



DECISION

Fair Work Act 2009
s.185—Enterprise agreement

Rmc Track Protection Services Pty Ltd
(AG2023/2369)

RMC TRACK PROTECTION SERVICES PTY LTD ENTERPRISE AGREEMENT 2023

Rail industry

DEPUTY PRESIDENT GOSTENCNIK

MELBOURNE, 30 AUGUST 2023

Application for approval of the RMC Track Protection Services Pty Ltd Enterprise Agreement 2023

[1] An application has been made pursuant to s 185 of the *Fair Work Act 2009* (the Act) for the approval of a single enterprise agreement known as the *RMC Track Protection Services Pty Ltd Enterprise Agreement 2023* (Agreement).

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

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

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

[5] The Agreement is approved and, in accordance with s 54 of the Act, will operate from 6 August 2023. The nominal expiry date of the Agreement is 30 August 2026.



DEPUTY PRESIDENT

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<AE521321 PR765658>

Annexure A

IN THE FAIR WORK COMMISSION

FWC Matter No.:
AG2023/2369

Applicant:
RMC Track Protection Services Pty Ltd

Section 185 – Application for approval of a single enterprise agreement

Undertaking – Section 190

I, Paul Pager, Head of People & Culture, have the authority given to me by RMC Track Protection Services Pty Ltd to give the following undertakings with respect to the *RMC Track Protection Services Pty Ltd Enterprise Agreement 2023* ("**the Agreement**"):

1. With respect to clause 7, Classifications and Wage Rates, within the Agreement, the rates within the table for the classification of Authorised Person will be replaced with the following rates:

Authorised Person (AP)	AP 1.1	\$27.54	0-6 months > + relevant experience
	AP 1.2	\$27.90	6 months > + relevant experience

2. With respect to clause 6.9 of the Agreement, it is to be replaced with the following:
 - 6.9 All time worked in excess of the agreed hours will be paid at the appropriate overtime rate.
3. With respect to clause 8, Additional Allowances, of the Agreement, it is to be amended to include the following allowance:

On-call Allowance

- 8.6 Where the employer requires an employee to be on-call during a period off duty, the employee is entitled to an allowance of:
 - (i) \$12.93 per night; or
 - (ii) \$32.44 when on-call for a day and night

- 8.7 An employee is on-call when the employee has been instructed, prior to ceasing duty, that the employee is or may be required to perform duty by way of receiving or making telephone calls or to return to duty, before the next normal time of commencing duty.
- 8.8 Clause 8.6 – 8.7 does not apply to an employee who is not eligible for payment of overtime, except with the approval of the employer, or whose private telephone rental and local telephone call charges are paid by the employer.

These undertakings are provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.



Signature

29/08/2023

Date



CORRECTION TO DECISION

Fair Work Act 2009
s.185—Enterprise agreement

Rmc Track Protection Services Pty Ltd
(AG2023/2369)

RMC TRACK PROTECTION SERVICES PTY LTD ENTERPRISE AGREEMENT 2023

Rail industry

DEPUTY PRESIDENT GOSTENCNIK

MELBOURNE, 30 AUGUST 2023

*Application for approval of the RMC Track Protection Services Pty Ltd Enterprise Agreement
2023*

The decision issued by the Fair Work Commission on 30 August 2023 (PR765658 [2023] FWCA 2780) is corrected as follows:

[1] By deleting the operative date appearing in paragraph [5] which reads “6 August 2023” and replacing it with “6 September 2023”.



DEPUTY PRESIDENT

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<AE521321 PR765673>

Note - this agreement is to be read together with an undertaking given by the employer. The undertaking is taken to be a term of the agreement. A copy of it can be found at the end of the agreement.



RMC Track Protection Services Pty Ltd Enterprise Agreement 2023

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1. TITLE

This agreement shall be known as the *RMC Track Protection Services Pty Ltd Enterprise Agreement 2023 (Agreement)*.

2. PARTIES BOUND AND APPLICATION OF AGREEMENT

2.1 This Agreement shall cover:

- (a) RMC Track Protection Services Pty Ltd (ACN 626 308 156) (**Employer**); and
- (b) the Employees of the Employer employed in the classifications contained in clause 7 - Classification and Wage Rates of this Agreement when performing track protection work on sites throughout the States of Queensland, New South Wales, Australian Capital Territory, South Australia and Western Australia (**Employees**).

3. DEFINITIONS

Act	The <i>Fair Work Act 2009</i> (Cth)
Agreement	This enterprise agreement, the RMC Track Protection Services Pty Ltd Enterprise Agreement 2023.
Award	Rail Industry Award 2020
Base Rate of Pay	Has the same meaning as provided in the Act
FWC	Fair Work Commission
Household	Any person who lives with the Employee
Immediate Family	Means: <ul style="list-style-type: none"> • an Employee's spouse (including de-facto spouse, former spouse, former de facto spouse) • a child (including and adult child, adopted child, foster child, or stepchild of an Employee or an Employee's spouse) • A parent, grandparent, grandchild or sibling of an Employee or an Employee's spouse.
NES	National Employment Standards in the <i>Fair Work Act 2009</i> (Cth)
Nightshift	A shift that commences at or between 6.00 pm and 3.59 am
Ordinary Hours	The ordinary hours of work for an employee as provided for in clause 10.2 of the Agreement
Permanent Nightshift	Where an Employee: <ul style="list-style-type: none"> • is engaged by the Employer to only work Nightshift; or • remains on Nightshift for a longer period than four consecutive weeks; or • works on a Nightshift which does not rotate or alternate with another shift or with day work so as to give him or her at least 1/3rd of his or her working time off Nightshift in each shift cycle.
Pro Rata	In the context of part-time employment means the proportion the part-time Employee's average weekly ordinary hours bear to 38 ordinary hours per week.

Rostered Hours	The hours of work that have been assigned to the Employee by the Employer according to a roster as implemented by the Employer or as varied by the Employer following consultation
Serious Misconduct	Has the same meaning as provided in the Act
Shift Worker	For the purposes of the NES a shift worker is defined as an employee who is regularly rostered to work their ordinary hours outside ordinary hours of work as defined in clause 14.

4. PERIOD OF OPERATION

- 4.1 This Agreement shall commence operation on the seventh (7th) day after the day it is approved by the FWC.
- 4.2 The nominal expiry date of this Agreement shall be three (3) years after the day on which the FWC approves the Agreement.
- 4.3 This Agreement shall continue to operate beyond the nominal expiry date until it is replaced or terminated in accordance with the Act.

5. RELATIONSHIP TO INDUSTRIAL AWARDS

- 5.1 This Agreement operates to the exclusion of any otherwise applicable industrial award.
- 5.2 This Agreement will be read and interpreted in conjunction with the National Employment Standards (NES). Where there is an inconsistency between this agreement and the NES, and the NES provides a greater benefit, the NES provision will apply to the extent of the inconsistency.
- 5.3 This Agreement replaces in its entirety the *RMC Track Protection Services Pty Ltd Enterprise Agreement 2018*.

6. CONTRACT OF SERVICE

Types of Employment

- 6.1 Employees will be engaged on one of the following basis:
- (a) full-time Employees;
 - (b) part-time Employees;
 - (c) fixed-term or project/task specific Employees; or
 - (d) casual Employees.

Position of employment

- 6.2 The position of employment (classification) as set out in clause 7 and in Appendix 1 will be specified in each Employee's respective contract of employment or as otherwise specified in writing by the Employer at the commencement of their employment in accordance with:

- (a) the operational requirements of the Employer; and
- (b) the Employee's trade and/or other qualifications, skills and experience.

6.3 The Employee will report to any person who may from time to time be designated for this purpose by the Employer.

Basis of employment

6.4 The basis of employment will be specified in each Employee's respective contract of employment or as otherwise specified in writing by the Employer at the commencement of their employment.

Full-time employment

6.5 Full-time Employees are engaged based on a maximum ordinary hours of work of thirty-eight (38) hours per week plus reasonable additional hours averaged over a period of eight (8) weeks.

Part-time employment

6.6 A part-time Employee is an employee who is engaged to work less than the standard ordinary hours of work for an equivalent full-time Employee.

6.7 Part-time Employees will be engaged for a minimum shift length of 4 hours.

6.8 A part-time Employee's ordinary minimum number of hours per work cycle and wherever possible, the scheduling of those hours, will be agreed in writing at commencement of employment.

6.9 A part-time Employee's ordinary hours of work may be varied by agreement between the Employer and the Employee without any penalty or other additional payment applying to the varied ordinary hours of work, provided that any hours that are not ordinary hours as defined in clause 10 of this Agreement will be paid at the appropriate rate.

6.10 Part-time Employees receive the same entitlements as full-time Employees on a pro-rata basis based on their ordinary hours of work.

Fixed-term or project specific employment

6.11 Employees may be engaged for specified period of time, for a specified task, or for the duration of a specified project.

6.12 However, at any time, either the Employer or the Employee may end the employment relationship by giving notice in accordance with the terms of this Agreement.

Casual employment

6.13 A casual Employee is one engaged and paid in accordance with the provisions of clauses 6.14 to 6.18.

- 6.14 The Employer, when engaging a person for casual employment, must inform the Employee in writing that the Employee is to be employed as a casual, the job to be performed, the classification level and the relevant rate of pay.
- 6.15 A casual Employee is entitled to payment for a minimum of four (4) hours' work per engagement.
- 6.16 A casual Employee must be paid a casual loading of twenty-five per cent (25%) on their ordinary hourly rate for ordinary time worked. The casual loading is paid instead of annual leave, personal/carer's leave, notice of termination, redundancy benefits, public holiday entitlements and other benefits of permanent employment (otherwise than provided for in this Agreement).
- 6.17 A casual Employee is entitled to the relevant penalty rates prescribed by clauses 11 - Overtime, 14 - Shiftwork and 19 – Public Holidays of this Agreement as the case may be, provided that the casual loading of twenty-five per cent (25%) of the employees ordinary hourly rate will be paid in addition to those penalty rates. For example, where the relevant penalty rate is time and a half (1.5 times), the casual Employee must be paid 1.75 times their ordinary hourly rate (which includes the time and a half penalty rate and the 25% casual loading).
- 6.18 To the extent permitted by law, if a Court or Commission determines that a casual Employee under this Agreement is not a casual employee at law and is entitled to permanent employee benefits (including, but not limited to paid leave, prior notice of termination and redundancy pay), the 25% casual loading paid for all hours worked to the Employee will be offset against any amount required to be paid by the Employer to the Employee for permanent employee benefits.

Employee's right to request casual conversion

- 6.19 A casual Employee may make a request for casual conversion if:
- (a) the casual Employee has been employed by the Employer for a period of at least 12 months beginning the day the employment started; and
 - (b) the casual Employee has, in the period of 6 months ending the day the request is given, worked a regular pattern of hours on an ongoing basis which, without significant adjustment, the casual Employee could continue to work as a full-time Employee or a part-time Employee (as the case may be); and
 - (c) all of the following apply:
 - (i) the casual Employee has not, at any time during the period referred to in clause 6.19(b), refused an offer made to the casual Employee under clauses 6.31 to 6.32;
 - (ii) the Employer has not, at any time during that period, given the casual Employee a notice in accordance with 6.35;
 - (iii) the Employer has not, at any time during that period, given a response to the casual Employee under 6.21 refusing a previous request made under clause 6.19;
 - (iv) the request is not made during the period of 21 days after the

period referred to in 6.31(b).

6.20 Any request under clause 6.19 must:

- (a) be in writing; and
- (b) be a request for the casual Employee to convert:
 - (i) for a casual Employee that has worked the equivalent of full-time hours during the period referred to in 6.19(b) – to full-time employment; or
 - (ii) for a casual Employee that has worked less than the equivalent of full-time hours during the period referred to in 6.19(b) – to part-time employment that is consistent with the regular pattern of hours worked during that period; and
- (c) be given to the Employer.

6.21 The Employer must give the casual Employee a written response to the request within 21 days after the request is given to the Employer, stating whether the Employer grants or refuses the request. If the Employer refuses the request, the written response under this clause will include details of the reasons for the refusal.

6.22 The Employer will not refuse a request unless:

- (a) the Employer has consulted the casual Employee;
- (b) there are reasonable grounds to refuse the request; and
- (c) the reasonable grounds are based on facts that are known, or reasonably foreseeable, at the time of refusing the request.

6.23 Without limiting clause 6.22(b), reasonable grounds for refusal include that:

- (a) it would require a significant adjustment to the casual Employee's hours of work in order for the casual Employee to be engaged as a full-time or part-time Employee;
- (b) the casual Employee's position will cease to exist in the period of 12 months after giving the request;
- (c) the hours of work which the casual Employee is required to perform will be significantly reduced in the 12-month period; or
- (d) there will be a significant change in the days and/or times at which the casual Employee's hours of work are required to be performed in the next 12 months which cannot be accommodated within the days and/or hours during which the casual Employee is available to work;
- (e) granting the request would not comply with a recruitment or selection process required by or under a law of the Commonwealth or a State or a Territory.

6.24 If the Employer grants the request, the Employer will, within 21 days after the day the request is given to the Employer, give written notice to the casual Employee of the following:

- (a) whether the casual Employee is converting to full-time employment or part-

- time employment;
- (b) the casual Employee's hours of work after the conversion takes effect;
 - (c) the day the casual Employee's conversion to full-time employment or part-time employment takes effect.
- 6.25 However, the Employer and casual Employee must discuss the matters the Employer intends to specify for the purposes of clause 6.24(a), (b), and (c) before giving the notice.
- 6.26 The day specified for the purposes of clause 6.24(c) will be the first day of the casual Employee's first full pay period that starts after the day the notice is given, unless the casual Employee and Employer agree to another day.
- 6.27 Once a casual Employee has converted to full-time or part-time employment, the Employee may only revert to casual employment with the written Agreement of the Employer.
- 6.28 A casual Employee must not be engaged and re-engaged (which includes a refusal to re-engage), terminated, or have their hours reduced or varied, in order to avoid any right or obligation under clauses 6.20 to 6.37.
- 6.29 Nothing in clauses 6.24 to 6.41:
- (a) requires a casual Employee to convert to full-time or part-time employment; or
 - (b) permits the Employer to require a casual Employee to convert to full-time employment or part-time employment; or
 - (c) requires the Employer to increase the hours of work of a casual Employee seeking conversion to full-time or part-time employment.
- 6.30 If the casual Employee does not accept the Employer's refusal to convert the casual Employee, this will constitute a dispute that will be dealt with under the dispute resolution procedure in Clause 29.

Employer offers for casual conversion

- 6.31 The Employer will make an offer of casual conversion to a casual Employee if:
- (a) the casual Employee has been employed by the Employer for a period of 12 months beginning the day the employment started; and
 - (b) during at least the last 6 months of that period, the casual Employee has worked a regular pattern of hours on an ongoing basis which, without significant adjustment, the casual Employee could continue to work as a full-time Employee or a part-time Employee (as the case may be).
- 6.32 An offer of casual conversion made to a casual Employee by the Employer will:
- (a) be in writing; and
 - (b) be an offer for the casual Employee to convert:
 - (i) for a casual Employee that has worked the equivalent of full-time hours during the period referred to in clause 6.31(b) – to full-time

employment; or

- (ii) for a casual Employee that has worked less than the equivalent of full-time hours during the period referred to in clause 6.35(b) – to part-time employment that is consistent with the regular pattern of hours worked during that period; and
 - (c) be given to the casual Employee within the period of 21 days after the end of the 12 month, or 6 month period referred to in clause 6.31(a), whichever is applicable.
- 6.33 The Employer will not make an offer of casual conversion to a casual Employee if:
- (a) there are reasonable grounds not to make the offer; and
 - (b) the reasonable grounds are based on facts that are known, or reasonably foreseeable, at the time of deciding not to make the offer.
- 6.34 Without limiting clause 6.33(a), reasonable grounds for deciding not to make an offer include the following:
- (a) the casual Employee's position will cease to exist in the period of 12 months after the time of deciding not to make the offer;
 - (b) the hours of work which the casual Employee is required to perform will be significantly reduced in that period;
 - (c) there will be a significant change in either or both of the following in that period:
 - (i) the days on which the casual Employee's hours of work are required to be performed;
 - (ii) the times at which the casual Employee's hours of work are required to be performed;
 - (iii) which cannot be accommodated within the days or times the casual Employee is available to work during that period;
 - (d) making the offer would not comply with a recruitment or selection process required by or under a law of the Commonwealth or a State or Territory.
- 6.35 If:
- (a) the Employer decides under clause 6.33 not to make an offer to a casual Employee; or
 - (b) a casual Employee has been employed by the Employer for the relevant period referred to in clause 6.31(a), but does not meet the requirement referred to in clause 6.31(b);
 - (c) the Employer will give written notice to the casual employee in accordance with clause 6.32.
- 6.36 The written notice referred to in clause 6.39 will:
- (a) advise the casual Employee that the Employer is not making an offer under clauses 6.31 to 6.32; and
 - (b) include details of the reasons for not making the offer (including any

- grounds on which the Employer has decided not to make the offer); and
- (c) be given to the casual Employee within 21 days after the end of the relevant period referred to in clause 6.31(a).
- 6.37 The casual Employee must give the Employer a written response to the offer within 21 days after the offer is given to the casual Employee, stating whether the casual Employee accepts or declines the offer.
- 6.38 If the casual Employee fails to give the Employer a written response in accordance with clause 6.37, the casual Employee is taken to have declined the offer.
- 6.39 If the casual Employee accepts the offer, the Employer will, within 21 days after the day the acceptance is given to the Employer, give written notice to the casual Employee of the following:
- (a) whether the casual Employee is converting to full-time employment or part-time employment;
 - (b) the casual Employee's hours of work after the conversion takes effect;
 - (c) the day the casual Employee's conversion to full-time employment or part-time employment takes effect.
- 6.40 The Employer will discuss with the casual Employee the matters the Employer intends to specify for the purposes of clauses 6.39(a), (b) and (c) before giving the notice.
- 6.41 The day specified for the purposes of clause 6.39(c) will be the first day of the casual Employee's first full pay period that starts after the day the notice is given, unless the casual Employee and Employer agree to another day.

Probation

- 6.42 All new Employees will be engaged on a probationary period of three (3) months.
- 6.43 During this period, either party can terminate the employment by giving one (1) weeks' notice or payment in lieu of notice (other than casual Employees).
- 6.44 For casual Employees, employment may be terminated by either party giving four (4) hours' notice.

Duties

- 6.45 An Employee's duties and responsibilities may be varied by the Employer, provided that they are within the Employee's range of skills, qualifications, competence, and training as directed from time to time.
- 6.46 At all times in performing their duties and responsibilities, Employees are required to:
- (a) comply with any lawful and reasonable directions given by the Employer;
 - (b) use their best endeavours in the performance of work;
 - (c) devote the whole of their time and attention to their work; and

- (d) ensure the highest level of safe working practices are adhered to and maintained.

Stand Down

- 6.47 Notwithstanding any other provision in this Agreement, where an Employee cannot be usefully employed due to industrial action engaged in by Employees, or a breakdown of equipment or any stoppage of work over which the Employer cannot be reasonably held responsible, the Employer may stand down the Employee.
- 6.48 If the Employer stands down the Employee under this clause, the Employee will not receive payment for the stand down period. This does not break continuity of employment for the purposes of any entitlements.

Fitness for Work

- 6.49 Employees must not be adversely affected by alcohol or drugs during working hours.
- 6.50 Employees must also be medically fit to perform work.
- 6.51 An Employee who is taking medication, or suffering from any condition, that may affect or limit the Employee's ability to carry out their work safely must advise his/her supervisor immediately.
- 6.52 Employees may be required to undertake random, targeted or 'for cause' drug and alcohol testing. Where there is a positive result on a drug or alcohol test, any subsequent tests to determine fitness for work will be at the Employee's expense.
- 6.53 For the purposes of Clause 6.52 'for cause' includes but is not limited to: following an incident or near miss or when the Employer or a client of the Employer reasonably suspects an Employee is or has been under the influence of or affected by alcohol or drugs during working hours or at the work site.
- 6.54 Methods of Testing: All drug and alcohol testing shall be carried out by duly accredited testing practitioners and be conducted in a manner and place that preserves the dignity and personal integrity of Employees.
- 6.55 Cost of drug testing: The Employer will pay for the cost associated with an Employee undergoing drug testing in the first instance. However, if an Employee obtains a positive reading or seeks to dispute the drug test result, any subsequent testing will be paid for by the Employee.
- 6.56 Failure to comply: An Employee who fails to comply with the above provisions or with a request to undertake a test may be subject to disciplinary action, which might include termination of employment.

7. CLASSIFICATIONS AND WAGE RATES

- 7.1 Employees engaged in work covered by this Agreement will be paid in accordance with the following classifications and wage rates for Ordinary Hours of work.

RMC TRACK PROTECTION SERVICES PTY LTD
 ENTERPRISE AGREEMENT 2023

Classification	Level	Minimum Hourly Rate \$(gross)	Tenure/Experience
Rail Worker (RW)	RW 1.1	\$23.52	0-6 months > + relevant experience
	RW 1.2	\$23.95	6 months > + relevant experience
Hand Signaller (HS)	HS 1.1	\$24.34	0-6 months > + relevant experience
	HS 1.2	\$24.79	6 months > + relevant experience
Authorised Person (AP)	AP 1.1	\$24.94	0-6 months > + relevant experience
	AP 1.2	\$25.39	6 months > + relevant experience
Protection Officer (WODZ/Lookout/ASB)	PO LO ASB 1.1	\$25.14	0-6 months > + relevant experience
	PO LO ASB 1.2	\$25.56	6 months > + relevant experience
Protection Officer (Track Occupancy Authority/Work on Track Authority)	PO TA 1.1	\$27.54	0-12 months > + relevant experience
	PO TA 1.2	\$27.90	12 months > + relevant experience
Possession Protection Officer (Local Possession Authority)	PO LPA 1.1	\$28.72	12 months > + relevant experience
	PO LPA 1.2	\$29.07	18 months > + relevant experience
Safeworking Officer Level 1 (SW1)	SW1.1	\$28.90	12 months > + relevant experience
	SW1.2	\$29.24	18 months > + relevant experience
Safeworking Officer Level 2 (SW2)	SW2.1	\$31.19	24 months > + relevant experience + route Knowledge
	SW2.2	\$31.54	24 months > + relevant experience + route Knowledge

- 7.2 The wage rates set out within the table in clause 7.1 are subject to annual increases (if any) from 1 July commencing on the first July the Agreement is in operation and for each year thereafter (up until its nominal expiry date) in accordance with the Australian WPI.

“WPI” means “Percentage Change from Corresponding Quarter of Previous Year; Total hourly rates of pay excluding bonuses; Australia; Private and Public ; All industries, for the full quarters from June to March each year, as published by the Australian Bureau of Statistics (CAT No 6345.0 and Series ID A2603611V)”

- 7.3 Classification descriptions are contained in Appendix 1.

Project rates

- 7.4 At the absolute discretion of the Employer, Employees assigned to work on a project may be paid wage rates and allowances additional to those prescribed under this Agreement for the work on that project to reflect the site roster arrangements, site location or additional skills or experience required to be utilised for the period they are on the project, provided that:

- (a) the Employees are notified in writing by the Employer that this will be so prior to the commencement on that project of the arrangements and rates of pay; and
- (b) overall, the Employees are not paid less than the entitlements under this Agreement.

Payment of wages

- 7.5 Wages shall be paid on a fortnightly basis by electronic fund transfer to an acceptable financial institution nominated by the Employee.
- 7.6 In accordance with the FW Act, the Employer may seek an authorisation from the Employee to deduct from an Employee's wages, or any monies owing, any overpayment of remuneration or any amount provided for by this Agreement.

8. ADDITIONAL ALLOWANCES

Leading hand allowance

- 8.1 In addition to the ordinary rate of pay for their classification, a leading hand appointed in writing as such by the Employer, shall be paid an additional \$34.30 per week. Allowance is applicable when an employee is placed in charge of not less than three (3) and not more than ten (10) other employees.

First Aid Allowance

- 8.2 An Employee who holds the appropriate first aid qualifications (St John Ambulance Workplace First Aid and Advanced Resuscitation or Australian Red Cross Intermediate First Aid) and is appointed in writing by the Employer to perform first aid duties in addition to their usual duties shall be paid an allowance of \$3.59 per

shift worked.

Permanent Nightshift

- 8.3 Permanent night shift means where an employee:
- (a) during a period of engagement on shiftwork, works night shift only; or
 - (b) remains on night shift for a longer period than 4 consecutive weeks; or
 - (c) works on a night shift which does not rotate or alternate with another shift or with day work so as to give him or her at least 1/3rd of his or her working time off night shift in each shift cycle.
- 8.4 Where the Employer directs an Employee to work Permanent Nightshift, they will receive \$7.82 for each hour worked on Permanent Nightshift, in addition to their Base Rate of Pay.
- 8.5 An Employee will not receive the allowance specified in clause 8.4 if they are being paid a shift allowance and they are deemed better off overall.

9. DISTANCE WORK AND LIVING AWAY FROM HOME

Qualification

- 9.1 This clause shall apply when:
- (a) an Employee is employed on project site rail operations, rail/civil maintenance work and rail/civil construction work at such a distance from the Employee's usual place of residence that the Employee cannot reasonably return to that place each night;
 - (b) the Employee is not in receipt of relocation benefits; and
 - (c) the Employee has provided the Employer with details of their usual place of residence in accordance with clause 9.2.

Employee's usual place of residence

- 9.2 On engagement, an Employee must provide the Employer with details of their usual place of residence at the time of application and reasonable documentary proof of those details. No subsequent change of address will entitle an Employee to the provisions of this clause unless the Employer agrees.
- 9.3 The Employee is not entitled to any payment or other benefit under this clause if the Employee has knowingly made a false statement regarding the details required in clause 9.2.

Entitlement

- 9.4 Where an Employee qualifies under clause 9.1 the Employer will:
- (a) provide the Employee with reasonable board and lodging in a well-kept establishment with three (3) adequate meals each day; and
 - (b) where an Employee is required to reside near the project site, provide all

board and accommodation free of charge; or

- (c) if the Employer so agrees, pay a living away from home allowance (**LAFHA**) to be determined by the Employer on a project-by-project basis at the sole discretion of the Employer.

9.5 LAFHA is not payable if the Employee is not living away from home or if the Employee is not ready, willing and available to work in accordance with this Agreement (except during periods of authorised leave) or because of industrial action.

9.6 Table of Allowances for Distance Work:

	Accommodation & Meal Allowance	Meal Allowance	Incidentals Allowance	Vehicle KMs
QLD	\$180	\$85.50	\$17.50	0.78 / KM
SA	\$180	\$85.50	\$17.50	0.78 / KM
NSW	\$180	\$85.50	\$17.50	0.78 / KM
WA NW	\$240	\$93.50	\$17.50	0.78 / KM
WA SW	\$240	\$93.50	\$17.50	0.78 / KM
ACT	\$180	\$93.50	\$17.50	0.78 / KM

Travelling

- 9.7 An Employee who is engaged for project site work which qualifies the Employee for the provisions of this clause will be entitled to the following benefits on mobilisation and demobilisation.
- 9.8 The Employee may be provided with appropriate transport to and from the project site. Employer may reimburse the employee for the use of a personal vehicle if or where required.
- 9.9 Where an Employee is required to travel to or from the project site during rostered working hours, the Employee will be entitled to be paid for the time spent travelling during the rostered working hours.
- 9.10 An Employee is not entitled to be paid for time spent travelling where travel falls outside of rostered working hours (for example, an Employee will not be entitled to be paid for time spent travelling to the project site either before the start of a roster or after the completion of a roster).

Accommodation

- 9.11 Where Employees are provided with accommodation they are required to comply with the relevant rules for that establishment/project site.

10. HOURS OF WORK

- 10.1 Except as provided in clause 14 – Shiftwork, Ordinary Hours for full-time and part-time Employees will not exceed an average of thirty-eight (38) per week plus reasonable additional hours averaged over a period of eight (8) weeks.
- 10.2 Except as provided in clause 14 – Shiftwork, Ordinary Hours shall be worked between 6.00 a.m. and 6.00 p.m., Monday to Friday (**Ordinary Hours**). The pattern

of working hours within the spread of Ordinary Hours may be altered by agreement with an individual Employee or with the majority of Employees at the site, section or sections concerned.

- 10.3 Ordinary Hours shall not exceed ten (10) hours on any day. By agreement between the Employer and a majority of Employees concerned, Ordinary Hours can be increased to twelve (12) hours on any day.
- 10.4 Where the Employer wishes to vary the pattern of working hours within the spread of Ordinary Hours, it shall consult with and seek the agreement of the Employees involved. Failing agreement, the Employer shall give those Employees one (1) weeks' notice of the change.

11. OVERTIME

- 11.1 In computing overtime, each day shall stand alone.
- 11.2 Subject to the provisions of this clause, all work done outside the Ordinary Hours on any day, Monday to Friday, inclusive, shall be paid for at the rate of time and one half (1.5 times) for the first two (2) hours and double time (2 times) thereafter.
- 11.3 Overtime performed on:
- (a) Saturdays prior to 12.00 noon shall be paid for at the rate of time and one half (1.5 times) for the first two (2) hours and double time (2 times) thereafter;
 - (b) Saturdays after 12.00 noon or on Sundays shall be paid for at the rate of double time (2 times); or
 - (c) Public holidays shall be paid for at the rate of double time and a half (2.5 times).

Working of overtime

- 11.4 When overtime work is necessary it shall, wherever reasonably practicable, be so arranged that an Employee has at least ten (10) consecutive hours off duty between the work of successive days.
- 11.5 An Employee (other than a casual Employee) who works so much overtime between the cessation of the Employee's ordinary work on one (1) day and the commencement of the Employee's ordinary work on the next day so that the Employee has not had at least ten (10) consecutive hours off duty between those times shall, subject to this clause, be released after completion of such overtime until the Employee has had ten (10) consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.
- 11.6 If, on instructions of the Employer, such an Employee resumes or continues work without having had such ten (10) consecutive hours off duty, the Employee shall be paid at double rates (2 times) until released from duty and shall then be entitled to be absent for such period of ten (10) consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

Recall

- 11.7 When an Employee is recalled to work after leaving their shift:
- (a) the Employee shall be paid for at least four (4) hours at overtime rates; and
 - (b) time reasonably spent in getting to and from work shall be counted as time worked.

12. MEAL AND CRIB BREAKS

Meal breaks

- 12.1 An Employee may be rostered for an unpaid meal break of not less than thirty (30) minutes during the course of an eight (8) hour shift provided that it does not interfere with operational requirements. Where an unpaid meal break is provided, the Employee, where practical, should not be required to work more than five (5) hours without a break.
- 12.2 On Saturdays, Sundays and Public Holidays, an Employee shall be entitled to the above break paid at ordinary rates unless the rostered shift is for six (6) hours or less.
- 12.3 If the Employee is working shiftwork in accordance with clause 14 – Shiftwork, then in lieu of the meal breaks in clauses 12.1 and 12.2, the Employee is entitled to a twenty (20) minute meal break paid at ordinary rates.

Overtime crib breaks

- 12.4 An Employee required to work two (2) or more hours of unrostered overtime after the completion of Ordinary Hours on any day shall be entitled to:
- (a) a twenty (20) minute crib break immediately after the completion of Ordinary Hours paid at ordinary rates; and
 - (b) thereafter, a thirty (30) minute crib break after each four (4) hours of continuous work paid at the appropriate overtime rate.
- 12.5 If an Employee remains at work after the completion of Ordinary Hours without taking a twenty (20) minute crib break and continues to work for a period of two (2) hours or more, the Employee will be regarded as having worked twenty (20) minutes more than the time worked and be paid accordingly.
- 12.6 For the purpose of this clause:
- (a) the completion of Ordinary Hours is at the end of Ordinary Hours plus any rostered overtime or time worked for the purpose of accruing rostered days off; and
 - (b) Unrostered overtime is overtime that has not been incorporated into the Employee's roster.

13. PROJECT WORKING HOURS

Alternative working hours

- 13.1 An Employee may be required to work on a project site or part of a project site that has alternative working hours arrangements.
- 13.2 If, in such a case, the Employer elects to roster the Employee on an alternative working hours arrangement, for that Employee whilst so engaged, ordinary hours for all purposes of this Agreement will not exceed the particular project working hours per week over a specified roster cycle not exceeding sixteen (16) weeks and a maximum shift length not exceeding twelve (12) hours.
- 13.3 Prior to the commencement of an alternative working hours arrangement, the Employer shall consult and seek the agreement of the Employees involved. Failing agreement, the Employer will provide to the Employees concerned one (1) weeks' notice of the commencement of an alternative working hours arrangement

RDOs

- 13.4 An Employee may be required to work on a project site or part of a project site on which hours are arranged on a system which provides Employees the opportunity to accrue rostered days off (**RDO**).
- 13.5 The accrual of RDOs will be subject to prevailing project terms and conditions in accordance with clause 7.4. An Employee will not accrue RDOs unless specifically designated and authorised by the Employer to accrue RDOs.

14. SHIFTWORK

- 14.1 Shiftwork is any arrangement of working hours where the majority of the ordinary hours are worked outside of the spread of hours 6.00am – 6.00pm Monday to Friday and when Employees are working as such.
- 14.2 The Employer has the right to direct Employees to work shiftwork as required. Prior to the commencement of shiftwork, the Employer shall consult and seek the agreement of the Employees involved. Failing agreement, the Employer will provide to the Employees concerned one (1) weeks' notice of the commencement of shiftwork and the starting and finishing times of Ordinary Hours of the shifts.

Hours of work

- 14.3 Ordinary hours for Employees working shiftwork will not exceed an average of thirty- eight (38) per week plus reasonable additional hours averaged over a period of eight (8) weeks.
- 14.4 Ordinary hours for Employees working shiftwork shall not exceed ten (10) hours on any day. By agreement between the Employer and the majority of Employees at the project site, section or sections concerned, ordinary hours shall not exceed twelve (12) hours on any day.

Rates

- 14.5 An Employee working shiftwork shall receive a flat loading of fifteen per cent (15%) of their ordinary time hourly rate for each hour worked.
- 14.6 Provided that all work performed on a shift, when the major portion of such shift falls on a Saturday, Sunday, or public holiday, shall be paid for as follows:
- (a) Saturday - at the rate of time and one half (1.5 times) for the first two (2) hours and double time (2 times) thereafter;
 - (b) Sunday - at the rate of time double time (2 times); and
 - (c) Public Holiday - at the rate of double time and a half (2.5 times).
- 14.7 The Public Holiday rate in clause 14.6(c) will be payable on any Public Holiday mentioned in clause 19.1. However, where a Public Holiday has an additional day or substituted day declared by or under a law of a State or Territory, the Public Holiday rate in clause 14.6(c) will only be payable on the declared additional day or substituted day.
- 14.8 The rates specified in clause 14.6 shall be paid in lieu of the shift loading prescribed in clause 14.5.

Overtime

- 14.9 All time worked in excess of or outside the Ordinary Hours, or on a shift other than a rostered shift, shall be paid for at the rate of double time (2 times), except where an Employee is called upon to work a sixth (6th) shift in not more than one (1) week in any four (4) weeks, when the Employee shall be paid for such shift at time and a half (1.5 times) for the first four (4) hours and double time (2 times) thereafter.
- 14.10 Time worked in excess of the Ordinary Hours shall be paid for at ordinary rates:
- (a) if it is due to private arrangements between the Employees themselves;
 - (b) if it does not exceed two (2) hours and is due to a relieving Employee not coming on or off duty at the proper time; or
 - (c) if it is for the purpose of effecting the customary rotation of shifts.

Definition for purpose of 5th week of annual leave

- 14.11 For the purpose of the additional week of leave provided by the NES (see clause 16.2 - Annual Leave), a shiftworker means an Employee who is:
- (a) engaged to work in a system of continuous shifts rostered twenty-four (24) hours a day, seven (7) days per week without interruption (except during breakdown or meal breaks or due to unavoidable causes beyond the control of the Employer); and
 - (b) regularly rostered to work those shifts; and
 - (c) regularly works on Sundays and public holidays.

15. PROTECTIVE EQUIPMENT AND CLOTHING

- 15.1 All Employees shall be issued with the following appropriate protective equipment. Employees will be issued with protective equipment that adheres to state requirements.

Period of engagement	Footwear	Workpants	Shirts
Less than 1 Month engagement	1 Pair of Safety Footwear	1 Pair	2 x Hi Vis Long Sleeve Shirts Compliant to the Relevant Network Requirements
1 month to 6 months engagement	1 Pair of Safety Footwear	2 Pairs	3 x Hi Vis Long Sleeve Shirts Compliant to the Relevant Network Requirements
Over 6 months engagement	1 Pair of Safety Footwear	3 Pairs	5 x Hi Vis Long Sleeve Shirts Compliant to the Relevant Network Requirements

- 15.2 In addition to the above Employees who are engaged for longer than four (4) weeks between 1 April and 31 August in any year shall be entitled to a one-off issue of a good quality cotton work jacket.
- 15.3 Consistent with the instructions provided during any project site orientation and induction process, protective clothing and equipment must be worn correctly at all times and helmets and other work clothing must not be painted, marked, contain stickers or drilled or modified in any way.
- 15.4 Re-issue of the specified clothing shall be on the basis of fair wear and tear provided the worn out item(s) is produced for replacement.
- 15.5 Appropriate wet weather clothing will be provided where necessary.

16. ANNUAL LEAVE

- 16.1 Annual leave is provided for in the NES.
- 16.2 For each year of service the NES entitles Employees to:
- (a) Four (4) weeks of paid annual leave; or
 - (b) Five (5) weeks of paid annual leave if the Employee is a shiftworker. For this purpose, a shiftworker is defined in clause 14.11 – Shiftwork of this Agreement.
- 16.3 Under the NES, annual leave accrues progressively during a year of service according to the employee's ordinary hours of work and accumulates from year to year. Annual leave does not accrue during any period of unpaid leave or unauthorised absence.
- 16.4 Annual leave can be taken by agreement between the Employer and Employee following a request by the Employee to take accrued annual leave. Leave approval is subject to the operational requirements of the workplace but shall not be

unreasonably withheld.

- 16.5 The Employer may also require an Employee to take accrued annual leave:
- (a) by giving a minimum of two (2) weeks' notice; or
 - (b) where the Employer shuts down all or any part of the business;
- providing that the requirement to take leave is reasonable in the circumstances.
- 16.6 If, where the Employer shuts down all or any part of the business, an Employee does not have sufficient accrued leave he/she may be required to take leave without pay.
- 16.7 Annual leave is paid at ordinary rates of pay. Employees are not entitled to annual leave loading.
- 16.8 By written agreement with the Employer, an Employee may elect to cash out part of his/her accrued annual leave entitlement each twelve (12) months, provided that:
- (a) paid annual leave cannot be cashed out if the cashing out would result in the Employee's remaining accrued entitlement to paid annual leave being less than four (4) weeks;
 - (b) each cashing out of a particular amount of paid annual leave must be by a separate written agreement in writing between the Employer and the Employee; and
 - (c) the Employee must be paid at least the full amount that would have been payable to the Employee had the Employee taken the leave.
- 16.9 This clause shall not apply to casual Employees.

17. PERSONAL/CARER'S LEAVE

- 17.1 Personal/carer's leave entitlements are provided for in the NES.

Paid personal/carer's leave

- 17.2 The NES entitles Employees (other than casual Employees) to ten (10) days of paid personal/carer's leave for each year of service.
- 17.3 Under the NES, paid personal/carer's leave accrues progressively during a year of service according to the Employee's ordinary hours of work and accumulates from year to year. Paid personal/carer's leave does not accrue during any period of unpaid leave or unauthorised absence.
- 17.4 Under the NES, paid personal/carer's leave may only be taken:
- (a) because the Employee is not fit for work because of a personal illness, or personal injury, affecting the Employee; or
 - (b) to provide care or support to a member of the Employee's immediate family, or a member of the employee's household, who requires care or support

because of:

- (i) a personal illness, or personal injury, affecting the member; or
- (ii) an unexpected emergency affecting the member.

17.5 Paid personal/carer's leave may not be taken in advance of accrual.

17.6 Under the NES, an Employee (other than a casual Employee) shall be paid for any period of paid personal/carer's leave at the Employee's ordinary rate of pay for the Employee's ordinary hours of work in the period.

Unpaid carer's leave

17.7 Unpaid carer's leave entitlements are provided for in the NES.

17.8 The NES entitles Employees (including casual Employees) to two (2) days of unpaid carer's leave for each occasion (a ***permissible occasion***) when a member of their immediate family or household, requires care or support because of:

- (a) a personal illness, or personal injury, affecting the member; or
- (b) an unexpected emergency affecting the member.

17.9 Under the NES:

- (a) an Employee may take unpaid carer's leave for a particular permissible occasion if the leave is taken to provide care or support as referred to in clause 17.8;
- (b) an Employee may take unpaid carer's leave for a particular permissible occasion as:
 - (i) a single continuous period of up to two (2) days; or
 - (ii) any separate periods to which the Employee and the Employer agree;
- (c) an Employee cannot take unpaid carer's leave during a particular period if the Employee could instead take paid personal/carer's leave.

Notice and evidence requirements (paid and unpaid personal/carer's leave)

17.10 An Employee who is unable to attend work must notify the Employer as soon as practicable of his/her inability to attend work, the estimated duration of the absence and the reason for the absence. Generally, this should occur before the commencement of the Employee's shift.

17.11 An Employee who has given notice of the taking of personal/carer's leave must provide the Employer with evidence that would satisfy a reasonable person that the leave is being taken for the specified reason.

17.12 An Employee is not entitled to take paid or unpaid personal/carer's leave under the NES unless the Employee complies with these notice and evidence requirements.

18. COMPASSIONATE LEAVE

- 18.1 Compassionate leave entitlements are provided for in the NES.
- 18.2 The NES entitles Employees (including casual Employees) to two (2) days of compassionate leave for each occasion (a **permissible occasion**) when a member of their immediate family or household:
- (a) contracts or develops a personal illness that poses a serious threat to his or her life; or
 - (b) sustains a personal injury that poses a serious threat to his or her life; or
 - (c) dies; or
 - (d) a child is stillborn, where the child would have been a member of the employee's immediate family, or a member of the employee's household, if the child had been born alive; or
 - (e) the employee, or the employee's spouse or de facto partner, has a miscarriage.

Permissible occasions

- 18.3 Under the NES:
- (a) an Employee may take compassionate leave for a particular permissible occasion if the leave is taken:
 - (i) to spend time with the member of the Employee's immediate family or household who has contracted or developed the personal illness, or sustained the personal injury, referred to in clause 18.2; or
 - (ii) after the death of the member of the Employee's immediate family or household referred to in clause 18.2.
 - (b) an Employee may take compassionate leave for a particular permissible occasion as:
 - (i) a single continuous two (2) day period; or
 - (ii) two (2) separate periods of one (1) day each; or
 - (iii) any separate periods to which the Employee and the Employer agree.
 - (c) if the permissible occasion is the contraction or development of a personal illness, or the sustaining of a personal injury, the Employee may take the compassionate leave for that occasion at any time while the illness or injury persists.

Payment

- 18.4 Under the NES:

- (a) an Employee (other than a casual Employee) shall be paid for any period of compassionate leave at the Employee's ordinary rate of pay for the Employee's Ordinary Hours of work in the period.
- (b) for casual Employees, compassionate leave is unpaid leave.

Notice and evidence requirements

- 18.5 An Employee who wishes to take compassionate leave must notify the Employer as soon as practicable of the reason for and estimated period of the leave. Generally, this should occur before the commencement of the Employee's shift.
- 18.6 An Employee who has given notice of the taking of compassionate leave must provide the Employer with evidence that would satisfy a reasonable person that the leave is being taken for that reason.
- 18.7 An Employee is not entitled to take compassionate leave under the NES unless the Employee complies with the notice and evidence requirements in this Agreement.

19. PUBLIC HOLIDAYS

- 19.1 Public Holidays are defined as those days that are declared or prescribed under state laws as Public Holidays and include, but are not limited to:
 - (a) New Year's Day (1 January);
 - (b) Australia Day (26 January);
 - (c) Good Friday;
 - (d) Easter Monday;
 - (e) Anzac Day (25 April);
 - (f) Labour Day;
 - (g) Sovereign's Birthday;
 - (h) Christmas Day (25 December); and
 - (i) Boxing Day (26 December),
- 19.2 If any other day declared by or under a law of a State or Territory is generally observed in a locality as an additional day or as a substitute day for any of the said holidays, the additional day shall also be observed, or the day so substituted shall be observed.
- 19.3 Employees (other than casual Employees) who because it is a Public Holiday, are not required to work on a day on which they are normally required to work will be paid for the ordinary hours normally worked on that day.

20. LONG SERVICE LEAVE

Long service leave entitlements are provided for in applicable legislation.

21. PARENTAL LEAVE

Parental leave entitlements are provided for in the NES.

22. COMMUNITY SERVICE LEAVE

Unpaid leave for voluntary emergency management activities are provided for in the NES.

23. JURY SERVICE LEAVE

Jury Service leave is provided for under NES. Noting that as per NES, full time and part time employees have to be paid 'make up pay' for the first 10 days of jury selection and jury duty upon production of suitable evidence.

24. DEFENCE SERVICE LEAVE

Unpaid leave for Defence reservist service or training will be provided for in accordance with the NES.

25. DOMESTIC VIOLENCE LEAVE

25.1 This clause applies to all Employees, including casuals.

25.2 In this clause:

- (a) family and domestic violence means violent, threatening or other abusive behaviour by a family member of an Employee that seeks to coerce or control the Employee and that causes them harm or to be fearful.
- (b) family member means:
 - (i) a spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the Employee; or
 - (ii) a child, parent, grandparent, grandchild or sibling of a spouse or de facto partner of the Employee; or
 - (iii) a person related to the Employee according to Aboriginal or Torres Strait Islander kinship rules.
- (c) A reference to a spouse or de facto partner in the definition of family member in clause 25.2(b)(i) includes a former spouse or de facto partner.

25.3 An Employee is entitled to 10 days' paid leave to deal with family and domestic violence, as follows:

- (a) the leave is available in full at the start of each twelve (12) month period of the Employee's employment; and
 - (b) the leave does not accumulate from year to year; and
 - (c) is available in full to part-time and casual Employees.
- 25.4 An Employee may take paid leave to deal with family and domestic violence if the Employee:
- (a) is experiencing family and domestic violence; and
 - (b) needs to do something to deal with the impact of the family and domestic violence and it is impractical for the Employee to do that thing outside their Rostered Hours of work.
- 25.5 The time an Employee is on unpaid leave to deal with family and domestic violence does not count as service but does not break the Employee's continuity of service.
- 25.6 An employee must provide the Employer notice of the taking of leave by the Employee under clause 25. The notice:
- (a) must be given to the Employer as soon as practicable (which may be a time after the leave has started); and
 - (b) must advise the Employer of the period, or expected period, of the leave.
- 25.7 An Employee who has given the Employer notice of the taking of leave under clause 25 must, if required by the Employer, give the Employer evidence that would satisfy a reasonable person that the leave is taken for the purpose specified in clause 25.4.
- 25.8 The Employer will take steps to ensure information concerning any notice an Employee has given, or evidence an Employee has provided under clause 25 is treated confidentially, as far as it is reasonably practicable to do so.
- 25.9 Nothing in clause 25 prevents the Employer from disclosing information provided by an Employee if the disclosure is required by an Australian law or is necessary to protect the life, health or safety of the Employee or another person.
- 25.10 An Employee is not entitled to take leave under clause 25 unless the Employee complies with clause 25.

26. SUPERANNUATION

- 26.1 The Employer will make superannuation contributions for each Employee equal to the amount that the Employer must contribute to a superannuation fund or retirement savings account on behalf of the Employee to avoid being liable for the superannuation guarantee charge under the *Superannuation Guarantee Act 1992* (Cth) (**SGA**) and the *Superannuation Guarantee (Administration) Act 1992* (Cth).
- 26.2 Where contributions shall be paid into an eligible fund nominated by the Employee.

Provided that where an Employee does not nominate a fund, or the Employer is unable to pay into that fund, contributions will be paid into an eligible fund nominated by the Employer.

- 26.3 For full-time Employees, the “ordinary time earnings” for the purposes of the SGA is paid at the base rate of pay for the Ordinary Hours (38 hours per week).
- 26.4 For casual Employees, the “ordinary time earnings” for the purposes of the SGA is paid at the base rate of pay (inclusive of 25% casual loading) for the actual hours of work.
- 26.5 To the extent permitted by law, in the case of an Employee on workers’ compensation, superannuation contributions will be paid up until the last day worked.

Voluntary employee contributions

- 26.6 Subject to the governing rules of the relevant superannuation fund, an Employee may, in writing, authorise the Employer to pay on behalf of the Employee a specified amount from the post-taxation wages of the Employee into the same superannuation fund as referred to in Clauses 26.1 or 26.2.

27. TERMINATION OF EMPLOYMENT

- 27.1 Except in the case of casual Employees, the contract of employment may be terminated at any time by:
 - (a) the Employer giving the Employee written notice in accordance with the table below; or
 - (b) the Employee giving the Employer notice in accordance with the table below:

Employee’s period of continuous employment	Period of notice
Not more than 1 year	1 week
More than 1 year but not more than 3 years	2 weeks
More than 3 years but not more than 5 years	3 weeks
More than 5 years	4 weeks

- 27.2 The period of notice to be given by the Employer is increased by one (1) week if the Employee is over forty-five (45) years of age and has completed at least two (2) year’s continuous service with the Employer. The Employee will not be required to provide additional notice because of age.
- 27.3 For casual Employees, employment may be terminated by either party giving four (4) hours’ notice.
- 27.4 Instead of providing notice, the Employer may provide the Employee with payment in lieu of notice for the period of notice not provided. Payment shall be the total of all amounts that, if the employment had continued until the end of the required notice period, the Employer would have become liable to pay.

- 27.5 Where the Employee fails to provide the required notice, the Employer may seek to recover any monies from the Employee for an amount equivalent to the period of notice not provided.
- 27.6 This clause does not operate so as to prevent an Employee and the Employer from agreeing to accept a greater or lesser amount of notice period when terminating the contract.
- 27.7 Notwithstanding the above, an Employee may be dismissed without notice for serious misconduct, and in such cases, wages shall be paid up to the time of dismissal only.

Return of property

- 27.8 On the termination of employment, or at any other time required by the Employer, the Employee must return all Employer property.

Abandonment

- 27.9 Should an Employee have three (3) consecutive days of unauthorised absence from work, the Employee shall be deemed to have abandoned their employment, unless, through exceptional circumstances they have been unable to communicate their absence to the Employer. Before processing the termination due to abandonment of employment, the Employer will write, via registered post or courier (with delivery confirmation receipt) to the Employee's last known address advising that the Employer has assumed the Employee has abandoned their employment and will process this termination unless the Employee provides a satisfactory explanation within 7 days.
- 27.10 If the Employee does not respond to the letter or resume duty within the specified 7 calendar days, a further letter will be sent by registered mail or courier (with delivery confirmation receipt) to the Employee's last known address advising the Employee that their services have been terminated due to abandonment of employment.
- 27.11 Where an Employee is terminated in accordance with clause 27.10, they will receive payment on termination under clause 27 where applicable.

28. REDUNDANCY

- 28.1 Redundancy entitlements are provided for in the NES.

29. DISPUTE SETTLEMENT PROCEDURE

- 29.1 If a dispute arises about the meaning or application of this Agreement or the NES, the parties agree that, in the first instance, they will attempt to resolve the dispute at the workplace level, by discussions between the Employee and the relevant supervisors and/or management.
- 29.2 An Employee who is a party to the dispute may appoint a representative for the purposes of the procedures in this clause.
- 29.3 The procedure to be followed is:

- (a) The Employee must contact their immediate supervisor and inform him/her of the concern. If required, the supervisor will arrange a meeting to discuss the matter further. The Employee must detail what their concern is and how it is impacting on them. The supervisor will provide a response to the matter raised.
 - (b) If the Employee does not consider the matter to be resolved, he/she may request that the matter be further considered by relevant management. The supervisor will arrange a meeting with relevant management. The Employee will be asked to provide the reason(s) why they do not consider the matter to be resolved. The relevant management will provide a response to the matter in a timely manner.
 - (c) If the Employee still does not consider the matter to be resolved, he/she may request the matter be reviewed by the Employer's general manager. The relevant management will arrange for the Employee to meet with the Employer's general manager. During the meeting, the Employee must explain what their concern is, and why they do not consider the matter to be resolved. The Employer's general manager will provide a response to the Employee.
- 29.4 If the matter remains unresolved at the conclusion of 29.3(c) above, either the Employee or the Employer may refer the matter to the FWC for mediation or conciliation.
- 29.5 The FWC will attempt to resolve the dispute as it considers appropriate, by mediation or conciliation (including by private conference). During the mediation and conciliation state, the FWC has the power to dismiss a matter if the FWC forms the view that:
- (a) The application is trivial or frivolous;
 - (b) The matter is incapable of resolution within a timeframe the FWC considers reasonable; or
 - (c) The Employee or its representative is acting unreasonably in failing to resolve the dispute.
- 29.6 Subject to all of the preceding steps set out in subclauses 29.1 to 29.5 having being completed, the FWC may only arbitrate the dispute if at the time of the dispute, each party to the dispute including:
- (a) the relevant Employee(s);
 - (b) any Employee(s) representative; and
 - (c) the Employer
- all agree in writing to authorise the FWC to arbitrate the dispute.
- 29.7 Any decision made by the FWC in relation to the arbitration of the dispute will only be binding on the parties if at the time of the dispute and prior to the arbitration, each party to the dispute including:

- (a) the relevant Employee(s);
- (b) any Employee(s) representative; and
- (c) the Employer

all agree in writing to be bound by the arbitrated decision of the FWC.

- 29.8 Any arbitrated decision by the FWC is subject to the Employer exercising a right of appeal against the arbitrated decision of the FWC to the Full Bench of the FWC under the FW Act.
- 29.9 While the parties are trying to resolve the dispute using the procedures in this clause:
- (a) The Employee must continue to perform his or her work as he or she would normally; and
 - (b) The Employee must comply with any directions given by the Employer to perform other available work at the same workplace, or at another workplace.
- 29.10 The parties to the dispute agree to be bound by a decision made by the FWC in accordance with this term.

30. INDIVIDUAL FLEXIBILITY ARRANGEMENTS

- 30.1 An employer and employee covered by this enterprise agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the agreement if:
- (a) the agreement deals with 1 or more of the following matters:
 - (i) arrangements about when work is performed;
 - (ii) overtime rates;
 - (iii) penalty rates;
 - (iv) allowances;
 - (v) leave loading; and
 - (b) the arrangement meets the genuine needs of the employer and employee in relation to 1 or more of the matters mentioned in paragraph (a); and
 - (c) the arrangement is genuinely agreed to by the employer and employee.
- 30.2 The employer must ensure that the terms of the individual flexibility arrangement:
- (a) are about permitted matters under section 172 of the *Fair Work Act 2009*; and
 - (b) are not unlawful terms under section 194 of the *Fair Work Act 2009*; and
 - (c) result in the employee being better off overall than the employee would be if no arrangement was made.
- 30.3 The employer must ensure that the individual flexibility arrangement:
- (a) is in writing; and
 - (b) includes the name of the employer and employee; and
 - (c) is signed by the employer and employee and if the employee is under 18 years of age, signed by a parent or guardian of the employee; and
 - (d) includes details of:

- (i) the terms of the enterprise agreement that will be varied by the arrangement; and
 - (ii) how the arrangement will vary the effect of the terms; and
 - (iii) how the employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement; and
 - (e) states the day on which the arrangement commences.
- 30.4 The employer must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.
- 30.5 The employer or employee may terminate the individual flexibility arrangement:
- (a) by giving no more than 28 days written notice to the other party to the arrangement; or
 - (b) if the employer and employee agree in writing—at any time.

31. CONSULTATION TERM

31.1 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

31.2 For major change referred to in clause 31.1(a):

- (a) The Employer must notify the relevant Employees of the decision to introduce the major change; and
- (b) Clauses 31.3 to 31.9 apply.

31.3 The relevant Employees may appoint a representative for the purpose of procedures of this term.

31.4 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.

31.5 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 changed proposed; and
 - (ii) Information about the expected effects of the change on the Employees; and
 - (iii) any other matters likely to affect the Employees.
- (c) However, the Employer is not required to disclose confidential or commercially sensitive information to the relevant Employees.
- (d) The Employer must give prompt and genuine consideration to matters raised about the major change by the relevant Employees.
- (e) If a term in this Agreement provides for major change to production, program, organisation, structure or technology in relation to the enterprise of the Employer, the requirements set out in clause 31.2(a) and clauses 31.3 and 31.5 are taken not to apply.

31.6 However, the Employer is not required to disclose confidential or commercially sensitive information to the relevant Employees.

31.7 The Employer must give prompt and genuine consideration to matters raised about the major change by the relevant Employees.

31.8 If a term in this Agreement provides for major change to production, program, organisation, structure, or technology in relation to the enterprise of the Employer, the requirements set out in clauses 31.2(a) and 31.5 are taken not to apply.

31.9 In clauses 31.2 to 31.6, a major change is likely to have a significant effect on the Employees if it results in:

- (a) The termination of the employment of Employees;
- (b) Major change to the composition, operation or size of the Employer's workforce or to the skills required of Employees;
- (c) The elimination or diminution of job opportunities (including opportunities for promotion or tenure);
- (d) The alteration of hours of work;
- (e) The need to retrain Employees;
- (f) The need to relocate Employees to another workplace; or
- (g) The restructuring of jobs.

Change to regular roster or ordinary hours of work

31.10 For a change referred to in clause 31.1(b):

- (a) The Employer must notify the relevant Employees of the proposed change; and
- (b) Clauses 31.11 to 31.15 apply.

31.11 The relevant Employees may appoint a representative for the purposes of the procedures in this term.

31.12 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.

31.13 As soon as practicable after making its decision, the Employer must:

- (a) Discuss with the relevant Employees the introduction of the change; 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; 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
 - (iv) 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).

31.14 However, the Employer is not required to disclose confidential or commercially sensitive information to the relevant Employees.

31.15 The Employer must give prompt and genuine consideration to matters raised about the major change by the relevant Employees.

31.16 In this clause relevant Employees means the Employees who may be affected by a change referred to in Clause 31.1.

32. REQUESTS FOR FLEXIBLE WORKING ARRANGEMENTS

32.1 This clause applies where an Employee has made a request for a change in working arrangements under s.65 of the Act.

32.2 Before responding to a request made under s.65 of the Act, the Employer must discuss the request with the Employee and genuinely try to reach Agreement on a change in working arrangements that will reasonably accommodate the Employee's circumstances having regard to:

- (a) the needs of the Employee arising from their circumstances;
- (b) the consequences for the Employee if changes in working arrangements are not made; and
- (c) any reasonable business grounds for refusing the request.

- 32.3 Clause 32.3 applies if the Employer refuses the request and has not reached an agreement with the Employee under clause 32.2.
- (a) The written response under s.65(4) of the Act must include details of the reasons for the refusal, including the business ground or grounds for the refusal and how the ground or grounds apply.
 - (b) If the Employer and Employee could not agree on a change in working arrangements under clause 32.2, the written response under s.65(4) of the Act must:
 - (i) state whether or not there are any changes in working arrangements that the Employer can offer the Employee so as to better accommodate the Employee's circumstances; and
 - (ii) if the Employer can offer the Employee such changes in working arrangements, set out those changes in working arrangements.
- 32.4 If the Employer and the Employee reached an agreement under clause 32.2 on a change in working arrangements that differs from that initially requested by the Employee, the Employer must provide the Employee with a written response to their request setting out the agreed change(s) in working arrangements.
- 32.5 Disputes about whether the Employer has discussed the request with the Employee and responded to the request in the way required by clause 32, can be dealt with under the Grievance/Dispute Settlement Procedure clause.
-

33. NO EXTRA CLAIMS

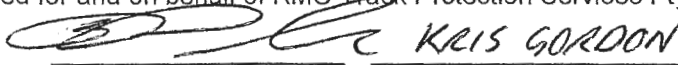
- 33.1 During the term of this Agreement there shall be no extra claims for any changes in remuneration or conditions of employment. The Agreement is comprehensive and is intended to be exhaustive of the terms and conditions of the employment relationship between the Employer and its Employees.
- 33.2 The wages, allowances, payments, conditions etc. as detailed in this Agreement are acknowledged and recognised as covering all circumstances, conditions and disabilities encountered.
- 33.3 The Agreement may, however, be varied at any time during the life of this Agreement in accordance with the FW Act.

RMC TRACK PROTECTION SERVICES PTY LTD
ENTERPRISE AGREEMENT 2023

SIGNATURES

Employer

Signed for and on behalf of RMC Track Protection Services Pty Ltd (ACN 626 308 156)

 KRIS GORDON Date: 14/07/2023

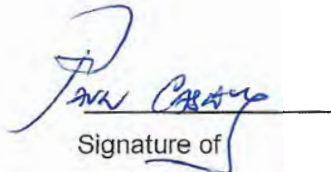
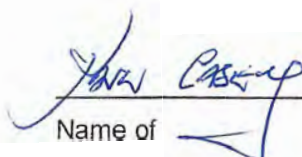
Signature on behalf of the Employer Name of person authorised to sign

GENERAL MANAGER Position

UNIT 1, 58 TARLTON CRES., PERTH AIRPORT, WA 6105
Address Post Code

For Employees

Signed on behalf of the Employees covered by this Agreement

  Date: 14/07/2023
Signature of Employee Representative Name of

Authority to sign (position): PROTECTION OFFICER

Suite 5/23 Ironbank Coast Narabrook 2304
Address Post Code

APPENDIX 1

Level	Requirements
Rail Worker (RW)	<p>Tenure and Experience</p> <p>Entry level: 0-6 months tenure plus relevant experience in Rail industry</p> <p>Experienced: > 6 months tenure plus relevant experience in Rail industry</p> <p>A worker at this level:</p> <p>Works in accordance with standard operating procedures and established criteria.</p> <p>Works under direct supervision either individually or in a team environment.</p> <p>Follows safe work practices and can report workplace hazards</p> <p>Workers at this level may use a range of basic hand tools, power tools and manual handling equipment</p> <p>Comply with all of RMC Track Protection and Clients' policies and procedures</p>
Hand Signaller (HS)	<p>Tenure and Experience</p> <p>Entry level: 0-6 months tenure plus relevant experience in Rail industry</p> <p>Experienced: > 6 months tenure plus relevant experience in Rail industry</p> <p>A worker at this level:</p> <p>Current Network Provider's Hand Signallers accreditation(s)</p> <p>Works in accordance with standard operating procedures and established criteria.</p> <p>Works under direct supervision either individually or in a team environment.</p> <p>Follows safe work practices and can report workplace hazards</p> <p>Comply with all of RMC Track Protection and Clients' policies and procedures</p> <p>Hold current Construction Card (White / Blue Card)</p>

<p>Authorised Person (AP)</p>	<p>Tenure and Experience</p> <p>Entry level: 0-6 months tenure plus relevant experience in Rail industry</p> <p>Experienced: > 6 months tenure plus relevant experience in Rail industry</p> <p>A worker at this level must:</p> <p>Have excellent time management skills and communication skills</p> <p>Able to complete required documentation to a high standard, including management of permits between key site personnel</p> <p>Able to provide a detailed pre-start briefing to site personnel, ensuring all workers are fully briefed on the electrical safety aspects for the work activities to be undertaken</p> <p>Have interpersonal skills, able to manage people effectively to ensure the worksite is clear prior to surrendering the HV permit</p> <p>Have decision-making skills and ability to react appropriately to emergency situations</p> <p>Current Rail Industry Worker (RIW) and Current Rail Safety Worker (RSW) Card</p> <p>Current Construction Card (White/Blue Card)</p> <p>TLIF2080 – Safely Access the Rail Corridor (SARC)</p> <p>Must hold relevant Network Authorised Person enterprise training accreditation</p>
<p>Protection Officer (WODZ/Lookout/ASB)</p>	<p>Tenure and Experience</p> <p>Entry level: 0-6 months tenure plus relevant experience in Rail industry</p> <p>Experienced: > 6 months tenure, relevant experience in Rail industry plus route knowledge</p> <p>A worker at this level must:</p> <p>Possess a sound understanding of relevant Rail Authority Network</p> <p>Possess a sound understanding of rail authority Safeworking Rules and Procedures</p> <p>Current relevant Network Provider’s Accreditation(s)</p>

	<p>Identify level of protection required.</p> <p>Implement the required level of safeworking</p> <p>Implement Lookout Working.</p> <p>Manage the rail safety component of the works and supervise activities within the rail corridor</p> <p>Has good interpersonal and communication skills</p> <p>Can deliver prestart briefings with site personnel in clear and concise manner prior to works.</p> <p>Carry out site risk assessment and accurately record details</p> <p>Complete Prestart Briefing Form / Book</p> <p>Commencement of Cert 2 in Track Protection – east coast do not require a formal qualification, enterprise training for each network is the process</p> <p>Complete required Safeworking forms to the required standard</p> <p>Implement Absolute Signal Blocking (ASB)/(CSB) Note: Implement ASB in states where the rule is applicable on Network.</p> <p>Decision-making skills and ability to react appropriately to emergency situations</p> <p>Complete required Safeworking forms to a high standard</p>
<p>Protection Officer (Track Occupancy Authority/Work on Track Authority)</p>	<p>Tenure and Experience</p> <p>Entry level: 0-12 months tenure plus relevant experience in Rail industry</p> <p>Experienced: > 12 months tenure, relevant experience in Rail industry plus route knowledge</p> <p>A worker at this level:</p> <p>Possess a comprehensive knowledge of rail authority Safeworking Rules and Procedures</p>

	<p>Possess a comprehensive knowledge of the Rail Authority Network</p> <p>Hold the current relevant Network Provider’s Accreditation(s)</p> <p>Compile applicable safeworking documentation as per the requirements of the Safeworking Rules and Procedures.</p> <p>Pilot rail traffic into, within and out of a possession area</p> <p>Implement a Track Work Authority (TWA) Note: Implement TWA in states where the rule is applicable on Network.</p> <p>Implement a Track Occupancy Authority (TOA)/Work on Track Authority(WoTA)</p> <p>Liaise with the NCO using safety critical communications to request and implement protection arrangements.</p>
<p>Possession Protection Officer (Local Possession Authority)</p>	<p>Tenure and Experience</p> <p>Entry level: 0-12 months tenure, relevant experience in Rail industry plus route knowledge</p> <p>Experienced: > 18 months tenure, relevant experience in Rail industry plus route knowledge</p> <p>A worker at this level:</p> <p>Possess a complete knowledge of rail authority Safeworking Rules and Procedures</p> <p>Possess a complete knowledge of the Rail Authority Network</p> <p>Hold a current Network Provider’s Protection Officer Level Four Accreditation(s)</p> <p>Implement a Local Possession Authority (LPA).</p> <p>Arrange for work trains to enter the limits of LPA.</p> <p>Compile applicable safeworking documentation as per the requirements of the Safeworking Rules and Procedures</p> <p>Manage and coordinate multiple worksites</p>

	<p>Liaise with the NCO using safety critical communications to request and implement protection arrangements.</p>
<p>Safeworking Officer Level 1 (SW1)</p>	<p>Tenure and Experience</p> <p>Entry level: 0-12 months tenure, relevant experience in Rail industry plus route knowledge</p> <p>Experienced: > 18 months tenure, relevant experience in Rail industry plus route knowledge</p> <p>A worker at this level:</p> <p>Possess a complete knowledge of rail authority Safeworking Rules and Procedures</p> <p>Access rail track to travel track vehicles under manual block working conditions</p> <p>Operate standalone signalling points control equipment</p> <p>Identify and respond to signals and trackside signs</p>
<p>Safeworking Officer Level 2 (SW2)</p>	<p>Tenure and Experience</p> <p>Entry level: >24 months tenure, relevant experience in Rail industry plus route knowledge</p> <p>Experienced: > 24 months tenure, relevant experience in Rail industry plus route knowledge</p> <p>A worker at this level:</p> <p>Control and coordinate rail traffic movement</p>

IN THE FAIR WORK COMMISSION

FWC Matter No.:
AG2023/2369

Applicant:
RMC Track Protection Services Pty Ltd

Section 185 – Application for approval of a single enterprise agreement

Undertaking – Section 190

I, Paul Pager, Head of People & Culture, have the authority given to me by RMC Track Protection Services Pty Ltd to give the following undertakings with respect to the *RMC Track Protection Services Pty Ltd Enterprise Agreement 2023* ("**the Agreement**"):

1. With respect to clause 7, Classifications and Wage Rates, within the Agreement, the rates within the table for the classification of Authorised Person will be replaced with the following rates:

Authorised Person (AP)	AP 1.1	\$27.54	0-6 months > + relevant experience
	AP 1.2	\$27.90	6 months > + relevant experience

2. With respect to clause 6.9 of the Agreement, it is to be replaced with the following:

6.9 All time worked in excess of the agreed hours will be paid at the appropriate overtime rate.

3. With respect to clause 8, Additional Allowances, of the Agreement, it is to be amended to include the following allowance:


On-call Allowance

8.6 Where the employer requires an employee to be on-call during a period off duty, the employee is entitled to an allowance of:

- (i) \$12.93 per night; or
- (ii) \$32.44 when on-call for a day and night

- 8.7 An employee is on-call when the employee has been instructed, prior to ceasing duty, that the employee is or may be required to perform duty by way of receiving or making telephone calls or to return to duty, before the next normal time of commencing duty.
- 8.8 Clause 8.6 – 8.7 does not apply to an employee who is not eligible for payment of overtime, except with the approval of the employer, or whose private telephone rental and local telephone call charges are paid by the employer.

These undertakings are provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.



Signature

29/08/2023

Date