



# DECISION

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

**H & M Hennes & Mauritz Pty Ltd t/a H & M**  
(AG2019/4453)

## **H & M ENTERPRISE AGREEMENT 2019**

Retail industry

DEPUTY PRESIDENT MANSINI

MELBOURNE, 23 DECEMBER 2019

*Application for approval of the H & M Enterprise Agreement 2019.*

[1] H & M has applied for approval of a single enterprise agreement known as the *H & M Enterprise Agreement 2019* (the Agreement) pursuant to s.185 of the *Fair Work Act 2009* (Cth) (the Act).

[2] Since the application was made, the Commission raised concerns about whether: the pre-approval requirements were met; the Agreement contravenes s.55 of the Act and passes the “better off overall” test. Further information was provided in relation to these concerns.

[3] Written undertakings were given in accordance with s.190 of the Act and are attached at Annexure A (Undertakings). The bargaining representatives either supported or did not oppose the Undertakings. 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. Pursuant to s.201(3) of the Act, the Undertakings are taken to be terms of the Agreement.

[4] Noting clause 4.2 of the Agreement, I am satisfied that the more beneficial entitlements of the National Employment Standards in the Act (NES) will prevail where there is an inconsistency between the Agreement and the NES.

[5] On the basis of the material contained in the application, further information provided on request of the Commission and 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.

[6] The Shop, Distributive and Allied Employees’ Association, being a bargaining representative for the Agreement, has given notice under s.183 of the Act. In accordance with s.201(2) I note that the Agreement covers this organisation.

[7] The Agreement was approved on 23 December 2019 and, in accordance with s.54, will operate from 30 December 2019. The nominal expiry date of the Agreement is 23 December 2022.



DEPUTY PRESIDENT

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Annexure A

## Undertaking- section 190

I, Javena Johnson, Employee Relations & Benefits Responsible of H & M Hennes & Mauritz Pty Ltd, give the following undertakings with respect to the *H & M Enterprise Agreement 2019* ("the Agreement"):

1. Clause 15.2 of the Agreement will be read and interpreted as follows:

15.2 *Where an employee who has entered into an agreement with H&M under clause 15.1 recommences work without having had 10 hours off work then the employee will be paid the applicable rate outlined in section 18.1 until such time as they are released from duty for a period of 10 consecutive hours off work without loss of pay for ordinary time hours occurring during the period of such absence.*

2. A new clause 15.3 will be added to the Agreement as follows:

15.3 *Where an employee who has not entered into an agreement with H&M under clause 15.1 recommences work without having had 12 hours off work then the employee will be paid the applicable rate outlined in section 18.1 until such time as they are released from duty for a period of 12 consecutive hours off work without loss of pay for ordinary time hours occurring during the period of such absence.*

3. Clause 19.3 will be read and interpreted as follows:

19.3 *TOIL accrues at the equivalent rate, such that the period of time off the employee is entitled to take is equivalent to the overtime payment that would have been made: that is, where one hour of 150% overtime is worked, the employee will accrue 1.5 hours of TOIL.*

4. A new clause 19.7 will be added to the Agreement as follows:

19.7 *Any unused TOIL will be paid out on the termination of employment, at the applicable overtime rate of pay at which it was accrued.*

I have the authority given to me by H & M Hennes & Mauritz Pty Ltd to provide this undertaking in relation to application for approval for the Agreement before the Fair Work Commission.

Employer name: H & M Hennes & Mauritz Pty Ltd

Authority to sign: Employee Relations & Benefits Responsible

Signature:



Date: 13 December 2019

**Note - this Agreement is to be read together with undertakings given by the employer. The undertakings are taken to be terms of the agreement. A copy of the undertakings can be found at the end of the agreement.**

**H & M  
Enterprise Agreement 2019**

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## **PART A – APPLICATION AND OPERATION OF AGREEMENT**

### **1. Introduction**

- 1.1 H & M is a retail sales company with a goal of excellence in customer service through passion, pride, honesty and respect. We are a customer focused company and expect that our employees will recognise this in their performance of work with us.
- 1.2 Our business vision "To be the most loved design group in the world" is as clear as our values, which are based on a fundamental respect for each individual and include a firm belief in our people.
- 1.3 In this context it is vital that no matter what our role is at H&M, we always live according to our values and guidelines and that we are all good H&M role models in everything we do.
- 1.4 This document sets out the terms and conditions of employment of retail employees at H & M.

### **2. What is this Agreement called?**

- 2.1 This Agreement shall be known as the H & M Enterprise Agreement 2019 ("Agreement").

### **3. Incidence and Operation**

- 3.1 This Agreement shall be binding on:
  - (a) H & M Hennes & Mauritz Pty Ltd (ABN 83 160 056 548) of Level 4, 414 Kent Street Sydney NSW 2000 ("**us, we, our, H&M**"); and
  - (b) all Retail Employees employed by H&M who perform work in the classifications set out in this Agreement in all states and territories of Australia ("**you, your, Employees**").

### **4. Relationships to Awards, Agreements and the NES**

- 4.1 This Agreement operates to the exclusion of all other certified agreements and awards, whether state or federal.
- 4.2 The Agreement will be read and interpreted in conjunction with the National Employment Standards (NES). Where there is an inconsistency between this Agreement and the NES and the NES provides a greater benefit to the employee, the NES will apply to the extent of the inconsistency but will not provide an employee with a double benefit.

### **5. Posting of the Agreement**

- 5.1 A copy of this Agreement will be kept at the workplace and be readily accessible to all employees covered by the Agreement.

### **6. Period of Operation**

- 6.1 The Agreement will operate from 7 days after the Agreement is approved by the Fair Work Commission and has a nominal expiry date which is 3 years from the date of approval.

### **7. Objectives of the Agreement**

- 7.1 H&M and its Employees are committed to fostering productive working relations and to maintaining H&M's Vision and Values as below;
  - (i) We are One Team

- (ii) We Believe in People
- (iii) Constant Improvement
- (iv) Cost Conscious
- (v) Entrepreneurial Spirit
- (vi) Straightforward and Open Minded

7.2 H&M recognises the importance of achieving a healthy and safe working environment and of protecting the health, safety and welfare of Employees.

## 8. Diversity, Inclusiveness and Equality

- 8.1 At H&M we believe that diversity is an important contributor to our success and long-term competitiveness. Diversity in our teams, can contribute to innovation and creativity, and increase our ability to cope with change. By better reflecting the diversity of our customer it is easier to meet their needs. We are committed to actively working for, and maintaining, an inclusive workplace where respect for human rights has the highest priority, and there is zero tolerance for discrimination.
- 8.2 Diversity refers to a variety of differences, which include not only traditional categories such as gender, ethnicity, colour, religion, national extraction, or age, but also where we come from, our experiences and perspectives.
- 8.3 At H&M, fairness and equality are integrated into all business processes including, but not limited to, hiring, promotion, development, remuneration and termination.
- 8.4 At H&M all appointments will be based on equal opportunities, proven competence and capacity to perform the work.
- 8.5 All managers at H&M work actively to ensure diverse teams, which includes a balanced gender **composition**.

## **PART B – WORKING AT H&M**

### **9. Place of Work**

- 9.1 You will be notified of your primary place of work upon the commencement of your employment, however, you may be required to work at other locations within your respective State, as reasonably directed by us.
- 9.2 If you work in other locations, you will be reimbursed for reasonable travelling expenses.
- 9.3 Where H&M requests an employee to use their own motor vehicle in the performance of their duties, such employee will be paid an allowance of \$0.78 per kilometre.

### **10. Types of Employment**

- 10.1 You may be employed under this Agreement in any one of the categories outlined below:
- (i) Full-Time;
  - (ii) Part-Time;
  - (iii) Casual; or
  - (iv) Limited Tenure

#### **Full-Time**

- 10.2 Full-time employees will be engaged to work a maximum of 38 ordinary hours per week over an averaging period of a four week roster cycle.

#### **Part-Time**

- 10.3 Part-time employees will be engaged to work for a specified number of hours per week, which are less than 38 ordinary hours but a minimum of 12 hours per week averaged over a maximum four week period.
- 10.4 At the time you are employed with us we will agree with you on a pattern of work which takes into account your availability.
- 10.5 The agreement will include the following:
- (i) Number of ordinary hours to be worked each week ('core hours');
  - (ii) The days of the week that the work is to be performed; and
  - (iii) The starting and finishing times of work for each day of the week on which work is to be performed.
- 10.6 Subject to clause 10.22, any change to the number of core hours to be worked will only be made by written agreement with you.
- 10.7 A part-time employee's roster, but not the agreed number of core hours, may be altered by the giving of notice in accordance with clause 14.7 or in the case of an emergency, 48 hours, by H&M to the employee. A roster will also be altered at any time by mutual agreement.
- 10.8 Where your availability changes we will endeavour to roster your core hours to reflect the change to your availability, however we cannot guarantee you will be able to retain the same number of core hours.
- 10.9 You will accrue entitlements on a pro-rata basis.

10.10 You will be rostered for a minimum of three (3) consecutive hours on any shift.

### **Limited Tenure**

10.11 A limited tenure refers to an employee engaged on a full-time or part-time basis for a specific task or tasks and/or for a specific period of time on either a fixed term or maximum term basis.

10.12 A maximum term engagement may apply only to a person replacing an employee on parental leave.

10.13 H&M will explain to an employee on a maximum term contract the rights relating to replacement employees as per section 84A of the Fair Work Act 2009 (Cth).

10.14 the contract for a maximum term engagement will:

- (i) state that the purpose is for parental leave replacement;
- (ii) provide details of the expected length of the tenure based on the parental leave period approved;
- (iii) state that if the employee on parental leave is returning early, the contract can be ended early by H&M providing at least 4 weeks' notice to the maximum term employee.

10.15 The minimum duration of a limited tenure is 1 month. However, if the sole purpose of the limited tenure is to replace an employee on annual leave or extended personal leave the minimum duration is 2 weeks.

10.16 The maximum duration of a limited tenure is 12 months. However, this maximum shall not apply if the sole purpose of the limited tenure is to replace an employee on parental leave.

10.17 Limited tenure employment shall be voluntary for existing employees. Periods of limited tenure must not run consecutively, and a limited tenure may be extended by agreement with the employee.

10.18 Prior to the start of a limited tenure, the employee will be advised in writing:

- (i) of the nature of the work;
- (ii) the hours to be worked;
- (iii) the Base Rate of Pay; and
- (iv) the intended start and finish dates of their limited tenure employment.

10.19 At the end of the limited tenure period, an existing employee (unless otherwise agreed) will revert to a position which is no less advantageous to the employee than that which existed immediately prior to the limited tenure commencing.

10.20 To avoid any confusion, where an existing employee is:

- (i) offered and accepts a limited tenure role, and the role they held immediately prior to the limited tenure role (which they intended to revert back to) is made redundant; or
- (ii) offered and accepts a limited tenure role (with the intention to revert back to their role they held immediately prior to the limited tenure role at the conclusion of the limited tenure) and their employment is terminated while performing the limited tenure role; or
- (iii) offered and accepts a limited tenure role and at the end of the limited tenure reverts to the role they held immediately prior to the limited tenure role;

then such an employee is not 'engaged under a contract of employment for a specified period of time' as referred to in s.386(2) of the Act but is a continuing employee.

- 10.21 An existing employee who is offered and accepts a limited tenure role on the proviso they will return to their existing role at the end of the limited tenure will not be offered terms and conditions of employment for the limited tenure that are less beneficial than the employee's existing role.

### **Part time 'Flexible' Hours**

- 10.22 For the purpose of covering additional labour requirements in peak trading periods and planned and unplanned absences, part-time employees may agree to work hours in addition to their core hours specified in clauses 10.3 to 10.5 of this Agreement ('flexible' hours) where the total of the core hours and these additional flexible hours are less than 38 ordinary hours per week.
- 10.23 Where additional hours of work are available, H&M will give preference to part-time employees who have agreed to work flexible hours, over casual employees.
- 10.24 Employees shall notify H&M in writing using the Availability Form of their agreement to work flexible hours beyond their core hours, and the days and times they are available to work. Employees shall notify H&M of any changes to the times or days they are available to work flexible hours, at least 2 weeks in advance.
- 10.25 A part-time employee who has agreed to work flexible hours may withdraw such agreement with 7 days' written notice to H&M.
- 10.26 Rosters allocating flexible hours to a part-time employee shall be posted with as much notice as possible, and employees will be notified by H&M of the flexible hours being added. H&M will roster flexible hours in accordance with clause 10.10 of this Agreement and the individual part-time employee's nominated availability under clause 10.24.
- 10.27 Part-time employees shall notify H&M if they are unable to work the rostered flexible hours as soon as possible.
- 10.28 Flexible hours shall be paid at ordinary rates (including any applicable penalties other than overtime) and will be considered ordinary time for the purpose of superannuation and leave entitlements.
- 10.29 Nothing in this clause requires a part-time employee to agree to an arrangement to work flexible hours. Where a part-time employee who has not agreed to work flexible hours is required to work in excess of their core hours, overtime rates will apply in accordance with clause 16.
- 10.30 Where a part-time employee has over a period of at least 12 months consistently, worked a number of additional flexible hours, the employee may request in writing to increase their core contract hours to the next appropriate contract type. If H & M agrees to the request, the new agreement will be recorded in writing. H & M may refuse the request upon reasonable business grounds in writing.

### **Casual**

- 10.31 If you are employed as a casual employee, you will be engaged on an hourly basis based upon a roster system with each engagement period standing alone. As a casual employee, you have no guarantee under this Agreement that you will be offered any pattern or number of casual shifts, or that you will be offered any shifts at all.
- 10.32 As a casual employee, you will be paid a 25% casual loading in lieu of entitlements accessible by full-time and part-time employees, including but not limited to notice of termination, paid leave entitlements (other than long service leave) and redundancy pay.

- 10.33 As a casual employee you will be paid for a minimum of three (3) consecutive hours on any shift. We reserve the right to shorten the length of any shift, including after commencement of a shift if mutually agreed, owing to the needs of the business provided that you will still be entitled to a minimum payment of three hours. Where we cancel a shift with less than three (3) hours' notice, you will be entitled to a minimum payment of three hours.
- 10.34 The maximum number of ordinary hours for a casual employee will be 38 hours per week or 76 hours per fortnight.

### **Right to Request Casual Conversion**

- 10.35 A regular casual employee may request that their employment be converted to full-time or part-time employment.
- 10.36 A regular casual employee is a casual employee who has in the preceding period of 6 months worked a pattern of hours on an ongoing basis which, without significant adjustment, the employee could continue to perform as a full-time employee or part-time employee under the provisions of this Agreement.
- 10.37 A regular casual employee who has worked equivalent full-time hours over the preceding period of 6 months' casual employment may request to have their employment converted to full-time employment.
- 10.38 A regular casual employee who has worked less than equivalent full-time hours over the preceding period of 6 months' casual employment may request to have their employment converted to part-time employment consistent with the pattern of hours previously worked.
- 10.39 Any request under this subclause must be provided to H&M in writing using the Casual Conversion Form available.
- 10.40 Where a regular casual employee seeks to convert to full-time or part-time employment, H&M may agree to or refuse the request, but the request may only be refused on reasonable grounds and after there has been consultation with the employee.
- 10.41 Reasonable grounds for refusal include that:
- (i) 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 in accordance with the provisions of this agreement – that is, the casual employee is not truly a regular casual employee as defined in paragraph 10.36;
  - (ii) it is known or reasonably foreseeable that the regular casual employee's position will cease to exist within the next 12 months;
  - (iii) 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
  - (iv) 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 next 12 months which cannot be accommodated within the days and/or hours during which the employee is available to work.
- 10.42 For any ground of refusal to be reasonable, it must be based on facts which are known or reasonably foreseeable.

- 10.43 Where H&M refuses a regular casual employee's request to convert, it must provide the casual employee with the reasons for refusal in writing within 21 days of the request being made. If the employee does not accept the employer's refusal, this will constitute a dispute that will be dealt with under the issue resolution procedure in Part E, Clause 46.
- 10.44 Where it is agreed that a casual employee will have their employment converted to full-time or part-time employment as provided for in this clause, H&M and the employee must discuss and record in writing:
- (i) The form of employment to which the employee will convert – that is, full-time or part-time employment;
  - (ii) If it is agreed that the employee will become a part-time employee, the matters referred to in clause 10.6; and
  - (iii) if it is agreed that the employee will become a part-time employee, the conversion will take effect from the start of the next pay cycle following such agreement being reached unless otherwise agreed.
- 10.45 Once a casual employee has converted to full-time or part-time employment, the employee may only revert to casual employment with the written agreement of H&M.
- 10.46 A casual employee must not be engaged and re-engaged (which includes a refusal to re-engage), or have their hours reduced or varied, in order to avoid any right or obligation under this clause.
- 10.47 Nothing in this clause obliges a regular casual employee to convert to full-time or part-time employment, nor permits H&M to require a regular casual employee to so convert.
- 10.48 Nothing in this clause requires H&M to increase the hours of a regular casual employee seeking conversion to full-time or part-time employment.
- 10.49 H&M will provide a casual employee, whether a regular casual employee or not, with a copy of the provisions of this subclause within the first 12 months of the employee's first engagement to perform work.
- 10.50 A casual employee's right to request to convert is not affected if H&M fails to comply with the notice requirements in 10.49.

### **Salaried and Non-salaried Employees**

- 10.51 As a permanent employee, you may be engaged on one of the following bases:
- (i) Salaried; or
  - (ii) Non-salaried.
- 10.52 Salaried employees are those who are paid a fixed annual salary either on a full-time basis or pro-rata part-time basis.
- 10.53 Salaried employees are not paid any additional loadings, allowances or penalty rates as these entitlements have been factored into their annual salary. The annualised salary and benefits paid to each salaried employee will be more than the amount the salaried employee would have received if wages, allowances and penalty rates under the General Retail Industry Award had been paid separately.
- 10.54 Non-salaried employees are employees paid at an hourly rate as determined by clause 18.1(a) in this agreement.

## **11. Probationary Period**

- 11.1 All new permanent non-salaried employees will be subject to a three (3) month probationary period. New salaried employees will be subject to a six (6) month probationary period.
- 11.2 The purpose of the probationary period is for you to find out whether you wish to pursue continued employment with us, and for us to find out whether you have the necessary qualities and capabilities, to adequately perform the inherent requirements of the role as required by us.
- 11.3 Your employment during the probationary period may be terminated by either party giving the other party one week's notice, or in our case payment in lieu of notice.
- 11.4 This probationary period does not affect in any way the "minimum engagement period" under the Act.

## **12. Classification Structure and Duties**

- 12.1 You will be graded in the appropriate classification set out in Schedule 1 and notified of this classification and associated responsibilities upon the commencement of your employment and upon any change to your classification. Your classification will not be changed without prior consultation between you and H&M.
- 12.2 The duties listed in the classification levels are indicative only and are by no means intended to be a finite list of skill requirements. Each classification represents the ability, skill and experience to perform each of the tasks and you will be required to perform any other task or duty across the business within your skill and competence.

## **13. Hours of Work**

- 13.1 All employees' ordinary hours may be worked between:
  - (i) Monday to Friday: 6.00am – 11.00pm;
  - (ii) Saturday 7.00am – 11.00pm
  - (iii) Sunday: 9.00am – 11.00pm.
- 13.2 You may be required to work on a maximum of 20 days in a four-week period.
- 13.3 You will be required to work no more than a maximum of 6 days a week and if this occurs, the following week you will be required to work no more than 4 days. There will be at least one day off between the ending of one week's roster and the beginning of the next week's roster.
- 13.4 An employee who regularly works Sundays will be rostered so as to have three consecutive days off each four weeks and the consecutive days off will include Saturday and Sunday. This requirement will not apply where the employee requests in writing and the employer agrees to other arrangements which are to be recorded in the time and wages records. It cannot be made a condition of employment that an employee make such a request. An employee can terminate the agreement by giving four weeks' notice to the employer.
- 13.5 Ordinary hours will be worked so as to provide an employee with two consecutive days off each week or three consecutive days off in a two-week period. This requirement will not apply where the employee requests in writing and the employer agrees to other arrangements, which are to be recorded in the time and wages records. It cannot be made a condition of employment that an employee make such a request. An employee can terminate the agreement by giving four weeks' notice to the employer.
- 13.6 Where you work outside of the ordinary hours specified in clause 13.1, you will be paid the applicable overtime rates specified in clauses 16.4 or 18.1.

## 14. Rosters & Availability

- 14.1 Employees will be rostered to work no more than 9 ordinary hours per day except for one day per week where up to 11 ordinary hours may be worked.
- 14.2 Your roster will be prepared based on your availability for work (which you are required to inform us of on commencement of employment) and the needs of the business. If your availability changes you are required to notify us of this (preferably at least 2 weeks in advance), and to update your availability, as soon as practicable after you become aware of the change. Employees who are undertaking tertiary education are required to notify us of any change in their timetable which will impact on their availability at least 4 weeks prior to the timetable change commencing.
- 14.3 Part time Sales Advisors (employees working less than 38 hours per week) will not be rostered to work more than 7 hours on a Saturday.
- 14.4 Part time Sales Advisors working 20 hours or less per week will not commence work before 7am on a weekday, if they are to be rostered to work a shift on a Saturday.
- 14.5 Permanent employees will have a set roster or rotational pattern in their roster.
- 14.6 Rosters for all employees will be posted 4 weeks in advance in the back of house. These rosters will be set in accordance to the mutually agreed availability for the employee. Once the roster is posted this can only be changed by mutual agreement.
- 14.7 If an employee's set roster or rotation needs to be changed then the employee will receive at least 4 weeks' notice from H&M. If an employee disagrees with the roster change then discussions will occur to resolve the matter. Status quo of the roster remains until the matter is resolved.
- 14.8 When rostering employees H&M will take into consideration employees' personal commitments.
- 14.9 Employees are to check their shifts when a new roster is posted.
- 14.10 When establishing or changing rosters, H&M will have regard to the employee's family responsibilities (including those employees returning from parental leave), whether or not the employee can reasonably obtain safe transport home and study commitments.
- 14.11 You are expected to arrive at work with sufficient time to ensure that you are ready willing and able to commence work at your nominated start time and work through until your nominated finish time.

## 15. Breaks between work periods

- 15.1 All employees will be granted a 10-hour rest period if mutually agreed, between the completion of work on one day and the commencement of work on the next day. If not mutually agreed, then the minimum break will be 12 hours. Work includes any reasonable additional hours or overtime.
- 15.2 Where an employee recommences work without having had 10 hours off work then the employee will be paid the applicable rate outlined in section 18.1 until such time as they are released from duty for a period of 10 consecutive hours off work without loss of pay for ordinary time hours occurring during the period of such absence.

## 16. Overtime

- 16.1 An employee can refuse to work overtime where working overtime would be unreasonable having regard to:
  - (i) the employee's health and safety;

- (ii) the employee's personal circumstances including any family responsibilities;
- (iii) the needs of the workplace;
- (iv) the amount of notice given by H&M in relation to working overtime and the amount of notice given by the employee of their intention to refuse overtime; or
- (v) any other relevant matter.

**Overtime Meal Allowance**

- 16.2 An employee who is required to work more than one hour of overtime after their ordinary finish time, without being given 24 hours' notice, will be provided with a meal or paid a meal allowance of \$18.87.
- 16.3 If the overtime worked exceeds 4 hours, a further meal allowance of \$17.10 will be paid.
- 16.4 The meal allowances will increase on the first full pay period on or after 1 July each year equivalent to the rates prescribed in the General Retail Industry Award.

**Permanent Employees**

- 16.5 Where a full-time employee is required to work in excess of their ordinary hours specified in clauses 10.2 or their daily hours in 14.1, or outside the rostering conditions, they will be paid at overtime rates in accordance with the below.
- 16.6 Subject to clauses 10.22 to 10.29 of this Agreement, where a part-time employee is required to work in excess of their number of core hours specified in clauses 10.3 to 10.5, or their ordinary daily hours in 14.1, or outside the rostering conditions, they will be paid at overtime rates in accordance with the table below.

Day	First 3 hours of overtime worked above/in addition to ordinary hours <b>OR</b> outside the spread of ordinary hours/ rostering conditions  % of ordinary rate	Subsequent hours of overtime worked above/ in addition to ordinary hours <b>OR</b> outside the spread of ordinary hours /rostering conditions  % of ordinary rate
Monday to Friday inclusive	150%	200%
Saturday	(See table 18.1a)	200%
Sunday	(see table 18.1a)	(see table 18.1a)
Public Holidays	250%	250%

**Casual Employees**

- 16.7 Where a casual employee is required to work in excess of their ordinary hours specified in clauses 10.34 or 14.1, or outside the rostering conditions, they will be paid at overtime rates in accordance with the table below;

<b>Casual employees (includes Casual Loading)</b>		
<b>Day</b>	<b>First 3 hours of overtime (or work outside the spread of ordinary hours or rostering conditions) % of ordinary rate</b>	<b>Subsequent hours of overtime (or work outside the spread of ordinary hours or rostering conditions) % of ordinary rate</b>
Monday to Saturday inclusive	175%	225%
Sunday	225%	225%
Public Holidays	275%	275%

16.8 Overtime is calculated on a daily basis.

## 17. Meal and Rest Breaks

17.1 On each day you work you will be entitled to meal and rest breaks in accordance with the following table:

	<b>Rest Break (Paid)</b>	<b>Meal Break (Unpaid)</b>
On each day you work less than four hours.	No break	No break
On each day you work 4 hours or more but no more than 5 hours	20 minutes	None
On each day you work more than 5 hours and up to 6 hours	20 minutes	30 minutes
On each day you work more than 6 hours but less than 10 hours	20 minutes	60 minutes
On each day you work 10 or more hours	20 minutes x Two (2)	Two (2) meal breaks each of at least 30 minutes but not more than 60 minutes

17.2 Meal and rest breaks will be taken at times determined by us in accordance with operational needs.

17.3 The timing of the taking of a rest break or meal break is intended to provide a meaningful break for you during work hours.

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

17.5 You cannot work more than 5 hours without a meal break.

17.6 The time of taking rest and meal breaks and the duration of meal breaks form part of the roster and are subject to the roster provisions of this Agreement.

## PART C - WHAT H & M WILL PROVIDE YOU

### 18. Remuneration

18.1 The following hourly rates of pay will be paid to you upon the commencement of this Agreement:

MON - FRI ordinary hours 7am – 6pm	MON- FRI Early morning and evening rate 6am - 7am, 6pm – 11pm	SATURDAY ordinary hours	SATURDAY overtime	SUNDAY ordinary hours	SUNDAY overtime	PUBLIC HOLIDAY ordinary hours	Less than 10 hour break (clause 15.2)
\$23.00	\$28.00	\$26.00	\$33.13	\$36.50	\$43.00	\$48.17	\$47.00

(a) Sales Advisor: Non-salaried Full-Time and Part-Time Employees- Adult (over the age of 21)

#### Reduced Sunday Penalty

The Sunday hourly rate of pay (\$36.50) will be paid to you upon the commencement of this Agreement for ordinary hours worked on a Sunday.

This rate will not change (**neither increased nor decreased**) until **1 July 2021** when it will then be calculated as 150% of the base ordinary rate.

(b) Annual Salaried Employees – minimum salaries

Role	SM	ASM	VMM	VM	DM	COR
Salaries	\$65,000	\$60,000	\$55,000	\$48,000	\$54,000	\$48,500

These salaries do not include payment for overtime. Overtime for salaried employees is in accordance with clause 19 Time Owed in Lieu.

18.2 Salaried employees – weekend shift pattern

Employees working in a Visual Merchandiser role will be paid a minimum \$48,000 per annum as per clause 18.1(b). However Visual Merchandisers who will be expected to start work at 6am on a Saturday or a Sunday will be paid a starting salary of \$49,500 per annum.

Employees working in a Visual Merchandiser role must work no more than 26 weekends per year.

Employees working in a Cash Office Responsible role will be paid a minimum \$48,500 per annum as per clause 18.1(b). However, COR's who are expected to start at 6am 4 or more out of 5 shifts per week (including weekdays and weekends) will receive a minimum salary of \$50,000.

18.3 No Cumulative Entitlement

Except where expressly stated otherwise, the penalty rates and overtime rates in this clause are not cumulative, and only the highest applicable rate will be payable.

#### 18.4 Wage Increases

The minimum hourly rates set out in 18.1(a) and the minimum salaries set out in 18.1(b) will be increased in accordance with the decisions of the FWC in its annual wage review from the start of the first full pay period on or after 1 July each year of the term of this Agreement. The increase to the minimum hourly rate will be based on the percentage increase in wage rates determined by the FWC.

#### 18.5 Casual employees

Casual employees will be paid no less than the applicable hourly rate specified for their classification level in the General Retail Industry Award 2010 (including the 25% casual loading, any penalty rates and overtime rates as applicable), plus an additional 1% of the permanent base rate of pay. Nothing in this clause confers an entitlement on a casual employee to receive a dual benefit under this Agreement and the General Retail Industry Award 2010.

#### 18.6 Junior Employees

Junior employees will be paid the following percentage of the appropriate rate as set out in clause 18.1.

AGE	% OF RATE OF PAY
Under 16 years of age	45
16 years of age	50
17 years of age	60
18 years of age	70
19 years of age	80
20 years of age	100

### 19. Time Owed in Lieu

19.1 This clause only applies to employees being paid an annualised salary.

19.2 TOIL must be pre-approved by a manager in advance of the hours being (physically) worked.

19.3 TOIL accrues at the equivalent period of time: that is, one hour of time off duty for each hour worked.

19.4 TOIL may be accrued by full-time or part-time employees in the following circumstances:

- (i) Where employees are required to work additional hours outside of what is provided in an employee's contract of employment and/or already compensated for by way of the employee's remuneration;
- (ii) Where a salaried employee elects (and is approved by H&M) to receive TOIL where additional hours have been required to be worked;
- (iii) Where Salaried Managers and Salaried Assistant Managers work on a public holiday;
- (iv) Where an employee elects (and is approved by H&M) to receive TOIL where the employee works on a public holiday; or

(v) Any other circumstance as agreed in writing with H&M.

19.5 Any approved TOIL must be taken within three (3) months of accrual, otherwise it will be paid out to the employee at the applicable overtime rate of pay at which it was accrued.

19.6 Managers must ensure that employees provide reasonable evidence of the TOIL being worked.

## 20. Payment of Wages

20.1 Wages will be electronically transferred to your designated bank account on a fortnightly basis.

## 21. Superannuation

21.1 We will make superannuation contributions on behalf of eligible employees, at the rate prescribed in applicable legislation, into a complying superannuation fund nominated by you, or alternatively into our default scheme REST in the absence of any personal nomination.

### *Voluntary employee contributions*

21.2 Subject to the governing rules of the relevant superannuation fund, you may, in writing, authorise H&M to pay on your behalf a specified amount from your post-taxation wages into the same superannuation fund as H&M makes the compulsory superannuation contributions.

21.3 You may adjust the amount you have authorised H&M to pay from your wages from the first of the month following the giving of three months' written notice to H&M.

21.4 H&M must pay the amount authorised by you under clauses 21.2 or 21.3 by no later than 28 days after the end of the month in which the authorised deduction was made.

### *Absence from work*

21.5 Subject to the governing rules of the relevant superannuation fund, H&M must also make the superannuation contributions provided for in clause 21.1 and pay the amount authorised under clauses 21.2 or 21.3:

- (i) while you are on any paid leave;
- (ii) for the period of absence from work (subject to a maximum of 52 weeks) of you due to work-related injury or work-related illness provided that you are receiving workers compensation payments or are receiving regular payments directly from H&M in accordance with the statutory requirements; and you remain employed by H&M.

## 22. First Aid Allowance

22.1 Where you are appointed by us in writing, as a qualified employee to perform first aid duties, you will be entitled to 1.3% of your ordinary rate for the duration of that appointment. The first aid allowance is incorporated into the relevant salaries for all employees employed under clause 18.1(a) of this Agreement.

## 23. Travelling Time Reimbursement

23.1 An employee who on any day is required to work at a place away from their usual place of employment, for all time reasonably spent in reaching and returning from such place (in excess of the time normally spent in travelling from their home to their usual place of employment and returning), will be paid travelling time and also any fares reasonably incurred in excess of those normally incurred in travelling between their home and their usual place of employment.

- 23.2 Where the employer provides transport from a pick up point, an employee will be paid travelling time for all time spent travelling from such pick up point and returning to such pick up point.
- 23.3 The rate of pay for travelling time will be the ordinary time rate except on Sundays and holidays when it will be time and a half.

## 24. Safe Transport

- 24.1 Where an employee commences and/or ceases work after 10.00 pm on any day or prior to 7.00 am on any day and the employee's regular means of transport is not available and the employee is unable to arrange their own alternative transport, the employer will reimburse the employee for the cost of a taxi fare from the place of employment to the employee's usual place of residence. This will not apply if the employer provides or arranges proper transportation to and/or from the employee's usual place of residence, at no cost to the employee.
- 24.2 Provided always that an employee may elect to provide their own transport.

## 25. Annual Leave

- 25.1 Annual Leave will be provided in accordance with the National Employment Standards (NES) in addition to the provisions below.
- 25.2 Casual employees are not eligible for annual leave.
- 25.3 For each year of service, a permanent employee is entitled to:
- (i) Four (4) weeks paid annual leave (pro rata for part time employees)
  - (ii) After three (3) years of service salaried employees will accrue an additional day of annual leave each year until they reach twenty-five (25) days of annual leave in total (pro rata for part time employees).
- 25.4 During a period of annual leave, permanent non-salaried employees will be paid the higher (but not both) of an additional 17.5% loading or any applicable weekend penalty rates, calculated on the ordinary Monday-Friday base rate of pay for all hours of paid annual leave taken.

### *Requesting and taking annual leave*

- 25.5 All requests to take annual leave must be made in writing at least 4 weeks before the proposed commencement date of the leave, although requests for annual leave longer than 2 consecutive weeks should be made with 6 weeks' notice.
- 25.6 We will use our best endeavours to respond to requests for annual leave within 7 days. Annual leave is not deemed to have been approved until you have received written notification of the approval from your Manager.
- 25.7 We will generally not allow you to take annual leave during our Peak Needs Period or other major trading times (this may depend on the employee's individual department). Any requests made during this time will not be unreasonably refused and considered on a case by case basis.
- 25.8 We encourage you to take annual leave on a regular basis subject to our approval. You must not make any travel plans prior to approval being given by us.

### *Direction to take leave*

- 25.9 Where H&M's trading or financial circumstances dictate, H&M may require an employee who has accumulated Annual Leave in excess of 8 weeks, to take such accrued Annual Leave as paid Annual Leave, provided:
- (i) The requirement is reasonable;

- (ii) A minimum of 8 weeks' notice is provided; and
- (iii) The period of Annual Leave required to be taken must:
  - i. be fully accrued; and
  - ii. not be less than one week; and
  - iii. not exceed 4 weeks; and
  - iv. Not leave the employee with less than 6 weeks accrued annual leave taking into account any other agreed periods of approved annual leave.

*Recrediting of leave whilst on Annual Leave*

25.10 An employee whom, during their period of Annual Leave is:

- (i) ill or injured and would otherwise have taken personal leave; or
  - (ii) required to care for someone who is ill or injured and would otherwise have taken carer's leave
- or
- (iii) entitled to compassionate leave; or
  - (iv) entitled to emergency service's leave; or,
  - (v) undertaking jury service

is taken not to be on paid Annual Leave for that other period of leave.

25.11 Where Annual Leave has already been paid, the employee's Annual Leave balance will be re-credited with the amount of that other period of leave.

*Cashing out Annual Leave*

25.12 H & M may, if you request, agree to annual leave being cashed out conditional upon that agreement being reflected in a separate written agreement and result in you retaining at least 4 weeks' annual leave. If the employee is under 18 years of age, the agreement must be signed by the employee's parent or guardian.

25.13 H&M will pay you at least the full amount that you would have received had you taken the leave.

25.14 The maximum amount of accrued paid annual leave that may be cashed out in any period of 12 months is 2 weeks.

*Untaken Annual Leave*

25.15 Any untaken annual leave will be paid out on termination of employment at the employee's ordinary rate of pay, in addition to 17.5% annual leave loading on this remaining annual leave.

## **26. Personal/Carer's Leave**

26.1 Personal/Carer's Leave will be provided in accordance with the NES.

26.2 If you are a permanent full-time employee, you are entitled to 10 days paid Personal/Carer's leave for each 12 months continuous service with us. Personal/Carer's leave accrues across the course of the year. If you are a part time employee, you will receive this entitlement upon a pro rata basis.

- 26.3 In order to access Personal/Carer's leave, you must notify us as soon as reasonably practicable of your absence and the expected duration of the absence. We may also require you to provide a medical certificate from a registered health practitioner (or if not reasonably practicable, a statutory declaration) stating that you were, or will be, unable to attend work due to illness, injury or unexpected emergency. We may also require you to provide a medical certificate if you take Personal/Carer's leave:
- (i) on a day either side of, or a day that is, a public holiday;
  - (ii) on a day either side of your non-working day;
  - (iii) where you have taken more than 3 single day absences in a year;
  - (iv) where you have 2 or more consecutive days off;
  - (v) where you have a pattern of absences; and
  - (vi) otherwise as reasonably required.
- 26.4 You may also be required to complete a Personal/Carer's leave form and submit it to us in relation to each period of Personal/Carer's leave you take.
- 26.5 Casual employees are not entitled to paid Personal/Carer's leave.
- 26.6 Employees may access unpaid Carer's leave in accordance with the NES.
- 26.7 Any evidence required by H&M will be evidence that satisfies a reasonable person, in the individual circumstances.

## 27. Compassionate leave

- 27.1 Full-time and part-time employees are entitled to paid compassionate leave as follows:

<b>Where the absence is due to:</b>	<b>The maximum number of days of paid compassionate leave per occasion will be:</b>
The death of an employee's spouse, de facto partner, parent, child, brother or sister	5 days
The death of an employee's parent-in-law, brother or sister-in-law, grandparent, grandparent-in-law, grandchild, son-in-law, daughter-in-law, de- facto parent-in-law, cousin, uncle, aunt, niece, nephew, or Godparent	3 days
The death of a member of the employee's household	2 days
Attending the funeral of a significant other, including spouse/ de-facto partner	1 day
Spending time with an employee's spouse, child, parent, brother or sister, grandparent, grandchild, or a child, parent, brother or sister, grandparent, grandchild of a spouse of the employee, or a member of the employee's household, who has a personal illness or sustains a personal injury that poses a serious threat to his or her life	2 days (which can be taken as a single unbroken period of 2 days or 2 non- consecutive days as agreed)

- 27.2 For the purposes of this clause:

- (i) **Child** means an employee's natural or adopted child, step-child or any child that the employee has care or custody of as a result of a Court or guardianship order.

(ii) **Spouse** means a current or former spouse.

- 27.3 In addition to the entitlement above, an employee will be entitled to 2 days paid leave to attend the funeral of a parent, spouse, child, brother or sister, where the employee travels outside Australia or more than 400km, one way, either interstate or within the same state
- 27.4 In addition to the entitlement above, an employee will be entitled to 2 days unpaid leave to attend the funeral of a relative other than a parent, spouse, child, brother or sister, where the employee travels outside Australia or more than 400km, one way, either intrastate or interstate.
- 27.5 Upon request by H&M, in order to be entitled to paid compassionate leave, an employee must provide as soon as reasonably practicable any written evidence H&M reasonably requires of the illness, injury or death, and which otherwise meets the requirements of the Fair Work Act.
- 27.6 Any paid compassionate leave will be paid at the employee's base rate of pay for the hours normally rostered to work.
- 27.7 Casual employees will be entitled to be absent for 2 unpaid shifts where an employee's Immediate Family member or member of the employee's household dies or contracts or develops an illness or injury that poses a serious threat to their life.

## 28. Unpaid Parental leave

### *Permanent Employees*

- 28.1 As a permanent employee you are entitled to parental leave in this section in accordance with the NES if you have 12 months or more continuous employment as at the expected date of birth or placement, and the employee has, or will have responsibility for the care of the child.
- 28.2 Eligible employees are entitled to 12 month's unpaid parental leave (which may be taken while receiving PPL, the Australian Government's Paid Parental Leave Scheme and any other paid or unpaid leave) if the leave is associated with:
- (i) the birth of a child of the employee or the employees' spouse or de facto partner; or
  - (ii) the placement of a child with the employee for adoption.
- 28.3 The entitlement to parental leave is conditional on the employee complying with any requirement to provide notice/evidence of their intention to take leave.
- 28.4 H&M requires all employees to take parental leave in a single continuous period (other than as provided by the NES).

### *Casual Employees*

- 28.5 As a casual employee you will be entitled to parental leave provided:
- (i) you have been employed on a regular and systematic basis for an ongoing period of employment with H&M of at least 12 months as at the date of birth or placement; and
  - (ii) you have a reasonable expectation of ongoing employment on that basis.

### *Reducing and Extending Leave*

- 28.6 H&M will address all requests for extensions and/or reductions to a period of parental leave on a case by case basis.

### *Extending a Period of Unpaid Leave*

- 28.7 An employee who has not taken 12 months of parental leave may request to extend their period of parental leave, provided that that the request is made:
- (i) in writing, specifying the new end date for the parental leave; and
  - (ii) at least 4 weeks prior to the end of the employee's period of parental leave.
- 28.8 H&M is only required to grant one extension and only where the employee has not already taken 12 months of parental leave.
- 28.9 An employee may request a further extension or request an extension beyond 12 months of parental leave, provided that any such requests will be assessed on a case by case basis and must not result in the employee taking more than 24 months of parental leave.
- 28.10 H&M will notify the employee in writing whether their request is granted or refused.
- 28.11 H&M's response will be made within 21 days of the request being made.
- 28.12 If H&M refuses the request, the employee will be notified, in the written response, of the reason for the decision.
- 28.13 Requests will only be refused on reasonable business grounds.

*Reducing a Period of Unpaid Parental Leave*

- 28.14 Should H&M agree, an employee may request to reduce the period of unpaid parental leave.

*Returning to Work*

- 28.15 Employees are required to give H&M 4 weeks' notice of their intended return to work.
- 28.16 Employees are entitled to return to the position they held before they took parental leave. If the position held by the employee before their parental leave no longer exists due to restructuring, H&M will work with the employee to find them a new role that is comparable in pay and status.
- 28.17 Employees who are returning to work from parental leave may request, and H&M Group may agree, to return on fewer hours than their contracted hours before they went on parental leave. The request may be for a permanent basis or temporary however all requests made by the employee will be considered, taking into account the employees position and the operational needs of the business.
- 28.18 An employee may return to work earlier than expected by agreement with H&M Group. In these circumstances, H&M Group may not be in a position to return the employee to the position they were in before they commenced parental leave. In this case, the employee will return to an alternative role and revert to their prior role on or before their original expected date of return to work.

## **29. H&M's Paid Parental Leave Scheme**

- 29.1 H&M aims to provide a workplace where all employees are supported, respected and rewarded at all stages of their career.
- 29.2 In Australia, H&M provides a Paid Parental Leave Scheme ("PPL") for permanent employees in addition to any entitlements the employee has under the Government's paid parental leave scheme.

*Eligibility and entitlement*

- 29.3 Permanent employees who have completed at least 18 months' continuous service with H&M and who are eligible for unpaid parental leave are also entitled to 12 weeks of paid parental leave for the primary carer, and 2 weeks of paid parental leave for the non-primary carer.

- 29.4 In addition to the entitlement in clause 29.3, permanent employees who are the primary carer of the child who have completed at least 5 years' continuous service with H&M and who are eligible for unpaid parental leave are also entitled to receive a further 14 weeks of paid parental leave.
- 29.5 In addition to the entitlements in clause 29.3 and 29.4, permanent employees who are the primary carer of the child and who have completed at least 18 months' continuous service with H&M and who are eligible for unpaid parental leave will be paid superannuation for the duration of their parental leave, including any period of unpaid parental leave.
- 29.6 Once an employee has returned from parental leave they will not be eligible for paid parental leave for a further 18 months.

#### *Payment*

- 29.7 Eligible employees (as outlined above) will be entitled to their ordinary hourly or weekly rate of pay for the total period of PPL for which they are eligible.
- 29.8 Employee payments are calculated on their salary at the time of commencing leave plus any reviews that occur during the period of their leave.
- 29.9 Employees may elect to have their PPL paid in one of the following ways:
- a. Employees receiving 12 weeks PPL:
    - (i) 12 weeks on full pay; or
    - (ii) 24 weeks on half pay; or
    - (iii) a lump sum payment at the beginning of the PPL period.
  - b. Employees receiving 26 weeks PPL:
    - (iv) 26 weeks on full pay; or
    - (v) 52 weeks on half pay
  - c. Employees receiving 2 weeks PPL:
    - (vi) 2 weeks on full pay; or
    - (vii) 4 weeks on half pay; or
    - (viii) a lump sum payment at the beginning of the PPL period.
- 29.10 If employees work part-time, their entitlement is the same, but their payment is calculated on a pro-rata basis in accordance with their part-time salary and hours of work.

### **30. Foster Carers**

- 30.1 An employee who is taking responsibility for permanent/long term care of a child through a permanent care order or equivalent long-term foster arrangement is entitled to access unpaid parental leave in line with Clause 28.
- 30.2 An employee, including a casual employee, will be entitled to unpaid leave of 5 days per year (in addition to personal/carer's leave available) for the purpose of attending appointments and caring responsibilities related to the foster care of children, including emergency, respite, short and long term care arrangements.

## 31. Study Leave

- 31.1 H & M recognises that it employs students who are undertaking studies that can require exam completion, projects, placements or study time. H&M supports employees during these times by providing unpaid study leave.
- 31.2 Employees can request unpaid study leave by providing a minimum of 4 weeks' notice for the leave.
- 31.3 This leave does not break continuity of service.

## 32. Jury Duty

- 32.1 Employees must advise their managers and Payroll of the period or expected period of leave as soon as possible. If an employee requests leave they need to provide evidence showing they attended jury selection or jury duty.
- 32.2 H&M will pay employees 'make-up pay' for the duration of their jury duty. This is the difference between any jury duty payment the employee receives (excluding any expense-related allowances) from the court and the employees' base rate pay for the ordinary hours they would have worked.
- 32.3 Before paying make-up pay, H&M may request evidence from the employee to show:
  - (i) that the employee has taken all necessary steps to obtain jury duty pay
  - (ii) the total amount of jury duty pay that has been paid or will be payable to the employee for the period.
  - (iii) If the employee can't provide evidence, they won't be entitled to make-up pay.
- 32.4 Casual employees are not entitled to make-up pay under this clause.
- 32.5 Any combination of jury duty leave and actual hours worked by you will not exceed the rostering provisions under this Agreement.

### **33. Blood Donor Leave**

- 33.1 A permanent employee who is absent during ordinary working hours for the purpose of donating blood is entitled to up to 2 hours' paid leave per occasion up to a maximum of 4 separate occasions each anniversary year.
- 33.2 Employees are to give as much notice as possible of their intention to take blood donor leave, and where requested by their line manager, are to provide proof of attendance at a recognised blood bank.

### **34. Bone Marrow Donor Leave**

- 34.1 A permanent employee who is absent during ordinary working hours for the purpose of donating bone marrow, or undertaking blood tests as part of the process of becoming a registered bone marrow donor, is entitled to paid leave up to a maximum of:
  - (i) 2 hours per occasion on not more than 2 occasions for the purpose of blood testing as part of the process of becoming a registered bone marrow donor; and
  - (ii) 3 days on the occasion that a bone marrow donation is given at a maximum of one donation per year
- 34.2 So far as possible, the employee must make arrangements for bone marrow donation or blood tests so as to minimise their absence from work. If it cannot be done on a non-working day, the employee must arrange the donation or testing on a day suitable to H&M and as close as possible to the beginning or end of ordinary working hours, and provide H&M as much notice as possible of the time and date upon which they are requesting to be absent
- 34.3 An employee must provide H&M proof of attendance at blood tests and bone marrow donation in order to be eligible for this leave.

### **35. Emergency Services Leave**

- 35.1 A permanent employee involved in recognised voluntary emergency management services such as SES or the bush and fire brigade shall be entitled to up to 5 days' paid leave to assist their local community in emergency situations, and up to 2 days' paid leave to attend to emergencies outside the local area.
- 35.2 Any additional time required to assist in the emergency situation shall be unpaid. This time also includes reasonable travelling time associated with the activity and reasonable rest time immediately following the activity.
- 35.3 Casual employees are entitled to unpaid leave for the purpose of recognised voluntary service.
- 35.4 An employee shall notify H&M of their membership of voluntary emergency services organisations on commencement of employment and upon becoming a member. The employee should inform H&M as soon as possible of a requirement to attend an emergency situation and keep H&M informed of progress of the situation.
- 35.5 An employee shall provide proof of attendance and length of attendance at the emergency situation to be eligible for leave under this clause.

### **36. Family and Domestic Violence Leave**

- 36.1 A permanent employee experiencing family and domestic violence is entitled to ten (10) days per year of paid family and domestic violence leave for the purpose of:
  - (i) Attending legal proceedings, counselling, appointments with a medical or legal practitioner;

(ii) Relocation or making other safety arrangements;

(iii) Other activities associated with the experience of family and domestic violence.

36.2 The leave will be available in full at the commencement of each 12 month period of the employee's employment, and does not accumulate from year to year. This leave is not reduced or calculated on a pro-rata basis for part-time or casual employees.

36.3 A casual employee is entitled to unpaid leave in accordance with this clause.

*Requesting and Accessing Family and Domestic Violence Leave*

36.4 If an employee takes family and domestic violence leave, they must let their manager know as soon as possible. Where not appropriate to notify their Manager in a particular circumstance, an employee should instead notify the Area HR Manager.

36.5 H&M requires the employee to provide evidence that would satisfy a reasonable person that the leave is for the purpose as set out above. This may include the below:

(i) documents issued by the police service

(ii) documents issued by a Court, a Doctor, District Nurse, Maternal and Child Health Care Nurse, or a Lawyer

(iii) family violence support service documents

(iv) a statutory declaration

36.6 H&M can request that employees provide evidence for one (1) day or less off work.

36.7 H&M will take reasonably practicable steps to ensure that any personal information provided by the employee to H&M concerning their experience of family and domestic violence is kept confidential.

36.8 If in exceptional circumstances where the safety of the employee and /or co-workers is at risk, H&M may divulge information in consultation with the employee.

36.9 An employee who supports a person experiencing family or domestic violence may take carers' leave to accompany them to court or hospital or to mind children.

36.10 H &M will consider any reasonable request from the employee for:

(a) changes to their spread of hours or pattern of hours and/or shifts;

(b) job redesign or change of duties;

(c) relocation to a suitable location within the company;

(d) any other appropriate measures including those available under existing provisions for family friendly and flexible working arrangements.

36.11 If an employee uses all their paid leave they can access their accrued personal leave. Further unpaid leave will be considered on a case by case basis.

## **37. Natural Disaster Leave**

37.1 A permanent employee is entitled to up to 3 days leave of absence in the event of a natural disaster, without loss of pay for rostered ordinary hours falling during such absence. The employee shall, where possible, keep H&M informed of the progress of the situation

- 37.2 An employee must notify H&M as soon as possible of being unable to attend work or the need to leave work. The employee shall provide such proof as H&M reasonably requires that the absence was a result of a natural disaster.

### **38. Volunteer Leave**

- 38.1 Volunteer community leave is available to full time and part time H&M employees for volunteer work in a community organisation nominated by H&M.
- 38.2 Volunteer leave is available to employees who work full time or part time, for one (1) day each year.
- 38.3 Volunteer leave is provided for eight (8) hours on each occasion and paid at the employee's base rate of pay. Participation in Volunteer Leave is voluntary for all employees and will not accumulate from year to year.
- 38.4 H&M may request evidence that volunteer leave was undertaken.

### **39. Long Service Leave**

- 39.1 Your entitlement to long service leave is in accordance with the relevant State or Territory legislation.
- 39.2 If you wish to take a period of long service leave, you must first discuss your leave plans with your manager or supervisor. The granting of leave will be subject to the approval by your manager or supervisor.

### **40. Unpaid leave**

- 40.1 We may, in exceptional circumstances, grant a period of unpaid leave, up to three months, to assist you with any pressing personal or domestic issue. The approval of any such period of unpaid leave is conditional upon you having first exhausted all other forms of accumulated leave owing to you. Any period of approved unpaid leave shall not break your period of continuous service with us, however, for the avoidance of doubt Annual Leave and Personal/Carer's Leave shall not accumulate during any period of unpaid leave. Unpaid leave may affect the accrual of long service leave in accordance with the applicable legislation.

### **41. Public Holidays**

- 41.1 An employee is entitled to be absent from his or her employment on a day or part-day that is a public holiday in the place where the employee is based for work purposes. A permanent employee who is absent from his or her employment on a day or part-day that is a public holiday must be paid at the employee's base rate of pay for the employee's ordinary hours of work on public holiday. The following days are public holidays for the purpose of this Agreement:

- (i) New Year's Day
- (ii) Australia Day
- (iii) Good Friday;
- (iv) Easter Saturday (except in WA and TAS)
- (v) Easter Sunday (except in WA, SA or TAS)
- (vi) Easter Monday;
- (vii) ANZAC Day (25 April);

(viii) Queen's Birthday Holiday;

(ix) Christmas Day (25 December);

(x) Boxing Day (Proclamation Day in South Australia) (26 December) and

(xi) any other day declared to be a public holiday by an individual State or Territory.

- 41.2 We will observe any additional, special or substitute public holiday or part day public holiday which may be declared by any individual State, Territory or Locality.
- 41.3 Non-salaried employees who work on a day listed as a public holiday, regardless of whether it may be a substituted, special or additional day, will be paid in accordance with clause 18.1 for all work performed on that day.
- 41.4 If you work on any day which is not considered a public holiday, due to a particular State or Territory declaring a substitute day, you will be paid the rate of pay ordinarily applicable to work performed on that day for all hours worked and you will not be entitled to any additional payment or time in lieu.

**Example:** Australia Day falls on a Sunday, and Victoria declares that the public holiday for Australia Day will be observed on the following Monday. Amy works on the Sunday and is paid the applicable Sunday rate for that work. She receives no other benefit for the work she performs on the day.

- 41.5 In the event that the store in which you work is unable to open on a particular public holiday due to local trading restrictions, and it would be your normal rostered day of work, you will be paid for all hours that you would have worked at your base rate of pay in accordance with clause 13 unless agreement is reached with you to vary your regular pattern of work in that week.

**Example:** Kat is a permanent part-time employee working a fixed roster in one week of Wednesday, Thursday and Sunday. The store in which Kat works is required to close on Easter Sunday in that week, meaning that Kat will be unable to work her ordinary hours on that day.

Kat will be paid for her ordinary hours of work on Sunday at her base Monday – Friday rates (i.e. no Sunday penalties payable).

## PART D - BRINGING THE EMPLOYMENT RELATIONSHIP TO AN END

### 42. Termination of Employment

#### *Notice By Us*

- 42.1 If you are a permanent employee, H&M may terminate your employment by giving you a period of notice based on your length of continuous service as follows:

<b>Period of continuous service</b>	<b>Period of Notice</b>
Less than 1 year	1 week
1 year or more, but less than 2 years	2 weeks
2 years or more, but less than 5 years	3 weeks
5 years and over	4 weeks

- 42.2 The period of notice will be increased by 1 week if you are over 45 years old and have completed at least 2 years' continuous service with H & M.
- 42.3 Despite this, if you are employed by H&M as a Cash Office Responsible, Visual Merchandiser, Department/Floor Manager, Store or Assistant Store Manager we may terminate your employment by giving 4 weeks' notice. If you have completed more than 5 years' service and are over 45 years old this will increase to 5 weeks' notice.
- 42.4 In lieu of notice, H&M may make a payment to the employee or H&M may give part of the applicable notice and part payment in lieu thereof.

#### *Statement of Service*

- 42.5 H&M will, if requested by an employee whose employment has been terminated, give the employee a written statement specifying the period of his or her employment and the classification or the type of work performed.

#### *Notice by You*

- 42.6 This clause does not apply to permanent salaried employees, whose notice of termination is in accordance with their contract of employment.
- 42.7 If you are a permanent hourly rate employee you may terminate your employment by giving us the period of notice based on your length of continuous service as follows:

<b>Period of continuous service</b>	<b>Period of Notice</b>
Less than 1 year	1 week
1 year or more	2 weeks

- 42.8 If a permanent employee who is at least 18 years old does not give the period of notice required under paragraph 0 and H&M has not agreed to a shorter period of notice, then H&M 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, if reasonable to do so.

- 42.9 If you are a casual employee, you are not entitled to be given, and are not required to give, notice of termination.
- 42.10 The period of notice specified in this clause does not apply in the case of dismissal for serious misconduct.

*Suspension for Serious Misconduct*

- 42.11 We may suspend you from your employment for the purpose of investigating any suspected misconduct (including serious misconduct) in which you may be involved. Any period of suspension will be on full pay and you will be expected to await our further instructions to assist with the timely resolution of the investigation process. During any period of suspension you are prohibited from discussing the suspension, or investigation, with any other party, with the exception of your professional advisers. You are also prohibited from attending any H & M premises without the express prior consent of management. Failure to comply with this directive is viewed as serious misconduct and may result in the termination of your employment without notice.

*Termination for Serious Misconduct*

- 42.12 In the case of serious misconduct, an employee may be immediately dismissed, with no notice or pay in lieu of notice.
- 42.13 Serious misconduct -may include, but is not limited to:

- (i) theft;
- (ii) violent behaviour;
- (iii) fraud;
- (iv) abuse of employee discount scheme;
- (v) bullying, harassment, discrimination, victimisation;
- (vi) failure to follow a lawful direction that is consistent with the contract of employment;
- (vii) breach of confidentiality;
- (viii) being under the influence of drugs or alcohol on duty;
- (ix) committing a serious breach of H&M policies or procedures; or
- (x) breaching a safety policy, procedure or regulation in such a way as to cause an imminent risk of injury to either the Employee or others.

*Abandonment of employment*

- 42.14 Where you are absent from duty without authorisation from us for a continuous period of more than 3 rostered days or shifts, and do not contact your manager, or despite making contact fail to establish to the satisfaction of your manager that you were absent for reasonable cause, we are entitled to assume that you have abandoned your employment.
- 42.15 We will make every reasonable effort to try to contact you during this period. If we are unable to contact you, or you do not respond to our attempts to contact you, we will regard you as having resigned your employment. Where the employee establishes that the absence was for a reasonable cause within four (4) weeks H&M will consider reinstatement of the employee to their former position. The effective date of termination will be the last day you worked or the date of your last approved absence from work.

*Return of H & M property*

- 42.16 Upon the termination of your employment (howsoever caused), or at any other time as directed by us, you must immediately return any of our property that is in your possession or under your control.

## 43. Redundancy

*Discussions prior to termination*

- 43.1 A redundancy occurs when H&M has made a definite decision that the role an employee has been performing does not need to be done by anyone. This is not due to the ordinary and customary turnover of labour and may lead to termination of employment.
- 43.2 H&M will hold discussions with the employees directly affected. The information that will be provided is as follows:
- (i) relevant information about the proposed redundancies, including reasons for the proposed redundancies
  - (ii) The roles, and the number of roles of employees that are likely to be affected;
  - (iii) The number of employees normally employed; and
  - (iv) The time period over which the redundancies will take effect;

Provided that H&M is not required to disclose any confidential or commercially sensitive information to employees.

- 43.3 If your employment is terminated by reason of Redundancy, you are entitled to the following amount of severance pay in respect of a period of continuous service:

<u>Period of continuous service</u>	<u>Severance pay</u>
Less than 1 year	Nil
1 year and less than 2 years	4 weeks
2 years and less than 3 years	6 weeks
3 years and less than 4 years	7 weeks
4 years and less than 5 years	8 weeks
5 years and less than 6 years	10 weeks
6 years and less than 7 years	11 weeks
7 years and less than 8 years	13 weeks
8 years and less than 9 years	14 weeks
9 years and less than 10 years	16 weeks
10 years and over	16 weeks

#### *Comparable Alternative Employment*

- 43.4 Where we are successful in obtaining an offer of Comparable Alternative Employment for you and you do not accept the offer, we may apply to the Fair Work Commission for an order to reduce the amount of redundancy pay which is payable to you.

#### *Transfer to lower paid duties*

- 43.5 Where an employee is transferred to lower paid duties by reason of redundancy, the same period of notice must be given before the transfer as the employee would have been entitled to if their employment had been terminated. H&M may choose to implement the transfer earlier and pay the employee the difference between their former base rate of pay and the base rate of pay for the number of weeks of notice still owing.
- 43.6 H&M may, at its discretion, make a payment of an amount equal to the difference between the employee's former base rate of pay and the new lower base rates of pay for both the period of notice and for a period equal to the number of weeks' severance pay that the employee would have been entitled to if their employment had been terminated.

#### *Job Search entitlement*

- 43.7 An employee who has been given notice of termination in circumstances of redundancy will be allowed up to 1 day of time off without loss of pay during each week of notice for the purpose of seeking other employment.
- 43.8 If the employee has been allowed paid leave for more than 1 day during the notice period for the purpose of seeking other employment, the employee must, if requested by H&M, produce proof of attendance at an interview or they will not be entitled to payment for the time absent. For this purpose, a statutory declaration is sufficient.

#### *Transmission of Business/Outsourcing*

- 43.9 The provisions of this clause are not applicable:
- (i) where there is a Transmission or outsourcing of whole or part of the business and you accept employment with a new employer which recognises the period of continuous service which you had with us to be continuous service of your employment with the new employer; or
  - (ii) where you reject an offer of Comparable Alternative Employment with the proposed new employer.

## **44. Consultation**

#### *H&M to notify employee*

- 44.1 Where H&M has made a definite decision to introduce major changes in production, program, organisation, structure or technology that are likely to have significant effects on employees, H&M must notify the employees who may be affected by the proposed changes and their representatives, if any.
- 44.2 Significant effects include termination of employment; major changes in the composition, operation or size of the H&M workforce or in the skills required; the elimination or diminution of job opportunities, promotion opportunities or job tenure; the alteration of hours of work; the need for retraining or transfer of employees to other work or locations; and the restructuring of jobs. Provided that where this Agreement makes provision for alteration of any of these matters an alteration is deemed not to have significant effect.

*H&M duty to discuss change*

- 44.3 As soon as practicable after proposing to introduce the change, H&M must discuss with the relevant employee(s) and their representatives, if any:
- (i) the introduction of the change referred to in clause 44.1
  - (ii) the effects the changes are likely to have on employees; and
  - (iii) measures that H&M is taking to avert or mitigate the adverse effects of such changes on employees
- 44.4 For the purposes of the discussion—provide, in writing, to the relevant employees and their representatives, if any:
- (i) all relevant information about the change, including the nature of the change; and
  - (ii) information about what H&M reasonably believes will be the effects of the change on the employees; and
  - (iii) information about any other matters that H&M reasonably believes are likely to affect the employees; and
  - (iv) an invitation to relevant employees to give their views about the impact of the change.
- 44.5 However, H&M is not required to disclose confidential or commercially sensitive information to the relevant employees.
- 44.6 H&M must give prompt and genuine consideration to matters raised about the change by the relevant employees.
- 44.7 For the purposes of this clause, **relevant employees** means the employees who may be affected by the proposed change.
- 44.8 Where this agreement makes provision for alteration of any of the matters defined at clause 44.2, such alteration is taken not to have significant effect
- Consultation about changes to rosters or hours of work*
- 44.9 This clause applies if H&M proposes to change the regular roster or ordinary hours of work of an employee, other than an employee whose working hours are irregular, sporadic or unpredictable.
- 44.10 H&M must consult with any employees affected by the proposed change and their representatives, if any.
- 44.11 For the purpose of the consultation, H&M must:
- (i) provide to the employees and representatives information about the proposed change (for example, information about the nature of the change and when it is to begin); and
  - (ii) invite the employees to give their views about the impact of the proposed change on them (including any impact on their family or caring responsibilities) and also invite their representative (if any) to give their views about that impact.

44.12 H&M must consider any views given under this clause.

44.13 This is to be read in conjunction with other provisions of this agreement concerning the scheduling of work or the giving of notice.

## **PART E - OPERATIONAL MATTERS**

### **45. When and How this Agreement will Operate**

- 45.1 During the period of operation of this Agreement, you expressly agree that there will be no extra claims made in relation to any matter pertaining to the employment relationship, including, but not limited to, any terms and conditions of employment whether included in this Agreement or not.
- 45.2 This Agreement is in full substitution for all awards and other industrial instruments. The Agreement therefore operates to the exclusion of all terms and conditions in these awards and other industrial instruments.
- 45.3 This Agreement supersedes all prior agreements, representations, warranties, covenants and guarantees, whether verbal or in writing.

### **46. Dispute Resolution/Grievance Process**

- 46.1 The following procedure will apply to the settlement of disputes arising under the Agreement and the NES.
- 46.2 If a dispute arises, the parties agree that, in the first instance, the parties will attempt to resolve the dispute between themselves. The steps that the parties will take to do this are as follows:
  - (i) if you have an issue, you must first raise it and discuss it with your direct manager or supervisor; and
  - (ii) if the issue remains unresolved, or it would not be appropriate to raise it with your direct manager or supervisor, either we or you can refer the issue to the next level of management; and
  - (iii) if the dispute is not resolved at the workplace then we and/or you may decide to refer the dispute for conciliation or mediation.
- 46.3 The parties may agree upon a suitable person to conduct the conciliation or mediation process and, subject to any such agreement, we will pay the reasonable costs of any person appointed to conduct the conciliation or mediation process.
- 46.4 Both you and we have the right to be represented at any stage of this procedure.
- 46.5 Both you and we agree to participate in the dispute process in good faith.
- 46.6 While the dispute is being resolved you agree that you will:
  - (i) continue to work in accordance with your contract of employment as normal and as before the dispute arose, unless you have a reasonable concern about an imminent risk to your health or safety; and
  - (ii) comply with any reasonable direction given by us to perform other available work, either at the same workplace or at another workplace.

#### *Referral to Fair Work Commission (FWC)*

- 46.7 If the dispute still remains unresolved following compliance with the steps in this clause (to the extent it is reasonable to comply) then either party may refer the dispute to the FWC for resolution.
- 46.8 The FWC may deal with a dispute in two stages:

- (i) the FWC will first attempt to resolve the dispute through conciliation;
  - (ii) where the matter cannot be resolved by conciliation, at the request of one or both parties, the FWC may arbitrate the dispute.
- 46.9 In any proceedings before the FWC pursuant to this clause, the FWC may take any or all of the following actions in order to resolve the dispute:
- (i) Convene conciliation conferences of the parties or their representatives at which the FWC is present;
  - (ii) Require the parties or their representatives to confer among themselves at conferences at which the FWC is not present;
  - (iii) Request but not compel a person to attend and/or give evidence at proceedings;
  - (iv) Request but not compel a person to produce documents;
  - (v) Where either party requests, make recommendations about particular aspects of a matter about which they are unable to reach agreement.
- 46.10 Any determination by the FWC following an arbitration must be in writing and must give reasons for the determination.
- 46.11 In the exercise of its functions under this clause, the FWC must not issue interim orders or interim determinations.
- 46.12 The parties are entitled to be represented, including by legal representatives, in any proceedings under this clause.
- 46.13 While the parties are trying to resolve the dispute using the procedures in this Section:
- (i) You must continue to perform your work as you would normally (and as before the dispute arose), unless you have a reasonable concern about an imminent risk to your health or safety; and
  - (ii) You must comply with a direction given by us to perform other available work at the same workplace, or at another workplace unless:
    - a) the work is not safe; or
    - b) applicable occupational health and safety legislation would not permit the work to be performed; or
    - c) the work is not appropriate for you to perform; or
    - d) there are other reasonable grounds for you to refuse to comply with the direction.
- 46.14 If the FWC arbitrates a dispute, any determination made by the FWC is a decision for the purposes of Division 3 of Part 5.1 of the Fair Work Act and can be appealed.

## 47. Individual Flexibility Arrangements

### *Making an individual flexibility arrangement*

- 47.1 H&M and an Employee may agree to make an individual flexibility arrangement to vary the effect of terms of the Agreement if:
- (i) the agreement deals with one or more of the following matters: arrangements about when work is performed; overtime rates; penalty rates; allowances; leave loading; and

- (ii) the arrangement meets the genuine needs of H&M and the Employee; and
- (iii) the arrangement is genuinely agreed to by H&M and employee without coercion or duress.

*Terms of the individual flexibility arrangement*

47.2 H&M must ensure that the individual flexibility arrangement:

- (i) is about permitted matters under section 172 of the Fair Work Act; and
- (ii) does not contain unlawful terms under section 194 of the Fair Work Act; and
- (iii) results in the employee being better off overall than the employee would be if no arrangement was made;
- (iv) is in writing;
- (v) includes the name of H&M and the Employee;
- (vi) is signed by H&M and the Employee; and
- (vii) if the Employee is under 18 years of age, is signed by a parent or guardian of the Employee.

47.3 H&M must ensure that the written individual flexibility arrangement includes details of:

- (i) the terms of the Agreement that will be varied by the arrangement;
- (ii) how the arrangement will vary the effect of the terms;
- (iii) how the employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement; and;
- (iv) the date on which the arrangement commences.

47.4 H&M must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to. H&M will also retain a copy.

47.5 H&M or employee may terminate the individual flexibility arrangement:

- (i) by giving no more than 28 days' written notice to the other party to the arrangement; or
- (ii) if H&M and employee agree in writing--at any time

## **48. Requests for Flexible Working Arrangements**

48.1 In accordance with section 65 of the Fair Work Act, employees can request a change in their working arrangements due to the following circumstances:

- (i) the employee is the parent, or has responsibility for the care, of a child who is of school age or younger;
- (ii) the employee is a carer;
- (iii) the employee has a disability;
- (iv) the employee is 55 or older;

- (v) the employee is experiencing violence from a member of the employee's family;
  - (vi) the employee provides care or support to a member of their immediate family, or a member of their household, who requires care or support because they are experiencing violence from their family.
- 48.2 Before responding to a request, H&M must discuss the request with the employee and genuinely try to reach agreement on a change in working arrangements that will reasonably accommodate the employee's circumstances having regard to:
  - (i) the needs of the employee arising from their circumstances;
  - (ii) the consequences for the employee if changes in working arrangements is not made; and
  - (iii) any reasonable business grounds for refusing the request.
- 48.3 H&M must provide the employee with a written response to the request within 21 days, stating whether the request is granted or refused.
- 48.4 If H&M refuse the request, the written response must include details of the reasons for the refusal including the business grounds for the refusal and how the grounds apply.
- 48.5 If H&M and the employee reach an agreement on a change in working arrangements that differs from that initially requested by the employee, H&M will provide the employee with a written response to their request setting out the agreed change(s) in working arrangements.
- 48.6 If H&M and the employee could not agree on a change in working arrangements in accordance with 45.2 the written response must:
  - (i) state whether or not there are any changes in working arrangements that H&M can offer the employee to better accommodate their circumstances; and;
  - (ii) if the H&M can offer the employee such changes in working arrangements, set out those changes in working arrangements.
- 48.7 H&M may only refuse the request on reasonable business grounds which include the following:
  - (i) that the request would be too costly or likely to result in a significant loss in efficiency or productivity;
  - (ii) that there is no capacity, or it is impractical to change the working arrangements of other employees, or recruit new employees, to accommodate the request;
  - (iii) that the request would be likely to have a significant negative impact on customer service.

## 49. Definitions

49.1 The following definitions apply to this Agreement:

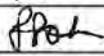
- (i) **Act** means the Fair Work Act 2009 (Cth) (as amended from time to time);
- (ii) **Carer's Leave** means paid or unpaid leave taken by you to provide care or support to a member of your Immediate Family, or a member of your household, who requires care or support because of:

- (a) a personal illness, or injury, of the member; or
- (b) an unexpected emergency affecting the member;
- (iii) **Comparable Alternative Employment** means employment on terms and conditions that, in total, are no less favourable than the terms and conditions which applied to you immediately before a Redundancy, Transmission or outsourcing of business and where previous employment service is recognised.
- (iv) **H & M** means H & M Hennes & Mauritz Pty Ltd (ABN 83 160 056 548) and any associated entity or subsidiary company;
- (v) **Immediate Family** means the following persons:
  - (a) your Spouse, de facto partner, child, parent, grandparent, grandchild or sibling; or
  - (b) a child, parent, grandparent, grandchild or sibling of your Spouse;
  - (c) Foster child and a child who is the subject of a permanent care order.
- (vi) **Personal Leave** means paid leave taken by an Employee because the Employee is not fit for work because of personal illness or injury affecting the employee;
- (vii) **Redundancy** occurs where we have made a decision that we no longer require your current role to be performed by anyone t, except where this is due to the ordinary and customary turnover of staff;
- (viii) **Retail Employee** means an employee engaged to perform retail work in any of the classifications set out in Schedule 1 of this Agreement;
- (ix) **Spouse** includes a former spouse, a de facto spouse and a former de facto spouse; and
- (x) **Transmission** includes transfer, conveyance, assignment or succession of a business whether by agreement or by operation of law.

49.2 A reference to "party" or "parties" is a reference to you and us.

## SIGNATORIES TO THE AGREEMENT

Signed for and on behalf of H & M Hennes & Mauritz Pty Ltd by:

Full Name: JAVENA JOHNSON  
 Signature:   
 Date: 20 NOVEMBER 2019  
 Address: LEVEL 4 414 KENT STREET  
SYDNEY 2000

The above person is authorised to sign this Agreement on behalf of H & M for the following reason/s (explanation of person's authority to sign the Agreement):

EMPLOYEE RELATIONS & BENEFITS RESPONSIBLE  
AT H&M PTY LTD.

Signed for and on behalf of the Employees by:

Full Name: GERARD ANDREW DWYER

Signature: *Gerard Dwyer*

Date: 19 November 2019

Address: Level 6, 53 QUEEN ST  
MELBOURNE 3000

The above person is authorised to sign this Agreement on behalf of the Employees for the following reason/s (explanation of person's authority to sign the Agreement):

NATIONAL SECRETARY-TREASURER of the  
SHOP DISTRIBUTIVE & ALLIED EMPLOYEES'  
ASSOCIATION.

## SCHEDULE 1

### A. Retail Employees

<p><b>Sales Advisor</b></p>	<p>Sales Advisors are responsible for delivering a great customer experience that contributes to the sales and profit of the store. They provide customer service through product and fashion knowledge as well providing product and size availability through refill routines. Additionally, Sales Advisors create an environment that is easy to shop through store operations and garment care. They work on various sales functions including tills and fitting rooms.</p>
<p><b>Visual Merchandise Manager</b></p>	<p>Visual Merchandise Managers contribute to the selling of the store through ensuring garment presentation in windows and in store is in line with the commercial handbook. They lead the team along with the store manager to maximize and drive commercial opportunities within the H&amp;M Brand guidelines. The Visual Merchandise Manager manages the visual team and ensures all employee relations responsibilities, legal requirements and H&amp;M policies are fulfilled. Additionally, they follow up and analyse key KPIs and initiate actions to increase profit and support the commercial planning of the store. They ensure all safety, security and administration procedures are followed.</p>
<p><b>Visual Merchandiser</b></p>	<p>A Visual Merchandiser ensures the garment presentation in windows and in store is in line with the commercial handbook. They, along with the Department Manager, maximizes and drives commercial opportunities in store. A Visual Merchandiser evaluates and develops the visual and commercial skills of the store team. They seek employees to be potential internal succession for Visual Merchandisers and they organize and provide visual training for the rest of the store team. A Visual Merchandiser also follows up on store KPIs and initiates actions to reach these targets. They adapt to the commercial plan. Additionally, they organise, maintain and control visual material in store</p>
<p><b>Assistant Store Manager</b></p>	<p>An Assistant Store Manager provides support to the Store Manager in achieving the sales and profit goals in the store by creating a plan to deliver a great customer experience in line with the Area. They do this by assisting with setting the hours plan in line with the sales budget, ensuring scheduling maximises conversion and taking prioritising actions in store that have a clear impact on sales. An Assistant Store Manager ensures there is a great team and supports their development. They assist with succession planning, talent and leadership development and structured performance management, based on results, values and leadership.</p>
<p><b>Store Manager</b></p>	<p>A Store Manager is responsible for achieving the sales and profit goals in the store by creating a plan to deliver a great customer experience in line with the Area. They do this by setting the hours plan in line with the sales budget, ensuring scheduling maximises conversion and taking prioritising actions in store that have a clear impact on sales. A Store Manager ensures they have a great team and supports their development. They work with succession planning, talent and leadership development and structured performance management, based on results, values and leadership. They contribute to ensure all employees have fair and attractive work conditions and all legal requirements and H&amp;M</p>

	policies are fulfilled.
<b>Department Manager/Floor Manager</b>	A Department Manager is responsible for the sales and profit as well as customer experience within their department. They regularly analyse and follow up sales & profit KPIs for their department and together along with the Visual Merchandisers take action to maximise sales. They ensure scheduling for their department maximises conversion. Along with the visual team they ensure the implementation of the commercial handbook and plan according to the commercial calendar. They ensure store operations are being followed within the department to contribute to providing a great customer experience. They evaluate and manage the performance of your team, give regular feedback, execute dialogues, development plans, follow up and take any appropriate action to improve performance and develop their team. They actively work with a talent pipeline to support the business and store needs.
<b>Cash Office Responsible</b>	A Cash Office Responsible (COR) ensures the store adheres to the company accounting, payroll and cash handling policies and procedures to comply with legislation and prevent losses. They support the sales in store by encouraging efficiency through best practices especially in regards to faulty items, stock routines and cash practices. They work together with the management team to keep the store up to date and well informed of all administrative policies and routines.

**B. Sales Classification Structure**

<b>Level</b>	<b>Definitions</b>
<b>Level 1 Sales Advisor</b>	<p>An employee performing one or more of the following functions at a retail establishment:</p> <ul style="list-style-type: none"> <li>(i) the receiving and preparation for sale and or display of goods in or about any shop;</li> <li>(ii) the pre-packing or packing, weighing, assembling, pricing or preparing of goods or provisions or produce for sale;</li> <li>(iii) the display, shelf filling, replenishing or any other method of exposure or presentation for sale of goods;</li> <li>(iv) the sale or hire of goods by any means;</li> <li>(v) the receiving, arranging or making payment by any means;</li> <li>(vi) the recording by any means of a sale or sales;</li> <li>(vii) the wrapping or packing of goods for despatch and the despatch of goods;</li> <li>(viii) the delivery of goods;</li> <li>(ix) window dressing and merchandising;</li> <li>(x) loss prevention;</li> </ul>

	<ul style="list-style-type: none"> <li>(xi) demonstration of goods for sale;</li> <li>(xii) the provision of information, advice and assistance to customers;</li> <li>(xiii) the receipt, preparation, packing of goods for repair or replacement and the minor repair of goods;</li> <li>(xiv) all directly employed persons engaged in retail stores in cleaning, store greeting, security, lift attending, store cafeterias and food services; or</li> <li>(xv) work which is incidental to or in connection with any of the above.</li> </ul>
<p><b>Level 3</b></p> <p><b>Cash Office Responsible</b></p>	<p>An employee performing work at a retail establishment at a higher level than a Retail Employee Level 2.</p> <p>Indicative of the tasks which might be required at this level are the following:</p> <ul style="list-style-type: none"> <li>(i) Supervisory assistance to a designated section manager or team leader,</li> <li>(ii) Opening and closing of premises and associated security, or</li> <li>(iii) Security of cash.</li> </ul> <p>Also includes a Cash Office Responsible role.</p>
<p><b>Level 4</b></p> <p><b>Visual Merchandiser</b></p>	<p>An employee performing work at a retail establishment at a higher level than a Retail Employee Level 3.</p> <p>Indicative of the tasks which might be required at this level are the following:</p> <ul style="list-style-type: none"> <li>(i) Management of a defined section/department,</li> <li>(ii) Supervision of up to 4 sales staff (including self),</li> <li>(iii) Stock control,</li> <li>(iv) Buying/ordering requiring the exercise of discretion as to price, quantity, quality etc.,</li> <li>(v) An employee who is required to utilise the skills of a trades qualification for the majority of the time in a week.</li> </ul> <p>This level caters for the employees who have had sufficient experience and/or training to enable them to carry out their assigned duties under general direction.</p> <p>Employees at this level are responsible and accountable for their own work which is performed within established guidelines. In some situations detailed instructions may be necessary. This may require the employee to exercise limited judgment and initiative within the range of their skills and knowledge.</p> <p>The work of these employees may be subject to final checking and as required progress checking. Such employees may be required to check the work and/or provide guidance to other employees at a lower level and/or provide assistance to less experienced employees at the same level.</p> <p>Also includes a Visual Merchandiser role (without Diploma).</p>

<p><b>Level 6</b></p> <p><b>Department Manager</b></p> <p><b>Visual Merchandise Manager</b></p>	<p>An employee performing work in or in connection with a retail establishment at a higher level than a Retail Employee Level 5.</p> <p>Indicative job titles which are usually within the definition of a Retail Employee 6 include:</p> <ul style="list-style-type: none"> <li>(i) Department Manager,</li> <li>(ii) Assistant Store Manager,</li> <li>(iii) Visual Merchandiser Manager.</li> </ul> <p>Employees at this level have achieved a standard to be able to perform specialised or non-routine tasks or features of the work. Employees require only general guidance or direction and there is scope for the exercise of limited initiative, discretion and judgment in carrying out their assigned duties.</p> <p>Such employees may be required to give assistance and/or guidance (including guidance in relation to quality of work and which may require some allocation of duties) to employees in Level 1 and would be able to train such employees by means of personal instruction and demonstration.</p>
<p><b>Level 8</b></p> <p><b>Store Manager</b></p>	<p>Indicative job titles which are usually within the definition of a Retail Employee 8 include a Store Manager.</p> <p>Employees at this level are subject to broad guidance or direction and would report to more senior staff as required.</p> <p>Such employees will typically have worked or studied in a relevant field and will have achieved a standard of relevant and/or specialist knowledge and experience sufficient to enable them to advise on a range of activities and features and contribute, as required, to the determination of objectives, within the relevant field(s) of their expertise.</p> <p>They are responsible and accountable for their own work and may have delegated responsibility for the work under their control or supervision, in terms of, among other things, scheduling workloads, resolving operations problems, monitoring the quality of work produced as well as counselling staff for performance as well as work related matters.</p> <p>They would also be able to train and to supervise employees in lower levels by means of personal instruction and demonstration. They would also be able to assist in the delivery of training courses. They often exercise initiative, discretion and judgment in the performance of their duties.</p> <p>The possession of relevant post-secondary qualifications may be appropriate but not essential.</p>

## Undertaking- section 190

I, Javena Johnson, Employee Relations & Benefits Responsible of H & M Hennes & Mauritz Pty Ltd, give the following undertakings with respect to the *H & M Enterprise Agreement 2019* ("the Agreement"):

1. Clause 15.2 of the Agreement will be read and interpreted as follows:

15.2 *Where an employee who has entered into an agreement with H&M under clause 15.1 recommences work without having had 10 hours off work then the employee will be paid the applicable rate outlined in section 18.1 until such time as they are released from duty for a period of 10 consecutive hours off work without loss of pay for ordinary time hours occurring during the period of such absence.*

2. A new clause 15.3 will be added to the Agreement as follows:

15.3 *Where an employee who has not entered into an agreement with H&M under clause 15.1 recommences work without having had 12 hours off work then the employee will be paid the applicable rate outlined in section 18.1 until such time as they are released from duty for a period of 12 consecutive hours off work without loss of pay for ordinary time hours occurring during the period of such absence.*

3. Clause 19.3 will be read and interpreted as follows:

19.3 *TOIL accrues at the equivalent rate, such that the period of time off the employee is entitled to take is equivalent to the overtime payment that would have been made: that is, where one hour of 150% overtime is worked, the employee will accrue 1.5 hours of TOIL.*

4. A new clause 19.7 will be added to the Agreement as follows:

19.7 *Any unused TOIL will be paid out on the termination of employment, at the applicable overtime rate of pay at which it was accrued.*

I have the authority given to me by H & M Hennes & Mauritz Pty Ltd to provide this undertaking in relation to application for approval for the Agreement before the Fair Work Commission.

Employer name: H & M Hennes & Mauritz Pty Ltd

Authority to sign: Employee Relations & Benefits Responsible

Signature:



Date: 13 December 2019