



DECISION

Fair Work Act 2009

s.185 - Application for approval of a single-enterprise agreement

Progress Rail Australia Pty Ltd
(AG2020/4226)

PROGRESS RAIL ALTONA FACILITY ENTERPRISE AGREEMENT 2020

Manufacturing and associated industries

COMMISSIONER CIRKOVIC

MELBOURNE, 2 FEBRUARY 2021

Application for approval of the Progress Rail Altona Facility Enterprise Agreement 2020.

[1] An application has been made for approval of an enterprise agreement known as the *Progress Rail Altona Facility Enterprise Agreement 2020* (the Agreement). The application was made pursuant to s.185 of the *Fair Work Act 2009* (the Act). It has been made by Progress Rail Australia Pty Ltd. The Agreement is a single enterprise agreement.

[2] On the basis of the material contained in the application and accompanying declaration, I am satisfied that each of the requirements of ss 186, 187 and 188 as are relevant to this application for approval have been met.

[3] The Australian Rail, Tram and Bus Industry Union, being a bargaining representative for the Agreement, has given notice under s.183 of the Act that it wants the Agreement to cover it. In accordance with s.201(2) I note that the Agreement covers the organisation.

[4] I observe that the following provisions are likely to be inconsistent with the National Employment Standards (NES):

- Clause 28
- Clause 29
- Clause 31.2
- Clause 37.3(ii)

[5] However, noting clause 5 of the Agreement, I am satisfied that the beneficial entitlements of the NES will prevail where there is an inconsistency between the Agreement and the NES.

[6] 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.

[7] The Agreement was approved on 2 February 2021 and, in accordance with s.54, will operate from 9 February 2021. The nominal expiry date of the Agreement is 30 June 2024.



COMMISSIONER

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Note - the model consultation term is taken to be a term of this agreement and can be found at the end of the agreement.

PROGRESS RAIL ALTONA FACILITY

ENTERPRISE AGREEMENT 2020

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PART I – GENERAL

1. TITLE

This Agreement shall be known as the Progress Rail Altona Facility Enterprise Agreement 2020 (**'the Agreement'**).

2. COVERAGE OF THIS AGREEMENT

This Agreement shall cover:

- (i) The employees employed by Progress Rail Australia Pty Ltd at its Altona facility who are engaged in the classifications prescribed in this Agreement, including those engaged in shunting activities, and all Altona employees working at other locations. (**'Employees'**);
- (ii) The Company;
- (iii) The Australian Rail, Tram & Bus Industry Union (Victorian Branch);

(Referred to as **'Union'**)

*Please note that the Union will only be covered by this Agreement if they elect to be covered by this Agreement in accordance with section 183 of the *Fair Work Act* 2009 (**"the FW Act"**) and is noted in the decision of the Fair Work Commission approve the agreement that the agreement covers the Union.

3. DURATION OF THIS AGREEMENT

This Agreement shall come into operation on the seventh day after the Company receives notice from the Fair Work Commission that the Agreement has passed the Better Off Overall Test. The nominal expiry date of the Agreement is 30 June 2024.

4. INCORPORATION BY REFERENCE OF THE RELEVANT AWARDS

This Agreement incorporates the terms of the Relevant Awards as in operation at the date of the signing of this Agreement; provided that the terms of this Agreement will prevail where it is inconsistent with the incorporated terms of the Relevant Awards. The rates of pay and/or allowances provided for in this Agreement apply for all purposes of the Relevant Awards (excluding the calculation of any incorporated allowances). Further, any increases in the rates of pay and/or allowances in the Relevant Awards, will apply where better than this Agreement.

As the context requires, the terms in the Relevant Awards should be read as altered to make them operate as terms of the Agreement. For example "award" may mean "Agreement".

This Agreement supersedes any other Statutory Industrial Instruments which applied prior to the introduction of this Agreement and which regulated the terms and conditions of employment of employees covered by this Agreement.

5. DEFINITIONS

In this Agreement the following definitions shall apply:

| | |
|---|--|
| “the Act” | Means the <i>Fair Work Act 2009</i> , as amended from time to time. |
| “the NES” | <p>Means the National Employment Standards as set out in or determined pursuant to the Fair Work Act 2009 (Cth) as at the date of operation of this Agreement, including any employee beneficial variations from time to time.</p> <p>The terms of this Agreement that deal with the NES only apply to the extent that the terms are not detrimental to an employee when compared to the NES.</p> |
| “Progress Rail Altona Facility” | Means the Progress Rail facility at Westlink Court, Altona and any Progress Rail employee working at SCT, Altona and other locations. |
| “Occupational Health and Safety legislation” | Means the <i>Occupational Health and Safety Act 2004</i> (Vic) and the Regulations to that Act and any other applicable occupational health and safety legislation, including, but not limited to, the Rail Safety Act 2006 (local Operations). |
| “Party” or “Parties” | Means the Employees, Union and the Employer. |
| “the award” | <p>Means:</p> <p>the Manufacturing and Associated Industries and Occupations Award 2010 as in operation at the date of the signing of this Agreement; excluding the individual flexibility and individual facilitative provisions in clause 13.7 and including any increases in the rates of pay and/or allowances in the Award, if they are better than this Agreement. (‘the Manufacturing Award’).</p> |
| “Transferred Employees” | Employees who transferred their employment to the Company (formerly Clyde Engineering) from PTC no later than 1 January 2000. |
| “BLD” | Means bonus leave day. |
| “RDO” | Means rostered days off. |

6. APPENDICES

The Appendices to this Agreement form part of the Agreement.

7. OBJECTIVES OF THIS AGREEMENT

The parties to this Agreement recognise the importance of open consultation, cooperation and agreement to facilitate the achievement of objectives as set out in this clause.

The objectives of this Agreement are to -

- (i) Achieve an internationally competitive engineering facility, with a multi/cross-skilled and highly motivated workforce with a focus on achieving delivery, product quality, measurable productivity gains, cost efficiency, and teamwork, for the mutual benefit of the Company, its employees, shareholders and the community.
- (ii) Ensure the ability of the Company with the support of the employees covered by this agreement, to fulfil its obligations for the maintenance and overhaul of rollingstock under a maintenance contract to the customer.
- (iii) Develop a working environment that will contribute to the achievement of the above by encompassing employee participation in decision making, pride in quality, safe working practices, and continuous improvement in product quality, reliability and customer service, flexible work patterns via cross-skilling to achieve customer delivery in full and on time.
- (iv) Establish a framework to enable employees to achieve these objectives and to enable them to identify and solve problems as well as initiate improvements to work design, processes and procedures leading to productivity improvements and increased job satisfaction.
- (v) Create and enhance a culture of continuous improvement.
- (vi) Establish a clear understanding by employees of the goals and objectives of the Company.
- (vii) Ensure that a competitive unit hourly charge-out rate is maintained or reduced to enhance the competitiveness of the business.
- (viii) Avoid any industrial action which might disrupt the continuity of service to the customer, or in any way reduce the effectiveness of the business.
- (ix) To select the best person for the position on the basis of competencies at all levels of the Company and to invest in that person's potential through relevant training and job enhancement to improve an individual's personal security and job satisfaction respectively.
- (x) Achieve job security for all employees, all other things being equal.
- (xi) Develop a flexible workforce and a flexible-working environment.

8. EMPLOYEES' DUTIES AND OBLIGATIONS

Except as provided for elsewhere in this Agreement, employees may not absent themselves from work on any day when they are normally rostered for duty. Any such non-attendance shall result in loss of pay for the actual time of non-attendance.

Employees must abide by the terms of this Agreement and in particular:

Work safely at all times.

Perform work in accordance with a roster, which may vary from time to time, including off site operations and in line with the consultation clause 43.

Report for work in a fit and proper state, free from the influence of drugs and alcohol.

Abide by all lawful directions of the company during the course of their employment.

Undertake training consistent with the needs of the company and the objectives of this Agreement, in line with the employees role they are employed to do.

Adhere strictly to the dispute resolution as prescribed in clause 43.

Comply with all occupational health, safety and rehabilitation requirements at the site in compliance with Work Health and Safety Act 2004 (Victoria) (as amended from time to time) and company policies and procedures.

Work a reasonable amount of overtime as may be required on any of the 7 days of the week (which includes Public Holidays) should such be necessary to meet the service requirements of the customer, or to rectify an equipment breakdown.

PART II - OCCUPATIONAL HEALTH AND SAFETY

9. VISION ZERO

Employees and the Company understand that it is an objective of this Agreement to provide an accident free, Vision Zero workplace in accordance with the Occupational Health and Safety Legislation.

The parties covered by this Agreement will take a constructive role in promoting improvements in occupational health, safety, welfare and rehabilitation.

In reasonable time, all employees are to be trained and re-accredited in first aid at the Company's expense. The Company will also ensure that the MDM and Team Leaders hold a current first aid certificate.

10. PROTECTIVE CLOTHING AND EQUIPMENT

10.1 Protective Clothing and Equipment

The Company will provide employees with (3) three sets of protective clothing, e.g. overalls, or long sleeve shirts and pants, and one pair of safety footwear in accordance with the Progress Rail Personal Protective Equipment Policy, as amended from time to time. Replacement of such property will be issued after evidence of reasonable wear and tear. It is the responsibility of employees to clean and maintain same in a neat and tidy condition.

Employees working in designated "hearing protection" areas will be required to wear ear protection provided by the Company which complies with the requirements of the Occupational Health and Safety legislation. Employees will be required to wear safety glasses at all times whilst in the designated areas.

Employees will be required to wear safety footwear at all times whilst in the designated areas.

The Company will provide employees with any other necessary and appropriate protective clothing and equipment in order to comply with the requirements of the Occupational Health and Safety legislation.

10.2 Prescription Safety Glasses

In accordance with Company Policy (Prescription Safety Glasses), as amended from time to time, prescription safety eye wear will be provided to all employees who are required to wear both prescription glasses and safety glasses in order to perform their duties in a safe manner.

In accordance with Company Policy (Prescription Safety Glasses), as amended from time to time, prescription Safety Glasses will be replaced when damaged during the performance of normal work activities, or every 2 years as per Australian Standard (AS 1337) requirements, or when medically advised that a different lens is required.

11. MEDICAL EXAMINATION

Employees will be required to attend scheduled health assessments carried out by a Company nominated medical practitioner (such practitioner must be rail accredited) from time to time, in accordance with the applicable Rail Safety requirements.

The medical practitioner will provide a report to the Company regarding the impact of illness or injury, if any, on the ability of the employee to perform the inherent requirements of their position (i.e. perform the duties / functions required by their relevant classification and this Agreement), any work limitations and the likely date of return to work.

The Company will meet the cost of the consultation, any approved travelling costs, costs associated with these medical examinations and the employee shall be paid for such time.

12. USE OF SUBSTANCES

Smoking outside designated areas is prohibited at all times as sound occupational health and safety practice.

As the position of Locomotive Maintainer is a Rail Safety Worker position, a zero tolerance applies to both drugs and alcohol and it is each employee's responsibility to comply with the drug and alcohol procedures of:

- i) The Company
- ii) The customer
- iii) Any other work site

The company will make additional information accessible to an employee prior to attending another site in which it would be relevant, and if such policies would prohibit compliance an employee will not be prejudiced by not attending the relevant site.

Testing will be in accordance with AS4308 or AS4760 for drugs and AS3457 for Alcohol.

The consumption or possession of intoxicating substances on Company premises is also prohibited. Employees presenting for work in an intoxicated and unsafe condition will be liable for disciplinary action and possible dismissal.

PART III - TERMS AND CONDITIONS OF EMPLOYMENT

13. CONTRACT OF EMPLOYMENT

Employees may be employed on a full time, part time or casual basis. Every contract of employment entered into will specify whether the employment is full time, part time or casual.

13.1 Probationary Employment

The Company will engage all new full time/part time employees on a three (3) month probationary period of employment. During or at the end of the probation, either party can give or forfeit one week's notice and effect termination. The period of probationary employment will count towards the calculation of all entitlements under this Agreement.

13.2 Induction

Employees will be required to attend an induction training program, as far as practicable in the first week of their engagement.

13.3 Performance of Work

It is a term and condition of employment of this Agreement that an employee:

- (i) Abides by all lawful directions of the Company.
- (ii) Performs such work, according to a shift, including any off site operations, as the Company from time to time reasonably requires.
- (iii) Agrees to minor amendments to shifts as required to meet business objectives i.e. special events, timetable changes, etc.
- (iv) Undertakes such training as is consistent with the needs of the Company.
- (v) Follows the dispute resolution procedure, ensuring continuity of service to the customer during dispute resolution.
- (vi) Adopts all occupational health and safety requirements at the site in compliance with the relevant Occupational Health and Safety legislation.
- (vii) Abides by the principles of the Equal Opportunity Act 2010 (Vic) and other applicable equal opportunity legislation.
- (viii) Complies with individual responsibilities in relation to the Environment Protection Act 1970 (Vic).
- (ix) Commits to ensuring that labour is available on any of the seven days of the week (which may include public holidays), should such be necessary to meet the service requirements to the customer, or to rectify an equipment breakdown.
- (x) Agrees to work shiftwork as and when required, with reasonable notice.
- (xi) Agrees to adopt new work practices designed to make the new business efficient and prosper and so re-establish employment security.

13.4 Trade Cross-Skilling

Employees will be required to perform all tasks necessary for the effective repair, maintenance and operation of the locomotive rollingstock and the maintenance facility, including general housekeeping and cleaning duties, provided that no employee shall be expected to undertake work which does not fall within their skill competence, ability and training.

13.5 Utilisation of Skills and Facilities

Some examples of what all site personnel may be required to do to provide the most efficient use of labour are:

- (i) Operate forklifts, small mobile cranes and overhead cranes;
- (ii) Operate Rollingstock between the mainline holding bay and the workshop, and on rails;
- (iii) Degreasing, washdown, etc;
- (iv) Cleaning, general plant maintenance and housekeeping;
- (v) Trade cross skilling and flexibility.

13.6 Quality of Work

Quality management principles will apply as part of an ongoing best practice, continuous improvement program and every employee at the facility is responsible for implementing these requirements in their area of responsibility.

13.7 Individual Flexibility Arrangement

- 13.7.1 Notwithstanding any other provision of this Agreement, the Company and an individual employee may agree to vary the application of certain terms of this Agreement ('the flexibility arrangement') provided that the flexibility arrangement:

Is genuinely agreed to by the Company and the individual employee; and

Only varies the term prescribed in subclause 13.7.2; and

Contains only permitted matters (and does not contain any unlawful terms);

Results in the employee being better off overall than if the arrangement had not been entered into.

- 13.7.2 A flexibility arrangement may be entered into to vary the application of clause 28.4.4 - single day annual leave absences.

- 13.7.3 For the flexibility arrangement to come into operation, it must:

be in writing, name the parties to the agreement and be signed by the Company and the individual employee and, if the employee is under 18 years of age, the employee's parent or guardian;

state each term of this Agreement that the Company and the individual employee have agreed to vary;

detail how the application of each term has been varied by the flexibility arrangement between the employer and the individual employee;

detail how the agreement does not disadvantage the individual employee in relation to the individual employee's terms and conditions of employment;

state how the flexibility arrangement can be terminated; and

state the date the flexibility arrangement commences;

13.7.4 The Company will give the individual employee a copy of the flexibility arrangement within 14 days and keep the agreement as a time and wages record.

13.7.5 The flexibility arrangement may be terminated:

by the Company or the individual employee giving 28 days' notice of termination, in writing, to the other party; or

at any time, by written agreement between the Company and the individual employee.

13.8 TRAIN DRIVING WITHIN THE MAINTENANCE DEPOT

Through consultation and agreement so as to maximise productivity at the maintenance facility, sufficient employees covered by the terms of this Agreement, should be qualified to drive all types of rolling stock vehicles and be able to do so within the boundaries of the maintenance facility.

All costs associated with obtaining the qualifications will be paid for by the Company, including training, training time (where possible, this training will be held during ordinary hours), tests, and ongoing refresher training.

13.9 Hand Tools

Tradespersons shall supply and maintain tools ordinarily required in the performance of their work in accordance with the prescribed list.

A list of these tools will be contained in the prescribed list – Appendix B.

14. TRAINING

The parties agree that a highly skilled workforce is necessary to improve the Company's quality of work and overall competitiveness.

As soon as practicable and during the life of this Agreement, the parties aim to reach agreement on the structure and content of a training plan that not only meets the needs of the Company but also meets the employees' needs for maximum transferability of nationally accredited skills.

Once the training plan is developed, the parties will prioritise the training most important for the Company's business strategy and assist in the allocation of the Company's training investment.

As far as practicable, attendance at Company initiated training courses will be arranged in accordance with shift rosters and staff will be paid the ordinary day work rate whilst attending such courses during normal ordinary working hours. Any training outside ordinary working hours will be paid at ordinary rates.

Training expenses such as course cost, accommodation, meals and travel expenses will be paid by the Company for Company initiated courses. Consideration will be given for the reimbursement of out-of-pocket expenses for course fees incurred during attendance at employee initiated training courses where the Company benefits.

Employees willing to advance and update their skills through training, will be facilitated with opportunity for career development within the Company, subject only to the approval of the Operations Manager having considered the relevancy of the training and the operational needs of the Company.

15. PRODUCTION CONTROL RECORDING AND TIME KEEPING

Employees shall record all hours worked through a production control system or other suitable electronic time keeping mechanism.

16. BUSINESS IMPROVEMENT PROCESS AND INITIATIVES

16.1 Business Improvement Process

The parties to this Agreement acknowledge that a central feature of this Agreement is the implementation of an ongoing business improvement program, which will continue for the life of the Agreement.

The parties agree the primary aims of the Business Improvement Program are productivity and efficiency improvements. Thus the Business Improvement Program will require the identification of initiatives and opportunities across all areas of the Progress Rail business.

The requirements to continue to introduce changes to current work practices to enable more flexibility and thus support the removal of artificial barriers and allow for the performance of tasks, which are safe, efficient and logical, and for which the employee has been trained and has current and demonstrated competency is essential. There is a need to develop flexibility of jobs and duties with and between work areas. Business Improvement issues shall be discussed and agreed to by the parties throughout the life of the Agreement.

16.2 Business Improvement - Bonus Leave Days

Entitlement

As part of the business improvement process, the employees have agreed to job rotation to enable on-the-job training to take effect from shop-to-shop. In recognition of this flexibility, all employees are entitled to five (5) bonus leave days ('BLDs') per annum. Employees may be requested to take the BLDs as individual leave days to accommodate fluctuations in workloads and customer requirements as discussed. These BLDs will be rostered throughout the year at the discretion of the company with a minimum of 1 weeks' notice to be provided prior to the rostering of each bonus leave day. An employee on a rostered BLD will be paid 7.6 hours per day at their classification rate and accrue an additional 0.4 hours towards their RDO.

17. Roster Days Off - RDOs

17.1 Entitlement

Ordinary hours are arranged to provide for the accumulation of an RDO.

RDOs may be accumulated to a maximum of five (5) days subject to consultation between the Company and the employee. RDOs will be rostered and taken as agreed between management and staff during the cycle so as to guarantee continuity of operation.

17.2 Taking of RDOs

RDO's shall be rostered to meet customer requirements in accordance with the following principles –

- (i) RDO's shall be taken on either a Monday or Friday;
- (ii) Rosters shall be developed based on skill requirements;

18. CONTINUOUS IMPROVEMENT

The Company and its employees covered by this Agreement are committed to searching for areas where improvements can be made and implementing such improvements as part of this Agreement.

19. CONTINUITY OF SERVICE

Transferred employees shall have their service with PTC, including service that was recognised by PTC with a previous employer, count for all purposes with the Company (including its successors, assignees or transmittes). The purposes include:

- (i) the recognition of salary progression (where applicable);
- (ii) the maintenance of all accrued entitlements including pro rata accruals of sick leave, annual leave, annual leave loading, long service leave, rostered days off or their equivalent, time off in lieu owing, public holidays and any other accrued entitlements; and
- (iii) Calculating any redundancy payments.

PART IV - HOURS OF WORK

20. HOURS OF WORK

20.1 To ensure competitiveness both plant and labour are to be used in the most efficient and flexible manner in order to effectively meet the operational needs of the business.

20.2 Overtime shall be worked as required and employees who work overtime will be selected based on specific nature and who management determine to be suitable to work overtime on the nominated day.

20.3 Saturday Shifts

A shift worker undertaking their ordinary rostered shift hours between midnight Friday and midnight Saturday shall be accredited working hours at the rate of 150% for the first 3 hours and 200% of the ordinary day shift rate (double time) thereafter.

PART V - CLASSIFICATIONS, REMUNERATION & PENALTY RATES

21. CLASSIFICATIONS

21.1 Classifications for employees under this agreement are as follows:

Team Leader – Shift Supervisor Duties

Duel Tradesperson – Multi skilled

Tradesperson Level 2 – Multi skilled Experienced Locomotive Maintainer

Tradesperson Level 1 – Multi skilled, trade based

Non Tradesperson – Competency based tasks

21.2 All classification levels represent employees for whom cross-skilling (multi-skilling where applicable), including trade to non-trade and trade cross trade, is unlimited providing OH&S guidelines are met.

21.3 The number and levels of classifications will be subject to ongoing review by the parties during the life of the agreement through the consultation process. The Company will ensure the Tradesperson skill base is not undermined by the non-tradesperson competency based tasks.

22. REMUNERATION

22.1 Wage Rates

22.1.1 The established weekly wage rate levels and agreed increases that apply during the life of this Agreement for each of the relevant classifications are set out in the table below.

| Classification | 1 July 2020 | | 1 July 2021 | | 1 July 2022 | | 1 July 2023 | |
|--|-------------|------------|-------------|------------|-------------|------------|-------------|------------|
| | 3.0% | | 3.0% | | 3.0% | | 3.0% | |
| | Hour | Week | Hour | Week | Hour | Week | Hour | Week |
| Team Leader | \$50.18 | \$1,906.65 | \$51.68 | \$1,963.85 | \$53.23 | \$2,022.77 | \$54.83 | \$2,083.45 |
| Duel Tradesperson Multi-skilled | \$46.88 | \$1,781.36 | \$48.28 | \$1,834.80 | \$49.73 | \$1,889.85 | \$51.22 | \$1,946.54 |
| Tradesperson Level 2 Multi-skilled | \$44.87 | \$1,705.08 | \$46.22 | \$1,756.24 | \$47.60 | \$1,808.92 | \$49.03 | \$1,863.19 |
| Tradesperson Level 1 | \$42.63 | \$1,619.83 | \$43.91 | \$1,668.42 | \$45.22 | \$1,718.48 | \$46.58 | \$1,770.03 |
| Non Tradesperson | \$37.80 | \$1,436.44 | \$38.94 | \$1,479.53 | \$40.10 | \$1,523.92 | \$41.31 | \$1,569.63 |

21.1.2 For the first 12 months of employment, the minimum rate of pay for a Locomotive Maintainer will be the Tradesperson Level 1 (probation rate) + 12 months of experience as prescribed in Clause 21.1 above.

21.1.3 During the first 12 months, training will be provided to raise the skills to the required level in all aspects of the facility equipment, trouble shooting and maintenance associated with the company fleet of locomotives.

21.1.4 The wage increases in the table above shall be payable as follows:

On the first full pay period after the Agreement commences operation:

- (a) Employees will receive a payment equal to the amount they would have received if the increase on 01 July 2020 (3%) had taken effect. The amount will be calculated from the first full pay period on or after 1 July 2020 and will exclude allowances; and
- (b) The remaining wage increases will be made on the first full pay period on or after 1 July as:
 - 3% - 1 July 2021
 - 3% - 1 July 2022
 - 3% - 1 July 2023

21.1.5 The Base Daily Wage Rates include and compensate fully for:

- (ii) All competencies possessed and required to be exercised;
- (iii) Tool allowances as prescribed in the relevant awards; and
- (iv) Wage decisions of the Minimum Wage Panel of Fair Work Commission.

22.2 Apprentices

22.2.1 Apprenticeships under this agreement are time based. The actual time taken to complete an apprenticeship will vary depending upon factors such as the intensity of training and the variety of work experience:

- i. Apprentices shall be paid the following percentages of the Tradesperson Level 1, hourly rate of the Progress Rail Altona Enterprise Agreement;
- ii. "Adult" means any person who is 21 years of age or over at the time of commencing an apprenticeship; and
- iii. "Junior" means any person who is employed under the age of 21 at the time of commencing an apprenticeship.

22.2.2 Wage rates for apprentices:

| Stage | % of Tradesperson Level 1 rate on Entry (Year 12 Not completed) | % of Tradesperson Level 1 rate on Entry (Year 12 completed) | % of Tradesperson Level 1 rate on Entry – Adult Apprentice |
|-------|---|---|--|
| 1 | 50 | 55 | 80 |
| 2 | 60 | 65 | 86 |
| 3 | 75 | 75 | 88.5 |
| 4 | 88 | 91.5 | 91.5 |

22.2.3 Employees transferring to an adult apprenticeship shall suffer no reduction in their rate of pay. Once the apprenticeship is successfully completed, the employee will be paid at the rate of the Tradesperson Level 1.

22.3 Meal Allowance

Working Extended Hours

An employee required to work extended hours for more than 2 hours, following completion of their rostered shift without being notified on the previous day or earlier, that a shift extension would be required, shall receive a meal allowance of \$20 for each meal break. This amount will be for the life of this agreement.

22.4 Payment of Wages

22.4.1 Wages will be paid fortnightly into financial institutions, nominated by the employee, which accept Electronic Transfer Payments. Such payments will be made on the Thursday following the close of the pay period.

22.4.2 The Company retains the right to alter the nominated day for Electronic Funds Transfer payments provided it gives 28 days' notice of such change.

22.5 Transferred Employees Pass

The Company will provide the following to all Transferred Employees for the duration of their employment:

22.5.1 Employee Free Travel Authority

A first class rail pass will be provided for use by the employee and eligible dependents whilst the employee is on Annual and Long Service Leave.

The above are only for use in Victoria.

22.5.2 Eligibility

Only employees, who transferred from PTC/Newport to Downer EDI Rail (formerly Clyde Engineering) on 15 January 2000 under transmission of business, are eligible to be issued an Interstate Travel Pass after completing twelve (12) months of service.

22.5.3 Entitlement

Employees when granted paid leave of absence may be issued an Interstate Travel Pass for self and eligible dependents, subject to certain conditions. Employees are entitled to one free Interstate Pass in any annual leave year. Such entitlement, if unused, does not accumulate.

Employees are issued with an Interstate Free Travel Voucher which is exchanged for a ticket, enabling travel on:

(i) Intersystem train services that extend beyond Victorian border stations;

(ii) Intersystem services that extend beyond V/Line interstate Rail/Coach Link Service terminals;

- (iii) Other intersystem services that entail travel across at least one State border.

Interstate Free Travel Tickets are not available for travel on:

- (iv) Public Transport services in the metropolitan area of any capital city.
- (v) Chartered or privately owned interstate services unless designated a service of the particular Rail system
- (vi) Tourist services;
- (vii) Certain intersystem services as nominated from time to time.

22.6 Retired Employee Pass (R.E.T.A)

22.6.1 Eligibility

A Transferred Employee is eligible to be issued a Retired Employee Travel Authority (R.E.T.A.) at the time of retirement on account of age or ill health, provided they have completed a combined total of 20 years' service with these organisations.

The spouse and/or eligible dependents of such an employee shall also be entitled to be issued with a RETA for the same period.

New employees who commence after 28 August 1999 are ineligible for a retirement pass even if they achieve 20 years' service with the Franchisees. However this does not include franchisee employees who resign and then commence with another Franchise Company without a break of service.

Employees who become eligible for a Retired Employee Travel Pass after 28 August 1999 are ineligible for any intersystem travel concessions.

Employees who resign are NOT eligible for after retirement travel and other concessions. However, employees who resign after reaching the minimum retiring age are considered to have retired age are considered to have retired and maybe eligible for after retirement entitlements.

22.7 Employee free travel passes - eligible employees

The Company shall provide an annual employee free travel pass to all employees covered by the Agreement.

22.7.1 Eligibility

All employees who are covered by the Agreement are eligible to be issued with an annual "employee free travel pass". New employees that commence after 1 July 2020 are *ineligible* for any travel pass or concessions.

Employee free travel passes are valid for travel on:

- (a) Metropolitan trains, trams and buses (both Government and privately owned).
- (b) V/Line passenger service (including V/Line interstate Rail / Coach Link services) and contracted bus or privately owned train services that have replaced or supplemented certain country train services.

Employee free travel passes are not valid for travel on:

- (c) Interstate trains beyond Albury and Wolsley; or
- (d) Chartered or privately owned train, trams and buses (except as in (a) and (b) above and privately owned country and provincial city route buses unless designated a V/Line service.

23. SUPERANNUATION

The Company will provide superannuation contributions to eligible employees subject to the following distinction:

- (i) All employees who commenced employment with the Company after 1 January 2000 will receive contributions in accordance with the Superannuation Guarantee legislation. Contributions made in accordance with the legislation will be paid into a complying fund nominated by the relevant employee and if no choice of fund is made, the default fund will be Australian Super Pty Ltd provided that Australian Super maintains a Mysuper product. Such contributions shall be paid to the fund not later than 28 days following the relevant pay date of the employee.

- (ii) Transferred Employees

All Transferred Employees shall have their contributions to the State Superannuation Funds made by the Company to a level nominated by the funds' actuaries as varied from time to time. All accrued rights under the fund shall be preserved as though the employee was still employed by PTC. The exception to this is if any Transferred Employee elects to leave the fund, the Company will contribute in accordance with the Superannuation Guarantee legislation.

24. DEDUCTIONS

24.1 Income Protection Insurance

- 24.1.1 Provided that there shall be no cost to the Company, the Company shall provide Income Protection Insurance to those employees who elect to take it up through Protect, Incolink or other providers as agreed to by the parties.
- 24.1.2 If the election is made, the employee must authorise the deduction of the income protection insurance from their salary by completing the relevant documentation and provide that documentation to the Company.

24.2 Union Membership Fees

- 24.2.1 The Company shall deduct union membership fees (not including fines or levies) from the pay of any employee, provided that:

- i.the employee has authorised the Company to make such deductions in accordance with subclause 24.2.2;
- ii.the union shall advise the Company and the employee of the amount to be deducted for each pay period applying at the Company' s workplace and any changes to that amount; and
- iii.deduction of union membership fees shall only occur in each pay period in which payment has or is to be made to an employee.

24.2.2 The employee's authorisation shall be in writing and shall authorise the deduction of an amount of union fees (including any variation in that fee effected in accordance with the union rules) that the union advises the Company to deduct.

25. MOVEMENT BETWEEN SITES

- 25.1.1 Increased ability to effectively utilise available resources and better attendance ensures the ongoing competitiveness of the Company, assisting the ongoing employment security for the employees.
- 25.1.2 The parties will form a consultative committee on the movement of employees between sites and utilisation of jobs/work areas within the first six months from lodgement of this Agreement. The implementation of these initiatives will be sought and will only be implemented following agreement. Agreement will not be unreasonably withheld.

26. LIVING AWAY FROM HOME

When an employee is required to stay overnight when working at other sites the minimum standard for accommodation the Company shall supply will be 3 stars if it is available at the location. The employee will be paid a meal allowance of \$85.00 per day for meals and miscellaneous expenses for the life of this agreement.

PART VI - LEAVE ENTITLEMENTS

27. NATIONAL EMPLOYMENT STANDARDS

The Fair Work Act 2009 provides for minimum entitlements through the National Employment Standards.

Clauses 28-38 describe the National Employment Standards entitlements and may also provide terms that supplement or are ancillary to the entitlements in the National Employment Standards.

The parties acknowledge that the entitlements contained in Clauses 28-35 apply to the extent that they are not detrimental to an employee when compared with the National Employment Standards.

28. ANNUAL LEAVE

The entitlement, accrual and taking of annual leave shall be in accordance with this Agreement and the NES.

28.1 Full and part time employees

Full time employees are entitled to 4 weeks (152 hours) of annual leave for each year of continuous service. Part time employees have a pro-rata entitlement to annual leave based on the entitlement of full time employees.

Annual leave accrues and will be credited on a pro-rata basis at the end of each 4 week period of continuous service.

28.2 Additional annual leave for shift workers

For each completed 12 month period of continuous service a full or part time employee who is engaged as a shift worker as defined in the Act during that period has a pro-rata entitlement of 1 week (38 hours) of additional annual leave.

Additional annual leave for such shift workers accrues and will be credited on a pro-rata basis at the end of each 12 month period of continuous service.

28.3 Annual Leave Conversion

A period of annual leave is exclusive of periods that an employee is entitled to leave in accordance with:

- (i) Clauses 29 – Personal Leave;
- (ii) Clause 30 – Compassionate Leave;
- (iii) Clause 32 – Jury Service; or
- (iv) Clause 33 – Long Service Leave;
- (v) Clause 34 – Public Holidays;

28.4 Taking leave

- 28.4.1 Annual leave may normally be taken at times as mutually agreed between the employee and the Company.
- 28.4.2 Employees are required to give the Company reasonable notice of the proposed date for the taking of annual leave. The Company will not unreasonably refuse a request for annual leave.
- 28.4.3 The Company may require an employee to take ¼ of the accrued leave if the employee has 8 weeks (10 weeks for shift workers) or more annual leave accumulated. This leave may be negotiated and agreed between the parties.
- 28.4.4 The employees shall only be allowed to take a maximum of 10 single day annual leave absences in a 12 month period.

28.5 Payment for period of annual leave

- 28.5.1 An employee, before going on annual leave, must be paid the wages they would have received in respect of the ordinary hours the employee would have worked had the employee not been on leave during the relevant period.
- 28.5.2 Subject to clause 28.5.3, the wages to be paid must be worked out on the basis of what the employee would have been paid under this Agreement for working ordinary hours during the period of annual leave, including allowances, loadings and penalties paid for all purposes of the Agreement, and any other wages payable under the employee's contract of employment including any over Agreement payment.
- 28.5.3 The employee is not entitled to payments in respect of overtime, special rates or any other payment which might have been payable to the employee as a reimbursement for expenses incurred.

28.6 Service for annual leave

The following types of leave taken by an employee will be counted as time worked for the purpose of the accrual of annual leave:

- (i) personal sick and carer's leave;
- (ii) workers' compensation leave;
- (iii) unpaid carer's leave;
- (iv) compassionate leave;
- (v) long service leave;
- (vi) annual leave;
- (vii) public holidays;
- (viii) paid training leave;
- (ix) jury service; and
- (x) Any other period of authorised paid leave.

29. PERSONAL SICK AND CARER'S LEAVE

29.1 General

The entitlement, accrual and taking of personal sick and carer's leave shall be in accordance with this Agreement and the NES.

The purpose of making available personal sick and carer's leave is to mitigate against financial hardship for employees resulting from absences due to genuine personal illness or injury ("**personal sick leave**"); or an illness, injury or unexpected emergency of a member of the employee's immediate family or household ("**carer's leave**") that requires the employee to care for or support that person.

An employee's immediate family is as defined in the *FW Act* and includes the employee's spouse and a child, parent, grandparent, grandchild or sibling of the employee or the employee's spouse.

29.2 Entitlement and accrual

Full time employees accrue 10 days (76 hours) of personal sick and carer's leave for each year of continuous service. Part time employees have a pro-rata entitlement to personal sick and carer's leave based on the entitlement of full time employees.

Where an employee accrues rostered days off, that employee will be paid 7.6 hours per day of personal leave and 0.4 hours will be accrued to their rostered days off.

Personal sick and carer's leave will be credited on a pro-rata basis at the end of each 4 week period of continuous service for the first year of employment. For subsequent years, it shall be credited up front on the anniversary date of commencement of employment.

Subject to satisfactory proof and notice being provided to the Company, an employee may be entitled to take 2 days of unpaid carer's leave to care for or support a member of the employee's immediate family or household who requires

care or support if the employee does not have an accrued entitlement to any paid personal sick and carer's leave or other such leave.

29.3 Taking personal sick and carer's leave

An employee must give satisfactory notification including the reason for taking personal sick and carer's leave to the employee's Supervisor as soon as practicable and generally prior to the commencement of their shift.

Personal sick and carer's leave is subject to satisfactory proof being provided to the Company of the employee's illness or injury or the illness, injury or unexpected emergency of a member of the employee's immediate family or household.

However, for personal sick leave a medical certificate is to be produced after 4 single day absences per year, being each consecutive 12 month period following the commencement of employment. A medical certificate is to be produced for any absences of 2 or more consecutive days. Where it is impracticable to provide a medical certificate an employee may provide a statutory declaration.

A medical certificate or statutory declaration, as appropriate, is required for each occasion of carer's leave.

The Company may require the employee to provide a medical certificate or statutory declaration for any period of unpaid carer's leave.

Personal sick and carer's leave cannot be taken for a period for which the employee receives workers' compensation.

30. COMPASSIONATE LEAVE

Compassionate leave shall be in accordance with the NES.

On the production of satisfactory evidence being given to the Company employees other than casual employees shall be entitled to 2 days without loss of pay on each occasion (permissible occasion) when a member of the employee's immediate family or household contracts or develops a personal illness that poses a serious threat to his or her life or sustains a personal injury that poses a serious threat to his or her life.

On the production of satisfactory evidence being given to the Company employees other than casual employees shall be entitled to 3 days without loss of pay on each occasion (permissible occasion) when a member of the employee's immediate family or household dies.

An employee's immediate family is as defined in the *FW Act* and includes the employee's spouse and a child, parent, grandparent, grandchild or sibling of the employee or the employee's spouse.

31. PARENTAL LEAVE

The entitlement to and taking of parental leave shall be in accordance with this Agreement and the NES.

31.1 Entitlement to parental leave generally

Full and part time employees who will have completed at least 12 months continuous service at the date of the expected birth of the employee's child or placement of the employee's adopted child and eligible casual employees will be entitled to parental leave in accordance with the NES and this Agreement.

Such employees may be entitled to a maximum of 52 weeks unpaid parental leave to be the primary carer for the child. An employee may request that this period be extended for up to an additional 52 weeks. The Company will not unreasonably refuse such a request.

The period of an employee's parental leave is inclusive of all periods of leave taken by the employee and the employee's spouse in relation to the birth or placement of the child (including for example annual leave, long service leave, parental leave, special maternity leave and concurrent leave).

Parental leave may be taken in a single unbroken period in relation to the birth of a child by the employee or the employee's spouse in order to be the primary carer for the child.

31.2 Entitlement to concurrent leave

Concurrent leave is unpaid parental leave available to an employee who is not the primary carer at the date of birth of a child or placement of an adopted child. This leave can be taken concurrently with a spouse taking parental leave as the primary caregiver.

An employee is entitled to a period of up to three weeks concurrent leave (being 1 week of paid leave and 2 weeks unpaid) at the time of the birth of the employee's child or placement of the employee's adopted child.

Concurrent leave must be taken at or after the date of the birth or placement of an adopted child, but must not end more than three weeks after the date of the birth or placement of an adopted child.

If, during the life of this Agreement, a paid parental leave scheme is introduced that provides for paid concurrent leave, and that scheme applies to the Employees, the Company will only pay the difference between the amount paid by the Scheme and the amount payable to the Employee under this clause.

31.3 Entitlement to special maternity leave

An employee may be entitled to take special maternity leave in relation to a pregnancy related illness.

An employee may also be entitled to take special maternity leave where the pregnancy ends within 28 weeks of the expected date of the birth other than by the birth of the child. If an employee has already commenced maternity leave in such a case maternity leave will continue until the employee and the Company agree that the employee should return to work or the Company gives at least 4 weeks' notice for the employee to return to work.

31.4 Period of parental leave

A female employee who is pregnant:

- (i) May start parental leave from 6 weeks before the expected date of the birth. If the employee wishes to continue to work during this period the Company may require the employee to provide a medical certificate from an accredited medical practitioner stating that the employee is fit to continue to work; and
- (ii) Will be required to take parental leave for a period of at least 6 weeks from the date of the birth.

All other employees must commence parental leave on the date of birth of the child or the placement of the adopted child.

31.5 Non pregnancy related illnesses during the period of confinement

Where an employee suffers a non-pregnancy related illness during the period of confinement the employee may take any accrued paid sick leave in lieu of or in addition to special maternity leave for the duration of the illness subject to the employee meeting the requirements under this Agreement in relation to paid sick leave.

31.6 Return to work on a part time basis

An employee may request to return to work on a part time basis after taking parental leave for a period up to the time when the child reaches school age. Such a request must be made at least 7 weeks before the date the employee is due to return to work. The Company may not unreasonably refuse such a request.

32. DOMESTIC VIOLENCE LEAVE

Employees shall be entitled to Domestic Violence Leave in accordance with the Company's Family and Domestic Violence Policy. Such Domestic Violence Leave entitlements will be no less favourable than the NES.

33. JURY SERVICE

33.1 Subject to sub-clause 33.3, if an employee is required to attend for jury service during the employee's ordinary working hours the employee will be reimbursed by the Company an amount equal to the difference between the amount paid in respect of the employee's attendance for such jury service and the amount of salary the employee would have received in respect of the ordinary time the employee would have worked had the employee not been on jury service.

33.2 An employee must notify the Company as soon as possible of the date upon which the employee is required to attend for jury service

33.3 To be entitled to paid jury service as provided for in subclause 33.1, employees will be required to provide the Company with:

- (i) Evidence that the employee has taken all necessary steps to obtain any amount of jury service pay that the employee may be entitled to under relevant laws;
- (ii) Proof of the duration of attendance; and
- (iii) Evidence of the total amount, even if that amount is nil, of jury service pay that has been paid or that is payable to the employee for the period of jury service.

34. LONG SERVICE LEAVE

34.1 The parties agree that the below conditions only apply to the extent that it is more favourable than the entitlement under the NES. Employees will be entitled to 13 weeks of long service leave after 10 years continuous service. Long service leave may be taken on a pro-rata basis after 7 years. Should an apprentice provided to Progress Rail by a third party be offered and accept permanent employment with Progress Rail at the end of their apprenticeship, the period of

apprenticeship completed with Progress Rail will be recognised for the purpose of their long service leave entitlement calculation.

- 34.2** All other conditions with respect to long service leave will be in accordance with the *Long Service Leave Act 1992* (Vic).

35. PUBLIC HOLIDAYS

- 35.1** A full-time employee is entitled to the following public holidays, without loss of pay:
- (i) New Year's Day (1 January);
 - (ii) Australia Day (26 January);
 - (iii) Labour Day or Eight Hours' Day;
 - (iv) Good Friday;
 - (v) Easter Saturday;
 - (vi) Easter Monday;
 - (vii) Anzac Day (25 April);
 - (viii) Queen's Birthday;
 - (ix) Melbourne Cup Day or a local equivalent.
 - (x) Christmas Day (25 December);
 - (xi) Boxing Day (26 December);
 - (xii) Any other day declared by or under a law of the State of Victoria to be observed generally within the State or a region of the State as a public holiday; and
- 35.2** Where another day is generally observed in a locality in substitute for any of the above days, that day shall be observed as the public holiday in lieu of the prescribed day.
- 35.3** An employee may be requested to work on a public holiday in accordance with the FW Act.
- 35.4** Subject to subclause 35.5 below, where an employee works on a day prescribed above as a public holiday the employee will be paid the applicable penalty rates prescribed in the relevant incorporated award term for working on a public holiday.
- 35.5** Where a public holiday falls on a Saturday or a Sunday and a substituted day is declared under the law of the State of Victoria or prescribed in an incorporated award term, payment for working on the Saturday or Sunday will be at the appropriate penalty rates prescribed in the incorporated award term. Payment for working on the substitution day will be at the appropriate penalty for working on public holidays.

36. ACCIDENT MAKE UP PAY

The Company will pay 52 weeks accident make up pay from the date of injury on acceptance of a compensation claim to employees covered by this Agreement and applicable to claims accepted after the commencement of this Agreement.

Accident make up pay shall be equal to the difference between the worker's compensation payment and the Employee's pre-injury average weekly earnings as defined by the Accident Compensation Act 1985.

Make up pay is only payable when compensation is paid for a work related injury.

PART VII - TERMINATION OF EMPLOYMENT & REDUNDANCY

37. NOTICE OF TERMINATION

- 37.1** In order to terminate the employment of an employee entitled to notice under this clause the Company must give to the employee the following notice:

| Period of Service | Period of Notice |
|---|-------------------------|
| 1 year or less | 1 week |
| 1 year and up to the completion of 3 years | 2 weeks |
| 3 years and up to the completion of 5 years | 3 weeks |
| 5 years and over | 4 weeks |

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

Payment in lieu of the notice prescribed in this clause must 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.

- 37.2** The required amount of payment in lieu of notice must equal or exceed the total of all amounts that, if the employee's employment had continued until the end of the required period of notice, the employer would have become liable to pay to the employee because of the employment continuing during that period. That total must be calculated on the basis of:
- (i) the employee's ordinary hours of work (even if not standard hours);
 - (ii) the amounts ordinarily payable to the employee in respect of those hours, including (for example) allowances, loading and penalties; and
 - (iii) any other amounts payable under the employee's contract of employment.
- 37.3** The period of notice in this clause does not apply:
- (i) in the case of dismissal for serious misconduct;
 - (ii) to apprentices (termination provisions for Apprentices are provided by the relevant State Training Authority);
 - (iii) to trainees whose employment under a traineeship agreement or an approved traineeship is for a specified period or is, for any other reason, limited to the duration of the agreement;
 - (iv) to probationary employees. Notice for probationary employees is in accordance with clause 11; and
 - (v) to casual employees.
- 37.4** The notice of termination required to be given by an employee shall be the same as that required of an employer, except that there is no additional notice based on the age of the employee concerned. If an employee fails to give the notice set out subclause 37.1 then the employer has the right to withhold monies due to

the employee to a maximum amount equal to the amount the employee would have received under subclause 37.2.

37.5 The Company has the right to dismiss any employee without notice for serious misconduct and in such cases any entitlements are to be paid up to the time of dismissal only.

37.6 Where the Company has given notice 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. The time off shall be taken at times that are convenient to the employee after consultation with the Company.

38. REDUNDANCY / SEVERANCE

38.1 The Company will continue to observe 4 weeks' pay in lieu of notice and 2 weeks' pay per year of service to a maximum of 20 weeks for transferred employees' service with the PTC, prior to transferring to the Company.

38.2 For the transferred employee's service with the Company, they will then be entitled to 3 weeks' pay for each year of service.

38.3 Provided that the maximum entitlement an employee will be paid under subclauses 38.1 and 38.2 will not, in addition to the notice period, exceed 40 weeks.

38.4 For non-Transferred Employees, they will accrue 3 weeks' pay per year of service, up to a maximum of 40 weeks, in addition to the period of notice prescribed in clause 37.1.

PART VIII - REPRESENTATION, CONSULTATION AND DISPUTE RESOLUTION

39. RECOGNITION OF RIGHTS

39.1 The Company and the employees recognise their joint responsibility to ensure this Agreement is effective and in the event of ambiguity, the spirit and intention set out in Agreement clause 7, Objectives, shall be paramount.

39.2 The Employees recognise the right of the Company to plan, organise, manage and decide upon the operations of the company, including:

- (i) Engagement of casuals;
- (ii) Engagement of contractors;
- (iii) Employees of a customer performing work at the Progress Rail Altona Facility;
- (iv) Employees having to transfer between sites to meet operational needs; and
- (v) Employees of the Company from other plants performing work at the Progress Rail Altona Facility.

39.3 The Company recognises the right of the employees to be members, or not to be members, of a union and to be represented by a union.

40. EMPLOYEE REPRESENTATIVES

40.1 The Company recognises, upon notification, the role of elected employee representatives, who may be a union delegate. Employee representatives will

be provided with reasonable time to represent employees at the workplace on matters that pertain to the employment relationship between the Company and employees covered by this Agreement. The company where practical will schedule a monthly consultative meeting with the nominated employee representatives, which may be union delegates. The company will allow the Employee representatives /union delegates to hold a "report back" meeting with the workforce on a quarterly basis throughout the year at a time agreed to by the site Manager and the representatives.

40.2 The Company will extend the usual courtesy of providing reasonable time and access to resources such as telephone, photocopier and the employee notice board to allow elected employee representatives to carry out their role and activities that are directly related to matters that pertain to the employment relationship between the Company and employees covered by this Agreement.

40.3 Employee representatives will also be entitled to 5 days paid training leave per year for the life of this agreement. The training courses and the period of leave must be approved by the Company beforehand.

41. SUPPLEMENTARY LABOUR

Supplementary labour will be available to cover excessive workloads caused by increases in work or for special programs or where a particular skill is not available. It is recognised that in some instances a rapid response to the workload is required. Prior to the employment of supplementary labour, and, where practical, the training and on transfer of existing employees will be considered. Training will be considered when the skill requirement is long term and the work of sufficient volume to justify the training investment and retention of competence by the employee in the required skill. Where training is proceeding, supplementary labour hire may be required to address the immediate workload. If appropriate 3rd and 4th Year Apprentices within the company, preference will be given to engaging the Apprentices in place of a contractor.

During the employment of supplementary labour, no permanent employee of the same occupation who is available to transfer to this work will be declared surplus.

Whenever practical, employment will be by a term contract for an initial period no longer than six (6) months or as otherwise agreed in accordance with the relevant award or by the parties.

Fixed term labour shall be engaged at the classification level appropriate to the work to be undertaken and paid accordingly.

Where the employment of fixed term labour is not practical the engagement of supplementary labour or contractors will be utilised.

The engagement of supplementary labour is to be used to support the existing full time employees in overcoming excessive workloads or skill shortages and not to undermine permanency.

42. CONTRACTORS

In respect of work that is covered by this Agreement, the Company shall only use a contractor if the wages and conditions which apply to it and/or its employees are the same or better overall than those provided for in this Agreement.

43. INTRODUCTION OF CHANGE/CONSULTATION

43.1 Preamble

For the purposes of this Agreement, consultation will be defined as follows:

- i. A procedure instituted to provide greater participation by employees and the Unions in the formulation and implementation of changes.

Consultation is aimed at getting employees and the Unions to suggest or respond to proposals put forward by the Company. It provides an opportunity to share points of view or state objections.

The Company will consult with its employees and the Unions where the implementation of significant change is being considered. The consultative provisions are directed toward the development of an atmosphere of inclusion, involvement and mutual trust, between the Company and its employees.

Consultation will take place with affected employees and the Unions at the workplace level.

43.2 Scope of Consultation

The Company will consult with affected employees and if required the appropriate Unions, where the implementation of change will have a significant impact on the employees. Examples of changes that would fall within the scope of consultation are proposals that include major changes in the composition, operation or size of the Company's workforce or in the skills required, the elimination or diminution of job opportunities, promotion opportunities or job tenure, the alteration of hours of work, change of roster patterns, the need for retraining or transfer of employees to other work or locations and the restructuring of jobs. Provided that where the relevant awards make provision for an alteration of any of the matters referred to in this clause, those alterations shall be deemed not to have significant effects.

This consultation must involve the employees affected and if required the appropriate Unions.

The Company will provide sufficient information about the proposed change(s), including the proposed date of implementation of the change, to permit affected employees and the appropriate Unions to consult about the nature, reasons and consequences of the proposed change.

The consultation, contemplated by this section, must be commenced by the Company in a manner which provides affected employees and the appropriate Unions with a reasonable timeframe to properly consider the proposed changes and consult with the Company.

The Company shall discuss with the employees affected and if required the appropriate Unions, the introduction of the changes referred above, the effects the changes are likely to have on employees, measures to avert or mitigate the adverse effect of such changes on employees and shall give prompt consideration to matters raised by the employees and the appropriate Unions in relation to the changes.

The discussions with employees affected (by such changes) and if required the appropriate Unions shall commence as early as practicable.

For the purposes of such discussion, the Company shall provide in writing to the employees concerned and if required the appropriate Unions, all relevant information about the changes including the nature of the changes proposed; the expected effects of the changes on employees and any other matters likely to affect employees. Provided that the Company shall not be required to disclose confidential information, the disclosure of which would overtly affect the Company's interests. Furthermore the Company shall not be required to provide information about employees bound by this agreement unless provision of that information is required or authorised by law.

The Company shall provide information in languages other than English for employees of non-English speaking background if required.

The change which is the subject of consultation may be implemented by the Company when the above steps are completed. Employees and if required the appropriate Unions may follow the dispute settlement procedure in the case of any grievance.

Provided that such consultation will operate in conjunction with any other term of the agreement requiring consultation or agreement with employees in relation to changes to hours of work or related matters.

44. AVOIDANCE OF INDUSTRIAL DISPUTES

44.1 Continuity of Service

The Parties recognise the importance of maintaining quality Rollingstock services for the client and agree that any issue in dispute should be able to be resolved in an informal manner without industrial action.

The parties agree to discuss in good faith, based upon mutual trust, any workplace issues that are likely to lead to on-going disagreement or conflict about matters arising under the Agreement.

This will be largely achieved through the avenue of consultation. However, in the event that a dispute occurs, the parties agree to follow the current Dispute Settling procedures as outlined below.

It is the intention of this procedure to resolve by direct consultation and negotiation between the parties any grievance, dispute, claim or problem on any industrial matter, including the NES, with the exception of safety issues.

For the purpose of this disputes procedure, it is recognised that the involvement of an employee representative, including a union representative, is on the basis of the affected employee/s having requested that representative's involvement.

44.2 Dispute Resolution Procedure

The following four stage procedure shall be adhered to in resolving matters under this Agreement:

Discussion shall take place between the employee/s concerned and at his/her request, an employee representative which may include a union delegate, and the immediate supervisor/s. The immediate supervisor will act promptly and co-operatively.

Discussions involving the employee/s, the employee representative/s at the employee/s request, and senior management.

Discussions involving the employee/s, the employee representative, which may include representatives from State Branch of a union, and nominated Company representatives.

Discussions involving the employee/s, the employee representative, which may include senior union officials (State Secretary or National Officer) at the employee/s request, and nominated Company representatives.

Throughout each of the above stages of the procedures, all relevant facts shall be clearly identified and recorded and reasonable time limits allowed for the completion of the various stages of discussion. At least seven (7) days should be allowed for all stages of the discussions to be finalised.

The earliest possible advice should be given by the employee/s or the Company to the other of any issue or problem which may give rise to a grievance or dispute. An employee/s may request the involvement of an employee representative including a union at any stage.

The Parties may, during this process, refer the matter in dispute under this Agreement to an agreed independent person. The agreed independent person may attempt to resolve the dispute by conciliation or with the agreement of the Parties by arbitration.

If the dispute still remains unresolved the parties agree that the matter/s in dispute may be jointly or individually referred to Fair Work Australia for assistance in resolving the dispute by conciliation, mediation and if required, arbitration.

The Company shall ensure that all practices applied during the operation of these procedures are in accordance with the Safe working practices.

Where a dispute exists and whilst that dispute remains unresolved and is being addressed through this procedure, the parties will return to the situation and arrangements that existed prior to the events that caused the dispute, such that no party is prejudiced during the process to resolve the matter.

45. RENEWAL OF AGREEMENT

The parties will convene three (3) months prior to the expiry of this Agreement to negotiate a replacement. Should no Agreement be negotiated, this Agreement will remain in force until such time as a new Agreement is reached and signed by the appropriate parties. All clauses of this Agreement will remain in force.


46. SIGNATORIES

The parties to this Enterprise Agreement are committed to the provisions contained herein.

Signed for and on behalf of Progress Rail Australia Pty Ltd by:

Corin Spicer of off Cormorant Rd, Kooragang Island, NSW 2304
Name Address

Director Service Delivery
Position


Signature

The above person is authorised by Progress Rail Australia Pty Ltd to sign the Agreement on its behalf.

In the presence of:

DAVID WILSON of OFF CORMORANT ROAD, KOORAGANG ISLAND, NSW 2304
Name Address

Sr HR MANAGER
Position

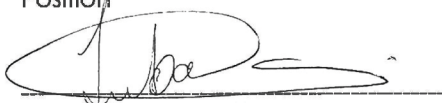
D. Wilson on 29-12-2020
Signature Date

Signed for and on behalf of the Employees by:

The Australian Rail, Tram & Bus Industry Union (Victorian Branch) by:

Luba Grigorovich of Level 2, 365 Queen street, Melbourne VIC 3000
Name Address

Branch Secretary (Vic Branch).
Position


Signature

In the presence of:

Bryan Evans of Level 2, 365 Queen st Melbourne
Name Address


Signature

on 23/12/20
Date

47. APPENDIX A: Classification Position Descriptions

CLASSIFICATION: TEAM LEADER

1. Role and Responsibilities

- 1.1 The Team Leader is an employee who is responsible for the day to day direct supervision of employees. The Team Leader is an employee who may hold a trade certificate, tertiary qualifications, may have completed Certificate IV in Leadership or equivalent. Despite the above definition, an employee who has not completed the specified training or equivalent for this level may enter this classification by being selected by the Site Management.

The Team Leader responsibilities are:

- Ensure all employees work in a safe manner
 - Report workplace hazards
 - Drive continuous improvement
 - Ensure all work is completed to a quality standard
 - Provide constructive input to the Management team
 - Plan teams workload and prioritise
 - Performance manage employees
 - Provide coaching and mentoring to employees including development of 2IC's within their team
 - Identify training needs of employees
 - Communicate with direct customers as required
 - Authorise employees Kronos and approve additional hours of work
- 1.2 They have no right to directly hire or terminate employees, but have the right of participation in recruitment and in any transfers or time-sharing of personnel in or out of the team. Any other changes in capacity, such as the use of extended hours or changes to shift arrangements will be recommended but referred for approval to the Management Team.
- 1.3 The Team Leader is responsible for reporting any breach of Company guidelines and procedures that he is made aware of directly to his/her supervisor in accordance with the Company's policies and procedures.
- 1.4 Organising the personnel, machinery, tools, resources and materials to meet the team's needs.
- 1.5 Ensuring that all necessary documentation, work orders, operation sheets etc, are kept in good order, and directs any necessary corrective action or improvements that are needed.
- 1.6 Ensuring that crew members have adequate skills and training as necessary to perform his functions within the work team assisting with and or facilitating on-job training as appropriate.
- 1.7 Responsibility for the supervision and effective co-ordination of all crew members on a day-to-day basis to ensure correct and efficient conduct of work and operations occur with a satisfactory level of workmanship.
- 1.8 Responsible for explaining any planned scope fall out of hours or costs.
- 1.9 They will be responsible for the tidiness and cleanliness of the work team under his/her control.

- 1.10 Undertake all such other duties necessary to ensure that the ongoing functions and operations of the team are conducted to the satisfaction of the Maintenance Delivery Manager.
- 1.11 Team Leader competency reviews will be carried out periodically.

CLASSIFICATION: DUEL TRADESPERSON (MULTI-SKILLED)

1. Role and Responsibilities

- 1.1 Under the direction of the Team Leader and the Maintenance Delivery Manager (MDM) will carry out any works order operation falling within the competence of the Level 2 position.

A Duel Tradesperson is an employee who is a Tradesperson that holds a Mechanical and Electrical trade certificate or another Trade certificate that the company requires them to hold for the scope of work being performed. This classification can only be obtained by appointment and is not subject to natural progression elsewhere in the classification structure.

An employee will only move to this classification if the manager approves it.

CLASSIFICATION: TRADESPERSON LEVEL-2 (MULTI-SKILLED)

1. Role and Responsibilities

- 1.1 Under the direction of the Team Leader and the Maintenance Delivery Manager (MDM) will carry out any works order operation falling within the competence of the Level 2 position.

A Level 2 is an employee who is a Tradesperson and has the equivalent level of training of a Rolling Stock Employee Level 1 or equivalent so as to enable the employee to apply the skills within the technical field.

A Level 2 employee is an employee who works above and beyond a tradesperson at Employee Level 1 and to the level of skills and competence and training.

Scope of Work

- Testing and Commissioning of rolling stock
- Fault finding
- Load testing
- Trouble shooting rolling stock faults
- Driving motive power units within area limits
- Facility Plant Maintenance

The *Level 2* employee;

- Works under the direction of the Team Leader;
- Works primarily involving the testing of all aspects of completed railway rollingstock;
- Performs all necessary testing and commissioning functions including rectification of any railway rollingstock and other products;

- Implements the correct use of the control systems input and the interpretation of its output;
 - Ensures all necessary documentation is completed and maintained;
 - Ensures the implementation of any corrective action required
 - Performs work which is of an incidental and peripheral nature. That is, work which contributes to the employee's ability to perform a whole job or task.
 - Operate forklift trucks, overhead cranes, is proficient in shunting operations. Where appropriate, training will be undertaken by the individual at Progress Rail's expense.
 - Exercises direction and technical assistance to Level 1 and , non Tradespersons and Apprentices after being selected and directed to by the Enterprise.
- 1.3 Ensure Company Quality objectives are met and that documentation as required by the Company's Quality Assurance System is correctly maintained.
- 1.4 A Level 2 employee is required to use test and measuring equipment of all kinds (including precision measuring equipment) in the quantitative verification of rollingstock systems and sub systems to ensure the correct operation of the rollingstock product.
- 1.5 It is a requirement that the Level 2 employee follows safe practices at all times and report workplace hazards. They are responsible for the tidiness and cleanliness of their work team.
- 1.6 A Level 2 employee after the necessary training is expected to directly input into the data collection system, which will include, but is not limited to:
- (a) Scanning and/or keying in data so as to input the operation completion, and time and attendance transactions, or for any officially prescribed purpose.
 - (b) Using personal computer, terminal and peripheral facilitates provided for the team in respect of the installed software for the team use.

CLASSIFICATION: TRADESPERSON LEVEL-1

1. Role and Responsibilities

- 1.1 Under the direction of the Team Leader will carry out any works order operation falling within the competence of the Level 1 position.

A Level 1 is an employee who is a Tradesperson and has the equivalent level of training of a Rolling Stock Employee Level 1 or equivalent so as to enable the employee to apply the skills within the technical field.

A Level 2 employee will move to a Tradesman Level 2 after 12 months of training and experience.

CLASSIFICATION: NON-TRADESPERSON

1. Role and Responsibilities

- 1.1 A non-Tradesperson employee is an employee able to exercise discretion within their levels of skills and training.

Scope of Work

- Non-trade activities
- Competency based tasks

The Rolling Stock non Tradesperson employee;

- Works under the supervision of the Team Leader or Tradesperson
- Exercises good interpersonal and communications skills
- Exercises discretion within the scope skills and training
- Performs work under limited supervision
- May operate lifting equipment incidental to the work (forklift trucks, overhead cranes and shunting operations)

- 1.2 It is a requirement that the non tradesperson follows safe practices at all times and report workplace hazards. He/she is responsible for the tidiness and cleanliness of their work team.

APPENDIX B: Standard Toolkit Requirement

MINIMUM ELECTRICIANS TOOL KIT

NOTE: ALL TOOLS MUST BE TRADE QUALITY

Lockable Toolbox
Tape 8m
Pliers 6-8" (insulated)
Pliers diagonal cut
Pliers long nose
Screwdriver 7 piece (insulated)
Centre Punch
Hacksaw frame 12"
Wrench adjustable 100mm
Wrench adjustable 200mm
Wrench adjustable 250mm
Multigrips 250mm (10")
Tin Snips
Hammer 16oz ball pien
Hex key 8 set imperial to 3/8
Hex key 8 set metric to 10mm
Socket Set to 22mm
Spanner Set (combination ring & open end 22mm)
Cold Chisel

MINIMUM FITTER & TURNER TOOL KIT

NOTE: ALL TOOLS MUST BE TRADE QUALITY

Lockable Toolbox

Tape 8m

Rule Steel 300mm/12" (metric/imperial)

Rule Steel 150mm/6" (metric/imperial)

Dividers spring solid nut 150mm (6")

Block Square 150mm

Vice grip

Feeler gauges 75mm 20 blades metric

Pinch Punch Set long series 8 piece 2.5-10mm

Cold Chisel 230 x 22mm

Centre Punch 125 x 16 x 8 mm

Hacksaw frame 12"

Multigrips 250mm (10")

Tin Snips

Socket Set metric 20 piece

Screwdriver Set standard blade & Phillips 7 piece

Hammer 350gm (12oz) ball pien

Wrench adjustable 300mm

Wrench Tap T type 2-6mm capacity

Hex key 8 set imperial to 3/8

Hex key 8 set metric to 10mm

Pliers combination 200mm

Pliers long nose 180mm 654-71

Spanner Set (14 piece combination ring & open end metric)

Schedule 2.3—Model consultation term

(regulation 2.09)

Model consultation term

- (1) This term applies if the employer:
 - (a) has made a definite decision to introduce a major change to production, program, organisation, structure or technology in relation to its enterprise that is likely to have a significant effect on the employees; or
 - (b) proposes to introduce a change to the regular roster or ordinary hours of work of employees.

Major change

- (2) For a major change referred to in paragraph (1)(a):
 - (a) the employer must notify the relevant employees of the decision to introduce the major change; and
 - (b) subclauses (3) to (9) apply.
- (3) The relevant employees may appoint a representative for the purposes of the procedures in this term.
- (4) If:
 - (a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
 - (b) the employee or employees advise the employer of the identity of the representative;the employer must recognise the representative.
- (5) As soon as practicable after making its decision, the employer must:
 - (a) discuss with the relevant employees:
 - (i) the introduction of the change; and
 - (ii) the effect the change is likely to have on the employees; and
 - (iii) measures the employer is taking to avert or mitigate the adverse effect of the change on the employees; and

- (b) for the purposes of the discussion—provide, in writing, to the relevant employees:
 - (i) all relevant information about the change including the nature of the change proposed; and
 - (ii) information about the expected effects of the change on the employees; and
 - (iii) any other matters likely to affect the employees.
- (6) However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.
- (7) The employer must give prompt and genuine consideration to matters raised about the major change by the relevant employees.
- (8) If a term in this agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the employer, the requirements set out in paragraph (2)(a) and subclauses (3) and (5) are taken not to apply.
- (9) In this term, a major change is ***likely to have a significant effect on employees*** if it results in:
 - (a) the termination of the employment of employees; or
 - (b) major change to the composition, operation or size of the employer's workforce or to the skills required of employees; or
 - (c) the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
 - (d) the alteration of hours of work; or
 - (e) the need to retrain employees; or
 - (f) the need to relocate employees to another workplace; or
 - (g) the restructuring of jobs.

Change to regular roster or ordinary hours of work

- (10) For a change referred to in paragraph (1)(b):
 - (a) the employer must notify the relevant employees of the proposed change; and
 - (b) subclauses (11) to (15) apply.
- (11) The relevant employees may appoint a representative for the purposes of the procedures in this term.

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- (12) If:
 - (a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
 - (b) the employee or employees advise the employer of the identity of the representative;
 the employer must recognise the representative.
 - (13) As soon as practicable after proposing to introduce the change, the employer must:
 - (a) discuss with the relevant employees the introduction of the change; and
 - (b) for the purposes of the discussion—provide to the relevant employees:
 - (i) all relevant information about the change, including the nature of the change; and
 - (ii) information about what the employer reasonably believes will be the effects of the change on the employees; and
 - (iii) information about any other matters that the employer reasonably believes are likely to affect the employees; and
 - (c) invite the relevant employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).
 - (14) However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.
 - (15) The employer must give prompt and genuine consideration to matters raised about the change by the relevant employees.
 - (16) In this term:

relevant employees means the employees who may be affected by a change referred to in subclause (1).