



## DECISION

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

**Steinhoff Asia Pacific Pty Limited T/A Freedom**  
(AG2020/862)

### **FREEDOM RETAIL ENTERPRISE AGREEMENT 2020**

Retail industry

DEPUTY PRESIDENT MILLHOUSE

MELBOURNE, 4 MAY 2020

*Application for approval of the Freedom Retail Enterprise Agreement 2020.*

[1] An application has been made for approval of an enterprise agreement known as the *Freedom Retail Enterprise Agreement 2020* (Agreement). The application was made pursuant to s.185 of the *Fair Work Act 2009* (Act). It has been made by Steinhoff Asia Pacific Pty Limited T/A Freedom (Employer). 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.

[3] Subject to the undertakings, 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 undertakings are taken to be a term of the Agreement.

[4] The Shop, Distributive and Allied Employees Association 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.

[5] The Agreement is approved and, in accordance with s.54 of the Act, will operate from 11 May 2020. The nominal expiry date of the Agreement is 4 May 2023.



DEPUTY PRESIDENT

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**Annexure A**

**IN THE FAIR WORK COMMISSION**

**FWC Matter No.: AG2020/862**

Section 185 – Application for approval of a single enterprise agreement

**Undertaking**

Steinhoff Asia Pacific Pty Limited trading as Freedom (**Freedom**) gives the following undertaking in relation to the Freedom Retail Enterprise Agreement 2020 (**Agreement**) under section 190 of the *Fair Work Act 2009* (Cth) (**Act**):

1. Freedom undertakes that for the purposes of clause 22.2 of the Agreement any superannuation fund nominated by Freedom will, in accordance with section 194 of the Act, satisfy one of the following:
  - a. a fund that offers a MySuper product;
  - b. a fund of scheme of which the relevant employee, and each other default fund employee in relation to whom contributions are made to the fund or scheme by the same employer as the relevant employee, is a defined benefit member; or
  - c. it is an exempt public sector superannuation scheme.
2. Freedom undertakes that where it transfers an employee from one township to another, Freedom will be responsible for and will pay the whole of the moving expenses, including fares and transport charges, for the employee and the employee's family.
3. This undertaking will come into effect on the date that the Agreement commences to operate under section 54(1)(b) of the *Fair Work Act 2009* (Cth).

**Signed for and on behalf of**

**Date:**

**Steinhoff Asia Pacific Pty Limited:**



28 April 2020

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Caterina Kidd

In her capacity as General Manager People and Culture

Steinhoff Asia Pacific Pty Limited, Level 4/1 Epping Road, North Ryde, NSW



# DECISION

*Fair Work Act 2009*

s.602 - Application to correct obvious error(s) etc. in relation to FWC's decision

## **Steinhoff Asia Pacific Pty Limited T/A Freedom and Shop, Distributive and Allied Employees Association** (ADM2020/10)

Retail industry

DEPUTY PRESIDENT MILLHOUSE

MELBOURNE, 4 JUNE 2020

*Application for a correction to a decision pursuant to s.602 - Freedom Retail Enterprise Agreement 2020.*

[1] A joint application has been made by Steinhoff Asia Pacific Pty Limited T/A Freedom (Freedom) and the Shop, Distributive and Allied Employees Association (SDA) for a correction to a decision pursuant to s.602 of the *Fair Work Act 2009* (Cth) (Act). The decision approved the *Freedom Retail Enterprise Agreement 2020* (Agreement) on 4 May 2020.<sup>1</sup>

[2] The parties contend that the Agreement as lodged for approval contained an obvious error. The error arises in respect of the loading payable for ordinary hours worked on a public holiday under clause 15.4.

[3] Clause 15.4 of the Agreement provides that full-time and part-time employees will be entitled to an additional loading of 225% of the ordinary hourly rate for public holidays worked. In the case of casual employees, the loading is expressed as an additional 250% of the ordinary hourly rate (inclusive of the casual loading). The parties contend that the application of clause 15.4 erroneously results in full-time and part-time employees receiving a payment of 325% for public holidays worked, and 350% for public holidays worked by casuals.

[4] The parties submit that clause 15.4 should state that the additional loading for ordinary hours worked on public holidays is 125% of the ordinary hourly rate for full time and part time employees and 150% of the ordinary hourly rate for casual employees (inclusive of the casual loading). It is submitted that the correction sought is consistent with the explanation provided to relevant employees during the Agreement making process, that the loading for public holidays worked would align with the *General Retail Industry Award 2010* (Award). The parties rely upon a comparison document filed with the application for approval of the Agreement in support of this contention and submit that employees covered by the Agreement will not be disadvantaged by the correction sought.

## **Statutory framework**

[5] Section 602 of the Act states:

### **“Correcting obvious errors etc. in relation to the FWC’s decisions**

(1) The FWC may correct or amend any obvious error, defect or irregularity (whether in substance or form) in relation to a decision of the FWC (other than an error, defect or irregularity in a modern award or national minimum wage order).

Note 1: If the FWC makes a decision to make an instrument, the FWC may correct etc. the instrument under this section (see subsection 598(2)).

Note 2: The FWC corrects modern awards and national minimum wage orders under sections 160 and 296.

(2) The FWC may correct or amend the error, defect or irregularity:

(a) on its own initiative; or

(b) on application.”

[6] Section 602 of the Act provides that the Commission may correct or amend any obvious error, defect or irregularity in relation to a decision of the Commission. If the Commission makes a decision to make an instrument, it may also correct that instrument under s.602.

[7] Section 602 of the Act must be applied with caution.<sup>2</sup> The power to correct an obvious error is not confined to an error made by the Commission and may extend to obvious errors made by the parties and reflected in instruments approved by the Commission.<sup>3</sup> The correction should be such that, in the context of this application, had the matter been identified prior to the Agreement approval decision the correction would have been made at once.<sup>4</sup>

## **Consideration**

[8] The correction is sought by Freedom and the SDA on the basis that it will properly reflect the public holiday penalties intended to apply.

[9] Clause 15 of the Agreement sets out the additional loadings that apply for the performance of all ordinary hours worked after 6:00 pm Monday to Friday, and ordinary hours worked on Saturday, Sunday and public holidays. Except for public holidays, the penalty payments are expressed as an additional loading ranging from 10% to 75% of the ordinary hourly rate. This yields a payment of 110% to 175%.

[10] However, in the case of public holidays the additional loading for ordinary hours worked is expressed as 225% of the ordinary hourly rate for full-time and part-time employees and 250% of the ordinary hourly rate for casual employees (inclusive of the casual

loading). This yields a payment of 325% and 350%, which Freedom and the SDA submit ought to be 225% and 250% respectively. This forms the basis for the application to correct clause 15.4 of the Agreement.

[11] Employees covered by the Agreement were apprised of this application and invited to provide any responsive views to the Commission. No such views were received.

[12] On the material before the Commission, I accept that the:

- i. additional loading under the Agreement for public holidays worked is inconsistent with the equivalent entitlement under the Award, which prescribes an additional loading of 125% for all hours worked by a full-time or part-time employee, and 150% for all hours worked by a casual employee (inclusive of the casual loading); and
- ii. comparison document provided to relevant employees during the Agreement making process reflects the position that the entitlement would align with the Award.

[13] Having regard to the above matters, I am satisfied that the representation in the Agreement of 225% and 250% is intended to reflect the total amount to be paid for public holidays worked and not an additional loading on top of the ordinary hourly rate. Further, the correction sought is consistent with the manner in which clause 15 otherwise expresses the calculation of penalty payments for ordinary hours of work.

[14] Accordingly, I find that the public holiday loadings contained in clause 15.4 amount to an obvious error in the Agreement. The correct public holiday loading for full-time and part-time employees is 125% of the ordinary hourly rate and 150% of the ordinary hourly rate for casual employees (inclusive of the casual loading). Had the correction been sought by the parties prior to approval of the Agreement, it would have been accepted.

## **Conclusion**

[15] Pursuant to s.602(2) of the Act, clause 15.4 of the Agreement is corrected to properly reflect the additional loadings identified at [14] for public holidays worked.

[16] The decision issued by the Commission on 4 May 2020, [2020] FWCA 2265 is therefore replaced with the version of the Agreement attached to this decision.



DEPUTY PRESIDENT

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**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.**

## **Freedom Retail Enterprise Agreement 2020**

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# Freedom Retail Enterprise Agreement 2020

## Part 1 – Application and operation of Agreement

### 1. Title

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This enterprise agreement will be known as the *Freedom Retail Enterprise Agreement 2020*.

### 2. Arrangement

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Part 1 – Application and operation of Agreement	1
1. Title	1
2. Arrangement	1
3. Definitions and interpretation	3
4. Coverage	4
5. Entire agreement and relationship with the National Employment Standards	5
6. Life of Agreement	5
Part 2 – Consultation and dispute resolution	6
7. Consultation	6
8. Dispute resolution procedure	7
Part 3 – Employment relationship and related arrangements	9
9. Terms of engagement	9
10. Termination of employment	12
11. Redundancy	13
12. Traineeships	15
Part 4 – Wages	15
13. Wages	15
Part 5 – Hours of work and rostering	17
14. Ordinary hours of work	17
15. Penalty payments	18
16. Rosters	19
17. Overtime	20
18. Rest and meal breaks	22
19. Meal breaks	22
Part 6 – Payment of wages and related matters	23
20. Payment of wages	23

21. Salary packaging	23
22. Superannuation	24
Part 7 – Leave and public holidays	25
23. Annual leave	25
24. Personal/carer’s leave	27
25. Family or domestic violence leave	28
26. Compassionate leave	29
27. Pre-natal leave	30
28. Parental leave	30
29. Long service leave	32
30. Public holidays	32
31. Leave of absence	34
32. Community service leave	35
33. Natural disaster leave	36
34. Defence force leave	37
35. Blood donor leave	37
Part 8 – Transfers, travelling and working away from usual place of work	37
36. Reimbursement for travelling expenses and transport of employees	37
Part 9 – Work health and safety matters, equipment and amenities	38
37. Accident pay	38
38. Dress and presentation standards	38
39. Protective clothing and equipment	39
40. Damage to clothing, tools and other items	39
41. Work health and safety	40
42. Facilities	40
43. Union and safety training leave	40
44. Paid Union meetings	41
45. Union delegate	42
46. Union recognition and Union membership	42
Part 10 – Agreement compliance	43
47. Individual flexibility arrangement	43
48. Posting of Agreement	43
Signatories	44
Schedule	45

### 3. Definitions and interpretation

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- 3.1 In this Agreement, the following definitions apply unless the context requires otherwise:
- (a) **“Act”** means the *Fair Work Act 2009* (Cth), as amended or replaced from time to time;
  - (b) **“Agreement”** means this enterprise agreement, the *Freedom Retail Enterprise Agreement 2020*;
  - (c) **“Award”** means the *General Retail Industry Award 2010*;
  - (d) **“Casual Employee”** means an Employee engaged and paid as such;
  - (e) **“Child”** includes an adopted child, a stepchild, an ex-nuptial child and an adult child;
  - (f) **“Compulsory Meeting”** means a meeting which Employees are required to attend by their store or location manager. If Employees are required to attend a meeting, the store or location manager will, at least 48 hours before the meeting, post a notice on the staff notice board with the details of the meeting including a statement that attendance at the meeting is compulsory. If notice is given of a meeting which does not include a statement that attendance at the meeting is compulsory, the meeting will not be a compulsory meeting;
  - (g) a **“de facto partner”** of an Employee is a person who, although not legally married to the Employee, lives with the Employee in a relationship as a couple on a genuine domestic basis (whether the person and the Employee are of the same sex or different sexes);
  - (h) **“Employee”** means an employee of Freedom who is covered by this Agreement;
  - (i) **“Freedom”** means Steinhoff Asia Pacific Limited in retail establishments in all states and territories of Australia trading as Freedom;
  - (j) **“Full Time Employee”** means an Employee engaged to work 76 ordinary hours in each two week cycle with a maximum of 48 ordinary hours in one week;
  - (k) the following people are members of an Employee’s **“Immediate Family”**:
    - (i) a spouse (including a former spouse), de facto partner (including a former de facto partner), child, parent, grandparent, grandchild or sibling of the Employee; or
    - (ii) a child, parent, grandparent, grandchild or sibling of a spouse (including a former spouse) or de facto partner (including a former de facto partner) of the Employee;
  - (l) **“Mutual Agreement”** means agreement reached between an Employee and Freedom, provided the agreement is not otherwise prohibited by this Agreement;
  - (m) **“National Employment Standards”** means the national employment standards set out in Part 2-2 of Chapter 2 of the Act;

- (n) **“Ordinary Hourly Rate”** means the ordinary hourly rate for an Employee as set out in clause 13.1 (and increased under clause 13.2) and, in the case of a junior Employee, means the ordinary hourly rate calculated under clause 13.3;
- (o) **“Part-Time Employee”** means an Employee who works at least 12 ordinary hours and no more than 74 ordinary hours in each two week cycle;
- (p) **“Retail Consultant Level 1”** means an Employee who is engaged to perform duties associated with the operation of a retail store for Freedom, including but not limited to employees performing the duties of a Shop Assistant, Clerical Assistant, Store Worker, Unqualified Window Dresser, Store Greeter, Assembler, Unqualified Ticket Writer or an Unqualified Assistant Visual Merchandiser and
- (q) **“Retail Consultant Level 2”** means an Employee who is appointed as a Retail Consultant Level 2 at the discretion of Freedom and who is engaged to perform duties at a retail establishment at a higher level than a Retail Consultant Level 1, including but not limited to performing tasks such as supervisory, opening and closing of premises and associated security, security of cash and conducting training or store meetings.
- (r) **“Union”** means the Shop, Distributive and Allied Employees’ Association a registered trade union under the *Fair Work (Registered Organisations) Act 2009* (Cth)

3.2 For avoidance of any doubt, Freedom will not employ an employee as a shift worker as defined in the Act or in the Award..

3.3 In this Agreement, headings are for assistance only, and do not affect the interpretation of the Agreement.

#### **4. Coverage**

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4.1 This Agreement covers:

- (a) Freedom; and
- (b) each employee of Freedom who falls within the coverage of the Award and who is employed by Freedom as a Retail Consultant Level 1 and a Retail Consultant Level 2 but excluding employees who are employed in the positions referred to in clause 4.2.

4.2 This Agreement does not cover employees of Freedom employed in the following positions, or any equivalent positions:

- Distribution Centre Employees and Managers
- Employees located at National or Regional Support Centres
- Store Managers
- Homewares Managers
- Warehouse Managers

- Visual Merchandisers
- Visual Merchandise Managers
- State Visual Merchandisers
- Administration Managers
- Assistant Store Managers
- Store Support Managers
- Managers in training
- Freedom Customer Care employees.

## **5. Entire agreement and relationship with the National Employment Standards**

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- 5.1 This Agreement is to operate to the exclusion of any modern award, or other industrial instrument that may otherwise apply, except as expressly provided for within this Agreement.
- 5.2 To the extent this Agreement:
- (a) is detrimental to an Employee, in any respect, when compared to the National Employment Standards, the National Employment Standards will prevail; and
  - (b) makes provision for an entitlement or entitlements of an Employee under the National Employment Standards, the entitlement or entitlements under this Agreement operate in parallel to the entitlement or entitlements under the National Employment Standards such that the Employee is not entitled to a double benefit.

## **6. Life of Agreement**

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This Agreement will start to operate on the first day of the first full pay period which starts on or after the day that is 7 days after this Agreement is approved by the Fair Work Commission, and will have a nominal expiry date of three years from the date this Agreement is approved by the Fair Work Commission. This Agreement will continue to operate until such a time as it is terminated or replaced.

## Part 2 – Consultation and dispute resolution

### 7. Consultation

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#### 7.1 General provisions

For the purpose of the procedures in clause 7.2 and clause 7.3:

- (a) an Employee is, or a group of Employees are, entitled to appoint a representative for the purposes of consultation and, if Freedom is notified of the identity of a representative who has been appointed, Freedom must recognise the representative for the purposes of the consultation; and
- (b) Freedom is not required to disclose confidential or commercially sensitive information.

#### 7.2 Consultation about major change

- (a) Freedom is required to comply with the procedures in clause 7.2(b) if:
  - (i) it has made a definite decision to introduce a major change to production, program, organisation, structure or technology in relation to its business trading as Freedom;
  - (ii) the major change is likely to result in:
    - (A) the termination of the employment of the Employees;
    - (B) major changes to the composition, operation or size of Freedom's workforce or to the skills required of employees;
    - (C) the elimination or diminution of job opportunities for Employees (including opportunities for promotion or tenure);
    - (D) the alteration of hours of work of Employees;
    - (E) the need to retain Employees;
    - (F) the need to relocate Employees to another workplace; or
    - (G) the restructuring of jobs; and
  - (iii) Where the Agreement makes provision for alteration of any of the matters defined in clause 7.2(a)(ii), such alteration is taken not to have significant effect.
- (b) Freedom must, as soon as practicable after making the decision:
  - (i) notify the Employee or Employees (and their representative) who may be affected by the major change of the decision to make the major change;

- (ii) discuss with those Employees (and their representative) the introduction of the change, the effect the change is likely to have on those employees, and the measures Freedom is taking to avert or mitigate the adverse effects of the change on those Employees;
- (iii) provide in writing to those Employees (and their representative) for the purposes of the discussions all relevant information about the change, including the nature of the change proposed, information about the expected effects of the change on those Employees, and information about any other matters likely to affect those Employees; and
- (iv) give prompt and genuine consideration to matters raised about the major change by those Employees (and their representative) during the discussions.

### **7.3 Consultation about changes to hours of work**

- (a) Freedom is required to comply with the procedures in clause 7.3(b) if it proposes to introduce a change to the regular roster or ordinary hours of work of Employees.
- (b) Freedom must, as soon as practicable after proposing to introduce the change:
  - (i) discuss with the Employee or Employees (and their representative) who may be affected by the proposed change the introduction of the change;
  - (ii) provide to those Employees (and their representative) for the purposes of the discussions all relevant information about the proposed change, including its nature, information about what Freedom reasonably believes will be the effect of the proposed change on those Employees, and information about any other matters Freedom reasonably believes are likely to affect those Employees;
  - (iii) invite those Employees (and their representative) to give their views about the impact of the change, including any impact in relation to their family or caring responsibilities; and
  - (iv) give prompt and genuine consideration to matters raised about the proposed change by those Employees (and their representative) during the discussions.
- (c) Clause 7.3 is to be read in conjunction with any other provision of the Agreement concerning the scheduling of work or the giving of notice.

## **8. Dispute resolution procedure**

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The following procedure will be followed to resolve a dispute which arises between Freedom and an Employee about a matter arising under this Agreement or the National Employment Standards.

**8.1 Stage One - The Employee and Immediate Supervisor**

In the event of any Employee raising a dispute, they must raise and discuss the matter with their immediate supervisor at the store or location concerned. The immediate supervisor will endeavour to resolve the matter raised by the Employee as quickly as possible. If an Employee does not feel comfortable raising the matter with their immediate supervisor, they may proceed immediately to the next stage.

**8.2 Stage Two - The Employee and Store Manager**

If the Employee and their immediate supervisor are unable to resolve the dispute, either may refer the matter in dispute to the store or location manager or the immediate supervisor's direct manager.

**8.3 Stage Three - The Employee, Union and the Human Resources Manager**

If the Employee and the store or location manager or immediate supervisor's direct manager are unable to resolve the dispute, the Employee or a Union organiser may refer the matter in dispute to Freedom's Human Resources Manager (or their delegate) for discussion between the Employee (or Union organiser) and the Human Resources Manager (or their delegate).

**8.4 Stage Four – Fair Work Commission**

If the Employee (or Union organiser) and Freedom's Human Resources Manager (or their delegate) are unable to resolve the dispute, either party may refer the matter in dispute to the Fair Work Commission for conciliation and arbitration. If the Fair Work Commission arbitrates the dispute it may also use the powers that are available to it under the Act. However, the Fair Work Commission cannot arbitrate a dispute about whether Freedom had reasonable business grounds under subsection 65(5) or 76(4) of the Act, or a term of this Agreement that has the same, or substantially the same, effect as subsection 65(5) or 76(4) of the Act.

8.5 An Employee may have a representative, including a Union representative, at any stage of the procedure detailed in clauses 8.1 to 8.4. Freedom may have a representative at any stage of the procedure detailed in clauses 8.1 to 8.4.

8.6 While procedures are being followed under this clause in relation to a dispute work must continue in accordance with this Agreement and the Act and an employee must not unreasonably fail to comply with any direction given by the employer about performing work, whether at the same or another workplace, that is safe and appropriate for the employee to perform. This clause is subject to any applicable work health and safety legislation.

## Part 3 – Employment relationship and related arrangements

### 9. Terms of engagement

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#### 9.1 Full Time Employee

- (a) The maximum number of ordinary hours a Full Time Employee may be rostered to work is 76 ordinary hours in each two week cycle with a maximum of 48 ordinary hours in one week.
- (b) On engagement, an Employee will:
  - (i) be advised they are employed as a Full Time Employee;
  - (ii) if applicable, be advised that they are engaged as a Trainee;

#### 9.2 Part-Time Employee

- (a) A Part-Time Employee may elect, and Freedom may agree, to the Part-Time Employee working a minimum of 12 ordinary hours in each two week cycle.
- (b) The maximum number of hours a Part-Time Employee may be rostered to work in any week is 40.
- (c) On engagement, a Part-Time Employee will:
  - (i) be advised they are employed as a Part-Time Employee;
  - (ii) if applicable, be advised that they are engaged as a Trainee;
  - (iii) be advised of their contracted ordinary hours of employment.
- (d) A Part-Time Employee may work beyond their contracted ordinary hours referred to in clause 9.2(c)(iii), up to a maximum of 74 hours in a 2 week cycle, and be paid at their ordinary hours and be paid at their ordinary rate of pay, including any applicable penalties. A team member must agree to work these additional hours, otherwise overtime rates will apply. An employee may agree to work these additional hours by providing written standing consent provided such consent may be withdrawn by the Part Time Employee at any time. For the avoidance of doubt, a Part Time Employee who provides standing consent can still verbally refuse to work additional hours when offered on any occasion.
- (e) Where over a 12-month period, a Part Time Employee works an average of more than 18 ordinary hours per 2-week cycle, the part time team member will be offered a new contracted ordinary hours of at least 18 hours per 2 week cycle.
- (f) Subject to the operational requirements of Freedom, when additional hours become available, they will be offered to existing Part Time Employees in preference to engaging other employees where practicable.
- (g) A Part-Time Employee will accrue leave entitlements based on the ordinary hours actually worked by the Part-Time Employee.

### 9.3 Casual Employee

- (a) A Casual Employee is entitled to be paid a casual loading of 25% of the Ordinary Hourly Rate for each hour worked.
- (b) A Casual Employee will not be entitled to be paid the casual loading for any ordinary hours worked where the Casual Employee is entitled to another penalty or loading which is expressed to be inclusive of the casual loading. The table below provides examples of the casual loading and its interaction with penalty payments in clause 15:

Days of the week	Hours	Casual
Monday to Friday	7am to 6pm	Base rate + 25% casual loading
	6pm to 9pm	Base rate + 25% casual loading + applicable evening work penalty
Saturday	7am to 6pm	Base rate + 25% casual loading + applicable Saturday penalty rate
Sunday	9am to 6pm	Base Rate + applicable Sunday penalty rate
Public Holiday		Base rate + 150% (inclusive of casual loading)

- (c) On engagement, a Casual Employee will be advised they are employed as a Casual Employee.
- (d) A Casual Employee who has over a calendar period of at least 12 months worked a pattern of hours on an ongoing basis, without significant adjustment, that they could continue to perform as a Full Time or Part Time Employee, may request in writing to be converted to a Full Time or Part Time Employee as follows:
  - (i) If they worked an average of 38 or more hours a week in the period of 12 months' casual employment they may request to be converted to a Full Time Employee or worked an average of less than 38 hours a week in the period of 12 months' casual employment they may request to be converted to a Part time Employee consistent with the pattern of hours previously worked.
  - (ii) Where it is agreed that a Casual Employee may convert to full or part time employment, such agreement shall be recorded in writing including the date from which the conversion takes effect. The commencement of the conversion shall take effect in the next pay cycle following the agreement reached, unless otherwise agreed.

- (iii) Freedom may decline a request on reasonable business grounds in writing within 21 days of the request being made, after there has been consultation with the Employee. Reasonable business grounds include but not limited to:
  - (a) it would require a significant adjustment to the casual employee's hours of work in order for the employee to be engaged as a full time or part time employee;
  - (b) it is known or reasonably foreseeable that the regular casual employee's position will cease to exist within the next 12 months;
  - (c) it is known or reasonably foreseeable that the hours of work which the regular casual employee is required to perform will be significantly reduced in the next 12 months; or
  - (d) it is known or reasonably foreseeable that there will be a significant change in the days and/or times at which the employee's hours of work are required to be performed in the 12 months which cannot be accommodated within the days and/or hours during which the employee is available to work.
- (iv) A Casual Employee must not be engaged and/or re-engaged (which includes a refusal to re-engage), or have his or her hours reduced or varied, in order to avoid any right or obligation under this subclause.
- (v) Freedom must provide a casual employee with a copy of the provisions of subclause 9.3(d) within the first 12 months of the Employee's first engagement to perform work.

#### 9.4 Limited tenure

- (a) Freedom can offer an existing Employee a limited tenure appointment for the Employee to work additional ordinary hours, including to cover absences or during periods of increased sales. The limited tenure appointment:
  - (i) will be for a duration of not less than one week, nor more than 12 months, except where the purpose is the replacement of an Employee on parental leave;
  - (ii) may be extended by Mutual Agreement provided the duration of the limited tenure appointment does not exceed the maximum set out in paragraph (i); and
  - (iii) must not immediately follow another limited tenure appointment.
- (b) Before commencing a limited tenure appointment, an Employee will be advised in writing of the nature of the work to be performed, the hours to be worked, the hourly rate of pay that will apply, and the starting and finishing dates of the limited tenure appointment.
- (c) A limited tenure appointment may be brought to an end earlier than the date notified to the Employee by either the Employee, or Freedom, providing the

period of notice that would be required for Freedom to terminate the Employee's employment as set out in clause 10.

- (d) Limited tenure employment will be voluntary.
- (e) An Employee who accepts a limited tenure appointment will not be disadvantaged in their terms and conditions of employment.
- (f) At the end of a limited tenure appointment, the Employee will:
  - (i) revert to the position the Employee held before the limited tenure appointment on the same terms and conditions that applied immediately before the limited tenure appointment (including any matters agreed between the Employee or Freedom); or
  - (ii) if that position is no longer available, an available position which, considered on an overall basis, is no less advantageous to the Employee than that which existed immediately prior to the limited tenure appointment.
- (g) An Employee who has accepted a limited tenure appointment will not be considered to be an employee 'engaged under a contract of employment for a specified period of time' as referred to in the Act.

## 10. Termination of employment

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- 10.1 Freedom may terminate the employment of a Full Time Employee or Part-Time Employee by giving notice as set out in the table below:

<b>Years of continuous service at the end of the day the notice is given</b>	<b>45 years old and under</b>	<b>Over 45 years old</b>
Not more than 1 year	1 week	1 week
1 year but not more than 2 years	2 weeks	2 weeks
2 years but not more than 3 years	2 weeks	3 weeks
3 years but not more than 5 years	3 weeks	4 weeks
5 years or more	4 weeks	5 weeks

- 10.2 Freedom may terminate the employment of an Employee without notice or a payment in lieu of notice if the Employee engages in serious misconduct. Serious misconduct has the meaning given to it in the Act.
- 10.3 Freedom may, at its absolute discretion, elect to provide an Employee with a payment in lieu of part or all of the notice period, with the payment calculated in accordance with the Act.

- 10.4 Freedom may terminate the employment of a Casual Employee without notice or a payment in lieu of notice.
- 10.5 A Full Time Employee or a Part-Time Employee may terminate their employment by providing the period of notice for an employee 45 years old and under as set out in the table in clause 10.1 or a shorter period agreed under clause 10.7. If an employee who is at least 18 years old does not give the required period of notice, then Freedom may deduct from wages due to the employee under this Agreement an amount that is no more than one week's wages for the employee. Any such deduction must not be unreasonable in the circumstances.
- 10.6 If an Employee provides Freedom with notice under clause 10.5, Freedom may, at its absolute discretion, elect to provide the Employee with a payment in lieu of part or all of the notice period, with the payment calculated in accordance with the Act however, the termination will still be a termination at the Employee's initiative.
- 10.7 If an Employee gives Freedom notice under clause 10.5, Freedom and the Employee may agree to a shorter notice period being provided by the Employee. Any such agreement must be in writing and must be in the form set out in the Schedule. If Freedom has agreed to the shorter period of notice than that required under clause 10.1, then no deduction can be made under clause 10.5
- 10.8 An Employee absent from work for a period exceeding three consecutive rostered days without the consent of Freedom, or notification to Freedom, will be deemed to have terminated their employment without notice, unless the Employee was unable, through no fault of their own, to notify Freedom. Freedom will make reasonable efforts to contact an Employee prior to treating the Employee's employment as terminated under this clause.
- 10.9 Freedom will, when requested, provide an Employee with a written statement specifying the period of their employment, and their position at the time their employment ends.
- 10.10 Where Freedom has given notice of termination to an employee, the employee must be allowed time off without loss of pay of up to one day for the purpose of seeking other employment.
- 10.11 The time off under clause 10.10 is to be taken at times that are convenient to the employee after consultation with Freedom.
- 10.12 Freedom will pay any outstanding wages and entitlements no later than 14 days after the day on which the employee's employment terminates.

## **11. Redundancy**

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### **11.1 Redundancy pay**

- (a) In addition to the period of notice provided in clause 10.1, a Full Time Employee or a Part-Time Employee, who is employed on the date that this Agreement is approved by the Fair Work Commission, whose employment is terminated because Freedom no longer requires the job done by the Employee to be done by

anyone (other than where this is due to the ordinary and customary turnover of labour) will be entitled to redundancy pay as set out in the table below:

<b>Years of continuous service on termination</b>	<b>Redundancy pay under 45 years of age</b>	<b>Redundancy pay 45 years and over</b>
Less than 1 year	Nil	Nil
At least 1 year but less than 2 years	4 weeks' pay	5 weeks' pay
At least 2 years but less than 3 years	7 weeks' pay	8.75 weeks' pay
At least 3 years but less than 4 years	10 weeks' pay	12.5 weeks' pay
At least 4 years but less than 5 years	12 weeks' pay	15 weeks' pay
At least 5 years but less than 6 years	14 weeks' pay	17.5 weeks' pay
At least 6 years and over	16 weeks' pay	20 weeks' pay

- (b) In addition to the period of notice provided in clause 10.1, a Full Time Employee or a Part-Time Employee, who was not employed on the date that this Agreement is approved by the Fair Work Commission, whose employment is terminated because Freedom no longer requires the job done by the Employee to be done by anyone (other than where this is due to the ordinary and customary turnover of labour) will be entitled to redundancy pay in accordance with the National Employment Standards.
- (c) In this clause, “**weeks’ pay**” means the Ordinary Hourly Rate multiplied by:
- (i) in the case of a Full Time Employee, 38; or
  - (ii) in the case of a Part-Time Employee, the average hours worked by the Employee in the 52 weeks immediately before the Employee is given notice of the termination of their employment under clause 10.1.

### 11.2 Employee leaving during notice period

An Employee given notice of the termination of their employment because Freedom no longer requires the job done by the Employee to be done by anyone (other than where this is due to the ordinary and customary turnover of labour) may terminate their employment during the period of notice and will remain entitled to the redundancy payments under clause 11.1 but will not be entitled to a payment in lieu of notice.

### 11.3 Time off during notice period

- (a) During a period of notice of termination given to an Employee by Freedom because Freedom no longer requires the job done by the Employee to be done by anyone (other than where this is due to the ordinary and customary turnover of labour), the Employee will be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment.

- (b) If an Employee has been allowed more than one day's time off during the notice period under paragraph (a), the Employee must, at Freedom's request, produce proof of attendance (which may be in the form of a statutory declaration) at an interview to be entitled to payment for the time off.

#### **11.4 Excluded employees**

- (a) This clause will not apply to an Employee with less than one year's continuous service and the general obligation on Freedom will be no more than to give the Employee an indication of the impending termination at the first reasonable opportunity, and to take such steps as may be reasonable to facilitate the obtaining by the Employee of suitable alternative employment.
- (b) An Employee who is not entitled to redundancy pay under the National Employment Standards for any reason, including as the result of an Order made by the Fair Work Commission is not entitled to redundancy pay under clause 11.1.

#### **11.5 Transfer to lower duties**

- (a) Where an employee is transferred to lower paid duties for reasons set out in subclause 11.1 above, the employee will be entitled to the same period of notice of transfer as they would have been entitled to if their employment had been terminated, and Freedom may make payment in lieu thereof of an amount equal to the difference between the former Ordinary Hourly Rate and the new lower Ordinary Hourly Rate for the number of weeks of notice still owing.

### **12. Traineeships**

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- 12.1 Freedom may employ an Employee as a trainee, in which case, Schedule E to the *Miscellaneous Award 2010* will apply to the engagement of the Employee.
- 12.2 Schedule E to the *Miscellaneous Award 2010* is incorporated into this Agreement provided that any reference to "this award" in Schedule E to the *Miscellaneous Award 2010* is to be taken as a reference to this Agreement.
- 12.3 Despite clause 12.2, an Employee employed by Freedom as a trainee will be paid the appropriate rate of pay as set out in clause 13.

## **Part 4 – Wages**

### **13. Wages**

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- 13.1 A Retail Consultant Level 1, other than a junior Employee or an Employee under a supported wage arrangement, will be paid an ordinary hourly rate of \$21.42 per hour. A Retail Consultant Level 2 will be paid an ordinary hourly rate of \$22.72 per hour.
- 13.2 The rates in clause 13.1 will be increased on or after the first full pay period by the same percentage increase as the percentage increase to the rates of pay in the Award as

determined by the Fair Work Commission in the annual wage review. The amount of an allowance payable to an Employee in this Agreement will be no less than the applicable allowance amount in the Award.

- 13.3 A junior Employee will be paid an ordinary hourly rate of the following percentage of the rate referred to in clause 13.1 (and increased in accordance with clause 13.2):

Age	Percentage
20 years of age and over	100%
19 years of age and under 20 years of age	80%
18 years of age and under 19 years of age	70%
17 years of age and under 18 years of age	60%
16 years of age and under 17 years of age	50%
Under 16 years of age	45%

Provided that a junior Employee will receive an increase to their ordinary hourly rate as a result of their birthday occurring payable from the first full pay period to commence on or after the Employee's birthday.

- 13.4 An Employee who holds an appropriate first aid qualification and is appointed by Freedom to perform first aid duty will be paid an allowance as set out in the Award for an employee appointed to perform first aid duties.
- 13.5 If an Employee is ordinarily paid an hourly rate of pay higher than the Ordinary Hourly Rate:
- (a) Freedom may absorb wage increases payable under this Agreement against the over-Agreement payment; and
  - (b) any penalties or loadings payable under this Agreement will be calculated by reference to the rate referred to in clause 13.1 (and increased in accordance with clause 13.2) and any over-Agreement payment will be disregarded.
- 13.6 The supported wage arrangements set out in Schedule C of the Award apply to an Employee who because of the effects of a disability is eligible for a supported wage under the Award, provided that references to the Award in Schedule C of the Award will be taken to be a reference to this Agreement.
- 13.7 An Employee engaged for more than two hours during one day or shift on duties carrying a higher rate than their ordinary classification is to be paid the higher rate for such day or shift. If engaged for two hours or less during one day or shift, the Employee is to be paid for the higher rate for the time worked only.
- 13.8 Unless otherwise agreed an Employee recalled to work for any reason, before or after completing their normal roster or on a day on which they did not work, will be paid at the appropriate rate for all hours worked with a minimum of three hours on each occasion.

The time worked will be calculated from the time the Employee leaves home until the time they return home.

## Part 5 – Hours of work and rostering

### 14. Ordinary hours of work

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14.1 An Employee may work their ordinary hours within the following spread of hours:

Days	Times
Monday – Friday	7:00 a.m. – 9:00 p.m.
Saturday	7:00 a.m. – 6:00 p.m.
Sunday	9:00 a.m. – 6:00 p.m.

14.2 An Employee cannot be rostered to work:

- (a) a shift of less than:
  - (i) four consecutive ordinary hours for a Full Time Employee unless the shift is a Compulsory Meeting or training shift under clause 16.6 or a public holiday in which case the minimum will be three hours; or
  - (ii) three consecutive ordinary hours for a Part-Time Employee or a Casual Employee.
- (b) more than nine ordinary hours (exclusive of meal breaks) on any day. Provided that on one day in any week, an Employee may be rostered to work up to a maximum of 11 ordinary hours (exclusive of meal breaks). By Mutual Agreement, at an Employee's election, alternative arrangements may apply.
- (c) more than one shift of ordinary hours each day and must not be rostered to work ordinary hours on more than:
  - (i) six days in any week; or
  - (ii) 10 days in a two week cycle.
- (d) For more than one start per day. Hour of work on any day will be continuous, except for rest pauses and meal breaks.
- (e) ordinary hours and any reasonable additional hours on not more than six consecutive days. By Mutual Agreement, at an Employee's election, alternative arrangements in writing may apply.

14.3 An Employee must be rostered so they receive:

- (a) at least two consecutive days off each week or three per fortnight cycle. By Mutual Agreement, at an Employee's election, alternative arrangements in writing may apply. Provided an Employee can terminate the alternative arrangement by giving 4 weeks' notice;
- (b) if they are a Full Time Employee or a Part-Time Employee, a maximum of:
  - (i) three full weekends in a four week cycle; or
  - (ii) a maximum of three Sundays in a four week cycle, provided that on the Sunday they do not work, they receive a three day break including the Saturday,

however, by Mutual Agreement, at an Employee's election, alternative arrangements in writing may apply. Provided an employee can terminate the alternative arrangement by giving four week's notice.

14.4 An Employee must receive a break of at least 10 hours after finishing work on one day (including any reasonable additional hours or overtime) and starting work on the following day. Where an Employee recommences work without having the 10 hours off work then the Employee will be paid double the rate they would be entitled to until such time as they are released from duty for a period of 10 consecutive hours off work without loss of pay for ordinary hours occurring during the period of such absence.

## 15. Penalty payments

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15.1 An Employee who works ordinary hours after 6:00 pm, Monday to Friday, is entitled to be paid an additional loading as set out in the table below for all ordinary hours worked after 6:00 pm which, in the case of a Casual Employee, is in addition to of the casual loading referred to in clause 9.3(a).

	<b>Full Time Employee and Part-Time Employee</b>	<b>Casual Employee</b>
From 1 October 2019	25% of the Ordinary Hourly Rate	10% of the Ordinary Hourly Rate
From 1 March 2020	25% of the Ordinary Hourly Rate	15% of the Ordinary Hourly Rate
From 1 October 2020	25% of the Ordinary Hourly Rate	20% of the Ordinary Hourly Rate
From 1 March 2021	25% of the Ordinary Hourly Rate	25% of the Ordinary Hourly Rate

- 15.2 An Employee rostered to work ordinary hours on a Saturday is entitled to be paid an additional loading as set out in the table below for all ordinary hours worked which, in the case of a Casual Employee, is in addition to the casual loading referred to in clause 9.3(a).

	<b>Full Time Employee and Part-Time Employee</b>	<b>Casual Employee</b>
From 1 October 2019	25% of the Ordinary Hourly Rate	20% of the Ordinary Hourly Rate
From 1 March 2020	25% of the Ordinary Hourly Rate	25% of the Ordinary Hourly Rate

- 15.3 An Employee rostered to work ordinary hours on a Sunday is entitled to be paid an additional loading as set out in the table below for all ordinary hours worked which, in the case of a Casual Employee, is inclusive of the casual loading referred to in clause 9.3(a).

	<b>Full Time Employee and Part-Time Employee</b>	<b>Casual Employee</b>
From 1 July 2019	65% of the Ordinary Hourly Rate	75% of the Ordinary Hourly Rate
From 1 July 2020	50% of the Ordinary Hourly Rate	75% of the Ordinary Hourly Rate

- 15.4 An Employee who voluntarily works ordinary hours on a public holiday is entitled to be paid an additional loading as set out in the table below for each ordinary hour worked which, in the case of a Casual Employee, is inclusive of the casual loading referred to in clause 9.3(a).

<b>Full Time Employee and Part-Time Employee</b>	<b>Casual Employee</b>
125% of the Ordinary Hourly Rate	150% of the Ordinary Hourly Rate

## 16. Rosters

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- 16.1 Rosters will run from Monday to Sunday and be displayed a minimum of seven days in advance detailing the starting and finishing times for each Employee for each day of the week. Rosters will be displayed in a place accessible to Employees and will be retained by Freedom as required by the Act.

- 16.2 In establishing the days of the week on which work is to be performed, this might extend to any or every day of the week for which employees have indicated their availability when engaged. However, Freedom acknowledges that whilst business needs are paramount, employees may have religious, family, social, sporting and other commitments when instituting changes in the days that employees might be required to work. Freedom will also have regard to family or caring responsibilities of employees and whether they have safe transport home when changing or establishing rosters.

- 16.3 The roster for a Full Time Employee or a Part-Time Employee, once posted, may be changed by Mutual Agreement in writing (except in the case of a Part Time employee who has provided standing consent under clause 9.2(d) between Freedom and the Employee affected.
- 16.4 Freedom may cancel a shift rostered for a Casual Employee by notifying the Casual Employee of the cancellation at least one hour before the shift is rostered to start.
- 16.5 On no more than four occasions each year, an Employee may be rostered to work outside of the days or times the Employee has been notified they may perform work for the purpose of conducting major stocktakes (not including cyclical counts). In such cases, rosters will be advised a minimum of 14 days in advance.
- 16.6 Up to a maximum of eight occasions per calendar year an Employee may be required to attend a Compulsory Meeting or a training shift (being a shift not attached to ordinary hours) which they will be paid for a minimum of three hours. An Employee will be paid for their attendance at the Compulsory Meeting and training in accordance with this Agreement.
- 16.7 An Employee will not be entitled to payment for their attendance at a meeting which is not a Compulsory Meeting.

## **17. Overtime**

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- 17.1 The following hours will be overtime hours for which an Employee is entitled to be paid the overtime rates set out in clause 17.2, provided the Employee has been authorised to work those hours:
- (a) hours worked by an Employee outside the span of hours set out in clause 14.1;
  - (b) hours worked by an Employee before or after a rostered shift (unless a Part Time Employee and Freedom have Mutually Agreed to change the rostered shift under clause 9.2(d));
  - (c) hours worked by a Full time Employee in excess of 48 ordinary hours in a week or 76 ordinary hours in a two week cycle;
  - (d) hours worked by a Part-time Employee in excess of 38 ordinary hours in a week or 74 ordinary hours in a two week cycle;
  - (e) hours worked by a Casual Employee in excess of 38 ordinary hours in a week;
  - (f) hours worked by an Employee in excess of the maximum number of ordinary hours as set out in clause 14.2(b);
  - (g) hours worked by an Employee on a day in excess of the maximum number of days that may be worked under clause 14.2(c) or clause 14.2(e);
  - (h) hours worked by a Part-Time Employee outside contracted hours under clause 9.2(c)(iii) (except as varied under clause 9.2(d)), other than for the purposes of a stocktake as referred to in clause 16.5;

- (i) hours worked by a Full Time Employee or a Part-Time Employee on a non-rostered shift (except where the Employee has agreed to change their roster under clause 16.2).

17.2 Authorised overtime will be paid at the rates set out in the table below which, in the case of a Casual Employee, is inclusive of the casual loading referred to in clause 9.3(a).

When worked	Full Time Employee and Part-Time Employee	Casual Employee
Monday to Saturday	150% of the Ordinary Hourly Rate for the first three hours	175% of the Ordinary Hourly Rate for the first three hours
	200% of the Ordinary Hourly Rate for any additional hours	225% of the Ordinary Hourly Rate for any additional hours
Sunday	200% of the Ordinary Hourly Rate	225% of the Ordinary Hourly Rate
Public Holiday	250% of the Ordinary Hourly Rate	275% of the Ordinary Hourly Rate

17.3 In calculating overtime, each day will stand alone and any payment for overtime will be calculated to the nearest minute.

17.4 By Mutual Agreement, an Employee may elect to take time off in lieu of overtime provided:

- (a) the Employee must elect to take time off in lieu on each occasion the Employee works overtime;
- (b) the time off will be calculated at the overtime equivalent applying the percentages specified in clause 17.2;
- (c) the time off must be taken at a time agreed with Freedom; and
- (d) if the time off is not taken within one calendar month of the Employee working the overtime, the Employee must be paid for the overtime at the applicable overtime rates.

17.5 Freedom may require an Employee to work reasonable overtime at the rates prescribed in clause 17.2, and an Employee must work that overtime unless the Employee is entitled to refuse to work the overtime under clause 17.6.

17.6 An Employee may refuse a requirement to work overtime under clause 17.5 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 the Employee's health or safety;
- (b) the Employee's personal circumstances, including any family responsibilities;
- (c) the needs of the workplace or enterprise;

- (d) the notice (if any) given by Freedom of the overtime and by the Employee of their intention to refuse it; and
- (e) any other relevant matter.

17.7 If an Employee is required to work more than one hour of overtime without being provided with notice of the requirement the previous day or earlier, Freedom will pay the Employee the overtime meal allowances payable under the Award.

**18. Rest and meal breaks**

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18.1 Paid rest breaks and unpaid meal breaks will be given as follows:

<b>Hours Worked</b>	<b>Rest Break</b>	<b>Meal Break</b>
Work less than 4 hours	No rest break	No meal break
Work 4 hours or more but no more than 5 hours	One 10 minute rest break	No meal break
Work more than 5 hours but less than 7 hours	One 10 minute rest break	One meal break of at least 30 minutes but not more than 60 minutes
Work 7 hours or more but less than 10 hours	Two 10 minute rest breaks, with one taken in the first half of the work hours and the second taken in the second half of the work hours	One meal break of at least 30 minutes but not more than 60 minutes
Work 10 hours or more	Two 10 minute rest breaks, with one taken in the first half of the work hours and the second taken in the second half of the work hours	Two meal breaks each of at least 30 minutes but not more than 60 minutes.

18.2 The timing of the rest break or the meal break is intended to provide a meaningful break during work hours.

18.3 An employee cannot be required to take a rest break or meal break within one hour of commencing or ceasing work. An employee cannot be required to take a rest break (s) combined with a meal break.

**19. Meal breaks**

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19.1 An Employee will not work more than five hours without a meal break. .

- 19.2 An unpaid meal break will be of 30 minutes duration. Provided that an employee may elect to take an unpaid meal break of 60 minutes of duration.
- 19.3 An unpaid meal break will not be treated as time worked.

## **Part 6 – Payment of wages and related matters**

### **20. Payment of wages**

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- 20.1 Wages must be paid fortnightly in arrears.
- 20.2 Wages may be paid by Electronic Funds Transfer at Freedom's election.
- 20.3 Freedom must pay wages within three days of the end of each pay period. However:
- (a) if a public holiday falls between the end of the pay period and the normal pay day, Freedom may pay wages within four days of the end of the pay period; and
  - (b) wages must not be paid by Electronic Funds Transfer on a Friday, except in the case of pay adjustments.
- 20.4 An Employee must be provided with a payslip on the day wages are paid. The payslip may be issued electronically to an Employee if the Employee can access and print the payslip at their workplace provided Freedom takes reasonable steps to maintain the security of the payslip. The payslip must, in addition to any requirements under the Act, detail the Employee's ordinary pay, overtime, hours worked, penalty rates, superannuation, allowances and the amount and reason for any deductions.
- 20.5 Employee termination payments must be paid by Freedom within three days (or four days in the circumstances referred to in clause 20.3(a)) of the end of the pay period during which the employment ends.

### **21. Salary packaging**

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- 21.1 An Employee may elect, and Freedom may agree, to enter into a salary packaging arrangement under this clause through which the Employee has part of their fortnightly wages packaged into a fringe benefit which does not constitute a direct payment to the Employee and instead is payable to a bona fide third party.
- 21.2 An Employee must not be compelled to enter into a salary packaging arrangement and Freedom may reject a request to enter into a salary packaging arrangement at its absolute discretion.
- 21.3 A salary packaging arrangement between an Employee and Freedom must be recorded in writing and must include an estimate of the Employee's gross and net fortnightly wages after the arrangement starts (excluding any penalty rates, loadings or allowances which may be payable), and details of any other payment that may be affected by the arrangement. A copy must be kept in the Employee's personal file.

21.4 If an Employee and Freedom enter into a salary packaging arrangement, the Employee's fortnightly wages will be reduced by the costs incurred by Freedom in managing the arrangement, including but not limited to:

- (a) Fringe Benefits Tax;
- (b) bank fees and charges; and
- (c) the costs of the fringe benefit itself.

This amount may change from time to time in accordance with variances in the relevant costs incurred by Freedom.

21.5 A salary packaging arrangement between an Employee and Freedom will:

- (a) continue to apply during any period of paid leave; and
- (b) be automatically suspended during a period of unpaid leave.

21.6 Despite a salary packaging arrangement, any payment to which an Employee is entitled under this Agreement, including termination payments, will be calculated by reference to the Ordinary Hourly Rate, unless this clause specifically provides otherwise.

21.7 An Employee or Freedom may terminate a salary packaging arrangement entered into under this clause for any reason by providing four weeks' written notice. If a salary packaging arrangement entered into under this clause is terminated, following the termination of the salary packaging arrangement, the Employee will be paid the Ordinary Hourly Rate.

## **22. Superannuation**

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22.1 Freedom must make superannuation contributions for the benefit of an Employee if required to avoid the imposition of a superannuation guarantee charge under superannuation guarantee laws.

22.2 Freedom must make superannuation contributions on a monthly basis into a fund of an employee's choice. If no choice is made then contributions will be made into REST or, in states other than Victoria, Freedom's nominated fund.

22.3 Freedom shall also make superannuation contributions provided for in clause 22 for the period of absence from work (subject to a maximum of 52 weeks) of the employee due to work-related injury or work related illness provided that the employee is receiving workers' compensation payments or receiving regular payments directly from Freedom in accordance with statutory requirements and the employee remains employed by Freedom.

An employee may authorise Freedom to make additional superannuation contributions from their gross income. These voluntary contributions are in addition to and do not offset Freedom's obligations to pay superannuation under clause 22.

## Part 7 – Leave and public holidays

### 23. Annual leave

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- 23.1 A Full Time Employee and a Part-Time Employee is entitled to annual leave as set out in the National Employment Standards and as set out in this clause.
- 23.2 A Full Time Employee is entitled to four weeks' of annual leave for each year of continuous service. :
- 23.3 A Part-Time Employee is entitled to a pro-rata entitlement to annual leave based on all hours of work.
- 23.4 An Employee's entitlement to annual leave accrues progressively during each year.
- 23.5 Annual leave will be taken at a time Mutually Agreed (which shall not be unreasonably refused) between Freedom and an Employee. Annual leave may be taken in one continuous period, or by Mutual Agreement with Freedom, in periods of shorter duration.
- 23.6 Freedom may require an Employee to take a period of annual leave by giving the Employee at least four weeks' notice where:
- (a) the Employee has accrued more than two years' entitlement to annual leave; or
  - (b) Freedom is closing-down a part or all of its operations.
- 23.7 During a period of annual leave an employee will receive annual leave loading of 17.5% or the relevant weekend penalty rate (if they would have worked on a weekend) whichever is greater but not both.
- 23.8 Where a public holiday prescribed in clause 30 falls during a period of annual leave, the Employee's period of leave will be increased by one day for each such public holiday.
- 23.9 Freedom will pay an Employee for a period of annual leave in the Employee's normal payroll cycle (meaning the Employee will ordinarily be paid for the annual leave after they have taken it). However, an Employee may elect to receive payment for a period of annual leave in advance in which case Freedom must provide the Employee with a payment for the entire period of annual leave no later than one week after the Employee starts the leave.
- 23.10 If Freedom and an Employee Mutually Agree in writing, an Employee may take a period of annual leave in advance of the Employee becoming entitled to the leave. If an employee is under 18 then their guardian must also sign the agreement in writing. If an Employee takes a period of annual leave in advance and their employment ends for any reason before the Employee has accrued the period of annual leave taken in advance, Freedom may deduct from any money due to the Employee on termination an amount equal to the amount that was paid to the Employee when they took the leave in advance.
- 23.11 On termination of employment, an Employee will receive a payment for any annual leave which has accrued to the Employee but is untaken. The Employee will be paid the amount the Employee would have been paid had they taken the leave.

- 23.12 If an Employee suffers a personal illness or injury during a period of annual leave which would entitle the Employee to take personal/carer's leave if they were not absent from work during the period of annual leave, the period will be treated as personal/carer's leave.
- 23.13 Freedom and an Employee may Mutually Agree in writing to the Employee cashing out of a particular amount of annual leave. Freedom must keep a copy of the agreement as an employee record as required by the Act. The agreement must:
- (a) state the amount of leave to be cashed out and the payment to be made to the employee for it; and
  - (b) state the date on which the payment is to be made; and
  - (c) be signed by Freedom and the Employee and, if the Employee is under 18 years of age, by the Employee's parent or guardian; and
  - (d) not result in the Employee's remaining accrued entitlement to annual leave being less than four weeks; and
  - (e) result in the Employee being paid an amount which is not less than the amount that would have been payable to the Employee if they had taken the leave at the time the payment is made.
- 23.14 An Employee cannot cash out more than two weeks' annual leave in any 12 month period under clause 23.13.
- 23.15 **Excessive Leave Accruals**
- (a) An employee has an excessive leave accrual if the employee has accrued more than 8 weeks paid annual leave.
  - (b) Freedom and the employee may seek to confer with the other and genuinely try to reach agreement on how to reduce or eliminate the excessive leave accrual.
  - (c) If Freedom has genuinely tried to reach agreement with an employee but agreement is not reached (including because the employee refuses to confer), Freedom may direct the employee in writing to take one or more periods of paid annual leave, provided the employee's remaining accrued entitlement to paid annual leave is not less than 6 weeks. Freedom must not require the employee to take any period of paid annual leave of less than one week. Freedom must not require the employee to take a period of paid annual leave beginning less than 8 weeks or more than 12 months, after the direction is given and must not be inconsistent with any leave arrangement agreed between Freedom and the employee.
  - (d) If the employee has genuinely tried to reach agreement with Freedom, but agreement is not reached (including because Freedom refuses to confer), the employee may give written notice to Freedom requesting to take one or more periods of paid annual leave, provided the employee has had excessive leave accrual for more than 6 months at the time of giving the notice and the employee has not been given a direction in accordance with 23.15(c) that when any other

paid leave annual leave arrangements are taken into account, would eliminate the employee's excessive leave accrual.

- (e) The notice given by the employee in 23.15(d) must not, if granted, result in the employee's remaining accrual entitlement to paid annual leave at any time less than 6 weeks when other paid annual leave arrangements are considered. The notice must not provide for the employee to take any period of paid annual leave of less than one week or provide for the employee to take a period of paid annual leave beginning less than 8 weeks, or more than 12 months, after the notice is given. The notice must not be inconsistent with any leave arrangement agreed by Freedom and the employee. Freedom must grant the paid annual leave requested by the employee's written notice given in 23.15(d).

## **24. Personal/carer's leave**

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- 24.1 An Employee is entitled to personal/carer's leave as set out in the National Employment Standards. Freedom is committed to ensuring that personal/carer's leave is available to be used in case of genuine need. A summary of the provisions of the National Employment Standards is as follows:
- 24.2 A Full Time Employee is entitled to 10 days' paid personal/carer's leave for each year of continuous service. A Part-Time Employee is entitled to a pro-rata entitlement.
- 24.3 An Employee's entitlement to paid personal/carer's leave will be credited to the Employee annually in advance and any untaken leave accrues from year to year. For a Part-Time Employee, the advance credit will be based on the Employee's actual hours of work over the preceding 12 months' continuous service or, in the Employee's first year of continuous service, their expected average ordinary hours.
- 24.4 An Employee entitled to paid personal/carer's leave may take the leave:
  - (a) because of a personal illness or injury affecting the Employee;
  - (b) to provide care or support to a member of the Employee's Immediate Family or household who requires care or support because of:
    - (i) a personal illness or injury affecting the member; or
    - (ii) an unexpected emergency affecting the member; or
  - (c) at Freedom's absolute discretion, because of domestic violence or some other emergency.
- 24.5 A Casual Employee, or a Full Time Employee or a Part-Time Employee who has exhausted their paid personal/carer's leave entitlements, is entitled to up to two days' unpaid carer's leave on each occasion the Employee is required to provide care or support to a member of the Employee's Immediate Family or household who requires care or support because of:
  - (a) a personal illness or injury affecting the member; or

- (b) an unexpected emergency affecting the member.
- 24.6 An Employee is not entitled to paid personal/carer's leave during any period in respect of which they are receiving workers' compensation benefits.
- 24.7 If an Employee needs to take paid personal/carer's leave under clause 24.4 or unpaid carer's leave under clause 24.5, wherever practicable, the Employee must notify their store or location manager (or if the store or location manager is not available, another manager at the store or location) prior to the commencement of their shift of their inability to attend for work and, as far as possible, the reason for their inability to attend for work including the nature of any illness or injury affecting the Employee and the estimated duration of their absence. The Employee must personally notify the store or location manager unless it is not practicable for them to do so, and the store or location manager must be informed by telephone (SMS, etc. is not acceptable).
- 24.8 If an Employee takes paid personal/carer's leave under clause 24.4 or unpaid carer's leave under clause 24.5, the Employee must provide Freedom with a medical certificate or statutory declaration substantiating the need for the Employee to take the leave. However, an Employee may take two days of personal leave per calendar year without a medical certificate or statutory declaration.

## **25. Family or domestic violence leave**

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- 25.1 A Full Time Employee or Part-Time Employee experiencing family or domestic violence and who requires time off work to attend medical appointments, legal proceedings or other related activities is entitled to:
  - (a) three days' paid leave plus five days' unpaid leave during each year of continuous service which is in addition to the Employee's personal/carer's leave entitlement and does not cumulate from year to year; and
  - (b) use any accrued but untaken paid personal/carer's leave if they have exhausted the entitlement to leave under clause 25.1(a).
- 25.2 Casual Employees are entitled to five days' unpaid leave.
- 25.3 At Freedom's discretion, Freedom may grant an additional period of unpaid leave to a Casual Employee, or a Full Time Employee or Part-Time Employee who has exhausted their entitlement to the leave referred to in clause 25.1, who is experiencing family or domestic violence and who requires time off work to attend medical appointments, legal proceedings or other related activities.
- 25.4 For the purposes of this clause, an Employee is experiencing family or domestic violence if they are subject to violent, threatening or other abusive behaviour by a member of the Employee's Immediate Family or a person who is related to the Employee according to Aboriginal or Torres Strait Islander kinship rules.
- 25.5 An Employee taking leave because they are experiencing family or domestic violence must, wherever practicable, must notify their store or location manager (or if the store or location manager is not available, another manager at the store or location) prior to the commencement of their shift of their inability to attend for work and, as far as possible,

the reason for their inability to attend for work and the estimated duration of their absence. The Employee should personally notify the store or location manager unless it is not practicable for them to do so, and the store or location manager must be informed by telephone wherever practicable.

- 25.6 An Employee may be required to provide reasonable evidence to support their application to access leave because they are experiencing family or domestic violence, such as a medical certificate, a document issued by the police service or a court or a statutory declaration.
- 25.7 An Employee experiencing family or domestic violence may also be able to request a flexible working arrangement under the National Employment Standards.
- 25.8 Freedom will take steps to ensure information concerning any notice an Employee has given, or evidence an Employee has provided under this clause 25 is treated confidentially, as far as it is reasonably practicable to do so. Nothing in this clause 25 prevents Freedom 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.

## **26. Compassionate leave**

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- 26.1 An Employee is entitled to compassionate leave as set out in the National Employment Standards and as set out in this clause, on each occasion the Employee requires the leave:
- (a) for the purpose of spending time with a member of the Employee's Immediate Family or household who has contracted or developed personal illness or injury that poses a serious threat to his or her life; or
  - (b) after the death of a member of the Employee's Immediate Family or household.
- 26.2 An Employee is entitled:
- (a) if the Employee is a Casual Employee, to two days' unpaid leave;
  - (b) if the Employee is a Full Time Employee or a Part-Time Employee who takes the leave for the reasons set out in clause 26.1(a), to three days' paid leave; or
  - (c) if the Employee is a Full Time Employee or a Part-Time Employee who takes the leave for the reasons set out in clause 26.1(b), to:
    - (i) five days' paid leave if the leave is taken because of a spouse, parent or Child of the Employee; or
    - (ii) three days' paid leave if the leave is taken because of any other member of the Employee's Immediate Family or household.
- 26.3 An Employee is not entitled to leave under this clause if the Employee is absent from work on another form of approved leave.
- 26.4 If an Employee is distressed upon the death of a person who is not a member of the Employee's Immediate Family or household, the Employee may raise this with their store

or location manager who may, at the store or location manager's discretion, grant the Employee some other form of leave (such as annual leave or leave without pay).

## **27. Pre-natal leave**

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- 27.1 A Full Time Employee or a Part-Time Employee who is pregnant, or whose partner is pregnant, may, with Freedom's agreement, access up to eight hours' paid pre-natal leave for the purpose of attending medical appointments associated with the pregnancy.
- 27.2 A period of pre-natal leave will be paid at the Ordinary Hourly Rate and will not be deducted from an Employee's personal/carer's leave entitlements.
- 27.3 An Employee must provide at least seven days' notice, or less by Mutual Agreement, of their requirement to take a period of pre-natal leave.
- 27.4 An Employee taking pre-natal leave must arrange appointments as close as possible to the start or finish of their ordinary working hours on the day concerned.
- 27.5 Freedom may require that an Employee provide proof of the appointment satisfactory to Freedom before approving a request for pre-natal leave or authorising payment for a period of pre-natal leave.

## **28. Parental leave**

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- 28.1 An Employee is entitled to parental leave as set out in the National Employment Standards and as set out in this clause.
- 28.2 An Employee eligible to take parental leave under the National Employment Standards is entitled to take a period of up to 104 weeks' unpaid parental leave.
- 28.3 An Employee is generally not entitled to take a period of parental leave when the other parent of the Child is taking a period of parental leave. However, an Employee may take a period of parental leave, which comes out of the Employee's entitlement to parental leave under clause 28.2, when the other parent of the Child is taking a period of parental leave for:
  - (a) an unbroken period of not more than 39 weeks at the time of the birth or placement of the Child; or
  - (b) for up to eight weeks at any other time during the 104 weeks after the birth of the Child provided that any period of leave must be for a period not shorter than two weeks, and that the total leave taken by the Employee under this paragraph and paragraph 28.4(a) must not exceed 39 weeks.
- 28.4 By Mutual Agreement between an Employee and Freedom:
  - (a) an Employee who was employed as a Full Time Employee before a period of parental leave may return to work as a Part-Time Employee; and

- (b) an Employee who was employed as a Part-Time Employee before a period of parental leave may return to work on fewer hours than they were working prior to the period of parental leave.
  
- 28.5 While the *Paid Parental Leave Act 2010* (Cth) ("**PPL Act**") remains in operation with payments based on the national minimum wage, if an Employee who gives birth to a Child, or adopts a Child, is entitled to parental leave under the National Employment Standards, the Freedom will make a payment to the Employee for a period of six weeks of the difference between the payment the Employee receives each week under the PPL Act and the Ordinary Hourly Rate multiplied by the average number of ordinary hours worked by the Employee during the 12 months' continuous service before the Employee proceeded on parental leave. Freedom will pay the top up payment:
  - (a) for the first four weeks of the leave at the time it was taken; and
  - (b) for the remaining two weeks of the leave after the Employee returns to work from the parental leave.
  
- 28.6 The top-up payments referred to in clause 28.5(a) will be paid in conjunction with the payment from the government in an Employee's normal pay cycle and the top-up payments referred to in clause 28.5(a) will be paid at the end of the second full pay period to commence on or after the day the Employee returns to work. Freedom will also make superannuation contributions with respect to the top-up payments.
  
- 28.7 An Employee entitled to take parental leave under the National Employment Standards who takes a period of concurrent leave under the National Employment Standards will be entitled to one week's special paid parental leave. The payment to the Employee will be calculated by multiplying the Ordinary Hourly Rate by the average number of ordinary hours worked by the Employee during the 12 months' continuous service before the Employee proceeded on concurrent leave. However, if the Federal Government introduces a form of paid parental leave for an Employee taking a period of concurrent leave, an Employee will not be entitled to the payment under this clause.
  
- 28.8 An Employee on a period of parental leave may elect, and Freedom may agree, to the Employee performing work as a Casual Employee during the period of parental leave. Employees should be aware that performance of work whilst on government paid parental leave can impact such entitlements and Freedom is not responsible for any such impact. The Employee will:
  - (a) be paid the rate payable under this Agreement to a Casual Employee for all hours worked;
  - (b) not accrue leave, other than long service leave (for which a day of employment will be added to the Employee's period of continuous service for the purposes of long service leave) for any hours worked;
  - (c) not be entitled to payment for a public holiday on which the Employee does not work during the period of parental leave; and
  - (d) not be entitled to any extension to their period of parental leave as a result of the hours worked.

- 28.9 An Employee performing work during a period of parental leave does not otherwise affect the rights of Freedom or the Employee relating to the parental leave. However, an Employee should be aware that the performance of work during a period of parental leave may impact on the Employee's entitlements under the PPL Act and the Employee should make their own enquiries as to what impact the performance of work will have on the Employee's entitlements given their particular circumstances.

## **29. Long service leave**

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- 29.1 An Employee is entitled to long service leave in accordance with the relevant state or territory legislation.
- 29.2 An Employee entitled to long service leave may take double the period of leave at half pay.

## **30. Public holidays**

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- 30.1 A full time or part time employee is entitled, without loss of pay, to the following public holidays:
- (a) 1 January;
  - (b) Australia Day;
  - (c) Good Friday;
  - (d) Easter Saturday (except in Tasmania);
  - (e) Easter Monday;
  - (f) Anzac Day;
  - (g) Queen's Birthday (Birthday of Sovereign);
  - (h) Labour Day (Eight Hour Day);
  - (i) Christmas Day;
  - (j) Boxing Day (Proclamation Day); and
  - (k) any other day or part day declared or prescribed or proclaimed under a state or territory law to be observed generally within the State or Territory, or region or locality of the State or Territory, as a public holiday.
- 30.2 In addition, the following days are a public holiday for the purposes of this Agreement:
- (a) in the Australian Capital Territory, Family and Community Day;
  - (b) in New South Wales, the first Tuesday of November in any year, or on any other day agreed to by the Union;

- (c) in the Northern Territory, Picnic Day;
  - (d) in Queensland:
    - (i) Exhibition Day; or
    - (ii) the local show day if Exhibition Day is not proclaimed;
  - (e) in South Australia, the second Monday in March (Adelaide Cup), or Picnic Day in Port Pirie;
  - (f) in Tasmania, Show Day and:
    - (i) Hobart Regatta Day (south of Oatlands); or
    - (ii) Recreation Day (where Hobart Regatta Day is not observed);
  - (g) in Victoria, Melbourne Cup Day; and
  - (h) in Western Australia, Foundation Day.
- 30.3 Freedom and the Union may agree, a public holiday may be observed on an agreed date in a state or territory other than the dates set out in clause 30.1 or clause 30.2.
- 30.4 If the store or location at which an Employee works is not open on a public holiday, and a Full Time Employee or a Part-Time Employee would ordinarily have been rostered to work, the Full Time Employee or Part-Time Employee will be entitled to payment for the ordinary hours they would have worked on the day multiplied by the Ordinary Hourly Rate.
- 30.5 Where a store opens for trade on a public holiday, employees who would normally be rostered to work may elect to work the day or part day and will be paid the appropriate penalty rate for time so worked. Provided that where a full time or part time employee does not work they will be paid in accordance with subclause 30.4 above.
- 30.6 Where a public holiday (or part day) is substituted by the law of the Commonwealth Government or by a State or Territory from the actual day (or part day) to a substituted day (or part day) and a store opens for trade on the actual day, the following shall apply:
- (a) If an employee is ordinarily rostered to work on the actual day and the substituted day, the employee shall, elect which day is to be their public holiday and receive the standard public holiday benefits on that day. The other day shall then be a normal rostered day.
  - (b) If an employee is rostered to work on the actual day and not the substituted day, the employee shall receive the standard public holiday benefits on the actual day.
  - (c) If the employee is rostered to work on the substituted day and not the actual day, the employee shall receive the public holiday benefits on the substituted day.
- 30.7 A Full Time Employee whose non-working day falls on a public holiday will, by Mutual Agreement with Freedom, either:
- (a) be paid for a payment equal to 7.6 hours paid at the Ordinary Hourly Rate; or

- (b) be allowed a paid day of 7.6 ordinary hours off in lieu. Ordinarily, it is expected that the day off will be taken within 28 days of the public holiday or during the week before the public holiday.
- 30.8 A Part-Time Employee who works an average of five days each week will, if a public holiday falls on a day on which the Employee has worked in the preceding four weeks, by Mutual Agreement with Freedom, either:
- (a) be paid a payment equal for the average number of ordinary hours the Employee has worked on the day in the preceding four weeks paid at the Ordinary Hourly Rate; or
  - (b) be allowed a paid day of the average number of ordinary hours the Employee has worked on the day in the preceding four weeks off in lieu. Ordinarily, it is expected that the day off will be taken within 28 days of the public holiday or during the week before the public holiday.
- 30.9 If the Sunday before Easter Monday is not a public holiday at the store or location at which a Full Time Employee or a Part-Time Employee works:
- (a) the Employee may, at least four weeks prior to the Sunday request that the Employee be granted a period of annual leave, or leave without pay, on the Sunday. Subject to Freedom having sufficient Employees available to work on the Sunday, Freedom will not unreasonably refuse such a request;
  - (b) Freedom will seek volunteers to work at least 14 days before the Sunday and will advise Employees of any requirement to work at least seven days before the Sunday; and
  - (c) if the Employee would ordinarily be rostered to work on the Sunday, and the store or location which is not permitted to open such that the Employee does not work, the Employee will receive those payments they would have received if the Sunday was a public holiday they did not work.

## **31. Leave of absence**

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- 31.1 A Full Time Employee or a Part-Time Employee may, by Mutual Agreement with Freedom, take a period of up to three months authorised unpaid leave (or a longer period if Freedom and the Employee Mutually Agree). Without limiting the reasons for which an Employee may take unpaid leave, those reasons may include:
- (a) the Employee requiring time to attend exams while studying or to participate in annual school holidays;
  - (b) the Employee travelling overseas or interstate for an extended period;
  - (c) the Employee providing care or support to a member of the Employee's Immediate Family because of an illness or injury affecting the member;
  - (d) the Employee wishing to return to full time study; or
  - (e) Easter Sunday (where not a public holiday).

- 31.2 Freedom will endeavour to accommodate an Employee's request for unpaid leave. However, in considering a request, factors such as an Employee's performance and attendance record, as well as the operational requirements of the location or store, will be taken into account.
- 31.3 The duration of the unpaid leave will not count as a period of service for any purposes however, it will not break the continuity of an Employee's continuous service. An Employee will not be entitled to benefits associated with any public holiday falling during the period of leave.

## **32. Community service leave**

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- 32.1 An Employee is entitled to community service leave as set out in the National Employment Standards and as set out in this clause.
- 32.2 A Full Time Employee or a Part-Time Employee required to attend jury service will be reimbursed by Freedom an amount equal to the difference between the amount the Employee would have been paid (excluding penalties or loadings) if they were not attending jury service and the amount the Employee receives as payment for their attendance for such jury service.
- 32.3 An Employee required to attend for jury service must notify their store or location manager as soon as possible after being notified of the requirement to attend for jury service.
- 32.4 An Employee must provide Freedom with proof of attendance for jury service, which must evidence the duration of the attendance and the amounts received by the Employee for their attendance for jury service.
- 32.5 A Full Time Employee or a Part-Time Employee required to attend for jury service during a period of annual leave will, on providing Freedom with proof of attendance for jury service as set out in clause 32.4, have the period of annual leave converted to jury service leave as set out in clause 32.2.
- 32.6 While attending for jury service, an Employee will not be required to attend work until the completion of the jury service.
- 32.7 An Employee who attends for jury service and is rostered to work on a Saturday or Sunday of the week they attend for jury service will be given time off, without loss of pay, so that the combination of days worked and days attending for jury service does not exceed five in any week (unless the Employee is rostered to work four days in the other week of the two week cycle).
- 32.8 A Full Time Employee or a Part-Time Employee who volunteers for a recognised emergency management body (as defined in the Act), such as the State Emergency Service or Volunteer Fire Brigade, is entitled to the following period of paid emergency service leave if they are absent from work engaging in an emergency management activity (as defined in the Act):
- (a) if the Employee is a Full Time Employee, five day's paid emergency service leave each calendar year; or

- (b) if the Employee is a Part-Time Employee, the average number of ordinary hours the Employee has worked each week during the calendar year to be taken as paid emergency service leave in each calendar year.
- 32.9 Any dispute regarding whether a body is a recognised emergency management body, or whether an Employee is engaging in an emergency management activity, will be resolved in consultation with the Human Resources Manager.
- 32.10 To be entitled to paid emergency services leave, an Employee must:
  - (a) provide Freedom with proof of attendance engaging in the emergency management activity; and
  - (b) inform their store or location manager as early as is practicable, and no later than their rostered starting time on the day concerned, of their absence for that day, the expected duration of their absence and the nature of the emergency management activity the Employee will be undertaking.
- 32.11 If a Full Time Employee or a Part-Time Employee receives a payment from an external body for their participation in an emergency management activity (other than the reimbursement of expenses), instead of providing the Employee with paid emergency services leave, Freedom will pay the Employee the difference between the amount the Employee would have been paid (excluding penalties or loadings) had they not been participating in those activities, and the amount the Employee receives as payment from the external body.

### **33. Natural disaster leave**

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- 33.1 An Employee will be allowed to leave work where there is a natural disaster which:
  - (a) poses a genuine threat to the Employee's property or the Employee gaining access to their home; or
  - (b) creates a need for the Employee to provide care to a member of their Immediate Family or household.
- 33.2 If an Employee is unable to attend for work as rostered due to a natural disaster referred to in clause 33.1, Freedom will not unreasonably refuse a request by the Employee to not attend for work. If the Employee is a Full Time Employee or a Part-Time Employee, Freedom will do what it considers reasonable, in the circumstances, to assist the Employee to avoid any loss in their pay. Depending on the circumstances, an Employee may be granted up to two days' paid leave. If the Employee is still unable to report to work as a result of the natural disaster at the conclusion of the two days' paid leave, Freedom:
  - (a) will consider providing additional paid leave;
  - (b) will discuss with the Employee the taking of annual leave to cover the time off; or
  - (c) may Mutually Agree with the Employee, where possible, for make-up time to be worked.

### **34. Defence force leave**

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- 34.1 An Employee will be allowed unpaid leave or accrued annual leave or long service leave to attend any compulsory defence forces reserve training.
- 34.2 An Employee wishing to attend compulsory defence forces reserve training must:
- (a) apply for leave in writing at least one month before the period of training, and must notify Freedom of the start and finish dates for training; and
  - (b) provide Freedom with reasonable proof of the Employee's attendance by the relevant defence authority.

### **35. Blood donor leave**

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- 35.1 A Full time or Part-time Employee who may be absent from work, without loss of pay, for up to two ordinary working hours of four occasions each calendar year for the purpose of donating blood. The Employee must take the leave on a day suitable to the store or location manager and the leave must be taken as close as possible to the start or end of the ordinary working hours.
- 35.2 A Full Time Employee or Part-Time Employee must:
- (a) apply to take leave under clause 35.1 as early as practicable and must inform the store or location manager of the time and date they propose to take the leave; and
  - (b) provide Freedom with proof of their attendance, and the duration of their attendance, to donate blood.

## **Part 8 – Transfers, travelling and working away from usual place of work**

### **36. Reimbursement for travelling expenses and transport of employees**

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- 36.1 Where an Employee is required, at Freedom's initiative, to temporarily transfer to another store or location, the Employee will be entitled to:
- (a) reimbursement for any additional fare costs incurred for using public transport;
  - (b) payment for any additional use of their private motor vehicle at the rate per kilometre set out in the Award for an employee's use of their own motor vehicle; and
  - (c) payment for any additional time travelling to or from work, to be paid at the Ordinary Hourly Rate, except on Sundays and public holidays where the Employee will be paid 150% of the Ordinary Hourly Rate.
- 36.2 An Employee will not be entitled to the payments in clause 36.1 if the Employee is permanently transferred to the new store or location.

- 36.3 In lieu of the payments in clause 36.1, an Employee and Freedom may Mutually Agree on a fixed payment to be paid by Freedom however, the quantum of that payment must not be less than the payments the Employee would have been paid under clause 36.1.
- 36.4 If an Employee agrees to use their private vehicle on Freedom business, the Employee will be paid an allowance at the rate per kilometre set out in the Award for an employee's use of their own motor vehicle.
- 36.5 If an Employee works additional hours beyond their rostered shift and is unable to use their regular form of transport home, Freedom will arrange at its own cost, an alternative safe form of transport for the Employee.

## **Part 9 – Work health and safety matters, equipment and amenities**

### **37. Accident pay**

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- 37.1 This clause only applies to an Employee performing work in Victoria.
- 37.2 If following an injury, an Employee receives compensation under the applicable workers' compensation legislation, then Freedom will make a top-up payment to the Employee, for the first 39 weeks of the Employee's incapacity, equal to the difference between the compensation payment received by the Employee and the Ordinary Hourly Rate multiplied by:
- (a) in the case of a Full Time Employee, 38; or
  - (b) in the case of a Part-Time Employee or a Casual Employee, the average ordinary hours worked by the Employee each week in the 12 month period immediately before the Employee's injury.
- 37.3 The provisions of this clause will not apply in respect of any injury during the first seven consecutive days (including non-working days) of incapacity.
- 37.4 An Employee will not be entitled to accident pay during the first two weeks of employment unless the Employee's incapacity continues beyond the first two weeks of employment in which case, the maximum period prescribed in subclause 37.2 will apply only to the period of incapacity after the first two weeks of employment.

### **38. Dress and presentation standards**

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- 38.1 Freedom's image is an important responsibility borne by all Employees. When at work, Employees must be dressed in a neat, tidy and businesslike manner at all times.
- 38.2 An Employee must comply with Freedom's dress code.
- 38.3 An Employee will be provided with the following items of uniform by Freedom, which remain the property of Freedom:
- (a) for store and administration staff:

- (i) jumpers and / or vests;
  - (ii) shirts (long and / or short sleeve); and
  - (iii) aprons (if required); and
  - (iv) any protective clothing.
- (b) for store and administrative also working in the back dock:
- (i) sloppy joes;
  - (ii) polo shirts; and
  - (iii) safety boots.

38.4 Where an Employee is required to launder any special uniform, dress or other clothing, the Employee will be paid an allowance of \$6.25 per week if they are a full-time employee or \$1.25 per shift if they are a part-time or casual employee.

38.5 Freedom may change the items of uniform provided the total value of items provided to an Employee does not reduce.

38.6 Instead of providing an Employee with safety boots, an Employee may provide his or her own safety boots in which case Freedom will reimburse an Employee up to \$60 in each calendar year for purchasing the safety boots, subject to the Employee completing an expense claim form and providing a tax invoice. The amount of \$60 will be reviewed annually.

38.7 Items of uniform provided by Freedom must be maintained by Employees and Freedom must replace the items of uniform as they wear out.

38.8 An Employee is responsible for presenting in a professional manner including wearing black trousers or other type of trousers as required.

### **39. Protective clothing and equipment**

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39.1 Freedom will provide an Employee with suitable protective clothing and/or equipment to meet its obligation to provide a safe work environment.

39.2 If Freedom provides an Employee with protective clothing and/or equipment, the Employee must use such protective clothing and/or equipment at all times.

39.3 Items of protective clothing and/or equipment will remain the property of Freedom.

### **40. Damage to clothing, tools and other items**

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40.1 If in the course of work, an Employee's clothing, tools, spectacles, hearing aids or dentures are damaged or destroyed by fire, heat or corrosive substance, Freedom will provide the Employee with compensation for the costs of replacing such items.

- 40.2 Freedom is not required to provide an Employee with compensation under clause 40.1 if the Employee is entitled to compensation under any other legislation for the damage to the items.

## **41. Work health and safety**

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Freedom, Employees and the Union are committed to achieving and maintaining healthy and safe working conditions in all Freedom workplaces. Freedom will take prompt action to deal with any health and safety problems.

## **42. Facilities**

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- 42.1 Where practicable, Freedom will provide each Employee with a locker. If Freedom cannot practicably provide a locker, Freedom will provide a safe and secure place where an Employee can store their personal effects.
- 42.2 Freedom will provide Employees with access to:
- (a) a microwave oven, boiling water, tea, coffee and fresh milk; and
  - (b) in a free-standing store or locations and, where practicable, a non-free-standing store or location, an area containing adequate seating and tables for use during breaks.

## **43. Union and safety training leave**

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- 43.1 A recognised delegate will, subject to the balance of this clause, be entitled to paid leave to attend training conducted or approved by Trade Union Training Australia Inc. or the Union which is designed to promote good industrial relations and industrial efficiency in the retail industry.
- 43.2 A recognised delegate is not entitled to paid leave if, during the calendar year, five days' paid leave or more has been taken by employees at the store or location.
- 43.3 An Employee appointed and recognised by Freedom as a work health and safety representative will be given paid leave to attend training approved by the Union on work health and safety matters.
- 43.4 A work health and safety representative is not entitled to paid leave if, during the calendar year, five days' paid leave or more has been taken by employees at the store or location.
- 43.5 Notwithstanding any provision in clause 43, such as clauses 43.3, 43.4, 43.6, 43.7 and 43.10, Freedom will comply with all relevant work health and safety legislation in relation to the provision of paid work health and safety training.
- 43.6 Each year, the Union must notify Freedom in writing of the scheduled dates for training in each state and territory. These details must be provided to Freedom not less than one

calendar month before the date of the training, unless Freedom agrees to a shorter period.

- 43.7 An Employee wishing to take paid leave under this clause must apply to take the leave no less than four weeks before the date of the training and, where possible, a greater period of notice should be given. Freedom must not unreasonably refuse an application for leave, however it may reject an application for leave if:
- (a) less than four weeks' notice is given;
  - (b) Freedom will not be able to maintain normal operations at the store or location if the leave is granted; or
  - (c) the Employee has completed less than six months' continuous service (other than at a store or location which has been open for less than six months).
- 43.8 Paid leave granted under this clause will count as service for all purposes of the Agreement.
- 43.9 Any Employee taking leave under this clause will be paid for the hours the Employee ordinarily would have worked, including any penalties or loadings that would be payable under this Agreement if they had worked.
- 43.10 Freedom will not be required to pay any other costs associated with training under this clause.
- 43.11 An Employee taking leave under this clause must, if requested by Freedom:
- (a) provide proof of their attendance at the training and an outline of the course content;
  - (b) inform Freedom of the nature of the training and their observations on it; or
  - (c) both.

#### **44. Paid Union meetings**

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- 44.1 The Union may conduct one paid meeting of 15 minutes ordinary time duration at each store or location each year. A further paid meeting of 15 minutes' ordinary time duration may, at Freedom's discretion, be held. Freedom will not unreasonably refuse a request for a second meeting.
- 44.2 A meeting referred to in clause 44.1:
- (a) must not be held unless the store or location manager has been consulted about the time of the meeting at least seven days before the meeting unless the location manager agrees to a shorter period;
  - (b) must not interfere with the normal operations of the location;
  - (c) is non-cumulative, and is not transferable to another location; and

- (d) may be taken immediately before, or immediately after a meal break (but does not have to be).

## **45. Union delegate**

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- 45.1 An Employee appointed as a Union delegate at the store or location at which the Employee is employed will, on notification to Freedom, be recognised as the representative of the Union at the store or location. A recognised delegate will be allowed the necessary time during working hours to interview Freedom's representative on matters affecting an Employee or Employees whom he or she represents.
- 45.2 A recognised delegate may discuss work-related matters of concern with an Employee, or convey information relating to the workplace to Employees, provided the delegate does not unduly interfere with the work in progress.
- 45.3 A recognised delegate will, with the prior approval of Freedom, be allowed a reasonable period of time, which ordinarily would be no longer than 30 minutes, during working hours to meet with an authorised official of the Union to discuss legitimate Union business. Freedom will not unreasonably withhold its approval.
- 45.4 A recognised delegate will be provided with reasonable access to a telephone to contact the Union office or to progress enquires on behalf of an Employee who is a member of the Union on work-related matters.
- 45.5 Freedom will not dismiss or injure an Employee, or alter the Employee's position to their prejudice, because the Employee is a delegate.
- 45.6 Freedom will provide a notice board (of reasonable dimensions) or section of a notice board, on which an official of the Union or a recognised delegate may place a notice referred provided the notice is authorised by the Branch Secretary of the Union.
- 45.7 A recognised delegate must, at all times, comply with the dispute resolution procedure set out in clause 8.

## **46. Union recognition and Union membership**

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- 46.1 Subject to the Freedom of Association provisions of the Act, Freedom will positively promote membership of the Union at the point of orientation or recruitment by strongly recommending that all Employees join the Union.
- 46.2 Freedom will comply with a direction by an Employee to deduct Union membership dues, as levied by the Union in accordance with its rules, from the Employee's wages. Any membership dues deducted must be forwarded to the Union no later than 7 days after the end of the month they are collected, along with a statement detailing quantum of the membership dues deducted from each Employee.

## Part 10 – Agreement compliance

### 47. Individual flexibility arrangement

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- 47.1 Freedom and an Employee may agree to make an individual flexibility arrangement to vary the effect of the terms of this Agreement.
- 47.2 An individual flexibility arrangement:
- (a) may deal with the arrangements for when work is performed under this Agreement;
  - (b) must be in writing and state the name of the Employee and Freedom, the date on which the arrangement will start and how the arrangement may be terminated, and must provide details of:
    - (i) the terms of this Agreement that will be varied by the arrangement;
    - (ii) how the arrangement will vary the effect of those terms; and
    - (iii) how the Employee will be better off overall as a result of the arrangement;
  - (c) must be signed by Freedom and the Employee and, if the Employee is under 18 years of age, by the Employee's parent or guardian;
  - (d) must be about permitted matters under section 172 of the Act;
  - (e) must not include any unlawful terms under section 194 of the Act;
  - (f) must be genuinely agreed between the Employee and Freedom;
  - (g) must result in the Employee being better off overall than they would have been if they had not agreed to the arrangement; and
  - (h) may be terminated by Freedom and the Employee:
    - (i) giving 28 days' written notice to the other; or
    - (ii) at any time by Mutual Agreement.
- 47.3 Freedom must provide an Employee with a copy of an individual flexibility arrangement within 14 days after it is agreed to.

### 48. Posting of Agreement

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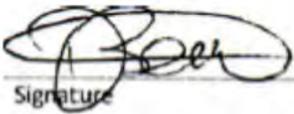
A copy of this Agreement will be posted and maintained at each store or location in a place accessible to all Employees. The NES will be made available electronically.

## Signatories

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Signed for and on behalf of **Freedom** by:

DENNIS BASTAS  
Name of signatory  
(BLOCK LETTERS)

  
Signature

Level 4, 1 Epping Road North Ryde  
Address of signatory NSW, 2113  
(BLOCK LETTERS)

HR OPERATIONS MANAGER  
Authority to sign  
(BLOCK LETTERS)

Signed for and on behalf of the **Employees** by:

JULIA FOX  
Name of signatory  
(BLOCK LETTERS)

  
Signature

Level 6, 53 Queen Street Melbourne  
Address of signatory Vic, 3000  
(BLOCK LETTERS)

NATIONAL ASSISTANT SECRETARY  
Authority to sign  
(BLOCK LETTERS)

## Schedule

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To whom it may concern,

### Agreement to shorten notice

I confirm that on *[insert date]* I provided notice of termination of employment to my employer Freedom.

I am aware that I am required to provide *[insert number of weeks]* notice under subclause 10.5 of the *Freedom Retail Enterprise Agreement 2020* (the **Agreement**).

In accordance with subclause 10.7 of the Agreement, I confirm that I have freely agreed to reduce the period of notice required under the Agreement. This agreement has been reached without any coercion or duress.

By agreement with Freedom I will cease employment with Freedom on *[insert date]*.

I am aware and have agreed that as a result of this written agreement, Freedom is not required to make payment in lieu of notice for the balance of my notice period not worked due to the earlier date of cessation of employment.

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Signature

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Date

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Print name (BLOCK LETTERS)

## IN THE FAIR WORK COMMISSION

**FWC Matter No.: AG2020/862**

Section 185 – Application for approval of a single enterprise agreement

### **Undertaking**

Steinhoff Asia Pacific Pty Limited trading as Freedom (**Freedom**) gives the following undertaking in relation to the Freedom Retail Enterprise Agreement 2020 (**Agreement**) under section 190 of the *Fair Work Act 2009* (Cth) (**Act**):

1. Freedom undertakes that for the purposes of clause 22.2 of the Agreement any superannuation fund nominated by Freedom will, in accordance with section 194 of the Act, satisfy one of the following:
  - a. a fund that offers a MySuper product;
  - b. a fund of scheme of which the relevant employee, and each other default fund employee in relation to whom contributions are made to the fund or scheme by the same employer as the relevant employee, is a defined benefit member; or
  - c. it is an exempt public sector superannuation scheme.
2. Freedom undertakes that where it transfers an employee from one township to another, Freedom will be responsible for and will pay the whole of the moving expenses, including fares and transport charges, for the employee and the employee's family.
3. This undertaking will come into effect on the date that the Agreement commences to operate under section 54(1)(b) of the *Fair Work Act 2009* (Cth).

**Signed for and on behalf of**

**Date:**

**Steinhoff Asia Pacific Pty Limited:**



28 April 2020

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Caterina Kidd

In her capacity as General Manager People and Culture

Steinhoff Asia Pacific Pty Limited, Level 4/1 Epping Road, North Ryde, NSW