

2. AP & D Consolidated Pty Ltd trading as Australian Prestressing Services Victoria and the CFMEU Building and Construction Industry Enterprise Agreement 2008-2011 (AE871879)

Flexibility

- (a) The company may agree with an individual employee covered by this agreement to vary clauses of this agreement from time to time to meet the genuine needs of the company and employee.
- (b) Where the company wants to enter into a variation agreement with an individual employee, it must provide a written proposal to the employee. Where the employee's understanding in written English is limited, the company must take measures, including translation into an appropriate language, to ensure the employee understands the proposal.
- (c) Provided, however, that the company must ensure that any variation agreement is genuinely agreed to by the company and the employee and that it results in the employee being better off overall than they would have been without the agreement.
- (d) The company must also ensure that any such variation agreement is:
 - (i) In writing (including details of the terms that will be varied, how the arrangement will vary the effect of the terms, 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 the day on which the arrangement commences);
 - (ii) Signed by the parties, and if the employee is under 18, by a parent or guardian of the employee;
 - (iii) Provided to the employee within 14 days after it is agreed to;
 - (iv) Able to be terminated by either party given written notice of not more than 28 days, or at any time by both parties agreeing in writing.
- (e) Upon request, the company/employer must provide copies of all flexibility arrangements made under this clause to the union/employee representative.
- (f) Clauses of the agreement that are subject to flexibility arrangements are:
 - i. Clause 40 [parental leave];
 - ii. Clause 41 [compassionate leave];
 - iii. Clause 42 [jury service]; and
 - iv. Clause 48 [clothing issue and safety footwear and equipment].
- (g) The employer must ensure that the terms of the individual flexibility arrangement:
 - (a) are about permitted matters under section 172 of the Fair Work Act 2009; and
 - (b) are not unlawful terms under section 194 of the Fair Work Act 2009; and
 - (c) result in the employee being better off overall than the employee would be if no arrangement was made.

3. TRIJAS Brothers Greenfields Enterprise Agreement 2009-2012 (AE871255)

Individual flexibility arrangements

The Company and an Employee may agree to an arrangement (an individual flexibility arrangement) varying the effect of the Agreement in relation to the Employee and the Company in order to meet the genuine needs of the Employee and Employer.

The individual flexibility arrangement may only vary terms of the Agreement relating to flexible working arrangements to assist with an employee's family responsibilities.

Any individual flexibility arrangement must be genuinely agreed to by Company and the Employee.

The Company must ensure that any individual flexibility arrangement must result in the Employee being better off overall than the Employee would have been if no individual flexibility arrangement were agreed to.

Any individual flexibility arrangement can be terminated:

- By either the Employee or the Company giving written notice of not more than 28 days; or
- By the Employee and the Company at any time if they agree, in writing, to the termination.

Any individual flexibility arrangement must be in writing and signed:

- In all cases by the Employee and the Employer; and
- If the Employee is under 18, by a parent or guardian of the Employee; and
- A copy of the individual flexibility arrangement must be given to the Employee within 14 days after it is agreed to.

4. Boeing Aerostructures Australia Pty Ltd (Bankstown) Workplace Union Collective Agreement 2009 (AE871373)

Individual flexibility arrangements

4.28.1 The terms in clause 4.28.6 of this Agreement may be varied by an individual flexibility arrangement that is genuinely agreed by the employer and an employee.

4.28.2 The employer must ensure that any individual flexibility arrangement entered into under this term will result in the employee being better off overall than the employee would have been if no individual flexibility arrangement was made.

4.28.3 The employer must ensure that any individual flexibility arrangement made under this term:

- (a) must be in writing and signed by the employer and employee, and if the employee is under 18, by a parent or guardian of the employee,
- (b) can be terminated by either party by giving written notice of not more than 28 days,
- (c) can be terminated at any time by the parties if they agree, and
- (d) that a copy of the individual flexibility arrangement must be given to the employee within 14 days after it is made.

4.28.4 Except for the requirement for employees under 18 in this clause 4.28.3 (a), the employer must ensure that any individual flexibility arrangement made by an employer and an employee under this term does not require the approval or consent of another person.

4.28.5 Where the employer intends to reach any individual flexibility arrangement under this Agreement, the employer must inform in writing any union(s) covered by this agreement of the employer's intent to enter such an arrangement, at least seven days prior to entering that arrangement. When informing the union(s) under this subclause, the employer must;

- (a) include details of the term(s) of the agreement and/or incorporated award(s) and which classification of employees are proposed to be subject to such an arrangement
- (b) not disclose the name of any employee who the employer proposes to be subject to the individual flexibility arrangement without the consent of that employee.

For the avoidance of doubt, informing union(s) under this subclause does not mean that those union(s) must approve or consent to the individual flexibility arrangement.

4.28.6 The terms that may be subject to an individual flexibility arrangement are:

- (a) a 15 minute tea break, paid at the rate prevailing at the time, will be granted 2 hours after the start of an employee's ordinary hours, and
- (b) up to 5 rostered days off (RDOs) may be banked in a 12 month period - the banked RDOs may be taken at a time of the employee's choice on the giving of 4 weeks' notice to the employer.

4.28.7 The facilitative provisions and the flexibility term in the Award are not incorporated into this agreement despite any term of this agreement to the contrary.

5. Ridgebay Holdings Pty Ltd Pluto LNG Project Offshore Hook-Up and Commissioning Project AMWU Greenfields Agreement 2009

23.0 INDIVIDUAL FLEXIBILITY ARRANGEMENT

23.1 The Company and the employee to whom this agreement applies may agree to make an individual flexibility arrangement that varies any one or more terms of this agreement in relation to the employee and the Company.

23.2 To have effect, the individual flexibility arrangement shall be applied and interpreted in conjunction with this agreement and must result in the employee being better off overall, than the employee would have been, if an individual flexibility arrangement had not been agreed to.

23.3 Any such individual flexibility arrangement must be about permitted matters under Section 172 of the *Fair Work Act, 2009* and must not include unlawful terms under Section 194 of the *Fair Work Act, 2009*.

23.4 The individual flexibility arrangement must be genuinely agreed to by the Company and the employee, made in writing and signed by both parties.

23.5 The Company will ensure that the individual flexibility arrangement does not require any other individual to consent to or approve the arrangement unless the employee is under 18, in which case, the individual flexibility arrangement requires the signature of a parent or guardian.

23.6 A copy of the individual flexibility arrangement will be given to the employee within 14 days of the arrangement being made.

23.7 An individual flexibility arrangement entered into by virtue of sub-clause 23.1 of this Clause can be terminated by:

23.7.1 either the Company or the employee giving written notice of not more than 28 days; or

23.7.2 at any time if the Company and the employee agree in writing to the termination.