[2018] FWCA 4778

FairWork Commission

DECISION

Fair Work Act 2009
s.185—Enterprise agreement

CIE Legal
(AG2018/243)

NUW AND AMSRO MARKET & SOCIAL RESEARCH INDUSTRY AGREEMENT 2017-2020

Market and business consultancy services

COMMISSIONER LEE MELBOURNE, 14 AUGUST 2018

Application for approval of the NUW and AMSRO Market & Social Research Industry Agreement 2017-2020.

[1] An application has been made for approval of an enterprise agreement known as the *NUW and AMSRO Market & Social Research Industry Agreement 2017-2020* (the Agreement). The application was made pursuant to s.185 of the *Fair Work Act 2009* (the Act). It has been made by CIE Legal. The agreement is a multi-enterprise agreement.

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

[3] Subject to the undertakings referred to above, and on the basis of the material contained in the application and accompanying statutory declaration, I am satisfied that each of the requirements of ss.186, 187, 188 and 190 as are relevant to this application for approval have been met.

[4] The application was not lodged within 14 days after the agreement was made. Pursuant to s.185(3)(b), in all the circumstances I consider it fair to extend the time for making the application to the date it was actually made.

[5] Pursuant to s.205(2) of the Act, the model consultation term prescribed by the *Fair Work Regulations 2009* is taken to be a term of the Agreement.

[6] The National Union of Workers being a bargaining representative for the Agreement, has given notice under s.183 of the Act that it wants the Agreement to cover it. In accordance with s.201(2) and based on the statutory declaration provided by the organisation, I note that the Agreement covers the organisation.

[7] The Agreement was approved on 14 August 2018 and, in accordance with s.54, will operate from 21 August 2018. The nominal expiry date of the Agreement is 30 September 2020.

COMMISSIONER

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UNDERTAKINGS

The following undertakings are provided pursuant to section 190 of the *Fair Work Act 2009*:

- Clause 19.4 of the proposed agreement be amended as follows:

19.4 Time Off in Lieu

19.4.1 Where agreement is reached between the employer and the employee, the employer may grant time off in lieu of overtime.

19.4.2 Time off in lieu must be taken within 6 months of the overtime being worked and at a time or times within that period of 6 months agreed by the employee and employer.

19.4.3 If the employee requests at any time, to be paid for overtime worked but not yet taken as time off (as was previously agreed with the employer), the employer must pay the employee for the overtime in the next pay period following the request at the overtime rate applicable to the overtime when it was worked.

19.4.4 If time off in lieu for overtime worked is not taken within the 6 months limit, the employer must pay the employee for the overtime in the next pay period at the overtime rate applicable to the overtime when worked.

- Clauses 18.1 and 20.1 of the proposed agreement be amended as follows:

18.1 Regular Employees

'Regular Employees' and 'Regular Employment' refers to full-time employees and part-time employees and does not include persons engaged as casual employees. The ordinary span of hours of work for Regular Employees will be Monday to Friday from 8.00 am to 8.00 pm (provided that such hours may be varied in respect of the whole or a section of an employer's operations by agreement in writing between the employer and the employees).

...

OVERTIME

20.1 Overtime shall be regarded as all time worked outside Regular Employee's ordinary hours of work. For each hour of overtime worked a Regular Employee shall be paid the equivalent of the regular ordinary hourly wage set out in clause 9 of this Agreement plus $6.86, except for work on Sunday, where the overtime rate for Regular Employees will be paid the equivalent of the regular ordinary hourly wage set out in clause 9 of this Agreement plus $13.72.

- *During the nominal life of the agreement, the minimum rates of pay in clause 9.1 will no less than those for the equivalent classifications in the Market and Social Research Award 2010.*

PART 1 - APPLICATION AND OPERATION OF THE AGREEMENT

1. AGREEMENT TITLE

This Agreement shall be known as the **NUW and AMSRO Market & Social Research Industry Agreement 2017-2020**.

2. ARRANGEMENT

PART 1 – Application and Operation of the Agreement		**PART 5 – OHS & Energy Saving Practices**	
1.	Agreement Title	28.	Accident Pay
2.	Arrangement	29.	Occupational Health & Safety
3.	Commencement Date of Agreement and Period of Operation	30.	Energy Saving Practices
4.	Coverage of Agreement	**PART 6 – Consultation and Dispute Resolution**	
5.	Parties bound or covered	31.	Introduction of Change
6.	Savings Provision	32.	Disputes Procedure
7.	Relationship with National Employment Standards	33.	Consultative Arrangements
PART 2 – Wages and Related Matters		**PART 7 – Termination of Employment and Redundancy**	
8.	Employment Categories	34.	Redundancy – Regular Employees
9.	Wage Rates	35.	Redundancy – Casual Employees
10.	Classifications	36.	Termination of Employment – Regular Employees
11.	Peripheral Duties	**PART 8 – Training**	
12.	Statement of Engagement	37.	Training
13.	Payment on a Total Wage (Salary) Basis	**PART 9 – Agreement Compliance and Machinery Matters**	
14.	Payment on a Commission Basis	38.	Right of Entry/Representation and Communication with Employees
15.	Expenses	39.	Notice Board
16.	Payment of Wages	40.	Promotion of Union Membership
17.	Superannuation	41.	NUW Delegates
PART 3 – Hours of Work		42.	Paid Union/Training Leave
18.	Ordinary Hours of Work	43.	Membership Deductions

19.	Out of Hours Penalty	44.	Copy of Agreement
20.	Overtime	45.	No Extra Claims
PART 4 – Leave		46.	Individual Workplace Agreements
21.	Long Service Leave	47.	Workplace Flexibility
22.	Public Holidays	48.	Renegotiation
23.	Annual Leave	**Signatures**	
24.	Jury Service	**Schedule A – Company Respondents**	
25.	Personal Leave		
26.	Parental Leave		
27.	Family and Domestic Violence Leave		

3. COMMENCEMENT DATE OF AGREEMENT AND PERIOD OF OPERATION

This Agreement shall operate from commencement pursuant to the *Fair Work Act* 2009 until 30 September 2020. The wage rates payable under clause 8 of this Agreement shall apply from the dates specified in that clause.

4. COVERAGE OF AGREEMENT

4.1 This Agreement shall apply to all market and social research business in Australia including every process, trade, business or occupation in or in relation to or in connection with market and social research and all support work engaged in or in connection with a market and/or social research business.

4.2 The Association of Market and Social Research Organisations Inc (AMSRO) and the National Union of Workers (NUW) agree to vigorously pursue the objective of ensuring that all persons who perform work in or in connection with the market and social research industry in Australia are engaged on terms and conditions not less than the minimum standards set out in this Agreement. AMSRO, individual participating companies and the NUW will also seek to have all companies apply the provisions of this Agreement to any market and social research work undertaken by or for them in order to promote job security of employees and to prevent undercutting of labour standards or undercutting of quality research standards. In this regard, all members of AMSRO are required to ensure that the provisions of this Agreement are the minimum terms and conditions applied to any market and social research work undertaken by or for them.

4.3 The parties intend that this Agreement will operate as a multiple-business agreement pursuant to section 172(3) of the *Fair Work Act 2009* (Cth).

5. PARTIES BOUND OR COVERED

5.1 The covered parties to this Agreement are:-

- The National Union of Workers (NUW), 833 Bourke Street, Docklands Victoria 3008;
- The employers appearing in Schedule A;
- All employees, whether members of the National Union of Workers or not, who are employed under a classification defined in this Agreement at any time while this agreement is in operation.

5.2 This Agreement does not apply to an employee earning above the High Income Threshold, as defined by the *Fair Work Act 2009,* or the equivalent provision in any successor legislation. As at 1 July 2016 this threshold is set at $138,900 annually.

6. SAVINGS PROVISION

No employee will as a result of the making of this Agreement, suffer any loss of existing wages or other benefits to which the employee is entitled prior to the date of the coming into operation of this Agreement except where specifically provided for by this Agreement. It is specifically agreed that this Agreement sets out minimum rates of pay and conditions and companies may provide greater benefits solely at their discretion.

7. RELATIONSHIP WITH NATIONAL EMPLOYMENT STANDARDS

This Agreement shall be read and interpreted in conjunction with the National Employment Standards (NES) provided that where there is any inconsistency between this Agreement and the NES, the more beneficial provision to an employee shall take precedence.

PART 2 – WAGES AND RELATED MATTERS

8. EMPLOYMENT CATEGORIES

8.1 Regular Employees

'Regular Employees' and 'Regular Employment' refers to full-time employees and part-time employees, and does not include persons engaged as casual employees.

8.2 Full Time Employees

'Full-time employees' refers to employees who work regular full-time hours averaging 38 ordinary hours per week.

8.3 Part-Time Employees

'Part-time employees' refers to employees who are engaged as part-time employees and who work a regular pattern or number of hours less than 38 hours per week.

8.4 Casual Employees

'Casual employees' refers to employees who are specifically engaged as such. Any person not specifically engaged as a casual employee shall be deemed to be a Regular Employee.

8.5 Conversion of Casual Employees

8.5.1 This clause shall apply to a casual employee who:

- has been engaged by a particular employer for a sequence of periods of employment over at least two years.
- has worked during these periods on a regular and systematic basis; and
- has worked a minimum of 456 hours for the employer during the preceding twelve months.

8.5.2 An employee who meets the requirements in clause 8.5.1 has the option to request in writing to the employer to convert to Regular Employment.

8.5.3 The average hours per week over the work cycle and the work pattern shall be made available upon request.

8.5.4 The hours per week and the work pattern to be offered shall be a minimum of the average hours and work pattern worked over the previous twelve months. The hours and work pattern may be varied by agreement between the employer and the employee.

8.5.5 The employer has four weeks from receiving the employee's request of conversion to make an offer of Regular Employment to that employee.

8.5.6 Where the employee elected to proceed with the conversion to Regular Employment, the conversion shall take place at the commencement of the next pay period unless agreed otherwise by the employer and the employee.

8.5.7 The employee retains their right to convert their contract of employment under this clause if the employer fails to comply with this clause.

8.5.8 Once an employee has elected to become and has been converted to a Regular Employee, the employee may only revert to casual employment by written agreement with the employer.

8.5.9 Any employer may refuse to make an offer of Regular Employment as per this clause, but shall not unreasonably so refuse. Where an employer so refuses, the

reasons for doing so shall be fully stated to and discussed with the employee concerned and a genuine attempt made to reach agreement.

8.5.10 Any dispute in relation to the application of this clause shall be dealt with as far as practicable with expedition through the dispute settlement procedure of this Agreement.

8.5.11 An employee must not be engaged or re-engaged to avoid any obligation under this Agreement.

9. WAGE RATES

9.1 The wage rates set out in the table below commence on 1 January 2017 and will be subject to annual wage increase as follows:-

- From 1 January 2018: Australian CPI for the year ending 30 September 2017 or 2%, whichever is greater.
- From 1 January 2019: Australian CPI for the year ending 30 September 2018 or 2%, whichever is greater.
- From 1 January 2020: Australian CPI for the year ending 30 September 2019 or 2%, whichever is greater.

Pay rates from 1 January 2017 (including 2.5% increase) **CLASSIFICATION**	**REGULAR** **Per Week $**	**REGULAR** **Per Year $**	**REGULAR** **Per Hour $**	**CASUAL** **Per Hour $**
Employee on Commencement	$722.32	$37,560.10	$19.00	$23.76
Market Research Interviewer	$811.00	$42,171.94	$21.35	$26.70
Executive (Face-to-Face) Interviewer	$885.27	$46,033.36	$23.29	$29.12
Face-to-Face Interviewer	$885.27	$46,033.36	$23.29	$29.12
Executive (Telephone) Interviewer	$848.11	$44,102.64	$22.31	$27.89
Support Employee 1st Year	$785.56	$40,849.33	$20.67	$25.84
Support Employee > 1 Year	$811.00	$42,171.94	$21.35	$26.70
Editor/ Coder/ Key-punch Operator	$827.76	$43,044.60	$21.80	$27.24
Team Leader	$885.27	$46,033.36	$23.29	$29.12
Field Supervisor	$982.89	$51,111.11	$25.88	$32.32
Research Assistant	$982.89	$51,111.11	$25.88	$32.32
Field Manager	$1,104.48	$57,433.68	$29.06	$36.34
Research Officer	$1,104.48	$57,433.68	$29.06	$36.34
Research Manager	$1,575.86	$81,945.46	$41.48	$51.83

9.2 The rates of pay for casual employees include a component of pay to be in lieu of all leave entitlements apart from long service leave, jury service, union training leave and parental leave (where eligible). The casual hourly rates are 25% higher than the regular ordinary hourly rates.

10. CLASSIFICATIONS

10.1 Employee on Commencement

10.1.1 Includes a market research interviewer, editor, coder, keypunch operator and/or other support employee who is allocated to less complex tasks and who usually requires extensive assistance and supervision during their first six work sessions.

10.1.2 An employee may be classified as an Employee on Commencement until they have earned a maximum of 50 completed hours, provided that this shall include all work for the employer during the previous three years and provided that once an employee has completed this training with one employer they shall not then be employed at less than the rate of pay for the classification of “interviewer" unless the employee has left the industry for three years.

10.1.3 An Employee on Commencement will undergo at least eight hours paid training at the employer's expense. The initial pre-first shift training shall only be payable after the Employee on Commencement has completed 8 hours on shift.

10.2 **Support Employee** includes employees engaged principally on other market and social research support activities, including those related to online research and group recruitment. The employee shall qualify for the full rate after they have completed the requirements of an Employee on Commencement.

10.3 **Market Research Interviewer** undertakes interviews with all types of respondents by telephone or face to face (only if working in a single location and in that location they are provided with amenities such as public toilets, a non-public lunchroom and access to refreshments) prepares and submits all fieldwork associated documentation and attend briefing and de-briefing meetings where required. The interviewer may, where required from time to time, assist in the preparation of materials prior to or during a survey.

10.4 **Executive (Face-to-Face) Interviewer** refers to a market research interviewer who is conducting direct face-to-face interviews targeted to executive and professional interviewees covering matters relating to the special expertise of the interviewees. This includes interviewers who are engaged to interview a selected group of respondents in a specified foreign language using a questionnaire in the foreign language.

10.5 **Executive (Telephone) Interviewer** refers to a market research interviewer who is conducting a program or series of telephone interviews targeted to executive and professional interviewees covering matters relating to the special expertise of the interviewees. This includes interviewers who are engaged to interview a selected group of respondents in a specified foreign language using a questionnaire in the foreign language.

10.6 **Face to Face Interviewer** refers to a market research interviewer who is conducting multiple direct face-to-face interviews at any location, other than those interviewers who systematically work in a single location and in that location they are provided with amenities such as public toilets, a non-public lunchroom, and access to refreshments. Clerical or administrative work done that is required to complete the face to face interviews shall be covered by this classification.

10.7 **Editor, Coder and Keypunch Operator** includes employees engaged on examining market research fieldwork interview or questionnaire results so as to ensure consistency, accuracy and validity; classifying interview and questionnaire results so as to be suitable for keyboard entry and for subsequent analysis as required by clients; and entering and manipulating the presentation of data on a computer or similar machine (including as required interacting with the computer, limited programming and data manipulation to ensure that file maintenance and integrity are achieved and results are presented as required for the client report).

10.8 Team Leader

10.8.1 Includes interviewers who undertake interviews with all types of respondents by telephone or face-to-face and perform a role of providing experienced guidance, assistance and leadership by example to interviewers (including some supervision

and limited practical field training) and interview monitoring and support function as and when required by the employer.

10.8.2 A team leader may also be an employee providing a similar leadership role in relation to a team of other market research employees, including auditors, check editors, editors, coders and/or keypunch operators. The team leader may also be required to liaise between interviewers and field management (including checking and counting the number of interviews obtained, communicating the researcher's instructions to the interviewer team and from time to time where required assisting and co-ordinating the activities of a small group of less experienced interviewers).

10.8.3 A team leader shall be responsible for no more than eight employees.

10.9 Field Supervisor

10.9.1 Co-ordinates and supervises the fieldwork activities of team leaders and market research interviewers engaged on specific market research projects, including being responsible for the quality of the output, the training and the productivity of the field team and interview monitoring and interviewing and support functions as and when required by the employer.

10.9.2 An employee providing a similar supervisory role in relation to other employees, including auditors, check editors, editors, coders and/or keypunch operators, shall be paid at the Field Supervisor rate.

10.9.3 An employee whilst in charge of a telephone room shall be employed in a classification not less than field supervisor.

10.10 Research Assistant assists with the duties of a Research Officer.

10.11 Field Manager schedules fieldwork and co-ordinates the activities of supervisors and interviewers and is responsible for the hiring and training of all field personnel, maintenance of company procedures and fieldwork standards. The Field Manager will generally be involved in co-ordinating a range of fieldwork projects and allocating fieldwork across an organisation.

10.12 Research Officer may be engaged in the duties of:

- writing questionnaires
- briefing field teams
- moderating group discussions
- conducting in-depth interviews
- preparing computer specifications
- analysing data and preparing written reports
- writing proposals
- liaising with, and presenting data to, clients

10.13 Research Manager initiates, plans and directs projects, and has responsibilities for generating business and/or managing an organisation.

11. PERIPHERAL DUTIES

It is a term of this Agreement that the NUW on behalf of its members subject to this Agreement, gives a commitment that employees will perform all reasonable peripheral duties to the work subject to this Agreement.

12. STATEMENT OF ENGAGEMENT

The employer shall provide to every employee covered by this Agreement a written statement setting out the employee's classification, hours of work and remuneration (including wages, expenses and

commission if any). Such statement shall be provided within fourteen days of the commencement of the employee's first employment with the employer or the commencement of this Agreement. In the event that there is any change in the employee's classification, hours of work or remuneration, the employer shall within fourteen days provide to the employee a further written statement setting out the new conditions.

13. PAYMENT ON A TOTAL WAGE (SALARY) BASIS

An employer may pay a regular employee on a total wage (salary) basis in lieu of the wages and penalty payments set out in clauses 9 - Wage rates, 15 - Expenses, 19 - Out-of-hours penalty, 20 - Overtime and 23.1.2 – Annual Leave of this Agreement, provided that such total wage is not less than the total regular wages set out in clause 9 of this Agreement plus 25 per cent.

14. PAYMENT ON A COMMISSION BASIS

14.1 An employer may pay an employee on a total commission basis (such as a fee per placement) in lieu of the wages and penalty payments set out in clauses 9 - Wage rates, 15 - Expenses, 18 - Ordinary hours of work, 19 - Out-of-hours penalty and 20 - Overtime of this Agreement, provided that such commission payments:

14.1.1 are reasonably expected to result in total payments to employees which are not less than the total wages and penalty payments usually payable for such work; and

14.1.2 have been agreed to by the employee in writing in advance of the period of employment for the project(s).

15. EXPENSES

15.1 In addition to the remuneration payable under clause 9 - Wage rates, an employer shall reimburse an employee for all expenses which have been actually and properly incurred by the employee as required by the employer in the discharge of the employee's duties.

15.2 Such expenses as can reasonably be anticipated shall be payable in advance.

15.3 Employees who are required by their employer to use their own motor vehicle in the performance of their duties shall be paid an allowance as follows:

Period	**Allowance per Kilometre**
Amount from first pay period commencing on or after 1 January 2017	$0.78
Amount from first pay period commencing on or after 1 January 2018	Allowance increased in accordance with the latest available CPI annual increase for 'Private Motoring' (based on CPI increases Sept Quarter 2016-2017)*
Amount from first pay period commencing on or after 1 January 2019	Allowance increased in accordance with the latest available CPI annual increase for 'Private Motoring' (based on CPI increases Sept Quarter 2017– 2018)*
Amount from first pay period commencing on or after 1 January 2020	Allowance increased in accordance with the latest available CPI annual increase for 'Private Motoring' (based on CPI increases Sept Quarter 2018– 2019)*

*AMSRO shall notify member employers of the exact monetary increase prior to 1 January each year.

15.3.1 The travel allowance shall be restricted to on-the-job motor vehicle usage, provided that where an employee is required to commence work at a location away from the employee's usual work location, the distance for motor vehicle allowance purposes shall be the total distance travelled from the employee's home and return, including on-the-job motor vehicle usage; and

15.4 If an employer requires in writing that an employee have a private telephone as part of the employee's work duties, the employer shall pay:

15.4.1 The cost of rental and all telephone calls made as part of the employee‘s work duties; and

15.4.2 If the employer has required in writing that the employee install a private telephone for use in connection with the employer's business, the cost of the installation shall be paid by the employer.

15.4.3 Provided that the employer will as needed provide to field workers mobile telephones for work use or reimburse costs of work calls to and from mobile telephones.

15.5 Any employee who is directed or required by the employer in writing to relocate residence to another area shall be paid reasonable costs for relocating personal and household effects and members of the immediate dependent family. Reasonable costs expressed in this clause are to be the amount agreed upon, in writing, between the employer and the employee prior to relocation.

15.6 If an employee's clothing or personal effects are either damaged or stolen, the employer shall compensate the employee provided that:

15.6.1 The loss must be suffered whilst the employee is engaged on the employer's business;

15.6.2 The loss must not in any way be caused by the employee's own wilful act or neglect;

15.6.3 The maximum compensation shall be $501.20 for a single claim, less any amount of reimbursement from other sources.

15.7 The employer will, as needed, provide weather protective clothing or equipment (including sunscreen, sunglasses, raincoats and umbrellas for work use) to field workers or will reimburse reasonable costs in purchasing such weather protective clothing or equipment. In lieu of such provision, the employer and employee may agree to increase the ordinary hourly rate of pay.

16. PAYMENT OF WAGES

16.1 The pay period shall be two weeks except by mutual agreement between the employer and the employee where the pay period may be one or four weeks or one month.

16.2 Wages shall be paid by electronic funds transfer, except where by mutual agreement between the employer and the employee they may be paid by cash or by cheque.

16.3 Wages shall be transferred within five business days after the end of a pay period subject to the employee submitting their timesheet to their employer within one business day after the end of the pay period. If the pay period is longer than two weeks, wages shall be transferred no later than 3 days after the last day of a pay period. Where timesheets are submitted after this time, payment for time worked will be included in the next pay period. Business days include Monday to Friday other than public holidays. If a pay period has been completed before commencement of either the Easter or Christmas/New Year holiday periods, the employer shall transfer payment prior to the holiday period commencing and if this is not practicable, the employer shall notify their employees in relation to the payment of wages, prior to the Easter or Christmas/New Year holiday periods commencing.

16.4 When payment is made the employer shall provide to each employee in writing, a detailed statement of the nature and amount of the gross wage to which the employee is entitled, the nature and amounts of deductions made there from, and the precise nature of the deductions and the net amount being paid to the employee.

16.5 An employer shall, on request, provide to an employee on termination a detailed statement of outstanding entitlements. The wages due to an employee shall be paid on the day of such termination or forwarded via post on the next working day.

16.6 An employer shall keep time and wages records showing the name of each employee, the rate of wages and commissions, the hours worked, allowances paid in accordance with this Agreement and details of any deductions.

16.7 The time and wages records shall be open for inspection by an accredited NUW representative during the usual office hours at the employer's office or other convenient place.

16.8 A participating employer may withhold outstanding payments to an employee under this Agreement if:

16.8.1 fieldwork results submitted by the employee cannot be relied upon due to the dishonesty or negligence, not being a mere error, of the employee; or

16.8.2 the employee has been engaged to complete a full project of briefing and interviews which include the explained need to complete the full project, and the employee fails to complete the project, provided that the failure was not the result of any event or absence for which the employee, if he or she was a Regular Employee, would have been entitled to absence from work.

16.8.3 If a dispute should arise over disciplinary action, the matter shall be handled in accordance with the disputes procedure set out in clause 32 of this Agreement.

16.9 Mixed Functions

Where an employee is put to work temporarily at a classification higher than that under which the employee is engaged or deemed to be working, the employee shall be paid the rate prescribed for such higher classification for the time spent performing such higher classification. An employee shall not suffer any reduction in wages by reason of the employee having been put to work for a whole shift or part thereof at a classification lower than that under which the employee is engaged or deemed to be working.

17. SUPERANNUATION

17.1 Preamble

The subject of superannuation contributions is dealt with extensively by legislation including the Superannuation Guarantee (Administration) Act 1992, the Superannuation Guarantee Charge Act 1992, the Superannuation Industry (Supervision) Act 1993 and the Superannuation (Resolution of Complaints) Act 1993. This legislation, as varied from time to time, governs the superannuation rights and obligations of the parties and in addition the following provisions of this clause shall also apply.

17.2 Definitions

17.2.1 Fund

In this clause references to Fund for all employees shall be the fund selected in accordance with Superannuation Guarantee legislation (with the default fund, as defined in the legislation, being the Labour Union Co-Operative Retirement Fund (LUCRF).

17.2.2 Ordinary Time Earnings

(a) In this clause the term ordinary time earnings shall include the classification rate, over Agreement payments, shift work premiums and any penalties where such penalties are part of the employees normal earnings, excluding overtime, travel, meals, annual leave loading and motor vehicle allowance.

(b) Except that where an employee is paid on a total wage basis pursuant to clause 13 of this Agreement, the ordinary time earnings for superannuation purposes shall be the regular ordinary wages set out in clause 9 of this Agreement for a Regular Employee plus 25 per cent.

17.2.3 Approved superannuation scheme

For the purposes of this clause approved superannuation scheme means a scheme which complies with the Occupational Superannuation Standards Act and Regulations and any other relevant Government requirements.

17.3 Employer and employee compulsory contributions

17.3.1 In addition to other payments provided for under this Agreement, the employer shall make a superannuation contribution to the Fund on behalf of the eligible employees, together with deducting employee contributions from employee earnings of the eligible employees and forwarding them to the Fund in accordance with statutory minimum requirements (being 9.5% as at 1 January 2017).

17.3.2 Payments shall be made every three months and cover pay periods completed in the three months ending 31 March, 30 June, 30 September and 31 December each year.

17.4 Eligibility

17.4.1 Once an employee has earned from the employer a total of $450.00 in ordinary time earnings in any calendar month, the employee shall be eligible for superannuation contributions by the employer.

17.4.2 The employer shall provide Fund acceptance forms to employees for completion and return to the employer. If a completed form is not returned, then the employer shall forward the required employer contribution to the Fund together with any employee details known by the employer.

17.5 Employer's contributions during leave without pay

No contribution shall be due in respect of any period of unpaid absence.

17.6 Additional voluntary employee contributions

17.6.1 Employees who may wish to make contributions to the Fund (additional to those being paid by the employer or deducted and forwarded by the employer pursuant to clause 17.3) shall be entitled to authorise the employer to pay into the Fund from the employee's wages additional amounts specified by the employee.

17.6.2 Employee contributions to the Fund requested under this clause shall be made in accordance with the rules of the Fund.

17.7 Cessation of contributions

The obligation of the employer to contribute to the Fund in respect of an employee shall cease on the last day of such employee's employment with the employer.

17.8 Employer's failure to participate in fund

An employer who has failed to contribute to the Fund as required by this Agreement shall make a once only contribution to the Fund in respect of each eligible employee equivalent to the outstanding contributions.

PART 3 - HOURS OF WORK

18. ORDINARY HOURS OF WORK

18.1 Regular Employees

18.1.1 An average of 38 hours per week worked on any day Monday to Sunday over a work cycle shall constitute ordinary full-time hours of work.

18.1.2 The ordinary hours of work of Regular Employees shall be determined in advance of a work cycle after consultation between the employer and employees affected in the whole of a section of the operations of their company, provided that:

(a) The work cycle may extend over seven, fourteen, twenty-one or twenty-eight consecutive days; and

(b) The roster as it affects an individual employee may be varied at any time by agreement between the employee and their employer; and

(c) There shall be not more than twelve ordinary hours of work on any day; and

(d) Except by agreement between an individual employee and their employer, a Regular Employee rostered to work ordinary hours on any day shall be paid for at least three hours work on that day.

18.1.3 In the absence of agreement at the workplace level in respect to the implementation of the 38 hour week which best suits the business and the preferences of the employees concerned, the matter shall be handled in accordance with the disputes procedure set out in clause 32 of this Agreement.

18.1.4 For the purposes of calculating leave entitlements of regular full-time employees, a day shall be regarded as 7.6 hours and an ordinary working week shall be regarded as 38 hours. Pro-rata entitlements shall apply for regular part-time employees.

18.2 Casual Employees

18.2.1 Casual employees may work on any day of the week for the casual hourly rate of pay set out in clause 9 - Wage rates, except that no casual employee shall be required against their wishes to work between the hours of midnight and 8.00 a.m. or more than eight hours in any day.

18.2.2 Where a casual employee's confirmed and booked shift is cancelled or shortened at the employer's direction before the employee has arrived at the workplace, the employee shall be paid for a minimum of the lesser of four hours or the agreed shift length for each shift lengthened or shortened. This clause does not apply where:

(a) the employer and the employee agree otherwise;

(b) the employer has made a reasonable effort to provide the employee with at least eighteen hours' notice of the change (such as ringing the employee's contact number and leaving a message or sending a SMS);

(c) the employee has indicated they are available for a possible shift, however no shift has been formally offered or accepted.

18.2.3 Where a casual employee has arrived at the workplace to commence work and the employee's confirmed and booked shift is then cancelled or finished early at the employer's direction, the employee shall be paid for a minimum of four hours for each shift so cancelled or finished early. This clause does not apply where:

(a) the employer and the employee agree otherwise on each occasion a shift is cancelled or finished early (including agreement at the time that shift is booked);

(b) the employee is allocated other work (including administrative tasks or other interviewing) to make up the minimum four hours per shift cancelled or finished early.

(c) if the employer and employee agree to a shift shorter than four hours, the minimum payment for such a shift cancelled or finished early at the employer's direction shall be the agreed length of the shift.

18.2.4 While an employer may make offer of a shift of less than three and a half hours anticipated duration, no employee shall suffer any penalty – including but not limited to the allocation of future work – if they refuse a shift of less than three and a half hours in length.

18.2.5 It is expected that employers will offer casual shifts that include a start and an approximate finish time. In the event an employer is unable to advise an approximate finish time and an employee accepts a shift for which there is no stated finish time the employee shall be guaranteed four hours' minimum pay and will be required to work no more than four hours (without the employee's agreement). An employee who chooses to work no more than four hours on a shift offered without an approximate finish time shall suffer no penalty for doing so – including but not limited to allocation for future shifts.

18.3 Travelling Time

If any employee is required to commence work at a location away from the employee's usual work location, working time shall include travel time between the employee's home and the work location and return less half an hour each way. An employer shall not require face to face interviewers to attend a location before they travel to the interviewing location for the sole purpose of avoiding payment for travelling time.

18.4 Non-Attendance

18.4.1 Employees who are not on approved leave and who do not attend for duty shall not be paid for the actual time of such non-attendance.

18.4.2 Any casual employee unable to attend a rostered shift shall make every effort to promptly notify the employer of their inability to attend. Leaving a message on the employer's contact number shall be an acceptable form of notification. It is expected that an employee would, in all but exceptional circumstances, be able to give no less than four hours' notice of their inability to attend a rostered shift. In the event an employee does not attend rostered shifts without reasonable excuse, and/or does not give reasonable notice of their inability to attend, they may not be offered future casual work.

18.5 Breaks

18.5.1 All employees shall have an entitlement to an unpaid meal break of not less than thirty (30) minutes at least every five hours of paid work time, provided that by agreement between an employer and an employee the entitlement to an unpaid meal break may occur after six hours to meet the needs of a particular job. No employee shall be forced to take an unpaid meal break.

18.5.2 Employees are entitled to a 5 minutes paid break for each completed hour worked. For the purposes of calculating the length of the paid break, 45 minutes of the last hour of a shift counts as one completed hour.

18.5.3 Employees are entitled to take time for toilets breaks and refreshments as required, and that time shall not count against paid or unpaid break time unless occurring during a defined paid or unpaid break. As far as possible such break(s) should be

taken by employees in such a way as to fit in with continued work requirements, minimise disruption of work and be fully mindful of the requirements of the business.

18.5.4 An employer may not direct an employee to take a paid or unpaid break for the sole purpose of a toilet visit or procuring refreshments. However, where reasonably practicable, employees will use their paid and unpaid breaks under this clause for toilet visits and refreshments to avoid excessive downtime and are not to pause a defined paid or unpaid break for the sole purpose of a toilet visit or procuring refreshments.

18.5.5 If there are in place established rest break arrangements in a workplace which on average over the day exceed the above scale, those rest break arrangements shall continue to operate at that workplace, unless changed by agreement between the employer and employees.

18.6 Allocating work

18.6.1 Subject to an employer's genuine operational requirements (including but not limited to the obligations of the employer to provide continuing work to Regular Employees), priority will be given to casual employees who have worked, or been available to work, on a regular and systematic basis over the previous twelve (12) months.

18.6.2 Subject to clause 18.6.1, when allocating work the employer shall take into account (not in order of priority):

(a) availability;
(b) relative merit (including factors such as expertise, experience and performance);
(c) the need to develop the skills of the work team; and
(d) length of service.

Upon request the employer shall provide information to employees and the NUW as to how work is allocated with reference to clauses 18.6.1 and 18.6.2.

18.6.3 Any dispute in relation to the application of this clause shall be dealt with as far as practicable with expedition through the dispute settlement procedure of this Agreement.

18.6.4 Where practicable, the employer shall provide 48 hours' notice of the roster/allocation of interviewing work. It is expected that, under ordinary circumstances, employers will seek to provide (at least) fortnightly rosters to casual employees (and not systematically offer regular shifts with less than 24 hours' notice). The parties recognise that, due to the nature of the industry, these rosters will be subject to change and it is accepted that certain shifts may have to be offered with minimal notice. An employee who is unable to complete a shift for which they have been booked and confirmed should give as much notice as possible if they become unavailable to complete the shift. However, an employee cancelling a shift with more than one week's notice shall not suffer any penalty for doing so.

18.6.5 An employee who is unable to complete a shift for which they have been booked and confirmed should give as much notice as possible if they become unavailable to complete the shift.

18.6.6 Employees conducting interviews whilst travelling on public transport should, as far as practicable, be provided with a transport route that is cognisant of the need to use appropriate amenities and, where applicable, to purchase a meal.

18.6.7 No casual employee shall be directed to finish a shift early solely on the basis that their performance is below expected performance standards. This clause does not:

(a) prevent employees' finish times being staggered based on genuine operational requirements, including but not limited to the management of available telephone sample and interview quotas;
(b) apply where an employee's work performance is substantially below that of other employees on the same shift performing comparable work.
(c) prevent an employer sending an employee home from a shift if that employee appears incapable of performing their duties to a reasonable standard, including but not limited to where the employee appears to be under the influence of drugs or alcohol.

18.6.8 Employers recognize that employees undertaking market research fieldwork have a personal investment in the general work flow in the field and in the progress of each specific project. Therefore employers are to make every effort to keep call centre employees informed about projected and confirmed jobs, planned time-lines and the likely impact of this changing work-flow on those employees' employment. In addition, employers will make every effort to provide call centre employees with information about the progress of jobs in field so that they have a better understanding of how projects they are working on are tracking.

18.6.9 Where an employer becomes aware that there will be a significant reduction in the casual work they are able to offer casual employees, the employer shall take reasonable steps to communicate this to employees who are likely to be materially affected, and where possible this communication shall detail the likely duration of the reduction in available work.

19. OUT-OF-HOURS PENALTY

19.1 In addition to the ordinary rates of pay set out in clause 9, an Out-Of-Hours Penalty shall be paid to all employees for each ordinary hour of work as follows:

19.2 In addition to the ordinary rates of pay set out in clause 9, an Out-Of-Hours Penalty shall be paid to all employees for each ordinary hour of work to be increased annually.

Out-of-hours penalty per hour (from 1 January 2017)	
On a Public Holiday (as set out in clause 21 of this Agreement))	$14.98
On any day between midnight and 8.00am	$7.48
On Sunday between 9.00pm and midnight	$7.48

These amounts shall be increased as follows:-

- From 1 January 2018: Australian CPI for the year ending 30 September 2017.
- From 1 January 2019: Australian CPI for the year ending 30 September 2018.
- From 1 January 2020: Australian CPI for the year ending 30 September 2019.

19.3 The Out-Of-Hours Penalty rate only applies to ordinary hours of work performed on a public holiday (as set out in clause 21), on any day between midnight and 8.00am and on Sunday

between 9 pm and midnight. Work performed outside of these times does not attract a penalty rate, subject to clause 20 – Overtime.

19.4 Time Off in Lieu

Where agreement is reached between the employer and the employee, the employer may grant time off in lieu of payments prescribed in this clause.

20. OVERTIME

20.1 Overtime shall be regarded as all time worked in excess of Regular Employee's total ordinary hours. For each hour of overtime worked a Regular Employee shall be paid the equivalent of the regular ordinary hourly wage set out in clause 9 of this Agreement plus $6.86.

20.2 A casual employee shall be paid overtime at the rate of their ordinary hourly wage rate set out in clause 9 of this Agreement plus $6.86 for each hour worked in excess of twelve hours in a day.

20.3 Any casual employee directed to work in excess of eight hours in one shift, or beyond the stated finish time of a shift, shall be paid the overtime rate in clause 20.1 of this Agreement for those additional hours worked. This clause shall not apply where a worker voluntarily accepts a shift longer than 8 hours.

20.4 Where agreement is reached between the employer and the employee, the employer may grant time off in lieu of payment prescribed in this clause.

The amounts in this clause shall be increased as follows:-

- From 1 January 2018: Australian CPI for the year ending 30 September 2017.
- From 1 January 2019: Australian CPI for the year ending 30 September 2018.
- From 1 January 2020: Australian CPI for the year ending 30 September 2019.

PART 4 - LEAVE

21. LONG SERVICE LEAVE

21.1 Basic leave entitlement

21.1.1 All Regular Employees and regular and systematic casual employees have the following entitlements to long service leave, which shall be paid out in full if their employment is terminated:

(a) Employees working in Victoria, New South Wales, Queensland and Western Australia are entitled to 8.667 weeks' leave on ordinary pay after each period of 10 years' continuous service.

(b) Employees working in South Australia or the Northern Territory are entitled to 13 weeks' leave on ordinary pay after each period of 10 years' continuous service.

(c) Employees working in the Australian Capital Territory shall receive 6.066 weeks' leave on ordinary pay after each period of 7 years' continuous service.

(d) Employees working in Tasmania shall receive two months' leave on ordinary pay after each period of ten years' continuous service.

21.1.2 Where the employment is terminated by the employer (other than for serious and wilful misconduct) pro rata leave shall be available after 5 years. In Victoria, if an employee is terminated for serious and wilful misconduct after 7 years' continuous service, pro rata leave shall be available.

21.1.3 Where the employee resigns due to reaching the minimum retirement age, dies or resigns due to illness or incapacity or a domestic or other pressing necessity, pro rata leave should be available after 5 years. Where the employee resigns for another reason in Victoria, Western Australia and South Australia, they shall receive pro-rata leave after 7 years' continuous service.

21.2 Additional leave after initial leave entitlement

21.2.1 After the initial qualifying period, employees shall have the further entitlements to long service leave:

(a) Employees working in Queensland, Victoria, Tasmania, Western Australia, the Australian Capital Territory and New South Wales are entitled to 4.333 weeks' leave on ordinary pay for each additional five years of continuous service.

(b) Employees working in South Australia and the Northern Territory are entitled to 1.3 weeks leave on ordinary pay for each additional year of continuous service.

21.2.2 Employees will receive pro rata entitlement for earlier termination.

21.3 What counts as service

21.3.1 Service which is counted as part of the employment period for calculating long service leave includes mainly the period of actual employment.

21.3.2 This employment includes work directly with the current employer or with any related companies, including companies from which or to which the business is transmitted. If employment is interrupted due to transmission of the business, the whole period shall count as service.

21.3.3 The following periods of absence from work shall also count as service for long service leave entitlement purposes:

(a) if the employer interrupts work or terminates the employment, then the whole period shall be counted (including the time of interruption or termination) provided that:

(i) the employer's intention was to avoid leave obligations; or

(ii) reinstatement of the employee is ordered;

(b) absences from work on paid leave, any leave in accordance with the contract of service or on leave granted by the employer (apart from parental leave or leave granted where there is a prior written agreement to not include such leave); and

(c) absences due to public holidays or annual leave or long service leave.

21.4 Continuity of service

21.4.1 None of the periods of absence which are counted as service for long service leave calculation purposes (as set out in clause 21.3) shall be regarded as breaking the continuity of service.

21.4.2 In addition, the following absences from work shall also not be regarded as breaking the continuity of service (although they are not necessarily included in the period of service for calculating long service leave):

(a) any absence caused by the employer if the employee is re-employed by the same employer (or an employer to whom the business is transmitted) within three months;

(b) any leave authorised by the Agreement or contract of service, including parental leave, or leave agreed with the employer;

(c) absence arising directly or indirectly from an industrial dispute (including where the employer stands down the employee) and the employee returns to work in accordance with the terms of settlement of the dispute; and

(d) absence on account of injury arising out of or in the course of employment.

21.5 Rate of payment during long service leave

21.5.1 The rate of payment shall be the ordinary time rates that the employee would have received if they were performing the ordinary hours of work applying to the employee at the time that the long service leave is taken.

21.5.2 The rate of pay to be used for calculating pay during long service leave shall be the employee's ordinary rate of pay (without overtime or penalties) at the time that the long service leave is taken; provided that:

(a) if the employee's ordinary rate of pay at the time that the long service leave is taken varies, then leave payment shall be based on the employee's average rate of pay during the previous twelve months, or previous 5 years, whichever is more favourable to the employee; and

(b) if the employee is remunerated on a commission basis, then leave payment shall be based on the actual weekly rate of pay averaged over the previous twelve months, or previous 5 years, whichever is more favourable to the employee.

21.5.3 The ordinary hours of work to be used for calculating the period of long service leave entitlement shall be the employee's ordinary hours at the time that the long service leave is taken. If the employee's ordinary hours at the time that the long service leave is taken vary, then leave payment shall be based on the employee's average number of hours actually worked during the previous twelve months, or previous five years, whichever is more favourable to the employee.

21.6 Timing of leave

21.6.1 The taking of long service leave may be deferred or taken in advance by agreement between the employer and the employee. Payment in lieu of taking leave is prohibited.

21.6.2 If a period of annual leave occurs during a period when long service leave is being taken, then the long service leave is interrupted for the period of annual leave.

21.6.3 Long service leave shall be taken in one continuous period, provided that by agreement between the employer and the employee the leave may be taken in such separate periods as are agreed.

22. PUBLIC HOLIDAYS

22.1 Prescribed public holidays

A Regular Employee shall be entitled to holidays on the following days without deduction of pay:

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

21.1.2 the following days, as prescribed in the relevant States, Territories and localities: Australia Day, Anzac Day, Queen's Birthday and Eight Hours' Day or Labour Day.

21.1.3 When Christmas Day is Saturday or a Sunday, a holiday in lieu thereof shall be observed on 27 December.

21.1.4 When Boxing Day is a Saturday or a Sunday, a holiday in lieu thereof shall be observed on 28 December.

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

22.2 Additional public holidays

Where in a State, Territory or locality, public holidays are declared or prescribed on days other than those set out in clause 22.1 above, those days shall constitute additional holidays for the purpose of this Agreement.

22.3 Substitute holidays

22.3.1 An employer, with agreement of the union, may substitute another day for any prescribed in this clause.

22.3.2 An employer and their employees may agree to substitute another day for any prescribed in this clause. For this purpose, the consent of the majority of affected employees shall constitute agreement.

(a) An agreement pursuant to clause 22.3.1 shall be recorded in writing and be available to every affected employee.

(b) The union shall be informed of an agreement pursuant to clause 22.3.1 and may within seven days refuse to accept it. The union will not unreasonably refuse to accept the agreement.

(c) If the union, pursuant to clause 22.3.2(b), refuses to accept an agreement, the parties will seek to resolve their differences to the satisfaction of the employer, the employees and the union.

(d) If no resolution is achieved pursuant to clause 22.3.2(c), the employer may apply to Fair Work Australia for approval of the agreement reached with their employees. Such an application must be made fourteen or more days before the prescribed holiday. After giving the employer and union an opportunity to be heard, Fair Work Australia will determine the application.

22.3.3 All employees who work on a public holiday listed in this clause shall be paid for such work at the rate set out in clause 19 of this Agreement.

23. ANNUAL LEAVE

23.1 Every full-time employee shall at the end of each year of employment become entitled to:

23.1.1 Annual leave of 152 hours at the employee's ordinary time earnings;

23.1.2 Plus a loading of 17.5 per cent of the appropriate rates prescribed in clause 8 for each of the four weeks up to a maximum total payment equivalent to one week of Average Weekly Earnings.

23.1.3 Pro-rata entitlements shall apply to part-time employees.

23.2 The annual leave shall be given and taken:

23.2.1 In four consecutive weeks or, if the employee and the employer agree, in such separate periods as are agreed; and

23.2.2 Before the expiration of six months after the leave right accrues, provided that leave may be deferred in whole or part by agreement between the employee and the employer.

23.3 If the employer and the employee agree, the annual leave may be taken in whole or in part in advance before the employee has become entitled to the annual leave. In such circumstances accrual of further annual leave entitlements shall not commence until after the expiration of the year of employment in respect of which annual leave has been partly or wholly taken.

23.4 The employer must:

23.4.1 Give each employee at least seven days' notice of the date from which annual leave shall be taken;

23.4.2 Pay the pay and loading entitlements for the leave period in advance to each employee before the employee's leave commences.

23.5 Where any public holiday for which the employee is entitled to payment occurs during a period of annual leave, the period of leave shall be increased by one day in respect of that holiday.

23.6 Payment shall not be made by the employer to any Regular Employee in lieu of any annual leave entitlement, nor shall such payment be accepted by the employee; provided that where employment is terminated the employer shall:

23.6.1 Pay to the employee all outstanding leave entitlements and pro-rata payments for the partially completed current year;

23.6.2 Be entitled to make a deduction from any outstanding monies for any leave taken in advance of a period of uncompleted employment.

23.7 A year of employment shall be deemed to be unbroken notwithstanding:

23.7.1 Any annual or long service leave, personal or accident leave not exceeding fourteen days or work interruption brought about by the company - in such circumstances the periods shall be counted as part of the year of employment;

23.7.2 Any other leave which is granted, imposed or agreed to by the employer, or any other absence not involving termination of employment - in such circumstances the period shall not be counted as part of the year of employment.

24. JURY SERVICE

24.1 An employee who has been summoned for jury service and who has attended court is entitled to be reimbursed by their employer an amount equal to the difference between the amount of remuneration paid by the court for jury service and the amount of wages that the employee could reasonably expect to have received from the employer as wages for ordinary working time for that period had the employee not been performing jury service.

24.2 The employee shall notify the employer as soon as possible of the date upon which the employee is required to attend for jury service.

24.3 The employee shall give the employer proof of jury attendance, the duration of such attendance, and the amount received in respect of such jury service.

25. PERSONAL LEAVE

The provisions of this clause apply to Regular Employees but do not apply to casual employees.

25.1 Amount of paid personal leave

25.1.1 Paid personal leave will be available to an employee when they are absent due to:

- personal illness or injury (sick leave); or
- for the purposes of caring for an immediate family or household member that is sick and requires the employee's care and support or an unexpected emergency affecting that member (carer's leave); or
- because of bereavement on the death of an immediate family or household member (bereavement leave).

25.1.2 A full time permanent employee shall be entitled to 76 hours of personal leave per year.

25.2 Immediate family or household

25.2.1 The entitlement to use personal leave for the purposes of carer's or bereavement leave is subject to the person in respect of whom the leave is taken being either:

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

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

25.2.2 The term **immediate family** includes:

(a) spouse (including a former spouse, a de facto spouse and a former de facto spouse) of the employee. A de facto spouse also includes a person who lives with the employee as his or her partner on a bona fide domestic basis;

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

25.3 Notification and proof

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 shall notify the employer by telephone of such absence at the first opportunity on the day of absence.

25.4 Evidence supporting claims

To be entitled to personal leave pay an employee must produce or forward within 48 hours of the commencement of such absence, evidence satisfactory to the employer that his or her non-attendance was due to circumstances giving rise to an entitlement to paid personal leave under this clause (including provisions of a medical certificate if required by the employer).

25.5 Unpaid leave

An employee may take unpaid carer's leave by agreement with the employer.

25.6 Bereavement leave

25.6.1 Paid leave entitlement

An employee is entitled to use up to 15.2 hours personal leave as bereavement leave on any occasion on which a member of the employee's immediate family or household dies.

25.6.2 Unpaid leave entitlement

Where an employee has exhausted all personal leave entitlements, including accumulated entitlements, he or she is entitled to up to three days unpaid bereavement leave.

25.6.3 Evidence supporting claim

Proof of such death shall be furnished by the employee to the satisfaction of his or her employer.

25.6.4 This clause shall have no operation while the period of entitlement to bereavement leave under it coincides with any other period of entitlement to leave.

26. PARENTAL LEAVE

26.1 Subject to the terms of this clause employees are entitled to maternity, paternity and adoption leave and to work part-time in connection with the birth or adoption of a child.

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

26.2.1 An **eligible casual employee** means a casual employee:

(a) employed by an employer on a regular and systematic basis for 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) who has, but for the pregnancy or the decision to adopt, a reasonable expectation of ongoing employment.

26.3 For the purposes of this clause, **continuous service** is work for an employer on a regular and systematic basis (including any period of authorised leave or absence).

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

26.4.1 the employee or employee's spouse is pregnant; or

26.4.2 the employee is or has been immediately absent on parental leave.

26.5 The rights of an employer in relation to engagement and re-engagement of casual employees are not affected, other than in accordance with this clause.

26.6 Definitions

26.6.1 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.

26.6.2 Subject to clause 26.6.3, in this clause, **spouse** includes a de facto or former spouse.

26.6.3 In relation to clause 26.11, **spouse** includes a de facto spouse but does not include a former spouse.

26.7 Basic entitlement

26.7.1 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. 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.

26.7.2 Subject to clause 26.9, parental leave is to be available to only one parent at a time, in a single unbroken period, except that both parents may simultaneously take:

(a) for maternity and paternity leave, an unbroken period of up to one week at the time of the birth of the child;

(b) for adoption leave, an unbroken period of up to three weeks at the time of placement of the child.

26.8 Maternity leave

26.8.1 An employee must provide notice to the employer in advance of the expected date of commencement of parental leave. The notice requirements are:

(a) of the expected date of confinement (included in a certificate from a registered medical practitioner stating that the employee is pregnant) - at least ten weeks;

(b) of the date on which the employee proposes to commence maternity leave and the period of leave to be taken - at least four weeks.

26.8.2 When the employee gives notice under clause 26.8.1(a) the employee must also provide 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.

26.8.3 An employee will not be in breach of this clause if failure to give the stipulated notice is occasioned by confinement occurring earlier than the presumed date.

26.8.4 Subject to clause 26.7.1 and 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.

26.8.5 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.

26.9 Special maternity leave

26.9.1 Where the pregnancy of an employee not then on maternity leave terminates after 28 weeks other than by the birth of a living child, then the employee may take unpaid special maternity leave of such periods as a registered medical practitioner certifies as necessary.

26.9.2 Where an employee is suffering from an illness not related to the direct consequences of the confinement, an employee may take any paid sick leave to which she is entitled in lieu of, or in addition to, special maternity leave

26.9.3 Where an employee not then on maternity leave suffers illness related to her pregnancy, she may take any paid sick leave to which she is then entitled and such further unpaid special maternity leave as a registered medical practitioner certifies as necessary before her return to work. The aggregate of paid sick leave, special maternity leave and parental leave, including parental leave taken by a spouse, may not exceed 52 weeks.

26.9.4 Where leave is granted under clause 26.8.4, 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.

26.10 Paternity leave

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

(a) 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; and

(b) written notification of the dates on which he proposes to start and finish the period of paternity leave; and

(c) a statutory declaration stating:

(i) he will take that period of paternity leave to become the primary care-giver of a child;

(ii) particulars of any period of maternity leave sought or taken by his spouse; and

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

26.10.2 The employee will not be in breach of clause 26.10.1 if the failure to give the required period of notice is because of the birth occurring earlier than expected, the death of the mother of the child, or other compelling circumstances.

26.11 Adoption leave

26.11.1 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 such notice, where through circumstances beyond the control of the employee, the adoption of a child takes place earlier.

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

(a) the employee is seeking adoption leave to become the primary care-giver of the child;

(b) particulars of any period of adoption leave sought or taken by the employee's spouse; and

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

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

26.11.4 Where the placement of 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 employee's return to work.

26.11.5 An employee will not be in breach of this clause as a consequence of failure to give the stipulated periods of notice if such failure results from a requirement of an adoption agency to accept earlier or later placement of a child, the death of a spouse, or other compelling circumstances.

26.11.6 An employee seeking to adopt a child is entitled to unpaid leave for the purpose of attending any compulsory interviews or examinations as are necessary as part of the adoption procedure. The employee and the employer should agree on the length of the unpaid leave. Where agreement cannot be reached, the employee is entitled to take up to two days unpaid leave. Where paid leave is available to the employee, the employer may require the employee to take such leave instead.

26.12 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.

26.13 Parental leave and other entitlements

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

26.14 Transfer to a safe job

26.14.1 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 will, 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.

26.14.2 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 for such period as is certified necessary by a registered medical practitioner.

26.15 Returning to work after a period of parental leave

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

26.15.2 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 clause 26.14, the employee will be entitled to return to the position they held immediately before such transfer.

26.15.3 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.

26.16 Replacement employees

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

26.16.2 Before an employer engages a replacement employee the employer must inform that person of the temporary nature of the employment and of the rights of the employee who is being replaced.

26.17 Effect of parental leave on employment

Subject to this clause, notwithstanding any award or other provision to the contrary, absence on parental 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 any purpose of any relevant award or agreement.

27. FAMILY AND DOMESTIC VIOLENCE LEAVE

27.1 Definition

For the purpose of this clause, family and domestic violence is defined as any violent, threatening or other abusive behaviour by a person against a current or former partner, and/or a member of the person's family or household (current or former).

27.2 Family and Domestic Violence Leave

27.2.1 An employee, including a casual employee, experiencing family and domestic violence is entitled, in addition to any applicable paid leave, to 10 days per year of unpaid family and domestic violence leave for the purpose of:

(a) attending legal proceedings, counselling, appointments with a medical or legal practitioner;
(b) relocation or making other safety arrangements; or
(c) other activities associated with the experience of family and domestic violence.

27.3 Workplace Flexibility

27.3.1 An employee who is experiencing family and domestic violence shall not suffer any penalty in the event that they:

(a) are unable to provide availability
(b) cancel a shift

27.4 Notice and Evidentiary Requirements

27.4.1 The employee shall give his or her employer notice as soon as reasonably practicable of their request to take leave, or utilize the workplace flexibility provisions, under this clause.

27.4.2 If required by the employer, the employee must provide evidence that would satisfy a reasonable person that the leave is for the purpose as set out in clause 27.2.1. Such evidence may include a document issued by the police service, a court, a doctor (including a medical certificate), district nurse, maternal and child health care nurse, a family violence support service, a lawyer or a statutory declaration.

27.4.3 If required by the employer the employee must provide evidence that the utilization of the workplace flexibility provisions is due to them experiencing family and domestic violence. Such evidence may include a document issued by the police service, a court, a doctor (including a medical certificate), district nurse, maternal and child health care nurse, a family violence support service, a lawyer or a statutory declaration.

27.4.4 The employer must take all reasonable measures to ensure that any personal information provided by the employee to the employer concerning an employee's experience of family and domestic violence is kept confidential.

PART 5 - OCCUPATIONAL HEALTH AND SAFETY

28. ACCIDENT PAY

28.1 The employer shall each pay period provide an injured Regular Employee with Accident Pay, being the employee's ordinary earnings for the pay period less the amount of payments or compensation paid to the employee under the relevant Accident Compensation legislation provided that such Accident Pay:

28.1.1 Shall be limited to the period of incapacity or 39 weeks, whichever is lesser; and

28.1.2 Shall not apply for the first five ordinary working days lost because of incapacity, or to any period after a lump sum is received in redemption of weekly payments.

28.2 Termination of employment for any reason during a period of incapacity shall in no way affect the employer's liability to pay Accident Pay.

28.3 If an employee suffers injury or illness necessitating return to the employee's usual place of residence or to a hospital or other place to receive medical care, the travel expenses actually incurred shall be borne by the employer.

29. OCCUPATIONAL HEALTH AND SAFETY

29.1 Employers shall comply with their health and safety obligations, with particular regard to employees using terminal and other electronic equipment. It is intended that employers will work with the union to identify and encourage best practice in relation to OHS issues (for example, chair and headset audits).

29.2 In accordance with the relevant legislative requirements, employees, or at their request an employee representative including the NUW, have the right to negotiate with an employer in relation to the appointment of Health & Safety Representatives (HSRs) and the formation of Occupational Health and Safety Committees at their workplace.

29.3 It is recognised by the parties that, as part of an employer's statutory obligations to provide a safe workplace and to pursue safe work practices, interviewers should be provided with:

- A maximum of two pairs of personal foam headset covers per year, along with a secure place to store the covers on site, and/or
- Telegenes, or similar antiseptic/antibacterial products to clean and sanitise headsets.
- Amenities including a fridge, boiling water and cool drinking water of reasonable quality;
- Tea, coffee, sugar and milk.

29.4 In line with relevant OHS legislations face to face workers shall not be penalised for refusing to work in weather conditions that they feel would create an unsafe working environment. Any dispute in relation to this clause shall be referred to the relevant state OHS authority.

30. ENERGY SAVING PRACTICES

AMSRO recognizes that climate change is a matter of significant importance to union members. AMSRO members are committed to pursuing energy saving practices and it is expected that they will communicate with their employees about how energy saving practices are being implemented.

PART 6 - CONSULTATION AND DISPUTE RESOLUTION

31. INTRODUCTION OF CHANGE

31.1 Employer's duty to notify

31.1.1 Where the employer:

(a) has made a definite decision to introduce a major change in production, program, organisation, structure, or technology that is likely to have significant effects on employees; or

(b) proposes to introduce a change to the regular roster or ordinary hours of work of employees;

the employer shall notify the employees who may be affected by the proposed changes and the NUW.

31.1.2 "Significant effects" include termination of employment, major changes in the composition, operation or size of the employer's workforce or in the skills required; the elimination or diminution of job opportunities, promotion opportunities or job tenure; the need for retraining or transfer of employees to other work or locations and the restructuring of jobs. Where the Agreement makes provision for alteration of any of the matters referred to herein, an alteration shall be deemed not to have significant effect. Introduction of an Autodial telephone system shall be deemed to be a major change for the purposes of this clause.

31.2 Employer's duty to discuss change

31.2.1 The employer shall discuss with the employees affected and the NUW, inter alia, the introduction of the changes referred to in clause 31.1, 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 and/or the NUW in relation to the changes.

31.2.2 The discussions shall commence as early as practicable after a definite decision has been made by the employer to make the changes referred to in clause 31.1.

31.2.3 For the purposes of such discussions, the employer shall provide in writing to the employees concerned and the NUW, 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. The employer shall not be required to disclose confidential information and disclosure of which would be inimical to the employer's interests.

31.2.4 A nominated employee representative may be involved in any of the above steps.

32. DISPUTES PROCEDURE

32.1 Any dispute or claim (whether any such dispute or claim arises out of the operation of this Agreement or not) as to the wages or conditions of employment of any of the employees covered by this Agreement, including a claim that the Agreement or the NES (excluding subsections 65(5) or 76(4)) has been breached, or as to the relationship between an employer and the NUW, shall be settled in the following manner:

32.1.1 Where practicable the aggrieved employee and the employee's supervisor shall first discuss the matter. The employee is entitled to request the presence of union representative for this discussion (which shall not be unreasonably refused).

32.1.2 If settlement is not reached the matter shall be discussed between the delegate and the site manager or other appropriate officer of the employer.

32.1.3 If not settled the matter shall then be discussed between the union organiser and the appropriate representative employer.

32.1.4 If local discussions are unsuccessful or if either party desires to discuss the matter immediately at a higher level, discussions may be held between the NUW State

and/or National Office representatives and the employer representatives, including if necessary, AMSRO.

32.1.5 If the matter is still not settled then it shall be submitted to a member of Fair Work Australia for conciliation and if necessary arbitration, whose decision shall, subject to any rights of appeal, be final and accepted by the parties.

32.1.6 Without prejudice to either party, and except where a bona fide safety issue is involved, work shall continue in accordance with this Agreement while matters are negotiated in good faith.

32.1.7 If arbitration is necessary the parties agree that Fair Work Australia shall have the power to do all such things as are necessary for the just resolution or determination of the matter in dispute. This includes the exercising of procedural powers in relation to directions, hearings, witnesses, evidence and submissions which are necessary to make the arbitration effective.

32.1.8 A nominated employee representative may be involved in any of the above steps.

32.2 Anti-Discrimination

It is the intention of the parties to the to achieve the principal object in s.3(e) of the *Fair Work Act 2009* (Cth) by enabling fairness and representation at work, and the prevention of discrimination, by recognising the right to freedom of association and the right to be represented as well as protecting against unfair treatment and discrimination.

Accordingly, in fulfilling their obligations under the disputes procedure, the Employer, the employees and the Union must make every endeavour to ensure that neither the provisions of this Agreement nor their operation are directly or indirectly discriminatory in their effects.

33. CONSULTATIVE ARRANGEMENTS

33.1 The parties agree that consultative arrangements between the employer, employees and the NUW to discuss local matters affecting employees are desirable.

33.2 As part of this process, the employer and the NUW may agree to set up consultative arrangements at a work site to facilitate local discussions between representatives of management and the NUW relating to the effective operation of this Agreement at that work site (including, but not limited to, matters such as hours of work, amenities and equipment).

33.3 The NUW acknowledges the right of market research employers to collect and utilise data on employee performance and to monitor terminals equipment for this purpose. AMSRO also acknowledges the NUW's concern to protect the rights of employees in relation to the use of data derived from terminal monitoring where it affects the private rights of employees.

PART 7 – TERMINATION OF EMPLOYMENT

34. REDUNDANCY – REGULAR EMPLOYEES

The provisions of this clause relate only to Regular Employees.

34.1 Discussions before termination

34.1.1 Where an employer has made a definite decision that the employer no longer wishes the jobs that two or more the employees have been doing be done by anyone and this is not due to the ordinary and customary turnover of labour and that decision may lead to termination of employment, the employer shall hold discussions with the employees directly affected and with the NUW.

34.1.2 The discussions shall take place as soon as is practicable after the employer has made a definite decision which will invoke the provisions of clause 34.1.1 and shall

cover, inter alia, any reasons for the proposed terminations, measures to avoid or minimise the terminations and measures to mitigate any adverse effects of any terminations on the employees concerned.

34.1.3 For the purposes of the discussion the employer shall, as soon as practicable, provide in writing to the employees concerned and the NUW, 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 employees normally employed and the period over which the terminations are likely to be carried out. Provided that an employer shall not be required to disclose confidential information the disclosure of which would be inimical to the employer's interest.

34.2 Transfer to lower paid duties

Where an employee is transferred to lower paid duties for reasons set out in clause 34.1.1, the employee shall be entitled to the same period of notice of transfer as they would have been entitled to if their employment had been terminated, and the employer may at the employer's option, make payment in lieu thereof of an amount equal to the difference between the former ordinary time rate of pay and the new lower ordinary time rates for the number of weeks of notice still owing.

34.3 Severance pay

34.3.1 In addition to the period of notice prescribed for ordinary termination in clause 36.1, an employee whose employment is terminated for reasons set out in clause 34.1.1, other than an employee of a small employer (defined as an employer who employs fewer than 15 employees) shall be entitled to the following amount of severance pay in respect of a continuous period of 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 yeas	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

34.3.2 An employee of a small employer (defined as an employer who employs fewer than 15 employees) whose employment is terminated for reasons set out in clause 34.1.1 shall be 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 over	8 weeks' pay

34.3.3 In relation to an employee who has been converted from casual employment under clause 8.5 of this Agreement to a Regular Employee, the "period of continuous service" of the employee includes the period of continuous service as a casual employee prior to conversion.

34.3.4 Week's pay means the ordinary time rate of pay for the employee concerned.

34.3.5 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.

34.4 Employee leaving during notice

An employee whose employment is terminated for reasons set out in clause 34.1.1 may terminate their employment during the period of notice and, if so, shall be entitled to the same benefits and payments under this clause had the employee remained with the employer until the expiry of such notice. Provided that in such circumstances the employee shall not be entitled to payment in lieu of notice.

34.5 Alternative employment

The provisions of clause 34.3 above are not applicable where the employer makes or obtains an offer of alternative employment to the employee 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 the employee's original position is made redundant.

34.6 Time off during notice period

34.6.1 During the period of notice of termination given by the employer 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.

34.6.2 If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee shall, at the request of the employer, be required to produce proof of attendance at an interview or the employee shall not receive payment for the time absent.

34.6.3 For this purpose a statutory declaration will be sufficient.

34.7 Notice to Centrelink

Where a decision has been made to terminate employees in the circumstances outlined in clause 34.1.1, 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.

34.8 Transmission of business

34.8.1 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 transmittee:

(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 transmittee.

34.8.2 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 transmitted has a corresponding meaning.

34.9 Employees with less than one year's service

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

34.10 Employees exempted

This clause shall not apply where employment is terminated as a consequence of conduct that justifies instant dismissal, including malingering, inefficiency or neglect of duty, or in the case of casual employees, or employees engaged for a specific period of time or for a specified task or tasks.

35. REDUNDANCY – CASUAL EMPLOYEES

35.1 This clause shall apply to a casual employee who:

35.1.1 is terminated by the employer on the grounds of redundancy due to an operational restructure of a work site or work group by the employer and who is not offered acceptable alternative employment. Provided that this clause does not apply to termination due to an increase or decrease in work or the customary turnover of labour; and

35.1.2 at the time of termination has been engaged by the employer:

- for a sequence of periods of employment under this Agreement during a period of at least two years on a regular and systematic basis; and
- for at least 456 hours in the last twelve months.

35.2 Where a casual employee covered by clause 35.1 is so terminated the employee shall be entitled to five (5) weeks notice or pay in lieu and eight (8) weeks' severance payment. Where the employee's rate of pay or weekly hours vary, the redundancy payment shall be based on the average weekly remuneration received for the previous 12 month period.

35.3 If there are in place established redundancy arrangements for casuals at a particular workplace that are better than those in this clause, those redundancy arrangements shall continue to operate at that workplace.

36. TERMINATION OF EMPLOYMENT - REGULAR EMPLOYEES

36.1 Notice of termination by employer

36.1.1 In order to terminate the employment of an employee the employer shall give the employee the following notice:

Period of continuous service	Period of notice
Less than 1 year	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

36.1.2 In addition to the notice in clause 36.1.1, employees over 45 years of age at the time of the giving of the notice with not less than two years continuous service, shall be entitled to an additional one week's notice.

36.1.3 Payment in lieu of the notice prescribed in clause 36.1.1 and/or 36.1.2 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.

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

36.1.5 The period of notice in this clause shall not apply in the case of dismissal for conduct that justified instant dismissal, including malingering, inefficiency, dishonesty, misconduct, or neglect of duty, or for absence from work without reasonable cause, or in the case of casual employees or employees engaged for a specific period of time or for a specific task or tasks.

36.2 Time off during the period of notice

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

36.3 Statement of employment

The employer shall, upon receipt of a request from an employee who has been given notice of termination of employment, provide to that employee a written statement specifying the period of their employment and the classification of or the type of work performed by the employee.

36.4 Notice of termination by employees

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

36.4.2 If an employee fails to give notice or complete the notice period 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 either required or not completed.

36.4.3 Where an employee has given or been given notice as aforesaid or payment made in lieu of the prescribed notice, unless otherwise agreed between the employer and the employee, the employee shall continue in employment until the date of expiration of such notice. An employee having been given notice as aforesaid who absents them self from work during such period without reasonable cause (with the onus of proof being on the employee) shall be deemed to have abandoned their employment and shall not be entitled to payment for work done within such period of notice.

36.5 Summary dismissal

Notwithstanding the provisions of clause 36.1.1, the employer shall have the right to dismiss any employee without notice for conduct that justifies instant dismissal, including malingering, inefficiency or neglect of duty and in such cases the wages shall be paid up to the time of dismissal only. A regular employee may be dismissed by an accredited representative of the employer, without the notice and entitlements specified under this Agreement, in either of the following circumstances:

36.5.1 Where there is serious negligence, misconduct or breach of contract justifying instant dismissal; or

36.5.2 Where within the course of a year there is a course of continuing unsatisfactory performance or conduct. Evidence of this shall be that the employee, within the immediately prior twelve months, has received at least two written warnings that performance or conduct need to be improved in a specific way within stated time periods, with a copy of the warnings being included on the employee's personal file, and again has unsatisfactory performance or conduct.

36.6 Unfair dismissals

36.6.1 Termination of employment by an employer shall not be harsh, unjust or unreasonable.

36.6.2 For the purposes of this clause, termination of employment shall include terminations with or without notice.

36.6.3 Without limiting the above, except where a distinction, exclusion or preference is based on the inherent requirements of a particular position, termination on the ground of race, colour, sex, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction and social origin shall constitute a harsh, unjust or unreasonable termination of employment.

36.6.4 This clause does not confer an entitlement or remedy in relation to a termination of a particular employee's employment that is unfair (however described) before that employee has completed a period of employment of at least the minimum employment period if that employee would be protected from unfair dismissal under Part 3-2 of the *Fair Work Act* after completing a period of employment of at least the minimum employment period.

PART 8 - TRAINING

37. TRAINING

37.1 An employer who requires an employee to undertake any course of training shall pay all the fees and expenses of such courses or training.

37.2 Employees shall comply with all the requirements of the employer, which are related to participation in the quality standards and training program.

37.3 The employer shall review the training and experience of Supervisors to ensure each Supervisor has awareness of quality requirements, Privacy legislation and conflict resolution (including how to apply the dispute resolution procedure in this Agreement) as they affect the role of the Supervisor.

PART 9 - AGREEMENT COMPLIANCE AND MACHINERY MATTERS

38. REPRESENTATION AND COMMUNICATION WITH EMPLOYEES

38.1 Any accredited representative of the NUW may enter an employer's premises for the following purposes:

- Inductions of new employees or casual workers;
- Distributing written information to employees (including during employees' shifts); and
- Involvement under the disputes procedure of this Agreement.

These purposes are separate from right of entry under the Act to investigate suspected contraventions or to hold discussions.

38.2 Provided that:

38.2.1 The authority shall be produced to a company manager and, if reasonably practicable, this shall be done before interviewing employees;

38.2.2 As far as practicable, employees shall be interviewed during meal time or non-working hours, provided that up to two hours of paid time per year (up to four hours in a bargaining year) shall be allowed for employees to attend authorised NUW meetings at the employer's premises;

38.2.3 Interviews held during working hours shall be carried out expeditiously and with as little interference with work as possible;

38.2.4 The representative shall treat managers, supervisors and other employees with respect; and

38.2.5 The representative shall not be offensive in the methods used.

38.3 If a condition set out in clause 38.2 is breached, the company may refuse or withdraw the right of entry.

39. NOTICE BOARD

The employer shall cause a notice board of reasonable dimensions to be erected in a prominent place on the employer's premises accessible to employees for the purpose of posting any notice in connection with this agreement or other matters related to the employment of the employees which the union may require to have posted.

40. PROMOTION OF UNION MEMBERSHIP

40.1 It is agreed that the NUW and the employer are to encourage union membership amongst the employees that are covered by this agreement. It is recognised that there are benefits to the parties and to the market research industry generally from having an effective, representative body to speak on behalf of market and social research employees in relation to employment and workplace relations matters and to participate in implementing this Agreement.

40.2 The NUW will:

40.2.1 as far as possible speak to new employees on their first day of training to explain the benefits of NUW membership; and

40.2.2 as far as possible keep a local employee representative (union delegate) informed of developments of relevance to market and social research employees. If there is no local employee representative information can be supplied to management for distribution.

40.3 Each employer will:

40.3.1 ensure that, whenever the opportunity arises, Company managers and supervisors verbally reinforce support of employees joining the NUW should the employee wish to; and

40.3.2 advertise any union meetings scheduled for their Company, and encourage those who are interested to attend.

41. NUW DELEGATES

41.1 An employee appointed as NUW Delegate, shall upon notification thereof to the employer by an official of the NUW, be recognised as the accredited local representative of the NUW. The remainder of this clause deals with the rights of the local union delegate in the workplace; paid benefits for the local union delegate; and work responsibilities of an employee (who is also local union delegate) whilst they are working as an employee.

41.2 Rights of Local NUW Delegate

41.2.1 It is accepted that the local NUW delegate has a role to perform under this Agreement including assisting in the resolution of workplace disputes, and as such:

(a) shall not suffer discrimination in their employment due to performing their role as local union delegate;

(b) shall be treated by managers, supervisors and other employees with proper respect;

(c) represents union members in their workplace on matters arising under this Agreement or the employment relationship on which members wish to be so represented;

(d) shall be kept informed by the employer of developments of relevance to market research employees, including reasonable information about the workplace and the business arising under this Agreement or the employment relationship; and

(e) shall be entitled to place information on the notice board in the workplace (as per clause 38 of this Agreement)

41.3 Paid Benefits for Local NUW Delegate

41.3.1 In order to facilitate the operation of this Agreement and/or to ensure its observance, the local NUW delegate shall be entitled to:

(a) paid time to attend accredited union education (as per clause 42 of this Agreement) per year;

(b) paid time to attend authorised union meetings at the employer's premises for up to 2 hours per year (as per clause 38.2 of this Agreement) and to utilise this paid time for other meetings, dispute resolution and other union delegate purposes in accordance with this Agreement;

(c) paid time of 15 minutes at induction sessions to speak to new employees for the purposes of introducing and explaining this Agreement. The employer shall as far as practicable notify the local NUW delegate in the company of the names and probable times of next work commencement of new starters to facilitate this occurring. In the event that the NUW is not informed of the induction through the agreed communication channels between the company and NUW, paid time of 15 minutes to speak to new employees will be scheduled at the next earliest agreed time. If an NUW representative is unavailable to attend an induction the company shall make reasonable efforts to allow an NUW representative 15 minutes of paid time to speak to new starters at a later date.

(d) paid time in the form of a 'pool' of an additional six hours per year to be used by the delegates at the site for on site and off site union business; and

(e) access to equipment at the employer's premises as follows:

- lockable cabinet/filing space shall be provided by the employer, if needed by the delegate for their role as a delegate;

- the delegate is to have access to reasonable photocopying (this includes that each piece of material is to be copied on the basis of no more than one copy per employee, and permission as to a suitable time to conduct the copying is to be sought in advance of copying);

- the delegate is able to make a reasonable amount of telephone calls to union members in relation to matters arising under the Agreement or the employment relationship, providing that the delegate is only ringing local landlines and not mobiles. The employer is to provide privacy for the delegate to conduct such calls and the delegate must seek permission as to a suitable time and location to conduct the telephoning in advance of telephoning; and

- the delegate is to have access to a computer with internet access and printing capability and to a delegate email address (to be created by the union) at workplace. Delegates also are to be given access to the email addresses, or an email distribution list, of employees who have opted-in to being included in this list for the purposes of union workplace communications.

41.4 Employee Responsibilities

41.4.1 An employee who is the local union delegate shall:

(a) devote themselves to their work as an employee during their paid work time;

(b) treat managers, supervisors and other employees with proper respect; and

(c) when performing their role as a union delegate this shall as far as possible fit in with continued work requirements and minimise disruption of work. This includes as far as possible performing their role as a union delegate before or after working time. Where this cannot be done the employee shall notify the Supervisor or Team Leader before doing union activity, shall sign off during the time of such activity and shall avoid interruptions of work of other employees. Wages for such time may be met from the paid time referred to in clause 41.3.

42. PAID UNION/TRAINING LEAVE

42.1 Subject to clause 42.2, an eligible employee representative, including a union delegate elected pursuant to clause 41, will be entitled to, and the employer will grant, up to five days training leave with pay to attend courses which are directed at the enhancement of the operation of the dispute resolution procedure in this Agreement and its interaction with the *Fair Work Act 2009* (Cth).

42.2 The employer will not be required in any calendar year to provide paid training leave under either clause 41 or this clause 42 across the whole workforce of that employer in excess of:

- a total of 20 days' leave;
- leave for the lesser of five employees nationally or three employees in any one state or territory.

42.3 The granting of leave, pursuant to this clause, will be subject to:

42.3.1 the employee or the union giving not less than 10 working days' written notice of the intention to attend such course, or such lesser period of notice as may be agreed by the employer. Such written notice much include the nature, content and duration of the course to be attended; and

42.3.2 the employer being able to make adequate staffing arrangements amongst current employees during the period of such leave. An employer shall not use this sub clause to avoid an obligation under this clause.

42.4 Leave of absence granted pursuant to this clause shall count as service for all purposes of this Agreement.

42.5 Each employee on leave approved in accordance with this clause shall be paid all ordinary time earnings. For the purpose of the sub clause ordinary time earnings for an employee means the classification rate, any over Agreement payment, superannuation and shift loading which otherwise would have been payable.

42.6 All expenses (such as travel, accommodation and meals) associated with or incurred by the employee attending a training course as provided in this clause shall be the responsibility of the employee or the NUW.

42.7 An employee may be required to satisfy the employer of attendance at the course to qualify for payment of leave, unless the employee would otherwise have been entitled to payment under clause 25.

42.8 An employee granted leave pursuant to this clause shall upon request, inform the employer of the nature of the course attended and their observations on it.

42.9 In the event a scheduled rostered day off falls within a period of leave approved pursuant to the clause, no alternative day of leave shall be substituted instead.

43. MEMBERSHIP DEDUCTIONS

43.1 Where written authority is provided by the employee, the employer will deduct union membership fees from the employee's wages or salary and remit them, along with a schedule of such contributions, to the NUW at monthly intervals. The employee authorises the employer to deduct fees when the employee completes a NUW membership card authorising payroll deductions.

43.2 Where the employee authorises the employer to do so the employer shall send to the NUW, within 7 days of receiving such authority, such of the employees details as are necessary to permit the establishment of a direct debit arrangement for the payment of the employee's union fees. These details will include but are not limited to the employee's BSB and account numbers.

44. COPY OF AGREEMENT

A copy of this Agreement with all variations thereof shall be displayed in a prominent place on the employer's premises accessible to employees. Each employee shall be supplied with a copy of this Agreement on request.

45. NO EXTRA CLAIMS

This Agreement is in full settlement of all claims and during the operation of this Agreement no additional claims are to be made relating to the period of operation of this Agreement (including matters covered by the Agreement or otherwise). The nominal expiry date of 30 September 2016 has been agreed to on the basis that any future increases to pay rates or improvements to conditions, which increase costs (other than those provided for by this Agreement) do not apply before 1 January 2017.

The exception to this provision is that guidelines are to be formulated on occupational safety and health standards in the market research industry, as per clause 29 of this Agreement.

46. INDIVIDUAL WORKPLACE AGREEMENTS

The employer will not employ persons covered by this agreement under the terms of an individual statutory workplace agreement that operates to exclude the operation of this agreement.

47. WORKPLACE FLEXIBILITY

The terms of the Agreement identified below may be varied by an individual flexibility arrangement ("IFA").

Clause Number	Clause Title
22.4.2	Advance Payment of Annual Leave
14.7	Providing or reimbursing reasonable costs of weather protective clothing and equipment

47.1 The employer **will not** make an IFA unless the following conditions are satisfied:

47.1.1 The IFA *must* meet the genuine needs of an employee and the employer.

47.1.2 The IFA *must* be genuinely agreed to by the employee and the employer. In order to ensure genuine agreement the employer must advise the Union delegate prior to an IFA being entered into and allow the employee and the Union delegate paid time to discuss the proposed IFA.

47.1.3 The IFA *must* be about permitted matters under section 172 of the *Fair Work Act 2009.*

47.1.4 The IFA *must not* include a term that would be unlawful under section 194 of the *Fair Work Act 2009.*

47.1.5 The IFA *must* result in the employee being better off overall than if no IFA had been made.

47.1.6 The IFA *must not* disadvantage or discriminate against the employee, or other employees or a group of employees, whether directly or indirectly.

47.1.7 Arrangements may only be made with existing employees and *must not* be made a condition of engagement.

47.1.8 The IFA *must* be recorded in writing and signed by the employer and the employee (and, if the employee is under 18, by their parent or guardian) in the presence of the Union delegate.

47.1.9 The IFA *must* be translated into a language that the employee understands.

47.1.10 The IFA *must* be given to the employee and the Union within 7 days of it being agreed to.

47.1.11 The IFA must be able to be terminated by either party, by giving 7 days written notice, or at any time by mutual written agreement.

47.1.12 Prior to an employer entering into an IFA to address employer genuine needs, the employer must consult with the Union about such genuine needs.

47.2 It is a very serious breach of this Agreement if the employer enters into an IFA and the above conditions are not satisfied.

48. RENEGOTIATION

48.1 The parties agree to commence negotiations for a new collective agreement to succeed this Agreement at least 3 months before the nominal expiry date of this Agreement. The parties intend to conclude these negotiations prior to the nominal expiry date.

48.2 These negotiations will be conducted on a collective basis between the parties with the negotiated outcome being collectively approved.

48.3 The parties agree to bargain collectively in relation to any matters whether arising from this Agreement or not including the renewal, extension, variation or renegotiation of this Agreement.

48.4 Should negotiations for a new collective agreement not be finalised prior to the nominal expiry date of this Agreement, the rates of pay and conditions prescribed by this Agreement will continue to be observed for all employees by the parties.

SCHEDULE A - RESPONDENTS

Organisation	**Address**	**Suburb**	**State/ Postcode**
Action Market Research	Level 3, 68 Grenfell Street	Adelaide	SA 5000
AMR	The Bond, Level 4, 30 Hickson Road	Millers Point	NSW 2000
Ask Australia Pty Ltd	3/2 Mint Street	East Victoria Park	WA 6101
Colmar Brunton and Your Source	108 Bowen Street	Spring Hill, Brisbane	QLD 4000
D&M Research	Suite 104, 1 Erskineville Road	Newtown	NSW 2042
DBM Consultants Pty Ltd	5-7 Guest Street	Hawthorn	VIC 3122
Ekas Marketing Research Services	116 Alexander St	Crows Nest	NSW 2065
Enhance Research	30 Misterton St	Fortitude Valley	QLD 4006
EY Sweeney	8 Exhibition Street	Melbourne	VIC 3000
Farron Research Pty Ltd	Unit B2a, 2 Central Ave	Thornleigh	NSW 2120
Field Works Market Research	Suite 6, 663 Victoria Street	Abbotsford	VIC 3067
GfK Australia Field Work Pty Ltd	GfK | L7, 107 Mount Street	North Sydney	NSW 2060
Harrison Research	Lvl 1, 69 Fullarton Road	Kent Town	SA 5067
Ipsos and I-view	Level 2, 1/658 Church Street	Richmond	VIC 3121
Jetty Research	PO Box 1555	Coffs Harbour	NSW 2450
Market Solutions	8/707 Mt Alexander Road	Moonee Ponds	VIC 3039
MarketMetrics Pty Ltd	Level 1, 521 Bridge Road	Richmond	VIC 3121
McGregor Tan Research	259 Glen Osmond Road	Frewville	SA 5063
McNair Ingenuity Research	Lvl 4/ 270 Pacific Highway	Crows Nest	NSW 2065
Millward Brown and National Field Services	Level 12, 380 St Kilda Road	St Kilda	VIC 3182
Myriad Research	PO Box 1000	Rosny Park	TAS 7018
newfocus	PO Box 270	Marden	SA 5070
ORC International	71 Walker Street	North Sydney	NSW2060
ORIMA Research	6/479 St Kilda Road	Melbourne	VIC 3004
Oz Info Pty Ltd/ Field Force	Lvl 1, 290 Normanby Road	Port	VIC 3207

		Melbourne	
Q&A Market Research Services	9 Parkview Street	Milton	QLD 4064
Qualitative Recruitment Australia Pty Ltd	Suite 3,23 Newcastle Street	Rose Bay	NSW 2029
Square Holes	8-10 Regent Street North	Adelaide	SA 5000
Stable Research	13/59-63 Captain Cook Drive	Caringbah	NSW 2229
Stollznow Research	156 Military Road	Neutral Bay	NSW 2089
Taverner Research	Level 2, 88 Foveaux Street	Surry Hills	NSW 2010
The Human Network	PO Box 772	Terrigal	NSW 2260
The Knowledge Warehouse	83B Hartnett Drive	Seaford	VIC 3198
The Market Intelligence Co.	Level 1, 4A Lord Street	Botany	NSW 2019
The Purple Corporation (Australia) Pty Ltd	308 Pacific Highway	Crows Nest	NSW 2065
The Social Research Centre	Level 9, 277 William Street	Melbourne	VIC 3000
Thinkfield	Level 1, 250 Oxford Street	Leederville	WA 6007
Wallis Consulting Group Pty Ltd.	118 Balmain Street	Cremorne	VIC 3121