abuse.

#### 6.3.1.10 Calculation of Continuous Service

- (1) Continuity of service shall be deemed to be continuous notwithstanding:
  - (a) any interruption or determination of the employment by the Employer, if such interruption or determination has been made with the intention of avoiding obligations hereunder in respect of annual leave;
  - (b) any absence from work of not more than fourteen days in the twelve months on account of sickness or accident (proof whereof shall be on the employee);
  - (c) any absence on account of leave granted, imposed or agreed to by the Employer;
  - (d) any absence due to reasonable cause (including absences on account of sickness or accident of more than fourteen days), proof whereof shall be on the employee;
  - (e) any absence in respect of which an employee suffers loss of pay for any public holiday falling within the employees period of annual leave in pursuance of the terms of sub-clause (c) of this clause.

Provided that, in cases of personal sickness or accident or absence with reasonable cause, the employee to become entitled to the benefit of this sub-clause shall, if

practicable, inform the employer in writing within twenty four hours after the commencement of such absence of his inability to attend for duty and as far as practicable the nature of the illness, injury, or cause, and the estimated duration of his absence.

(2) In calculating a period of twelve months continuous service:

(a) Any annual leave taken therein;

(b) Any absences of the kind mentioned in paragraph (1) (a) and (b) hereof of this sub-clause;

shall be counted as part of such period.

(3) In respect of absences of the kind mentioned in paragraph (1)(a) and (d) of this sub-clause the employee shall serve such additional period as part of his qualifications for annual leave as will equal the period of such absences.

(a) Any absences from work by reason of any cause not being a cause specified in the sub-clause shall not be deemed to break the continuity of service for the purposes of this clause, unless the employer during the absence or within fourteen days of the termination of the absence notifies the employee in writing that such absence will be regarded as having broken the continuity of service.

(b) A notice to an individual employee may be given by delivering it to them personally or by posting it to their last recorded address, in which case it shall be deemed to have reached them in due course of post.

(c) Where an employee has been absent from their employment and the employer has notified them that such absence is regarded as a break in the continuity of service, the employee may within fourteen days of such notification from the employer appeal using the grievance procedure against such notification of the employer.

#### **6.3.1.11 Calculation of Month**

For the purpose of this clause, a month shall be reckoned as commencing with the beginning of the first day of the employment or period of employment in question and as ending at the beginning of the day which in the latest month in question has the same date number as that which the commencing day had in its month, and if there be no such day in such subsequent month shall be reckoned as ending at the end of such subsequent month.

#### **6.3.1.12 Successor, Assignee or Transmitttee**

(n) Where the employer is a successor or assignee or transmitttee of a business, and an employee was in the employment of the employers predecessor at the time when he became such successor or assignee or transmitttee, the employee in respect of the period during which he was in the service of the predecessor shall for the purpose of this Clause be deemed to be in the service of the employer and such successor, assignee or transmitttee shall be liable to the said employee for all annual leave and proportionate annual leave liability as prescribed by this clause of the employers predecessor.

### 6.3.1.13 Disputes

Any dispute as to the rights of an employee to or with respect to annual leave shall be dealt with by the grievance procedure.

### 6.3.2 COMPASSIONATE LEAVE

- Full time and part time employees are entitled to compassionate leave in accordance with the Workplace Relations Act 1996.
- Full time and part time employees are also entitled to compassionate leave under this clause to the extent that it provides a greater benefit than the Workplace Relations Act 1996. The leave benefits in this clause are inclusive of, and not in addition to, any entitlement to compassionate leave under the Workplace Relations Act 1996 arising in respect of the same circumstances.
- Full time and part time employees are entitled to paid compassionate leave:
  - for the purposes of spending time with a person who:
    - is a member of the employee's immediate family or a member of the employee's household; and
    - has a personal illness, or injury, that poses a serious threat to his or her life; or
  - after the death of a member of the employee's immediate family or a member of the employee's household.
- An employee is entitled to a period of 3 days of paid compassionate leave after the death of a member of the employee's immediate family or a member of the employee's household.
- An employee is entitled to a period of 2 days of paid compassionate leave for each occasion when a member of the employee's immediate family or a member of the employee's household:
  - contracts or develops a personal illness that poses a serious threat to his or her life; or
  - sustains a personal injury that poses a serious threat to his or her life.
- In instances where a period of compassionate leave is taken by an employee for the purpose of spending time with a member of the employee's immediate family or household in circumstances as defined above, compassionate leave may be taken as a single unbroken period of 2 days, or 2 separate periods of 1 day each, or any separate periods of up to 2 days to which the employee and the Company agree.
- An employee must provide documentation to the Company, as soon as reasonably practicable; to be entitled to paid compassionate leave.
- **Documentation** means any written evidence the Company reasonably requires of the illness, injury or death of the member.
- The Documentation must meet the requirements of the Workplace Relations Act 1996.

#### Other Leave

- The provisions of this clause shall not apply if the employee is on any other period of leave.

#### Immediate Family Definition

- The following are members of an employee's immediate family:
  - a spouse, child, parent, grandparent, grandchild or sibling of the employee;
  - a child, parent, grandparent, grandchild or sibling of a spouse of the employee.
- Note: *spouse* includes the following:
  - a former spouse;
  - a de facto spouse;
  - a former de facto spouse.

### 6.3.3 JURY SERVICE

- 6.3.3.1 If an employee, other than a casual employee, is required to attend court as a juror, the employee shall be entitled to be paid by the employer the difference between the employee's ordinary pay and any fee received by the employee for the jury service.
- 6.3.3.2 Jury service includes both actual service as a juror and attendance at court for the jury selection process.
- 6.3.3.3 The Employer may require the employee to produce certificates of attendance for jury service.
- 6.3.3.4 The employee shall give the Employer notice of the requirement to attend for jury service as soon as practicable after receiving the notice.

### 6.3.4 PERSONAL LEAVE

- Full time and part time employees are entitled to personal leave in accordance with the Workplace Relations Act 1996.
- Personal leave will accrue at the rate of 6 hours and 9.23 minutes during each completed 4 week period of continuous service. In the case of a full time employee, providing the employee has no period of absence which does not count as service, the rate of personal leave accrual will equate to 80 hours per 12 months of continuous service.
- For the first year of employment the Company will credit accrued personal leave to employees in arrears at intervals not exceeding one month. Unused personal leave is cumulative from year to year. For all subsequent years of continuous service 80 hours leave will be credited in advance for fulltime employees. Part time employees shall be entitled to personal leave as per fulltime employees but on a pro rata basis
- Personal leave may be taken by an employee due to their own illness/injury (sick leave).
- Personal leave can also be taken by the employee to provide care or support to a member of the employee's immediate family or a member of the employee's household, who requires care or support because of a personal illness or injury of the member or an unexpected emergency affecting the member (carer's leave).
- Personal leave is subject to the following conditions and limitations:
  - an employee is not entitled to paid sick leave for any period in respect of which he/she is entitled to workers' compensation;
  - it is expected that the employee will, as soon as possible and where practicable at least 1 hour prior to the employee's normal start time, inform the Company of his/her inability to attend for work, and as far as may be practicable, state the reason for the absence and the estimated duration of the absence;
  - Notwithstanding anything in the Workplace Relations Act 1996, employees will be entitled to two single shift absences per year without having to produce proof of illness, except if the absence is before or after a public holiday or weekend. On all other occasions of absence the employee will prove to the satisfaction of the Company, and provide such documentation as required by the Company, that he/she was unable to attend for work on the day or days for which the personal leave is claimed. **Documentation** means:
    - if it is reasonably practicable to do so - a medical certificate issued by a registered health practitioner as defined in the Act;
    - if it is not reasonably practicable to provide the Company with a medical certificate - a statutory declaration made by the employee.

- The Company need not make any payment for any time an employee is absent from work without producing satisfactory evidence in support of a request for paid personal leave.
- Unused personal leave will not be paid out on termination for any reason.
- An employee may, subject to the Workplace Relations Act 1996, take unpaid carer's leave for the purpose of providing care and support for a member of their immediate family or a member of the employee's household who requires care or support because of personal illness, or injury of the member, or an unexpected emergency affecting the member. Unpaid carer's leave can only be taken when the employee's entitlement to paid personal leave has been exhausted. Unpaid carer's leave is limited to a single, unbroken, period of 2 days, or two separate periods of 1 day each, or any separate periods totalling 2 days to which the Company and the employee agree.

#### Immediate Family Definition

- The following are members of an employee's immediate family:
  - a spouse, child, parent, grandparent, grandchild or sibling of the employee;
  - a child, parent, grandparent, grandchild or sibling of a spouse of the employee.
- Note: Spouse includes the following:
  - a) a former spouse;
  - b) a de facto spouse
  - c) a former de facto spouse.

### 6.3.5 PARENTAL LEAVE

#### 6.3.5.1 Entitlement

Subject to this clause employees with a minimum of 52 weeks continuous employment prior to taking leave pursuant to this clause are entitled to maternity, paternity and adoption leave in connection with the birth or adoption of a child.

The provisions of this clause apply to full time, part time and eligible casual employees, but does not apply to other casual employees.

"Eligible casual employee" means:

- (a) a casual employee employed by the Employer on a regular and systematic basis or several periods of employment or on a regular and systematic basis for an ongoing period of employment during a period of at least 12 months; and
- (b) that the employee has, but for the pregnancy or the decision to adopt, a reasonable expectation of ongoing employment.

An employer must not fail to re engage a casual employee because:

- (i) the employee or employee's spouse is pregnant; or
- (ii) the employee is or has been immediately absent on parental leave.

The rights of the Employer in relation to engagement and re-engagement of casual employees is not affected, other than in accordance with this clause.

#### 6.3.5.2 Maternity Leave

A female employee shall, upon the production of a medical certificate confirming her pregnancy and expected date of confinement be entitled to a period of up to 104 weeks unpaid maternity in relation to the birth of their child.

#### **6.3.5.3 Paternity Leave**

A male employee shall, on the production of a medical certificate naming his spouse (including de facto spouse), confirming her pregnancy and expected date of confinement or date of birth, be entitled to a period of up to 104 unpaid paternity leave in relation to the birth of their child . Such leave may be taken as a period of one week during and immediately following the birth and a further period of 103 weeks.

#### **6.3.5.4 Adoption Leave**

An employee shall, upon the production of appropriate documentation from an adoption agency or government-authority confirming the placement of an adopted child, be entitled to a period of up to 104 weeks unpaid adoption leave. Such leave may be taken as a period of up to three weeks at the placement of a child and subsequent period of 101 weeks or an unbroken period of 104 weeks following the placement of a child.

#### **6.3.5.5 Job Guarantee**

(a)The employer shall not terminate the employment of an employee on the grounds of pregnancy or absence on maternity, paternity or adoption leave but otherwise the rights of the employer in relation to termination of employment are not hereby affected.

(b)An employee returning to employment following an absence authorised by this clause shall be entitled to the position he or she held immediately before taking such leave.

#### **6.3.5.6 Continuity of Employment**

Absence on maternity, paternity or adoption leave shall not break the continuity of service of an employee but shall not be taken into account in calculating the period of service for all purposes of this Agreement.

#### **6.3.5.7 Sick Leave**

If a pregnancy is terminated other than by the birth of a living child the employee shall be entitled to either such period of paid sick leave to which she is entitled or such period of unpaid leave as a registered medical practitioner certifies as necessary before her return to work.

### **6.3.6 LONG SERVICE LEAVE**

Employees will receive Long Service Leave entitlements as per the provisions of the *Long Service Act 1992*.

## **PART 7 UNIFORMS AND PROTECTIVE CLOTHING**

### **7.1 Dress Standards**

(a) The Employer, having regard to the nature of the industry, the work to be performed and the comfort of the employee, shall have the right to determine a code of dress for each employee including colour of clothing.

(b) The Employer image is an important responsibility borne by all employees. To this end, when at work, employee's presentation, grooming and dress shall be in a neat, tidy, business like manner at all times.

(c) An employee who, without due cause, is not satisfactorily dressed when in attendance at the workplace may be directed to cease work without pay until such time as the employee is dressed to the required standard.

(d) The Employer shall not be harsh or unreasonable in applying subclause (c) above.

(e) The Employer shall not require an employee to dress in a revealing or indecent manner which would cause the employee embarrassment.

(f) Where an employee is required to wear a uniform, such uniform shall be provided and maintained and laundered by the company at the company's expense.

### **7.2 Protective Clothing**

The employer shall provide protective clothing, such as mesh gloves and including waterproof aprons and/or boots to employees working under dirty greasy or wet conditions and such protective clothing shall be worn.

## **PART 8 COMMUNICATION, CONSULTATION AND GRIEVANCE PROCEDURE**

### **8.1 INTRODUCTION OF CHANGE**

#### **8.1.1 Employer's Duty to Notify**

a) (i) Where an employer has made a definite decision to introduce major changes in production, programme, organisation, structure or technology that are likely to have significant effects on employees, the employer shall notify the employees who may be affected by the proposed changes and both the Federal Secretary and Branch Secretary of the Union.

(ii) 'Significant effects' include termination of employment, major changes in the composition, operation or size of the employer's workforce or in the skills required, the elimination or diminution of job opportunities, promotion opportunities or job tenure; the alteration of hours of work; the need for retraining or transfer of employees to other work or locations and the restructuring of jobs.

#### **8.1.2 Employer's Duty to Discuss Change**

a) (i) The Employer shall discuss with the employees affected and a representative who may be a union representative the introduction of the changes referred to in Clause 8.1.1 of this Agreement, the effects the changes are likely to have on employees,

measures to avert or mitigate the adverse effects of such changes on employees and shall give prompt consideration to matters raised by the employees in relation to the changes.

- (ii) The discussion shall commence as early as practicable after a definite decision has been made by the Employer to make the changes referred to in Clause 8.1.1 of this Agreement.
- (iii) For the purposes of such discussion, the Employer shall provide in writing to the employees concerned and a representative who may be a union representative all relevant information about the changes including the nature of the changes proposed, the expected effects of the changes on employees and any other matters likely to affect employees provided that any employer shall not be required to disclose confidential information the disclosure of which would be inimical to the employer's interest.
- (iv) Nothing in the clause shall be construed as requiring the employer to disclose information contrary to the Workplace Relations Act or regulations

## **8.2 GRIEVANCE PROCEDURE**

1. A grievance between an Employee and the Employer about matters contained in or arising from this agreement should be discussed in the first instance between the employee and the employee's line manager.
2. If the matter is still not resolved the employee may then raise the matter with the relevant Senior Operations Manager and Human Resources Manager. At this stage the employee has the option of enlisting the support of a representative who may be a union representative.
3. If the matter is not resolved the employee and/or their representative may then refer the matter to the relevant General Manager and Divisional Human Resources Manager.
4. If the matter has still not been resolved either party may refer it to the Australian Industrial Relations Commission (AIRC) for conciliation.
5. If the matter is still not resolved the employee may raise the matter with the relevant General Manager and Director of Human Resources. In instances where the employee elects to be represented by the union, the State Secretary of the union shall represent the employee in discussions with the employer's relevant General Manager and Director of Human Resources.
6. If after Step 5, there is still no resolution and the employer's Director of Human Resources and the employee agree or, in instances where the employee elects to be represented by the union, the employer's Director of Human Resources and the State Secretary of the union agree, the matter may proceed to arbitration by the AIRC.
7. If arbitration is necessary the AIRC may exercise the procedural powers in relation to hearings, witnesses, evidence and submissions in line with the Act which are necessary to make the arbitration effective.
8. The decision of the AIRC will bind the parties, subject to either party exercising a right of appeal against the decision.
9. It is a term of this agreement that while the grievance resolution procedure is being conducted work shall continue as normal before the dispute arose unless an employee has a reasonable concern about an imminent risk to his or her health or safety.

## **PART 9 OCCUPATIONAL HEALTH AND SAFETY AND AMENITIES**

### **9.1 OCCUPATIONAL HEALTH**

#### **9.1.1 Application of Occupational Health and Safety Act**

The Victorian Occupational Health and Safety Act 2004 and Regulations made under that Act shall apply to the supermarket.

### 9.1.2 First Aid

The Employer shall maintain first aid rooms, staff and kits in accordance with the provisions of the Code of Practice (First Aid in the Workplace) made pursuant to the Victorian Occupational Health and Safety Act 2004.

## 9.2. COMPENSATION, ACCIDENT PAY AND MAKE UP PAY

- 9.2.1 Subject to the conditions outlined in this clause an employee who is entitled to receive weekly payments for workers compensation under the relevant State Legislation will receive as accident pay an amount equal to the minimum weekly payment applicable to the employees classification, less any weekly payments of workers compensation and/or any wages paid as a result of a return to work.
- 9.2.2 Payment under this clause is conditional upon the employee accepting suitable work in accordance with the Accident Compensation Act 1985. This may include work on duties or classification different from the employee's normal duties.
- 9.2.3 No accident make up payments shall be made for any injury arising out of an accident where the injured employee is knowingly in breach of, or refuses to comply with any statutory regulation, award provision or any policy, procedure or instruction relating to safe working practices at the establishment concerned.
- 9.2.4 No accident make up payment shall be made in respect of any accident occurring away from the premises of the employer between the time of commencement and the completion of work on any day, excepting accidents occurring during the performance of the employee's duties.
- 9.2.5 No accident make up payment shall be made in respect of any absence following a recurrence of injury arising out of employment with another employer.
- 9.2.6 No accident make up payment shall be made in respect of any period of other paid leave of absence.
- 9.2.7 Payment under this Agreement is limited to a maximum of 39 weeks on account of any one injury.
- 9.2.8 In the case of termination of employment by the employer, payment shall continue until the balance of the employee's current entitlement in accordance with the Accident Compensation Act 1985 has expired.
- 9.2.9 An employee on engagement may be required to declare all workers' compensation claims made in the previous five (5) years, and in the event of false information being deliberately and knowingly declared the employer may require the employee to forfeit the entitlement to accident make up payment under this Agreement.

- 9.2.10 Where there is a redemption of weekly compensation payments under the relevant State legislation the employer's liability to pay accident make up pay shall cease as from the date of such redemption.
- 9.2.11 Entitlement under this Agreement shall cease on the death of any employee.
- 9.2.12 In the event of any dispute arising as to the entitlement of any employee to payment of accident make up pay in accordance with the provisions of this Agreement the matter shall, if required by either party to this Agreement, be referred to the Commission whose decision shall be final.

### **9.3 EMPLOYEE FACILITIES**

The employer shall provide:

- (a) Boiling water in sufficient quantities to make an adequate supply of hot drinks for each employee immediately each meal break commences.
- (b) Changing rooms, dining rooms, toilets and wash basins etc in accordance with the provision of the Code of Practice for Workplaces made pursuant to the Victorian Occupational Health and Safety Act 2004.
- (c) Adequate supplies of cool drinking water at convenient locations.
- (d) Adequate supplies of soap and sterile drying equipment in all washrooms.

### **9.4 DAMAGE TO EMPLOYEE'S PROPERTY**

In all cases where an employee's clothing, lunch bags, tools of trade or receptacles used for lunches are damaged by fire or through the use of any corrosive material, compensation shall be granted by the employer.

## **PART 10 AGREEMENT COMPLIANCE AND RELATED MATTERS**

### **10.1 TIME AND WAGE RECORDS**

- 10.1.1 Except where mechanical recording devices are used for the purpose of recording starting and finishing times, an employer shall provide a time book or time sheet in which they shall cause to be entered each day's starting and finishing times, each day's hours of work of each employee (including overtime if any) and the wages received each week.
- 10.1.2 Time books, time sheets and other records kept in compliance with this clause shall be kept for at least six years after they have been completed.