

## **REGISTER OF ENTERPRISE AGREEMENTS**

**ENTERPRISE AGREEMENT NO:** EA06/129

**TITLE:** **Batlow Fruit Co-operative Ltd**

**I.R.C. NO:** IRC6/988

**DATE APPROVED/COMMENCEMENT:** 20 March 2006 / 1 July 2005

**TERM:** 12

**NEW AGREEMENT OR  
VARIATION:** New.

**GAZETTAL REFERENCE:** 31 March 2006

**DATE TERMINATED:**

**NUMBER OF PAGES:** 29

**COVERAGE/DESCRIPTION OF**

**EMPLOYEES:** The agreement applies to all employees employed by Batlow Fruit Co-operative Limited, engaged in or in connection with the packing, storing and forwarding of fresh fruit handled from time to time, who fall within the coverage of the Clerical and Administrative Employees (State) Award; and Food Preservers (State) Award.

**PARTIES:** Batlow Fruit Co-Operative Ltd -&- the Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union, New South Wales Branch

**BATLOW FRUIT**  
**CO-OPERATIVE LIMITED**  
**CERTIFIED AGREEMENT**  
**2005**

**1. TITLE**

This agreement shall be known as Batlow Fruit Co-Operative Ltd Certified Agreement 2005.

**2. ARRANGEMENT**

The agreement is arranged as follows:

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### 3. APPLICATION

The parties bound to this agreement are:

All employees of Batlow Fruit Co-Operative Limited eligible to be members of the AFMEPKIU and are covered by classifications set out in Clause 5 of this agreement.

### 4. INCIDENCE OF AGREEMENT

This agreement shall apply to employees of the company at Batlow engaged in or in connection with the packing, storing and forwarding of fresh fruit as handled from time to time on these premises.

### 5. RELATIONSHIP TO PARENT AWARD

This agreement shall be read and interpreted wholly and in conjunction with the Food Preservers (State) Award and the Clerical & Administrative Employees (State) Award, provided that where there are any inconsistency between this Agreement and the above mentioned Award, this Agreement shall take precedence to the extent of the inconsistency.

The parties agree to the maintenance and improvement of the minimum wages and conditions contained in the relevant safety net award. In particular during the life of this agreement, the parties agree to not utilise any new facilitative provisions inserted into the relevant awards as part of the Award Simplification Process unless agreed otherwise.

The parties agree that no employee will be disadvantaged during the life of this agreement by any changes to the Parent awards through the Award Simplification Process.

The company will immediately implement the proposed variations to casual loading provisions following the decision being handed down.

**The company agrees not to implement any individual contracts or Australian workplace agreements during the life of this agreement.**

### 6. DURATION OF AGREEMENT

This agreement shall come into operation as from the first pay period commencing July 1st 2005 and shall remain in force until July 1<sup>st</sup> 2006.

## **7. RENEWAL OF AGREEMENT**

- (a) To ensure openness, fairness, equity and trust in employee/employer relations, the company will maintain the existing collective process of negotiation of pay and employment conditions for employees through the AFMEPKIU.
- (b) The process of collective bargaining at Sub-clause 7.a shall be to the exclusion of any other means to determine the pay and conditions of employment.
- (c) The parties agree that negotiations on the renewal/replacement of this agreement will commence no later than three (3) months prior to the expiry of this Agreement.

## **8. CONTRACT OF EMPLOYMENT**

### **8.1 Statement of class of employment**

Upon commencing any engagement for an employee, the employee shall be given a statement in writing by the employer notifying which class of engagement he or she is being employed on and containing the appropriate terms of such engagement. All employees shall be direct employees of Batlow fruit Co-Operative. Labour hire will not be used during the life of the agreement.

### **8.2 Weekly Employment**

- (a) Shall be an employee who is under weekly engagement and whose employment is continuous in the ordinary sense of the term, and whose employment may be terminated by one week's notice given by either party or the payment of or forfeiture of (as the case may be) a week's wages.
- (b) Employees not attending for duty shall, except as provided for by Clauses 20, 21, 23, 24,25,26,27 and 33 of this agreement, lose their pay for the actual time of non-attendance.

### **8.3 Casual Employment**

- (a) Shall be an employee who is engaged by the hour for a period of not more than one month except by agreement between the employer and the employee.
- (b) A casual employee for an ordinary working day shall be entitled to a minimum payment as for two hours work. Where work is required on a Saturday or holiday by a casual employee, he or she shall be entitled to the same minimum period of payment as provided for weekly employees.
- (c) A casual employee shall be paid one thirty-eighth of the appropriate weekly rate plus 20 per cent per hour.

#### 8.4 Seasonal Employment

Employment shall be on a two day basis only during the season (as defined). Employment shall be terminated by two days' notice on either side, given at any time during the day, or by the payment or forfeiture, as the case may be, of two days ordinary wages.

#### 8.5 Definition

"Season" means in respect of work directly associated with or forming part of the preparation of the continuous processing of seasonally grown items.

#### 8.6 Preference of Employment

- (a) At the beginning of each new season, seasonal employees from the previous season will receive preference of employment, except insofar as production changes necessitate special qualifications for which current employees cannot be appropriately trained up to.
- (b) Employees who were weekly employees prior to the signing of this Agreement, and who reverted to seasonal employment for the purposes of this Agreement, will receive absolute preference of employment over any other seasonal or casual employee. Such preference also applies to casual employment in the "off season" where the employee has indicated availability for such work, except insofar as production changes necessitate special qualifications for which current employees cannot be appropriately trained up to.

### 9. PROBATIONARY PERIOD

9.1 (a) A probationary period of 4 weeks (152 hours) duration will apply to all new employees upon commencement of employment with the Company. The wage rate shall be 80% of Level 1.

- (b) The probationary period will apply **to new recruits only**. It will not apply to those employees who have had any period of employment with the company since 1 August 1998, provided that period of employment exceeds four weeks in duration. It shall not apply to existing employees who move into a new position/classification or to new employees who have prior experience or training in the company or industry.

Employees with greater than two years absence from the business will be required to undertake training on commencement of employment.

- (c) The probationary period will count for accrual purposes for all conditions of employment.

- 9.2 (a) Except as provided in Sub-clause 9.2.b, the procedures outlined in Clause 40, Discipline Procedure, will apply to all employees, including those on probation.
- (b) Within the probationary period, termination of employment can be effected by either party giving two days notice in the case of permanent and seasonal employees.

## **10. MANNING LEVELS**

The Company and the union will meet regularly to review manning levels with a view to maximising the levels of permanent and seasonal employment. Unresolved issues arising from this process will be handled in accordance with Clause 40 of this agreement.

## **11. WAGES**

- 11 (a) All employees will receive wage increases consistent with Attachment A and backdated to 1st July, 2005. It is accepted between the parties that the business is experiencing a difficulty as a result of reduced fruit throughput. The poor outlook for the Batlow Apple industry was taken into consideration during the negotiations between the parties. The new classification structure is reflective of the current needs and financial constraints of the business.

All new employees shall be classified in accordance with the new structure.

Any anomalies that may arise with existing employees during this transitional process shall be dealt with immediately by the parties in accordance with Clause 40 of this Agreement.

- 11 (b) **Sunset Provisions**  
The parties agree that no employee shall be disadvantaged by the introduction of the new Competency base classification structure. As such, employees with historically enhanced pay rates outside of the new classification structure shall continue to receive the current rate of pay and additional enterprise wage increments as they become due until such time as they cease employment with the Company.

## **12. NO EXTRA CLAIMS**

It is a term of this Agreement that the parties undertake not to pursue any extra claims for the period of the Agreement, except when consistent with National Wage Case principles.

### **13. BLOOD DONORS LEAVE**

An employee who attends a recognised clinic for the purpose of donating blood during work hours shall be allowed the necessary leave of absence without loss of pay.

### **14. INCLEMENT WEATHER**

Those employees affected by road closures due to inclement weather shall be entitled to 1 day paid leave of absence.

### **15. TRAINING**

The continuing facilitation of training on site shall be co-ordinated by a provider agreed to by the parties.

The new competency based classification system is attached as Appendix B to this document. All matters relating to training shall be handled in consultative manner.

#### **1. Training Committee**

- (a) A site training committee shall be established to ensure the quality of preparation, delivery and evaluation of classification levels and programs. Ideally these employees will be qualified in Workplace Trainer Category 1.
- (b) The Committee will have equal employer/employee representation.
  - \* Be co-ordinated by the operations manager
  - \* Meet regularly to review and develop all training activities.

Training for the Committee will be paid for by the company and shall be provided to all committee members by a provider agreed to by the parties.

The parties agree that any issues arising as a result of the new classification or training process's will be dealt with in accordance with the Disputes Settlements Provisions at Clause 40 of this agreement.

- 2. Employees will not be disadvantaged by the company's inability to provide training. Failure by the company to provide training without a relevant and justifiable cause shall be dealt with in accordance with Clause 40.

### **16. WORKING ENVIRONMENT**

The parties to this Agreement agree to the following:



- (a) Team meetings will be held as and when required. Issues raised in team meetings which cannot be resolved therein will be referred to the consultative committee.
- (b) The mechanism for ongoing consultation between management and employees shall continue through the consultative committee.

## **17. IMPLEMENTATION OF NEW TECHNOLOGY/SYSTEMS OF WORK**

Where new technology or work systems are to be introduced, the following will take place:

- (a) Prior to the introduction of any new technology or work system, appropriate consultation will take place.
- (b) Appropriate Training.
- (c) Agreed Job Design.

## **18. HOURS OR WORK**

### **18.1 Day workers and Shift Workers**

- (a) The ordinary hours of work for both day work and shift work shall average 38 hours per week and shall not exceed eight hours per shift.
- (b) The ordinary hours of work (other than shift work) shall be worked between the hours of 7:00am and 6:00pm Monday to Friday inclusive.

### **18.2 Shift workers and Shift Allowances**

- (a) The employers shall have the right to introduce shift work.
- (b) Shift workers whose period includes a Saturday, Sunday or any holidays specified shall be paid as follows:
  - i) Midnight Friday to Midnight Saturday - time and a half for the portion of the first eight hours worked which falls within this period, and double time thereafter.
  - ii) Midnight Saturday to Midnight Sunday - Double time.
  - iii) Public Holiday - Double time and a half.
- (c) A shift worker while on afternoon shift shall be paid 15 percent more than the ordinary rate.

(d) A shift worker while on night shift shall be paid 30 percent more than the ordinary rate.

(e) Definitions of Shift Work

Day Shift - shall not commence before 7:00am.

Afternoon Shift - means any shift finishing after 6:00pm and at or before midnight.

Night Shift - means any shift finishing after midnight and at or before 8:00am.

The changing of shifts shall be by mutual agreement, however, the employee shall be entitled to a 10 hour break between shifts, unless otherwise agreed.

## 19. OVERTIME

The company may require any employee to work reasonable overtime at overtime rates and such employees shall work overtime in accordance with such requirement. Provided that where it is anticipated that overtime is to be worked on a particular day, employees are to be given at least 4 hours notice of such overtime.

### 19.1 Overtime

All time worked in excess of, or outside, the fixed working hours shall be paid at the rate of time and one half for the first 2 hours and double time thereafter determined on a daily basis.

(a) Saturday

An employee who is required to work overtime on Saturday will be paid as for weekday overtime with a minimum period of 3 hours.

(b) Sundays and Public Holidays

An employee who is required to work overtime on Sundays shall be paid double time for all time worked and if required to work on a Public Holiday shall be paid double time and one half for all the time worked except for work on Christmas Day and Good Friday, which shall be paid for at triple time. For work on Sundays and Public Holidays a minimum payment of 3 hours shall apply.

### 19.2 Ten Hour Break After Overtime

When overtime work is necessary it shall, where ever reasonably practicable, be so arranged that employees have at least 10 consecutive hours off duty between work on successive days. An employee who works so much overtime -

- (a) Between the termination of ordinary work on one day and the commencement of ordinary work on the next day where there has not been at least 10 consecutive hours off duty between these times, OR;
- (b) On Saturdays, Sundays, Rostered Days Off and Holidays, not being ordinary working days without having had 10 consecutive hours off duty between the termination of such work and the ordinary commencing time of the ordinary day or shift,

shall, subject to these sub-clauses, be released after completion of such overtime until the employee has had 10 consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

If at the requirement of the company, such an employee resumes or continues to work without having had such 10 consecutive hours off duty, the employees shall be paid at double rates until the employee is released from duty for such a period and shall then be entitled to be absent until the employee has had 10 consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

### 19.3 Employee Recalled To Work

An employee recalled to work overtime after leaving the employer's business premises, shall be paid for a minimum of 3 hours work at the appropriate rate for each time so recalled.

This Clause shall not apply in cases where it is customary for an employee to return to the employer's premises to perform a specific job outside their ordinary working hours, or where the overtime is continuous (subject to reasonable meal break) with the completion or commencement of ordinary working time.

## **20. ROSTERED DAYS OFF**

- (a) An employee (other than a casual) will accrue 0.4 hours per ordinary day, i.e. 3 minutes per ordinary hour worked for 2 hours per week. All paid ordinary time off will attract the accrual of time for rostered days off (this includes sick days, public holidays etc.).
- (b) An employee who has not worked the complete four week (19 ordinary day) cycle, will be paid on a pro-rata basis.
- (c) Every fourth Monday shall be the rostered day off except where Monday is a Public Holiday, then it would be the next working day, or the following Monday.
- (d) Rostered days off will accrue between 30th March and 30th November. Management can, with at least 48 hours notice to employees, decide to take any number of days (if accrued) in one block, these should be taken during the week when there is a rostered day off.
- (e) With respect to any other accrued days, the management will (after consultation) endeavour to ensure that where possible days or part thereof are taken at a time convenient.
- (f) Any person who terminates or is terminated shall be paid all accrued time outstanding at the time of termination.
- (g) Nothing in this clause shall prevent an alternate agreement being reached between all or any of the employees and the company should the need arise.

## **21. MEAL BREAKS, MEAL ALLOWANCE PROVISIONS**

- (a) The recognised lunch break for day workers shall be taken between 12:25pm and 1:00pm Monday to Friday, (this is a 30 minute unpaid meal break).
- (b) Thirty minutes shall be allowed to shift workers on each shift for crib, and shall be counted as time worked. All other breaks shall be on the same basis as day shift.
- (c) No employee shall work more than five hours without having a break for a meal, unless by agreement. In the event of an employee being required to continue working, the employee shall be paid overtime rates until a meal break of not less than the time usually allowed, is taken.
- (d) An employee who works in excess of 9.5 hours on any day shall be paid a meal allowance of \$13.60.

- (e) An employee who is required, and works overtime for 3 hours or more after the normal ceasing time, shall be allowed, at the expiration of the said 3 hours, 30 minutes for a meal, and thereafter a similar time allowance for every four hours of overtime worked.
- (f) Where overtime is worked on a Saturday and work continues after 12 noon, a paid meal break of 30 minutes shall be taken between 12 noon and 1:00pm.
- (g)
  - i) Employees shall be allowed a paid break of 15 minutes each morning for the purpose of having morning tea.
  - ii) Employees shall be allowed two (2) "walk breaks" of 5 minutes duration to be taken between 7:00am and 12:30pm, and 1:00pm and 4:00pm. However, due consideration will be given to individuals needs. Where overtime is proposed in excess of 1.5 hours, one additional "walk break" of 5 minutes duration shall be allowed.
  - iii) Tea, Coffee, Milk, sugar and boiling water shall be provided free of charge by the company during meal breaks and morning tea breaks.

## **22. SICK LEAVE**

22.1 An employee (other than a casual) who is absent from work during ordinary hours on account of personal illness, injury, elective surgery or dental work (other than routine dental maintenance) shall in the case of day workers be entitled to leave of absence at the ordinary time rate of pay of the appropriate classification plus the relevant shift allowance, subject to the following conditions:

- (a) An employee shall not be entitled to such leave unless he or she has been continuously in the service of the employer for at least 1 month immediately before such absence. The employee shall, within 2 hours of the commencement of such absence, or as soon as reasonably practicable, inform the company of their inability to attend for duty.
- (b) An employee absent on paid sick leave not exceeding two consecutive days shall, if required by the employer, produce evidence of the illness by statutory declaration.
- (c) The employer shall not be required to pay sick leave for any absence exceeding two consecutive days unless the employee produces a certificate signed by a duly qualified medical or dental practitioner certifying that in the opinion of the practitioner the employee was unable to attend work due to the personal illness or injury, elective surgery or dental work.
- (d)
  - i) An employee shall be entitled to 38 hours sick leave during the first year of employment and 76 hours sick leave during the second and subsequent years of employment, subject to continuous service.

- ii) Service is deemed to be continuous where the worker returns to the service, or is re-employed, by the employer within 3 months of the date on which service was interrupted. In circumstance where the absence is greater than 3 months, but through circumstances beyond the control of the employee (i.e. no work available), service will be deemed continuous upon re-employment.
- (e) Sick leave shall accumulate from year to year so that any balance of the period specified in Sub-clause 21.1 d. i), hereof which has in any one year not been allowed to an employee by the employer as paid sick leave may be claimed by the employee and, subject to the conditions herein before prescribed, shall be allowed by the employer in any subsequent year without diminution of sick leave prescribed in respect of that year.
- (f) Where an absence from work is due to pregnancy or child birth, service will be deemed continuous under this clause provided the absence is no greater than 12 months.

22.2 Provisions for weekly employees employed at the time of registration of Enterprise Agreement:

- (a) All sick leave accrued as at the dater of registration of this Agreement will be banked. On the first pay period on or after such registered, all employees will receive written notification of the amount of accrued sick leave they have banked.

Subject to Sub-clause 21.2 iii), upon termination of employment, banked sick leave will be paid out at the hourly rate applicable at the time of termination.

- (b) Sick leave accrued after the 9th April, 1997 will not be paid out upon termination of employment.
- (c) Employees may access their banked sick leave as required. However, once banked sick leave is utilised, it is not possible to accrue further leave in the bank for the purposes of payment upon termination.

e.g.

Employee X has accrued 30 days sick leave at the time of Registration of this agreement. Those 30 days are banked and employee X continues to accrue sick leave per Clause 21.1 d. i) and ii) of the Enterprise Agreement. After 12 months further employment, employee X has accrued another 10 days sick leave, but then falls ill and takes 21 days off. In doing so employee X uses his 10 days accrued since the Registration date plus 11 days out of his bank. The balance in his bank is now 19 days. If employee X works for two more years only, thus accruing another 20 days sick leave, he still receives only payment for 19 days sick leave upon termination, as it is not possible to top up banked sick leave once it is utilised.

## **23. PUBLIC HOLIDAYS**

23.1 (a) Subject to Sub-clause 22.1 b. Holidays shall be as per Clause 16 of the Food Preservers (State) Award as published 28 February 1992 (270 I.G. 226).

(b) Subject to the consent of the employer, the following holidays may be taken as a time of the employees choosing:

- \* Queen's Birthday;
- \* Australia Day;
- \* Labour Day;
- \* August Bank Holiday;
- \* Union Picnic Day

Employees are encouraged to take these holidays in the period from 1 December to 31 March. At 31 March, all holidays owing from the previous calendar year must be taken.

Any Public Holiday exchanged but not taken at the time of termination of employment will be paid out at such time.

### **23.2 Absence Before or After Holidays**

(a) Any employee (other than casual) absent without leave on the working day immediately preceding a holiday or holidays, or on the working day immediately succeeding such holiday or holidays, shall forfeit wages for the days of absence including the holiday or holidays, except where such absence is due to illness of the employee or to other reasonable cause, proof whereof shall be upon the employee.

(b) An employee (other than a casual) whose employment is terminated less than seven days before any holiday, and who is re-engaged less than fourteen days thereafter shall be paid for such holidays. In the case of such a termination before Good Friday or Christmas Day and re-engaged less than fourteen days after Easter Monday or New Years Day shall be paid for the prescribed Easter holidays or for the prescribed Christmas holidays, as the case may be.

## **24. ANNUAL LEAVE AND ANNUAL LEAVE LOADING**

### **24.1 Annual Leave**

(a) Annual leave shall be taken by the employee at a time fixed by the company by mutual consent with the employee.

(b) All other conditions in respect to annual leave for weekly employees are as contained in the Annual Holidays Act, 1944.

- (c) Each employee before going on annual leave shall be paid the wage that would have been received in respect to the ordinary time worked during the period of annual leave.
- (d) Seasonal employees will be paid out accrued annual leave upon termination at the end of each season.

#### 24.2 Loading on Annual Leave

- (a) During the period of annual leave an employee shall receive a loading of 17.50 per cent of the ordinary weekly wage rate, provided that where an employee would have been entitled to shift loading of a greater amount than 17.50 per cent, then the shift loading shall be included in the wage rate in lieu of the 17.50 per cent.
- (b) The annual leave loading prescribed in Sub-clause 23.2 a. shall apply to proportionate leave on termination including termination of seasonal employees at the end of each season, except in cases of misconduct or self termination.

### 25. LONG SERVICE LEAVE

- (a) Long service leave shall be available after five years service on a pro-rata basis.

All other provisions are in accordance with the Long Service Leave Act, 1955 and any variation contained therein.

- (b)
  - i) For the purposes of long service leave, service is deemed to be continuous where the worker returns to the service, or is re-employed by the employer, within 6 months of the date on which service was interrupted.
  - ii) In circumstances where the absence is greater than 6 months but through circumstances beyond the control of the employee (i.e. no work available), service will be deemed continuous upon re-employment.
- (c)
  - i) Where an absence from work is due to pregnancy or child birth, service will be deemed continuous under this Clause provided the absence is no greater than 12 months.
  - ii) Any period of absence under this Clause will not be included for the purposes of calculating long service leave entitlement.

### 26. BEREAVEMENT LEAVE

All employees shall be entitled to 3 days bereavement leave on the death of a family member without loss of pay.



The term family shall include spouse, defacto spouse, former defacto spouse - including same sex partners, child - including adopted or foster child, step-child, grandchild or ex-nuptial child, parent, parent-in-law, grandparent, brother or sister.

If required proof of such death shall be furnished by the employee to the reasonable satisfaction of the company.

This clause shall have no operation while the period of entitlement to leave under it coincides with any other period of entitlement to leave.

## **27. PAID PARENTAL LEAVE**

- (a) Employees shall be entitled to up to 6 weeks paid parental/ special maternity leave to be accessed by one or shared by both parents following the birth of a child.
- (b) Casuals with a total of 18 months aggregate service over a two year period will be eligible.
- (c) In all other instances the provisions of the Workplace Relations Act 1996 shall apply.

## **28. PERSONAL CARER'S LEAVE**

### **28.1 Use of Sick Leave**

- 1) An employee, other than a casual employee, with responsibilities in relation to a class of person set out in Clauses 8.2 and 8.4 who needs the employee's care and support shall be entitled to use, in accordance with this Sub-clause, any current or accrued sick leave entitlement, provided for at Clause 19 of the Food Preservers (State) Award of the award, for absences to provide care and support for such persons when they are ill. Such leave may be taken for part of a single day.
- 2) The employee shall, if required, establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person. In normal circumstances an employee must not take carer's leave under this Sub-clause, where another person has taken leave to care for the same person.
- 3) The entitlement to use sick leave in accordance with this Sub-clause is subject to:
  - (a) the employee being responsible for the care of the person concerned; and
  - (b) the person concerned being:
    - i) a spouse of the employee; or

- ii) a defacto spouse, who, in relation to a person, is a person of the opposite sex to the first mentioned person who lives with the first mentioned person as the husband or wife of that person on a person; or
  - iii) a child or an adult child (including an adopted child, a step child, a foster child or an ex-nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the employee or spouse or de facto spouse of the employee; or
  - iv) a same sex partner who lives with the employee as the de facto partner of that employee on a bona fide domestic basis; or
  - v) a relative of the employee who is a member of the same household, where for the purpose of this paragraph:
    - 1) "relative" means a person related by blood, marriage or affinity;
    - 2) "affinity" means a relationship that one spouse, because of marriage, has to blood relatives of the other; and
    - 3) "household" means a family group living in the same domestic dwelling.
- 4) An employee shall, wherever practicable, give the employer notice prior to the absence of the intention to take leave, the name of the person requiring care and their relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the employee to give prior notice of absence, the employee shall notify the employer by telephone of such absence at the first opportunity on the day of absence.

## 28.2 Unpaid Leave for Family Purpose

- 1. An employee may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care and support of a member of a class of person set out in 28.3 above who is ill.

## 28.3 Annual Leave

- 1. An employee may elect with the consent of the employer, subject to the Annual Holidays Act 1944, to take annual leave not exceeding five days in single day periods or part thereof, in any calendar year at a time or times agreed by the parties.
- 2. Access to annual leave, as prescribed in paragraph 24.1 above, shall be exclusive of any shutdown period provided for elsewhere under this award.
- 3. An employee and employer may agree to defer payment of the annual leave loading in respect of single day absences, until at least five consecutive annual leave days are taken.

#### 28.4 Time Off in Lieu of Payment for Overtime

1. An employee may elect, with the consent of the employer, to take time off in lieu of payment for overtime at a time or times agreed with the employer within twelve (12) months of the said election.
2. Overtime taken as time off during ordinary time hours shall be taken at the ordinary time rate, that is an hour for each hour worked.
3. If having elected to take time as leave, in accordance with paragraph 28.4.1 above, the leave is not taken for what ever reason, payment for time accrued at overtime rates shall be made at the expiry of the twelve (12) months period or on termination.
4. Where no election is made in accordance with 28.4.1, the employee shall be paid their overtime in accordance with the Award.

#### 28.5 Make-up Time

1. An employee may elect, with the consent of their employer, to work "make-up time", under which the employee takes time off ordinary hours, and works those hours at a later time, during the spread of ordinary hours provided in the award, at the ordinary rate of pay.
2. An employee on shift work may elect, with the consent of the employer to work "make-up time" under which the employee takes time off ordinary hours and works those hours at a later time, at the shift work rate which would have been applicable to the hours taken off.

#### 28.6 Rostered Days Off

1. An employee may elect, with the consent of the employer, to take a rostered day off at any time.
2. An employee may elect, with the consent of the employer, to take rostered days off in part day amounts.
3. An employee may elect, with the consent of the employer, to accrue some or all rostered days off for the purpose of creating a bank to be drawn upon at time mutually agreed between the employer and employee, or subject to reasonable notice by the employee or the employer.
4. This Sub-clause is subject to the employer informing each union which is both party to the Award and which has members employed at the particular enterprise of its intention to introduce an enterprise system of RDO flexibility, and providing a reasonable opportunity for the union(s) to participate in negotiations.

## **29. JURY SERVICE**

1. An employee required to attend jury service during ordinary working hours shall be reimbursed by the company an amount equal to the difference between the amount of wage that would have been received in respect of the ordinary time that would have been worked had jury service not been undertaken.
2. An employee shall notify the company as soon as possible of the date upon which attendance for jury service is required. Further, the employee shall give the company proof of attendance, the duration of such attendance and the amount received in respect of such jury service.

## **30. HARASSMENT**

Batlow Fruit Co-op is an equal opportunity employer and the company confirms its continuing intention to treat all members of the company and potential members of the company fairly - irrespective of

- \* Gender
- \* Sex (including pregnancy)
- \* Race, colour, ethnic - religious background, descent or nationality
- \* Marital Status
- \* Disability (including physical, intellectual or psychiatric disability, learning disorders, any organism capable of causing disease - for example, HIV)
- \* Homosexuality (male or female, actual or presumed)
- \* Age
- \* Political Opinion

The company does not and will not tolerate direct or indirect discrimination of any kind toward work colleagues, their friends or any of their relatives.

The company are pro-active in ensuring all company policies are adhered to. Copies of all company policies are available to all employees on request at the front office.

## **31. PROTECTIVE CLOTHING, ETC.**

The following protective clothing shall be provided free of charge to employees:

1. All employees shall be provided with a jacket appropriate to their area of employment.
2. Employees working on the packing line shall be provided with gloves and aprons.
3. Forklift drivers shall be provided with 2 pairs of overalls and 1 pair of gloves per annum, also a pair of freezer boots when required. Requests for additional protective clothing will not be unreasonably refused.

4. A laundry allowance of \$5.50 per week will be paid to all employees who are issued with protective clothing.
5. Any replacements will be provided on a fair wear-and-tear basis.

### **32. FIRST AID**

- 32.1 The company shall appoint competent people to be in charge of First Aid on each shift of each day.
- 32.2 Where those people hold a current approved First Aid Certificate and are employed under the terms of this agreement, they shall be paid an amount of \$2.20 per day in addition to all other payments due to them. (This amount will continue to vary in accordance with relevant pay rise increments).
- 32.3 It shall be the responsibility of the company and the First Aid attendants to maintain an adequate supply of all the necessary First Aid equipment.
- 32.4 The name of persons in charge of First Aid on each shift shall be clearly displayed on the notice board in the establishment.

### **33. PAYMENT OF WAGES**

- (a) General
  - i) On or prior to pay day, the company shall state to each employee in writing the amount of ordinary wage to which he or she is entitled, the amount of deductions made there from and the net amount due to each employee.
  - ii) Employee's wages shall be paid by cash or (by agreement) cheque, or paid directly into the employee's financial institution.
  - iii) The employer shall pay at any time on the written order of the employee any obligatory contributions or donations out of the amount for the time being due to the employee. Provided that the employer shall not be required to make payment on any such order which may be presented less than 24 hours prior to the time fixed for payment.
- (b) Employees who work an average of 38 ordinary hours each week
  - i) In the case of an employee whose ordinary hours of work are arranged so that he or she worked an average 38 ordinary hours each week during a particular work cycle, wages may be paid weekly according to a weekly average of ordinary hours worked even though more or less than 38 ordinary hours may be worked in any particular week of the work cycle.

(c) Payment on Termination

- i) Upon termination of employment, all wages due to an employee (including a casual) shall be paid to him or her on the day of such termination or forwarded to him or her by post on the next ordinary working day.

□34. **TRADE UNION TRAINING LEAVE**

An employee who is the recognised union representative, or nominated replacement, shall be allowed a maximum of 10 days per annum for attendance at accredited Union courses, without loss of pay.

The employee must give the company at least 2 weeks notice of his or her intention to attend a course and, if required, shall prove his or her attendance at such course.

Recognised delegates shall receive paid leave to attend consultation seminars in relation to future enterprise agreements. This shall be in addition to the existing provisions of this clause.

35. **PAID UNION MEETINGS**

Employees shall suffer no loss of wages for attending union meetings.

36. **SHOP STEWARDS**

An employee appointed Shop Steward shall upon notification thereof to the Company, be recognised as the accredited Representative of the Union.

An accredited Shop Steward shall be allowed the necessary time during working hours to:

- (a) Interview the Company or its Representative on matters affecting the employees whom they represent;
- (b) Discuss with employees at the workplace Union matters and matters pertaining to the work they perform, provided that such discussion does not unduly interfere with the work performed by an employee.

37. **POSTING OF UNION NOTICES**

The employer shall not prevent the posting of notices dealing with legitimate union business in a suitable place on a notice board on the employer's premises.

### **38. RIGHT OF ENTRY**

The Company agrees that duly accredited Representative of the NSW Branch of the Union shall have the right to enter any workplace or premises for the purpose of legitimate union business, including investigating suspected breaches of this Agreement or the Workplace Relations Act, 1996 so long as the Representative does not unduly interfere with the work being performed by an employee during working time. Officials shall report to the office on arrival and sign the visitors book.

### **□39. ACCIDENT PAY**

- (a) The company and its employees are bound by all the conditions as contained in the New South Wales Compensation Act.
- (b) Notwithstanding the provisions of this Act, accident pay shall be payable for a maximum period of aggregate periods not exceeding 52 weeks in respect of incapacity arising from any one injury.
- (c) Where an employee has lodged a claim for worker's compensation payment under the provision of the New South Wales Workers' Compensation Act, the company reserves the right, where deemed necessary, to request the employee to attend the company's nominated medical practitioner for assessment of injury incurred.

### **40. SETTLEMENT OF DISPUTES PROCEDURE**

Subject to the provisions of the Workplace Relations Act, 1996 as amended, any dispute shall be dealt with in the following manner:

- (a) Should any matter arise which gives cause for concern to an employee, the matter shall be raised with their immediate supervisor.
- (b) If, following a reasonable period of time, the matter remains unresolved, it shall be referred to the employee representative of the union who will consult the appropriate representative of management.
- (c) If the matter remains unresolved, it shall be referred to such higher levels of the union and the management as may be appropriate.
- (d) If the matter remains unresolved, it shall be submitted to the Industrial Relations Commission.
- (e) The parties shall at all times confer in good faith and without undue delay.

- (f) During the discussions, "the status quo" shall remain and work shall proceed without stoppage or the imposition of any ban, limitation or restriction. "Status Quo" shall mean the situation existing immediately prior to the dispute or the matter giving rise to the dispute; except in cases where a "bona-fide" safety issue is involved.

## **41. DISCIPLINE PROCEDURE**

### **41.1 Application**

This procedure will be applicable to disciplinary counselling for work performance, lateness, absenteeism, security procedures, safety issues, conditions of this agreement, etc.

### **□41.2 Continued Breaches**

Notwithstanding satisfactory improvement at the review date set:

- (a) Repeat breaches up to six months from the last warning will result in a movement of the next stage of the procedure.
- (b) Repeat breaches between six and twelve months from the last warning will result in a reissue of that warning.
- (c) Repeat breaches after twelve months, will result in the whole process being recommenced.

### **41.3 Employee Rights**

- (a) At every stage the employee must be given the opportunity of presenting their own view of events.
- (b) A Union Delegate must be present at all stages unless the employee specifically requests otherwise.
- (c) After stating reasons for the warning to the employee and Delegate there will be a cooling off period of one hour before continuation of the warning and resolution.

### **41.4 The Procedure**

#### **Stage 1**

##### **Verbal Warning**

Emphasis on rectifying unsatisfactory behavior. The employee shall be informed that their performance or conduct is unsatisfactory and advised of the standard of work or conduct expected. A written record of such is to be placed on file.



**Stage 2**

First Written Warning  
Addressed to individual.  
Reference made to previous counselling interview.  
Goals and review date set.

**Stage 3**

Final Written Warning  
Addressed to individual.  
Reference made to previous counselling interview and written warning.  
Reference to appropriate action failing improvement.  
Goals and review date set.

**Stage 4**

Termination  
If no satisfactory improvement, termination of employment.

**42. SUPERANNUATION**

In addition to all other payments under this Agreement the company shall make a superannuation contribution to the Food Industry Superannuation Trust (F.I.S.T.) or another approved fund on behalf of all employees in accordance with the minimum contributions as specified in the Superannuation Guarantee Act. The default fund shall be the Food Industry Superannuation Trust . Currently this stands at 9%.

Contributions are required to be made in respect of all paid leave. The employer shall make the relevant contribution in respect of an employee absent from work due to a work related injury.

Gross ordinary time earnings means the employee's EBA classification rate, inclusive of all allowances, shift loadings or any overaward payment.

**43. REDUNDANCY**

The company commits to using its best endeavors to prevent redundancies for the life of this agreement. However, should redundancies be necessary the following shall apply:-

- 43.1 a) Where the company is planning to introduce major changes in production, structure or technology that are likely to have significant effects on employees, the employer shall notify the employees who may be effected and their union.
- b) Discussions with the employees and their union shall commence as early as practicable after the activities referred to in Clause 43.1 (a) are announced.

- c) For the purposes of discussion the employer shall provide in writing to the employees and their union all information regarding the proposed changes.

43.2 Redundancy shall apply in respect of full-time persons employed at Batlow Fruit Co-op and covered by the classifications specified by the Awards mentioned in Clause 5 of this agreement. **Redundancy occurs when an employer decides that the employer no longer wishes the job the employee has been doing done by anyone and this is not due to the ordinary and customary turnover of labour.**

- (a) Employees shall be entitled to a payment of 4 weeks ordinary wages for each year of service.  
  
This payment is subject to a ceiling of 30 weeks.
- (b) 17.5% loading shall be paid for all accrued annual leave.
- (c) Long Service Leave shall be paid in accordance with the provisions of Clause 25 of this Agreement.
- (d) All payments referred to are based on the weekly site rate applying at the date of termination.
- (e) All employees over the age of 45 years shall receive an additional 20% to the package.

43.3 **Notice Periods:-**

In order to make employees redundant the employer shall give employees the following periods of notice:-

1 year or less	- 1 week
1 - 3 years	- 2 weeks
3 - 5 years	- 3 weeks
5 years and over	- 4 weeks

- (a) In addition to the relevant notice period, employees over the age of 45 years shall be entitled to an additional weeks notice.
- (b) Payment in lieu of the notice periods prescribed in 41.3 shall be made if the appropriate leave is not given.

- 43.4 An employee whose employment is terminated by reason of redundancy, shall be entitled to the same benefits and payments had they remained with the employer until expiry of the notice period.
- 43.5 (a) During the period of notice an employee shall be entitled to one day paid leave for the purpose of seeking other employment.
- (b) If the employee has been allowed paid leave for more than one day, the employer may request the employee provide proof of attendance or the employee shall not be entitled to payment.

For this purpose a statutory declaration shall be sufficient.

#### **44. OCCUPATIONAL HEALTH & SAFETY**

The parties to the agreement abhor the loss of life, sickness and disability caused at work.

- (a) The parties are committed to ensuring the role of the Safety Committee is maintained.
- (b) Accredited training will continue to be provided.
- (c) Training will be determined and approved by the committee in consultation with management.

#### **45. DEDUCTION OF UNION DUES**

The Company agrees to deduct union fees for the AMWU when authorised by an employee.

**APPENDIX A**

In September 1993 the Company entered into an enterprise agreement with the AMWU. That agreement led to alterations to a long standing practice at the Co-operative where employees were engaged by the Co-operative at the commencement of the season and then left the employment of the Co-operative at the end. Due to an increase of work available in the "off season" the enterprise agreement in 1993 established those seasonal employees as weekly employees. That agreement expired in August 1995. It has become apparent that there is no longer enough work available to justify the weekly employment of all employees during the "off season".

The parties therefore agree on a return to a seasonal arrangement, similar to that which applied prior to the 1993 enterprise agreement, with the following to apply:

1. Subject to the clauses below, employees of the Co-operative classified as weekly employees will be made redundant.
2. The following classifications and people will remain employed as weekly employees and will therefore not be included in the redundancy scheme:

Forklift Drivers	R Burgess J Fifita J Glynn K Murrell
Bin Dump Operator	J Nicholson
Cleaner/Forklift Operator	N Williams
Equipment/Packing Supervisor	C Diggins
Sorting Team Leader	C Glynn
Coolstore Manager	G Hamilton
Despatch Supervisor	S Rowe
Assistant Despatch Supervisor	S Weaver
Assistant Equipment/Packing Supervisor	R Watkins

3. Employees made redundant will receive a redundancy package in accordance with Clause 7 of the Food Preservers Redundancy (State) Award.
4. Upon termination of employment, all employees made redundant will have their accrued annual leave (including 17.5% leave loading), rostered days off and public holidays, and sick leave paid out in full.
5. Employees made redundant will be re-classified as seasonal employees under this Enterprise Agreement.

Employees affected by this arrangement will be given absolute preference of employment at the commencement of the season and for each season thereafter.

Employees affected by this arrangement will be given absolute preference of employment for all work in the "off season" where they have indicated an availability for such work.

* P. Cheney	* M. Christian	* M. Glynn	* T. Lord	* L. Bowman
* K. Morton	* C. Osbourne	* J. Watkins	* C. Worth	* P. Anderson

6. Seasonal employees will accrue sick leave, as per Clause 21 - Sick Leave - of this Agreement. Sick Leave will not be paid out upon termination at the end of each season but will continue to accrue from season to season.
7. Seasonal employees will have their accrued annual leave plus 17.5% leave loading paid out upon termination at the end of each season.
8. Untaken Rostered Days Off will be paid out upon termination at the end of each season.
9. All service, both prior to the signing of this Agreement and throughout future seasonal employment, shall be deemed continuous for the purpose of Long Service Leave.

Service is deemed to be continuous where the worker returns to the service, or is re-employed, by the employer within 6 months of the date on which service was interrupted.

In circumstances where the absence is greater than 6 months, but through circumstances beyond the control of the employee (i.e. no work available), service will be deemed continuous upon re-employment.

10. Seasonal employees will be entitled to all training, benefits and conditions under this Enterprise Agreement, except where specifically excluded.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

by: \_\_\_\_\_

Signed for and on behalf of: Batlow Fruit Co-Operative Limited

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

by: \_\_\_\_\_

Signed for and on behalf of: The Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union