



# DECISION

*Fair Work Act 2009*  
s.185—Enterprise agreement

**SCT Opco Pty Ltd T/A SCT Logistics**  
(AG2023/322)

## **SCT LOGISTICS (PENFIELD SHUNTING OPERATIONS) ENTERPRISE AGREEMENT 2022**

Rail industry

COMMISSIONER CIRKOVIC

MELBOURNE, 7 MARCH 2023

*Application for approval of the SCT Logistics (Penfield Shunting Operations) Enterprise Agreement 2022*

[1] An application has been made for approval of an enterprise agreement known as the *SCT Logistics (Penfield Shunting Operations) Enterprise Agreement 2022* (the Agreement). The application was made pursuant to s.185 of the *Fair Work Act 2009* (the Act). It has been made by SCT Opco Pty Ltd T/A SCT Logistics. The Agreement is a single enterprise 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. The Agreement does not cover all of the employees of the employer, however, taking into account the factors in Section 186(3) and (3A) I am satisfied that the group of employees was fairly chosen.

[4] I observe that certain provisions of the Agreement are likely to be inconsistent with the National Employment Standards (NES). However, noting the provided undertakings, I am satisfied the more beneficial entitlements of the NES will prevail where there is an inconsistency between the Agreement and the NES.

[5] 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.

[6] The Agreement was approved on 7 March 2023 and, in accordance with s.54, will operate from 14 March 2023. The nominal expiry date of the Agreement is 30 June 2025.



COMMISSIONER

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## Annexure A

### IN THE FAIR WORK COMMISSION

**FWC Matter No.: AG2023/322**

**Applicant:**

**SCT OPCO Pty Ltd T/A SCT Logistics**

**Section 185 – Application for approval of a single enterprise agreement**

## Undertaking – Section 190

I, Phillip Williamson, General Manager People and Culture have the authority given to me by SCT OPCO Pty Ltd T/A SCT Logistics to give the following undertakings with respect to the SCT Logistics (Penfield Shunting Operations) Enterprise Agreement 2022 ("the Agreement"):

1. SCT Logistics undertake that in relation to clause 30(b) of the Agreement the applicable percentage rate to be applied in respect of superannuation is 10.5% and this will rise in accordance with increases as provided under the *Superannuation Guarantee (Administration) Act 1992* (Cth).
2. The parties note that clause 21.3 of the Agreement as drafted shall be applied as a guideline of intention in terms of timing and notification of absence which has been agreed between the parties as best practice and is advisory only, but that the provisions in relation to notification of absence shall be applied in accordance with the provisions of section 107(2)(a) of the *Fair Work Act 2009* (Cth).

Specifically, SCT Logistics undertake that for the purposes of clause 21.3, an employee must notify the employer as soon as practicable (which may be a time after the leave has started). The employee is not required to give notice at least one hour prior to the commencement of the absence.

3. SCT Logistics undertake that terms of clause 21.4 of the Agreement shall be disregarded and replaced by the following:

"To be paid personal leave, an employee absent on personal leave for two (2) or more consecutive days, or more than two (2) single days in any year shall produce a medical certificate from a registered health practitioner, or other evidence that would satisfy a reasonable person that the leave is taken because the employee is not fit for work because of a personal illness, or personal injury affecting the employee."

4. SCT Logistics undertake that terms of clause 21.7.3(4) of the Agreement shall be disregarded and replaced by the following:

"produce a medical certificate from a registered health practitioner, or other evidence that would satisfy a reasonable person that the leave is taken because the employee is providing 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.

5. SCT Logistics undertake that clause 22.1 shall be read as if it applies to all eligible employees not only those who are full time save that Casual employees shall not be entitled to payment.
6. 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.

These undertakings are provided in the application before the Fair Work Commission.

*Phil Williamson*

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Signature

2nd March 2023

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Date

**FAIR WORK ACT 2009**

***Chapter 2 Part 2-4***

***Transport Industry***

**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.**

**SCT LOGISTICS  
(PENFIELD SHUNTING OPERATIONS) ENTERPRISE  
AGREEMENT 2022**

This Agreement is made pursuant to *Chapter 2 Part 2-4* of the *Fair Work Act 2009* (Cth) between TWENTIETH SUPERPACE NOMINEES PTY LTD T/A SCT LOGISTICS ('the Company' or 'the Employer') and the Employees engaged as Shunters at the Company's Penfield site, Short Road, Penfield, South Australia and it is mutually agreed as follows:

# **SCT Logistics (Penfield Shunting Operations) Enterprise Agreement 2022**

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## **1. TITLE**

This agreement shall be known as the **SCT Logistics (Penfield Shunting Operations) Enterprise Agreement 2022**. It applies to the Shunting operational activities at the Company's Ranger Road, Penfield site, South Australia.

## **2. LENGTH OF AGREEMENT**

- 2.1 This Agreement will commence 7 days after it is approved by Fair Work Commission ("FWC").
- 2.2 This Agreement shall have a nominal expiry date of 30 June 2025.

## **3. PARTIES BOUND**

This agreement shall apply to and be binding upon the Company and all of its employees employed from time to time in the classifications referred to in Clause 7.3 of this Agreement.

## **4. RELATIONSHIP TO AWARD**

- 4.1 Except where the terms conflict with the terms of this Agreement or as otherwise provided by this Agreement or where such term might be an unlawful term contrary to section 194 of the Fair Work Act 2009 ("FWA"), the terms of the Rail Industry Award 2020 ("the Award") as at the date of lodgement of this Agreement are incorporated into this Agreement.
- 4.2 Where any inconsistency between the terms of this Agreement and the terms of the Award arise, then the terms of this Agreement shall apply. Any dispute regarding the interaction of the Award and the Agreement shall be dealt with in accordance with the dispute resolution procedure contained at clause 26 of this Agreement.

## **5. NO EXTRA CLAIMS**

- 5.1 The Employees of the Company or their representatives shall make no extra claims for the nominal life of this Agreement.

## **6. WAGES & STRUCTURE**

- 6.1 During the life of this agreement the following wage increases shall apply:
  - a) Effective from the first full pay period on or after 1 July 2022 the hourly wage rates in the first column of the wages table at clause 6.3 shall apply.
  - b) Effective from the first full pay period on or after 1<sup>st</sup> July 2022 the hourly wage rates shall be increased by 3.5%.
  - c) Effective from the first full pay period on or after 1<sup>st</sup> July 2023 the hourly wage rates shall be increased by 3.5%.

- d) Effective from the first full pay period on or after 1<sup>st</sup> July 2024 the hourly wage rates shall be increased by 3.50%.

## 6.2 Consumer Price Index

- 6.2.1 For the purposes of this Agreement the Consumer Price Index (CPI) means the Australian Bureau of Statistics (ABS) published percentage change in the weighted average of eight capital cities all groups consumer price index for the 12-month period ended 31 March.

## 6.3 Structure and Pay Rates (“Ordinary Hourly Rate”)

<b>Classification</b>	<b>1/07/2022 3.50%</b>	<b>1/07/2023 3.50%</b>	<b>1/07/2024 3.50%</b>
Team Leader	40.4885	41.9056	43.3723
Rail Shunter	36.5374	37.8162	39.1397
Intermediate Shunter	35.2239	36.4568	37.7328
Trainee Rail Shunter	30.6443	31.7168	32.8269

- 6.4 Casual employees will receive a casual loading in accordance with the Rail Industry Award 2020 based on their classification in the structure and pay rates table above.
- 6.5 Shift allowances, overtime penalties and all leave entitlements will be calculated on the base rate as per the above table.
- 6.6 Employees who qualify for a meal allowance pursuant to clause 9.3 shall be paid a meal allowance of \$25.48.
- 6.7 From the first full pay period on or after 1<sup>st</sup> July 2022 and the meal allowance above will be increased by the Consumer Price Index for the year ended 31<sup>st</sup> March of the relevant year.
- 6.8 The wages contained in this Agreement shall be paid to all persons, according to their classification.
- 6.9 The wages referred to above will absorb any increases or wage rates set by Fair Work Commission through the life of this agreement unless such wage rates

exceed the rates above, in which case the rates as set by Fair Work Commission shall apply. The rates of pay contained in 6.3 above are inclusive of all allowances and penalties excluding the allowances specified at clause 6.5, shift penalties, meal allowances and overtime rates.

## **7. CLASSIFICATIONS**

7.1 SCT may, subject to complying with any consultation requirement of this Agreement, where the implementation of any change will have a significant impact on employees, determine the following:

- (a) The type and number of positions in the organisation and the organisational structures;
- (b) Employee levels;
- (c) Specific work practices; and
- (d) Specific equipment and its use.

7.2 The classifications to which this Agreement applies are set out in this Clause.

- (a) The classification structures provide flexibility to design new positions or to redesign existing positions, including the way work is performed, so that SCT can respond to changes in the business and commercial environment.
- (b) The process of position design or position redesign may require employees to undertake activities that have not traditionally been within their classification or that have not been previously part of their position. Where positions are adjusted or redesigned, the employee will be entitled to be paid at a level that equates to the work or activities being undertaken in the new position.

7.3 Rail Operations Classifications:

- (a) Trainee Rail Shunter – An employee engaged in training to perform the duties of a Rail Shunter
- (b) Intermediate Rail Shunter- An employee that can work with minimal supervision & has passed all Trainee requirements
- (c) Rail Shunter – Rail Shunters are accountable for all shunting and marshalling operations in the terminal and are able to demonstrate the ability to work unsupervised or as replacement for Team Leader.
- (d) Team Leader – The Team leader is responsible for organising all shunting and marshalling activities required in the terminal and the efficient arrival and departure of trains on a shift basis, including office support work

7.4 Principles

The classification structures operate in accordance with the following principles:

- (a) Classifications are based on primary accountabilities or main functions used in the position rather than skills possessed by the employee;
- (b) To allow for the design of positions and the performance of activities and tasks based on assessment of what is safe, efficient and logical for which the employee has been trained and has current and demonstrated competency;
- (c) Flexibility that allows SCT, to change the way work is organised and/or the way positions are designed, as required by the business or commercial demands; and
- (d) Cert Training packages and the associated competency standards will be used to underpin SCT's training and development system. Certificates of attainment and statements of attainment will be issued to employees upon satisfying the requirements of the specific training.

#### 7.5 Mixed Functions/Higher Duties

Where an employee is requested by management to perform a position that falls within a higher classification level they will be entitled to be paid at the higher classification level for the shift during which the work was performed.

#### 7.6 Training Mentor Allowance

A fully qualified shunter will be required to assist in the practical Mentoring of any trainee during their initial 8 weeks of induction. A weekly training allowance will be \$57.00 for that week for the Mentor, and paid according to the successful completion of basic requirements as set by the induction checklist.

### 8. **HOURS OF WORK DAY WORKERS**

- 8.1. The Ordinary Hours of a full-time Day Worker shall be thirty-eight (38) hours per week (Ordinary Hours), worked on any days, Monday to Friday between 0600 hours and 1800 hours on any day (Span of Ordinary Hours).
- 8.2. The maximum number of rostered hours per shift for Day Workers shall be 12 hours (Maximum Daily Hours).

### 9. **HOURS OF WORK SHIFT WORKERS**

- 9.1. Shift worker means: an employee who is a seven day shift worker who is regularly rostered to work on Sundays and public holidays.

- 9.2. The Ordinary Hours of a full-time Shift Worker shall be an average of 38 hours per week, rostered over 7 days per week 365 days per year and may include work on Public Holidays, Saturdays and Sundays (Ordinary Hours).
- 9.3. The maximum number of rostered hours per shift for Shift Workers shall be 12 hours (Maximum Shift Hours).
- 9.4. Subject to clause 11 Shift Workers may be rostered to work any shift pattern or combination of shift patterns as follows:
- a) Early morning shift means a shift that commences at or between 4.00 am and 5.30 am.
  - b) Afternoon shift which means a shift that commences before 6.00 pm and concludes after 6.30 pm.
  - c) Night shift means a shift which commences at or between 6.00 p.m. and 3.59 a.m.
- 9.5. The rostering and management of 12 hour shifts is to be limited to no more than four consecutive 12 hour shifts in any seven (7) day period. Extra shifts (e.g. overtime/training) can occur within this seven (7) day period based on fatigue management policy/standard.
- 9.6. The management of maximum shifts and shift times will be driven by the fatigue management Policy/Standard for SCT Terminals. This will include master rosters, working rosters & overtime shifts.
- 9.7. The development of the master roster must ensure that no employee will be rostered to work more than seven (7) consecutive shifts without a day off, in exception with the below;
- a) Any overtime shift in excess of clause 9.4 is subject to fatigue management and consultation and agreement with the employee.
- 9.8. As per previous agreement, an employee rostered for an on-call shift is required to be contactable up until 1200 hours on that day rostered and available for duty. However, if the employee has not been requested for duty prior to 1200 hours on that day, the employee will not be required to attend their shift.
- 9.9. Contactable is defined as an employee returning a call within 1 hour of receipt and return contact confirmed via phone. All employees under this EA agree that they will remain contactable via phone on-call within 1 hour of call and failure to be contactable may result in disciplinary action being taken by the business.

9.10. An employee must confirm and notify of attendance at work when called, and are aware that a morning shift call will result in an immediate start.

9.11. If an employee is nominated on the On-call roster and wishes to not be available, then that employee must notify and submit a leave request prior to that day.

## **10. WORK ON SATURDAY AND SUNDAY**

10.1. A Shift Workers who is rostered to work Ordinary Hours on Saturday and / or Sunday shall be paid as follows;

a) Saturday – at the rate of time and a half;

b) Sunday – at the rate of double time

10.2. The penalty rates prescribed by this clause for work on a Saturday and / or Sunday will be payable instead of the shift allowance prescribed by clause 11.

10.3. Day Workers required to work on a Saturday or Sunday will be working Overtime and be paid as such.

## **11. INTERVALS BETWEEN SHIFTS**

11.1. The minimum interval between shifts shall be twelve (12) hours off duty.

11.2. When changing from night shift pattern to another shift pattern, there shall be an interval of 33 hours off duty.

11.3. When changing from any other shift pattern there shall be a minimum 24 hours off duty. Subject to consultation and agreement with the affected employee; this may be adjusted subject to fatigue management indicators and Statutory Regulations.

11.4. Shift cycles will be designed to ensure the maximum number of similar shifts, e.g. afternoon shifts, before a change to a different shift pattern, e.g. Night shift.

## **12. SHIFT PENALTIES**

12.1. A Shift Worker working an Early Morning shift will be paid for each Ordinary Hour worked a loading of 17.5% of the Ordinary Hourly rate.

12.2. A Shift Worker working Afternoon Shift will be paid for each Ordinary Hour worked a loading of 17.5% of the Ordinary Hourly Rate.

12.3. A Shift Worker working a night shift will be paid for each Ordinary Hour worked a loading of 30% of the Ordinary Hourly Rate.

### **13. OVERTIME**

13.1. In addition to the Ordinary Hours specified above, all employees may be required to work reasonable additional hours for payment of overtime penalty rates.

13.2. An employee may decline to work overtime in circumstances where the working of such overtime would result in the employee working hours which are unreasonable having regard to:

- a) any risk to employee health and safety that might reasonably be expected to arise if the employee worked the additional hours;
- b) the employee's personal circumstances, (including any family responsibilities);
- c) the operational requirements of SCT in relation to which the employee is required or requested to work the additional hours;
- d) any notice given by SCT of the requirement or request that the employee work the overtime;
- e) any notice given by the employee of their inability to work the overtime;
- f) whether any additional hours are on a public holiday;
- g) the employee's hours of work over the four weeks ending immediately before the employee is required or requested to work the additional hours; and
- h) any other relevant matter.

13.3. Overtime penalties shall apply for Day Workers for time worked in excess of the average of 38 hours per week and for hours worked outside the Day Workers' Span of Ordinary Hours or for hours in excess of the Maximum Daily Hours unless working outside those hours is due to a request made by the Employee.

13.4. Overtime penalties shall apply for Shift Workers for time worked in excess of the average of 38 hours per week and for hours in excess of the ordinary

rostered shift length unless working outside those hours is due to a request made by the Employee.

13.5. Overtime shall be paid at the rate of 1.5 times the Ordinary Hours Rate for the first two (2) hours and then 2 times thereafter, except for overtime worked on a Sunday where the penalty multiplier is 2 for all hours worked.

#### **14. MEAL BREAKS / REST BREAKS**

14.1 Shift Workers shall have a paid meal break of 30 minutes built into the working arrangements for that shift. Day Workers will be entitled to an unpaid meal break of 30 minutes each day. Meal breaks shall be scheduled or taken at such times that will not unnecessarily interfere with the efficient running of the terminal business. Ordinarily, meal breaks shall be scheduled in a time frame that is 90 minutes either side of the halfway point of each shift.

14.2 Where employees are required to work shifts in excess of (10) hours duration, the employee shall be entitled to an additional ten (10) minute paid rest break to be taken at a time that will not unnecessarily interfere with the efficient running of the terminal business.

14.3 An employee required to work for more than two continuous hours overtime in a minimum of 10 hours of duty will be paid an amount specified for a meal allowance in clause 6.6. or clause 6.6.1, whichever is applicable.

#### **15. ROSTERING - TERMINAL OPERATIONS**

##### **15.1. Roster Development**

- (a) The Master Roster shall be exhibited primarily for the purpose of indicating all known work.
- (b) Where a change to a Master Roster is proposed, consultation with employees will occur. This will commence at least twenty-eight (28) days prior to the intended implementation date of the new roster.
- (c) Following consultation, the final Master Roster is to be posted at least fourteen (14) days in advance of its implementation, or unless otherwise agreed by both parties. At this time, employees will be notified of which line in the roster they will commence.
- (d) The Master Roster will include sign-on and sign-off times.
- (e) Changes to a Master Roster will be made mindful of balancing the business demands and the needs of employees.

- (f) There may be more than one roster developed at a location for a similar or the same positions.

## **16. WORKING ROSTER CHANGES**

- 16.1. Where the Working Roster is developed, a period of seven (7) days notice of the introduction of such rosters shall occur.
- 16.2. Where a Working Roster is adjusted such that an employee is required to change from one shift to another, a period of twenty-four (24) hours notice will apply, unless the employee agrees to a shorter period or it is a mutual shift exchange. The twenty-four (24) hour notice provision will only be used to cover circumstances such as, absenteeism or exceptional operational requirements.
- 16.3 Subject to relevant OH&S, fatigue management and operational issues, employees may mutually exchange shifts, with the approval of the relevant manager. SCT will not unreasonably withhold approval where such requests are cost neutral.

## **17. DAILY ROSTER FLEXIBILITY**

- 17.1. The intention of this provision is to provide flexibility where a business requirement exists for changes to the daily roster. The following operational characteristics would determine the needs for a change to the Daily Roster:
  - (a) Locations with less than twenty-four (24) hour coverage, and
  - (b) Irregular or unreliable train running
- 17.2. Where implemented, Shunters may be brought forward by two (2) hours or moved back by four (4) hours from the rostered commencement time of their shift.
- 17.3. During the consultation process, specific consideration will be given to any issues of "hardship" raised by employees.
- 17.4. SCT will make no more than one (1) alteration to the confirmed sign-on time under Daily Roster change provisions
- 17.5 Where applicable employees may be expected to be contacted for Daily Roster change purposes. SCT will contact employees directly for Daily Roster change purposes giving at least 3 hours notification before original rostered sign on time.

## **18. FATIGUE MANAGEMENT**

- 18.1 The Company has implemented a recognised Fatigue Management Program with the express intent of improving safety while allowing greater operational flexibility.

The parties to the Agreement are committed to the successful implementation and on-going maintenance of this program.

18.2 To assist the Company in this process the employee agrees to:

- (a) Participate in FMP training programs;
- (b) Operate within the Company's approved operating limits;
- (c) Ensure they are fit for duty at all times when working and if not fit for duty to inform their supervisor immediately;
- (d) Ensuring that all time sheets are completed correctly and accurately; and
- (e) Participate in any assessment or study that may be required from time to time to assess the operation of the scheme.

18.3 The employee will be subject to periodical audits by the employer to verify conformance to the SCT FAID fatigue system.

## **19. EMPLOYEE RESPONSIBILITIES**

19.1 The employee will diligently and faithfully perform all the duties and responsibilities of his/her employment as directed by the employer and other such duties as may be reasonably required by the employer from time to time.

19.2 The employee undertakes:

- (a) To devote the whole of the employee's working time and attention and use the employee's best endeavours to further the development, reputation and business of the employer; and
- (b) To observe all lawful directions, orders, instructions and policies (as varied from time to time) of the employer;
- (c) Not to be directly or indirectly involved or engaged in work for or provide services to any other Company, business or individual, whether paid or otherwise, which may in any way conflict with the interests of the Company, unless otherwise agreed to in writing by the Company;
- (d) All rail safety workers are required by legislation to ensure they comply with the Company's Fatigue management policy and procedures.

## **20. ANNUAL LEAVE**

20.1 Employees are entitled to Annual Leave in accordance with the NES and as set out below.

- (a) A Day worker shall receive 4 weeks annual leave being the equivalent to 152 hours;
- (b) Shift workers shall receive 5 weeks annual leave being the equivalent to 190 hours.

- 20.2 An Employee's entitlement to annual leave accrues progressively during a year of service according to an Employee's ordinary hours of work, and accumulates year to year.
- 20.3 Annual leave loading is 20%
- 20.4 Annual leave is normally rostered and taken in blocks of one or more calendar weeks. Blocks less than 7 days will be subject to SCT approval and at Managers discretion.
- 20.5 The Company may direct an employee to take paid annual leave if the employee has accrued more than eight week's paid annual leave for Day workers or ten weeks paid annual leave for shift workers, and the Company and employee are unable to reach agreement on the taking of the leave. The Company must give an employee at least 28 days' notice prior to the date the employee is required to commence the leave.
- 20.7 Where a public holiday falls during a period of annual leave, SCT will credit the employee with hours, based on the employee's rostered hours for that shift.
- 20.8 Cashing Out of Annual Leave
- (a) Employees may, with the agreement of SCT cash out accrued annual leave as follows:
- (1) Each request made by an Employee must be agreed to in writing by SCT; and,
  - (2) An Employee may only cash out accrued annual leave in excess of the equivalent of one (1) years entitlement. That is, after cashing out, an Employee must have no fewer than the equivalent of one (1) years (25 days) entitlement of accrued annual leave.
  - (3) The Employee must be paid at least the full amount that would have been payable to the employee had the employee taken the leave that the employee has forgone.

## **21. PERSONAL / CARERS LEAVE**

- 21.1 Personal leave will accrue and be granted in accordance with the National Employment Standard as applicable.
- 21.2 A permanent employee shall be entitled to accrue personal/carer's leave at the rate of ten (10) days of paid leave for each year of employment.
- 21.3 Employees who are unable to attend for work due to;

- Personal illness or injury;
- the need to provide care or support to an immediate family member, or a member of the employee's household who requires care or support due to illness, injury or emergency;
- shall as far as practicable advise the Company of such inability to attend for work at least one hour prior to the commencement of the first day of absence within one hour of the employees starting time.

21.4 To be paid personal leave, an employee absent on personal leave for two (2) or more consecutive days or on more than two (2) single days in any year shall produce a medical certificate from a registered health practitioner stating the nature of the illness and the period the employee will be unable to work.

21.5 Personal leave shall not apply for illnesses or injury covered by worker's compensation.

21.6 Personal leave shall accumulate from year to year.

### 21.7 **Carer's Leave**

21.7.1 Carer's leave is leave to provide care and support to a member of the employee's immediately family or household who requires care or support because of an illness or injury or an unexpected emergency.

21.7.2 Carer's leave shall be paid at the rate specified in the Clause 6.3.

21.7.3 To be paid carer's leave, the employee must meet the following requirements:

- (1) have a credit entitlement to a period of paid personal/carer's leave from which to deduct sick leave;
- (2) notify the Employer of the absence as soon as reasonably practicable;
- (3) advise the Employer how long the absence on carer's leave is likely to be; and
- (4) provide a medical certificate providing evidence of the illness or injury of the relevant person.

## 22 **COMPASSIONATE LEAVE**

22.1 In accordance with the NES, a full-time employee is entitled to a period of two (2) days of compassionate leave for each occasion when a member of the employee's immediate family or a member of the employee's household:

- (a) contracts or develops a personal illness that poses a serious threat to his/her life; or
- (b) sustains a personal injury that poses a serious threat to his/her life; or
- (c) dies.

- 22.2 However, the employee is entitled to compassionate leave only if the employee gives the Employer any evidence that the Employer reasonably requires of the illness, injury or death.
- 22.3 Payment for compassionate leave shall be the appropriate hourly rates provided in clause 6.3.

## **23 PUBLIC HOLIDAYS**

- 23.1 Subject to clause 23.2 all Employees are entitled to be absent from work on a day which is a public holiday, without loss of pay for that day, in accordance with the provisions of the Act.
- 23.2 If an Employee is rostered to work on a day which is a public holiday the employer may request the Employee to work on that day, subject to the provisions of the Act, and such request shall be considered reasonable given the nature of the Employers operations being conducted over 24 hours per day, 7 days per week and 365 days per year.
- 23.3 If the Employee is not required to work on that rostered day the Employer shall provide at least 7 days notice that the Employee will not be required to work.

### **23.4 Provisions for Day Workers**

- (1) Entitlement to and payment for public holidays shall be in accordance with the South Australian Public Holiday Act 1910
- (i) Where a Day Worker is rostered to commence work on a public holiday and actually works, they shall receive their normal pay plus an additional payment of 150% of the base rate of pay for the entire duration of that shift;
- (ii) Where a Day Worker is not rostered to work on a public holiday but is required to work by SCT, all hours worked will stand alone and will be paid at normal overtime rates, as prescribed in this Agreement.

### **23.5 Provisions for Shift Workers**

- (1) Entitlement to and payment for public holidays shall be in accordance with the South Australian Public Holiday Act 1910
- (i) Where a shift worker is rostered to commence work on a public holiday and actually works, they shall receive their normal pay plus an additional payment of 150% of the base rate of pay for the entire duration of that shift; or

- (ii) Where a shift worker is rostered to commence work on the shift working into a public holiday, and is rostered off on the following shift that falls on the public holiday per 23.5(1)(i), the employee shall receive their ordinary payment for the shift worked plus an additional 7.6hrs payment in lieu of the public holiday.

For clarity

For example -If a public holiday falls on the Monday and an employee is rostered to work on the Sunday Night commencing 2300hrs through to 0700hrs Monday, and the employee is not required to commence work again on the Monday (public holiday). The employee will be paid as per the above clause 23.5(1) (ii).

23.6 Where a Public Holiday falls on a day which is not a day on which the Employee is rostered to work, the Employee shall, be paid an additional payment equivalent to 7.6 hours at their Ordinary Rate of Pay regardless that the employee is not rostered to work, but the day shall not be counted in the calculation of Ordinary Hours.

- (b) Where a public holiday falls during a period of annual leave and/or LSL, and the Employee's usual roster would have required the Employee to work on that day but for the leave SCT will treat that day as a paid public holiday and no deduction will be made from the Employee's leave balance for that day.

## **24. EMPLOYMENT**

### **24.1 Employment Categories**

24.1.1 Employees may be engaged on a full time, part time or casual basis and will be notified in writing of their employment category prior to their engagement.

24.1.2 By agreement between the employee and employer an employee's employment status may change during the course of their employment. If this happens the change will be confirmed in writing.

### **24.2 Part time Employment**

24.2.1 A part time employee is a weekly employee, Day Worker or Shift Worker who is required to work less than 38 ordinary hours per week.

24.2.2 Before commencing part-time employment, the employee and employer must agree upon:

- a. The hours to be worked by the employee, the days upon which they will be worked and the commencing and finishing times for the work; and
- b. The classification applying to the work to be performed in accordance with clause 7.3.

- 24.2.3 The terms of the agreement or any variation to it shall be in writing and retained by the employer. A copy of the agreement and any variation to it shall be provided to the employee.
- 24.2.4 A part time employee shall be paid per hour pursuant to the rate prescribed by clause 6- Wages and Structure for the classification in which the employee is engaged. Part time employees shall receive a minimum payment of four hours for each day engaged.
- 24.2.5 Part time employees may be offered additional work up to 38 hours at ordinary pay.
- 24.2.6 Overtime rates are to be paid after completing 7.60 ordinary hours on any one day or after 38 hours in any one week or outside the spread of hours as defined in clause 8 Hours of work.
- 24.2.7 All leave provisions in this agreement shall apply pro rata to part time employees on the basis that ordinary weekly hours for full time employees are 38.

### **24.3 Probationary Employment**

- 24.3.1 Any new permanent Employee shall be engaged for a probationary period of three months. At the expiration of the probationary period, or at any time beforehand at the Company's discretion, the Employee's employment shall either be confirmed or terminated or a further probationary period of up to 3 months entered into.
- 24.3.2 Graduation from probation to permanent employment is at the Company's discretion based on performance not seniority.
- 24.3.3 This provision shall not preclude the engagement of casuals as required from time to time.

### **24.4 Multi Skilling**

- 24.4.1 Employees will at the Company's request, carry out work they might not normally perform on either short or longer term basis, and as required by the Company to satisfy client requirements, or ensure efficient utilisation of equipment and machinery.
- 24.4.2 All Employees transferring to other duties under the terms of this clause will receive full training to ensure competence in the function.

### **24.5 Medicals**

- 24.5.1 All employees are to undergo a Medical and Health Assessment as defined in the Company's Health and Medical Policy and/or as required by the Federal, State and Territorial Legislation.

- 24.5.2 Employees are required to undertake this medical at nominated times during their employment as documented in the employer's medical policy which may vary from time to time.
- 24.5.3 Cost for the medical will be worn by the employer.
- 24.5.4 The employee will be required to have the medical conducted by a recognised medical practitioner nominated by the employer.
- 24.5.5 Failure to maintain the appropriate medical standard (NCOP Health Assessment for Rail Safety Workers) will result in a review of his or her suitability for their allocated task.
- 24.5.6 The employer will take all reasonable steps to resolve the situation of non-conformance but cannot guarantee continuity of employment in these circumstances.

#### **24.6 Duties**

All employees shall perform their duties in a diligent manner, comply with all company policies and procedures, and all lawful and reasonable directions and requests of the employer.

#### **24.7 Smoking**

Smoking is only allowed during designated rest breaks and in designated areas and is not allowed inside any vehicle.

#### **24.8 Mobile Phones**

Mobile phones are banned in the work place during work hours (except breaks, etc.). The company supports family; therefore, any personal issues of importance can be directed to Reception who will contact the staff member immediately. The contact number to provide is (08) 8307 6000. NON-COMPLIANCE WILL RESULT IN DISCIPLINARY ACTION.

### **25. STAND DOWN**

- 25.1 Employees may be stood down from their duties in accordance with s. 524 of the Fair Work Act 2009 if the Company is not able to usefully employ the employee to undertake work during a period because of:
- (a) a strike; or
  - (b) a breakdown of machinery; or
  - (c) a stoppage of work for any cause including derailment for which the Company cannot be held to be reasonably responsible.
- 25.2 If the parties agree any such period of stand down can be deducted from an employee's accrued, but unused annual or long service leave.
- 25.3 Where productive work is not available because of any other incident, inclement weather, seasonal down turn or other business disruptions employees may be

required to take annual leave or long service leave accrued or may be required to attend the workplace to carry out duties not normally associated with their classification and as instructed by the Company.

## **26. SETTLEMENT OF DISPUTES**

- 26.1 If a dispute relates to:
- (a) a matter arising under the agreement; or
  - (b) the National Employment Standards;
- this term sets out procedures to settle the dispute.
- 26.2 An employee who is a party to the dispute may appoint a representative for the purposes of the procedures in this term.
- 26.3 In the first instance, the parties to the dispute must try to resolve the dispute at the workplace level, by discussions between the employee or employees and relevant supervisors and/or management.
- 26.4 If discussions at the workplace level do not resolve the dispute, a party to the dispute may refer the matter to Fair Work Commission.
- 26.5 The Fair Work Commission may deal with the dispute in 2 stages:
- (a) the Fair Work Commission will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation; and
  - (b) if the Fair Work Commission is unable to resolve the dispute at the first stage, the Fair Work Commission may then:
    - (i) arbitrate the dispute; and
    - (ii) make a determination that is binding on the parties.
- 26.6 While the parties are trying to resolve the dispute using the procedures in this term:
- (a) an employee must continue to perform his or her work as he or she would normally unless he or she has a reasonable concern about an imminent risk to his or her health or safety; and
  - (b) an employee must comply with a direction given by the employer to perform other available work at the same workplace, or at another workplace, unless:
    - (i) the work is not safe; or
    - (ii) applicable occupational health and safety legislation would not permit the work to be performed; or
    - (iii) the work is not appropriate for the employee to perform; or
    - (iv) there are other reasonable grounds for the employee to refuse to comply with the direction.
- 26.7 The parties to the dispute agree to be bound by a decision made by Fair Work Commission in accordance with this term.

## **27. FLEXIBILITY**

- 27.1 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.
- 27.2 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.
- 27.3 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.
- 27.4 The employer must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.
- 27.5 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.

## **28. CONSULTATION**

28.1 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.

28.2 Major change

For a major change referred to in paragraph (28.1) (a):

- (a) the employer must notify the relevant employees of the decision to introduce the major change; and
- (b) subclauses (28.3) to (28.9) apply.

28.3 The relevant employees may appoint a representative for the purposes of the procedures in this term.

28.4 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.

28.5 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.

28.6 However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.

- 28.7 The employer must give prompt and genuine consideration to matters raised about the major change by the relevant employees.
- 28.8 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 (28.2) (a) and subclauses (28.3) and (28.5) are taken not to apply.
- 28.9 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*

- 28.10 For a change referred to in paragraph (28.1) (b):
- (a) the employer must notify the relevant employees of the proposed change; and
  - (b) subclauses (28.11) to (28.15) apply.
- 28.11 The relevant employees may appoint a representative for the purposes of the procedures in this term.
- 28.12 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.
- 28.13 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).

28.14 However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.

28.15 The employer must give prompt and genuine consideration to matters raised about the change by the relevant employees.

28.16 In this term:

**relevant employees** means the employees who may be affected by a change referred to in subclause (28.1).

## 29. DRUGS AND ALCOHOL

29.1 The employee's employment may be terminated immediately, if:

- (a) The employee is found to have or have had a blood alcohol level above zero (0.00) whilst on duty, or
- (b) The employee is found to be or to have been drinking alcoholic beverages whilst on duty, during meal breaks, on workplace premises or in the employer's vehicles and or other equipment.
- (c) The employee is found to be or to have been under the influence of illegal or illicit drugs whilst on duty, during meal breaks, on workplace premises or in the employer's vehicles and or other equipment.

## 30. SUPERANNUATION

- (a) In addition to the rates of pay prescribed by this Agreement the employee shall be entitled to occupational superannuation benefits subject to the provisions of the *Superannuation Guarantee (Administration) Act 1992*.
- (b) The parties agree that the percentage rate of employer contributions to employee superannuation will be the level prescribed by the prevailing State or Commonwealth legislation (currently 9.25%).
- (c) Employer superannuation contributions shall be equal to the applicable percentage of the employee's base salary contained in Clause 6.3 plus any other amounts required by legislation.

- (d) For the purposes of this agreement, the superannuation fund into which employer contributions shall be paid on behalf of the employee shall be a fund of the employee's choice.
- (e) Employees must provide details of their chosen fund in writing and such a fund must be receptive to electronic fund transfers.

### **31. UNIFORMS**

31.1 Employees will be provided with uniforms and or work apparel, which must be worn at all times. These will be replaced on a 'fair wear & tear' basis.

- (a) The company will also provide appropriate safety and protective clothing, which must be worn at all times as necessary.

### **32. POSTING OF AGREEMENT**

32.1 A copy of this Agreement shall be posted in a prominent position where it may be accessed by Employees.

**SIGNATORIES**

SIGNED for and on behalf of  
SCT Logistics  
by **M Bourke, State Manager S.A.** of  
233A Ranger Road, Penfield SA 5121  
in the presence of:

Name: Amanda White

Signature: A White

  
.....  
**Max Bourke- State Manager, SA**

Date: 13-02-2023

SIGNED for and on behalf of Rail Tram & Bus  
Industry Union (SA / NT Branch) as Authorised  
Representative of employees to be covered by  
this Agreement by **Darren Phillips** of 63 Ledger  
Road, Beverley S.A. 5121,  
in the presence of:

Name: HAYDEN BOYLE

Signature: H Boyle

  
.....  
**Darren Phillips – SA /NT Branch Secretary**

14-02-2023  
.....  
Date

## IN THE FAIR WORK COMMISSION

FWC Matter No.: AG2023/322

Applicant:

SCT OPCO Pty Ltd T/A SCT Logistics

Section 185 – Application for approval of a single enterprise agreement

### Undertaking – Section 190

I, Phillip Williamson, General Manager People and Culture have the authority given to me by SCT OPCO Pty Ltd T/A SCT Logistics to give the following undertakings with respect to the SCT Logistics (Penfield Shunting Operations) Enterprise Agreement 2022 ("the Agreement"):

1. SCT Logistics undertake that in relation to clause 30(b) of the Agreement the applicable percentage rate to be applied in respect of superannuation is 10.5% and this will rise in accordance with increases as provided under the *Superannuation Guarantee (Administration) Act 1992* (Cth).
2. The parties note that clause 21.3 of the Agreement as drafted shall be applied as a guideline of intention in terms of timing and notification of absence which has been agreed between the parties as best practice and is advisory only, but that the provisions in relation to notification of absence shall be applied in accordance with the provisions of section 107(2)(a) of the *Fair Work Act 2009* (Cth).

Specifically, SCT Logistics undertake that for the purposes of clause 21.3, an employee must notify the employer as soon as practicable (which may be a time after the leave has started). The employee is not required to give notice at least one hour prior to the commencement of the absence.

3. SCT Logistics undertake that terms of clause 21.4 of the Agreement shall be disregarded and replaced by the following:

“ To be paid personal leave, an employee absent on personal leave for two (2) or more consecutive days, or more than two (2) single days in any year shall produce a medical certificate from a registered health practitioner, or other evidence that would satisfy a reasonable person that the leave is taken because the employee is not fit for work because of a personal illness, or personal injury affecting the employee.”

4. SCT Logistics undertake that terms of clause 21.7.3(4) of the Agreement shall be disregarded and replaced by the following:

“produce a medical certificate from a registered health practitioner, or other evidence that would satisfy a reasonable person that the leave is taken because the employee is providing 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.

5. SCT Logistics undertake that clause 22.1 shall be read as if it applies to all eligible employees not only those who are full time save that Casual employees shall not be entitled to payment.
6. 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.

These undertakings are provided in the application before the Fair Work Commission.

*Phil Williamson*

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Signature

2nd March 2023

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Date