

**AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION**

*Workplace Relations Act 1996*  
s.170LJ Agreement with organisations of employees (Division 2)

**Australian Municipal, Administrative, Clerical and Services Union and  
Toll Transport Pty Ltd t/as Toll Fashion**  
(AG2004/3219)

**TOLL FASHION/ASU CERTIFIED AGREEMENT 2003**

Private transport industry

COMMISSIONER MANSFIELD

MELBOURNE, 9 JUNE, 2004

**CERTIFICATION OF AGREEMENT**

In accordance with section 170LT of the Workplace Relations Act 1996, the Commission hereby certifies the attached written agreement.

This agreement shall come into force from 9 June 2004 and shall remain in force until 30 May 2005.

BY THE COMMISSION:

COMMISSIONER

Printed by authority of the Commonwealth Government Printer  
<Price code 17>

Toll Fashion

and the

Australian Services Union

Certified Agreement 2003

**CLAUSE 1 TITLE**

This agreement shall be known as the Toll Fashion/ASU Certified Agreement 2003.

**CLAUSE 2 ARRANGEMENT**

Subject	Clause No
Title	1
Arrangement	2
Application & Persons Bound by this Agreement	3
Date & Period of Operation	4
Relationship to Parent Award & Commitment of the Parties	5
Purpose of Agreement	6
Industrial Commitments	7
Measures to Improve the Productive Performance of the Enterprise	8

Wages	9
Maternity Leave	10
Work Cover	11
Workplace Conduct	12
No Extra Claims	13
Avoidance of Industrial Disputes	14
Renegotiation Period	15
Signatories	16

Appendix 1:	Settlement of Disputes Procedure
Appendix 2:	Rates of Pay
Appendix 3:	Redundancy schedule

### **CLAUSE 3 APPLICATION & PARTIES BOUND BY THIS AGREEMENT**

This agreement shall apply to all employees at Toll Fashion (654 Footscray Road West Melbourne 3003 Victoria) who are bound by the terms of the Clerks (Road Transport Industry) Award 1992.

The parties bound by this agreement are:

- (a) Toll Fashion (or upon its transmission to another business) ABN: 31 006604191;
- (b) All employees of Toll Fashion whose conditions of employment are regulated by the Clerks (Road Transport Industry) Award 1992, whether members of the organisations of employees listed in sub-clause (c) hereof or not, and who are employed at the Toll Fashion facility located at 654 Footscray Road, West Melbourne 3003 (or upon relocation to other sites);
- (c) The Australian Services Union ('the union').

### **CLAUSE 4 DATE & PERIOD OF OPERATION**

This agreement shall operate from date of certification and shall remain in force until 30 May 2005.

### **CLAUSE 5 RELATIONSHIP TO PARENT AWARD/OTHER AGREEMENTS & COMMITMENT OF THE PARTIES**

- (a) Collective Bargaining

Toll Fashion is committed during the life of this agreement to negotiate collectively with the ASU in respect of all its employees who are eligible to be members of the union and who are covered by this agreement. Therefore the employer agrees that Australian Workplace Agreements, made pursuant to the Workplace Relations Act 1996, or individual contracts will not be promoted or offered to any employee covered by this agreement while this certified agreement remains in force.

- (b) Award Conditions

The parties to this agreement recognise the need to have a secure safety net of award conditions underpinning the collective bargaining process. It is therefore a condition of this agreement that the terms and conditions of the Clerks (Road Transport) Award 1992 as it exists at the date of certification of this agreement, will continue to form the safety net terms of employment for the duration of this agreement.

Specifically this will mean that any modified entitlement of the award that arises from the application of the effect of Schedule 5 of the Workplace Relations & Other Legislation Amendment Act 1996 (WROLA) will not be applied from the duration of this

agreement.

The application of any modified entitlement of the award due to variations resulting from Schedule 5 of WROLA may be considered in the context of future enterprise negotiations which occur in accordance with the renegotiation clause (Clause 13) of this agreement.

Prior to Toll Fashion applying any provision of the award after the expiration of this agreement as specified in Clause 5 (Date & Period of Operation) which may provide for a modified entitlement than that which applied under the award at the date of certification, due to variations resulting from Schedule 5 of the WROLA, Toll Fashion shall discuss the implications for the modified entitlement with all employees who are affected and with the ASU and shall attempt to reach agreement on the application of any such modified entitlement.

Subject to the foregoing, this agreement shall be read and interpreted wholly in conjunction with the award, provided that where there is any inconsistency between the award and this agreement, the latter shall take precedence to the extent of the inconsistency.

The terms and conditions provided for in any agreement, employment arrangement or practice agreed to between the employer and the union that has application to the persons bound by this agreement shall be incorporated into the contract of employment of employees bound by this agreement and have additional effect as a term of this agreement except whereas expressly stipulated terms of this agreement provide otherwise.

#### **CLAUSE 6 PURPOSE OF AGREEMENT**

The parties recognise this agreement and share a commitment to developing and maintaining a culture of trust, consultation and co-operation with the objective of achieving continued improvement in the performance of the company and its competitive position within the industry.

The parties recognise that scope exists for further improvements in the workplace and the need to implement such improvements to achieve the competitive position necessary for the future of the enterprise. During the course of this agreement attention will be focused on ways of improving and expanding the following areas:

1. Satisfying customer requirements and delivering the best quality and service in our industry.
2. Applying a consultative approach to employee relations and improving communication networks.
3. Identifying and providing specific additional training for new skills required.
4. Introducing new work structures and methods.
5. Identifying and eliminating waste.
6. Improving job security and recognition.
7. Removing inefficient practices and processes in all areas of the company's operation to ensure flexibility and quality, timeliness and reliability of service.
8. Improving occupational health and safety performance.

#### **CLAUSE 7 INDUSTRIAL COMMITMENTS**

##### **7.1 Union Recognition**

(a) The parties acknowledge that structured, collective industrial relations will continue as a fundamental principle of the business for the life of the agreement. The principle recognises the important role that employees' membership of a union has in maintaining a stable, safe and efficient working environment. An open, structured and accountable approach to industrial relations has traditionally been implemented by employees being members of the union party to the agreement. The parties agree to promote this approach to union membership into the future.

(b) All employees will not be discouraged to participate in union meetings and exercise their voting rights.

(c) The company shall allow full access to its employees during normal working hours to accredited officials of the ASU. In accordance of sub-clause 7.2 Right of Entry.

(d) The company shall allow workplace union delegates adequate time and facilities during normal working hours to attend to union duties. The workplace delegate shall give due consideration to the needs of the business.

(e) The company will provide payroll deduction facilities for union dues payable to the ASU. An employee may authorise the company in writing to deduct from any remuneration payable or subscriptions to the ASU. The company will remit such subscriptions to the ASU.

## 7.2 Right of Entry

A properly accredited official of the ASU shall have full rights of access and entry to the premises for the purpose of:

- \* Meeting with workplace delegates;
- \* Meeting with union members;
- \* Inspecting time and wages information for any employee covered by this agreement;
- \* Meeting with relevant management team members on either matters associated with this agreement or current industrial workplace issues;
- \* Or other agreed purposes.

This access shall be subject to:

- \* Normal security procedures for visitors to the premise;
- \* Suitable notification to the relevant management team representative;
- \* Such visits not seeking to disrupt the operation of the business.

## **CLAUSE 8 MEASURES TO IMPROVE THE PRODUCTIVE PERFORMANCE OF THE ENTERPRISE**

Following consultation and agreement between the parties affected, employees and the consultative committee, the following items will be implemented during the course of this agreement to achieve the purpose of the clause stated above:

### 8.1 Multi-Skilling

In conjunction with management the employees agree to undergo accredited and structured training on and off the job where practicable, that will enable them to acquire and use skills for different job functions. Those people so trained will be willing to rotate through other areas so as to increase the productivity of the business.

(a) Adoption of technology is to be read in accordance with the previous certified agreement.

## 8.2 Spread of Hours

(a) The spread of hours for the site shall be 7am until 8pm.

(b) In exceptional circumstances with references to the normal spread of hours (7am to 8pm), by mutual agreement or the provision of twelve (12) hours notice, start times may be varied.

(c) Due consideration will be given to individual circumstances where start times may need to be charged.

## 8.3 Break Periods

Break periods will be referenced to the start time of each working day and taken as follows:

10 minute (paid) morning break after 2 hours and 30 minutes;

30 minute (unpaid) lunch break after 4 hours; and

10 minute (paid) afternoon break after 6 hours and 30 minutes.

From time to time and by mutual agreement, break periods may be varied when required.

The parties recognise the Toll Fashion - No Smoking Policy and agree that smoking breaks should only be taken during normal break periods as specified above and not within any company buildings. Within reason, the company offers to meet treatment costs for those who need assistance giving up.

## 8.4 Security of Employment

With the acceptance and implementation of this agreement, it is agreed that there will be no enforced redundancies as a result of any improved working practices resulting from the enterprise bargaining process for the life of this agreement.

In the event of measurable and serious downturns in the market place which may impact on labour requirements, the company reserves the right to apply management strategies as it considers appropriate, which as a last resort may include redundancies.

Prior to any redundancies being determined, the company undertakes to officially inform the Consultative Committee as early as possible but, in any event, not less than four (4) weeks prior to the giving of notice of reducing staffing levels.

If, after extensive investigations, including alternative job offers, the parties conclude that retrenchment is the only option then the company will begin application of Appendix 3 of this agreement (Redundancy) for the affected employees.

## 8.5 Attendance Incentive

The objective of the attendance incentive is to reduce the level of single day sick leave by 50%.

An attendance incentive will be paid on a scale as related to the number of sick leave days taken over a twelve month period. The incentive will be as per the table below and payment will be made as a separate payment on the first pay period as of May 1 for each successive year.

No days taken

Attendance incentive payment

No days	\$400
1 day	\$350
2 days	\$300
3 days	\$250
4 days	\$200
5 days+	\$0

Where an employee suffers from a serious injury or illness, the payment of the attendance incentive will not be affected. In circumstances where an employee is absent for 4 days or longer and requires treatment by a qualified medical practitioner or equivalent, a medical certificate must be provided.

#### 8.6 RDOs

1. All clerical and administrative employees will be entitled to an RDO for each 19 days worked.

2. It is agreed that employees will work together to avoid replacing people on their RDOs where applicable.

3. The following options are available for RDO:

(a) Take the RDO and be paid the normal rate for the day;

(b) Work the RDO and bank the hours so that the RDO can be taken at a later date or cashed out at the employee's request.

(c) Work the RDO and elect to have the RDO payment included in that weeks pay. In this instance the employee would receive 6 days pay for that week and the RDO hours would be deducted from the entitlement.

#### 8.7 Temporary/Contract Employees

It is agreed that any temporary employee and/or contractors and/or employees of a contractor engaged to perform work which would normally be performed by employees covered by the classifications contained in the Clerks (Road Transport Industry) Award 1992 when employed on site shall be employed in accordance with the provisions of the Clerks (Road Transport Industry) Award 1992 and the terms of this agreement.

It is further agreed that in circumstances where any position filled by any temporary employee or contractor of Toll Fashion whose period of employment exceeds 3 months will be subject to the following process of review and change:

(a) The company will make the position permanent in circumstances where the position is identified as being ongoing subject to the needs of the business.

(b) If the position is identified at this time as likely to end within a 4 week period the position shall continue for no more than 4 weeks subject to the needs of the business.

(c) If the position continues on past the period in (b) above it shall be made permanent in accordance with (a) above.

(d) The positions will be filled in accordance with normal recruitment policy.

(e) These arrangements will not apply to any temporary positions created by any approved form of leave or for workers compensation injuries leave.

## 8.8 Key Performance Indicators

The parties to this agreement acknowledge that the following key performance indicators are ongoing and subject to review and change as part of a continuous improvement process. Ongoing efficiency measures will be maintained, improved upon and identified during the life of this agreement. A three month review will be undertaken by the parties in a consultative manner. The purpose of the review will be to ascertain to what degree the key performance indicators have been achieved during the previous 3 months; what elements affected the achievement of the key performance indicators; and the steps can be taken by the parties towards performance improvement and future achievement.

The key performance indicators are all:

- \* Measurable
- \* Team based (not individually dependent).

During the above review process, due consideration will be given by management to the effect of external influences and to how much control the employees covered by this agreement had over the outcomes.

Employees will:

1. Undertake to pro-actively telephone clients upon identification of misdirects, to provide same-day notice to clients of the circumstances surrounding the misdirect and the steps taken to rectify the matter.
2. Telephone customers on a monthly basis to inquire about the level of customer service and to inform customers of actions taken to resolve any matters arising during the month.
3. Maintain professional conduct of all times, which includes, but is not limited to:
  - 3.1 a professional phone manner;
  - 3.2 performance of duties as required by management.
4. Conduct/participate in a weekly or fortnightly (to be determined by needs of the business) communication meeting with management, operational supervisors and/or other operational staff to identify areas where the employees covered by this agreement can assist to meet operation requirements.
5. File manifest sheets on a daily basis to ensure accurate and efficient record keeping and to assist management to find details easily.
6. Provide daily summary sheets which document:
  - 6.1 outstanding calls at end of the day;
  - 6.2 actions taken to date to resolve;
  - 6.3 required actions to finalise matter;
  - 6.4 other, as necessary.
7. Maintain and update telephone statistics.
8. Process con-notes in a thorough and efficient manner.

Management commits to discussing all issues with employees surrounding these KPIs to ensure that they are achievable and appropriate to the needs of the business. If feasible, management will provide extra capital for equipment to assist with efficiency improvements, subject to normal cap-ex justification and approval.

#### **CLAUSE 9 WAGES**

All employees will receive an increase in their ordinary hourly rate of 8% over the life of this agreement. These rates of pay and appropriate dates are attached as Appendix 2.

The operative dates are from the first full pay period on or after:

1st payment of 4% from 1 April 2003.

2nd payment of 4% from 1 May 2004.

Further the company will facilitate deductions from employees' gross wages to get to an agreed income protection scheme nominated by the ASU with Toll Fashion being the policy holder.

#### **CLAUSE 10 MATERNITY LEAVE**

For the term of this agreement Toll Fashion will comply with relevant arrangements for Maternity Leave as stipulated in the Clerks (Road Transport Industry) Award 1992.

#### **CLAUSE 11 WORKCOVER**

The parties agree to the following in relation to any WorkCover claim which is accepted by the company or which has been submitted by an employee to the company:

(a) That for the purposes of calculating Pre-injury Average Weekly Earnings in relation to the determination of a weekly benefit under the Accident Compensation Act (as amended) that the rate of pay specified in this agreement will be used;

(b) That employees may use accrued sick leave to be exhausted first, prior to applying for annual leave and/or Fostered days off prior to acceptance by the company of a WorkCover claim. The company further agrees that if a claim is accepted the employee will be re-credited with the leave used.

(c) When determining the number of weeks that make-up pay will apply for any single injury accident or work-related illness whether continuous or not, the maximum will be 26 (twenty six) weeks.

#### **CLAUSE 12 WORKPLACE CONDUCT**

##### **12.1 Harassment & Equal Employment Opportunity**

The company is committed to achieving a harassment free workplace and providing equal employment opportunity and ensuring all employees and potential employees are considered on merit and that the best and most suitable person is chosen for any position.

As part of the company's commitment to anti-discrimination the company will not treat any person less favourably because of their personal characteristics. In particular the company will not discriminate against anyone on the basis of sex, marital status, pregnancy, parental status, age, race, physical features, impairment, religion, political belief, criminal record (where criminal record is not directly related to the job task), union activity, social origin, lawful sexual activity, sexual preference and family responsibilities.

Policy and procedures will be supported by a suitable number of Contact Officers and Conciliators who will be responsible for assisting staff in the implementation of this policy. The identity and the role of these people in the implementation of this policy and undertakings will be made known to all staff. The company will provide the necessary training and assistance to these staff to carry out the roles set out for them in these arrangements. Employees should refer to the company's policies and procedures for managing diversity inclusive of harassment and discrimination, equal opportunity and affirmative action.

**CLAUSE 13 NO EXTRA CLAIMS**

Except where specifically referred to in this agreement, it is a term of this agreement that the parties bound by this agreement will not pursue any extra claims, award or over-award, for the duration of this agreement as specified in Clause 5 of this agreement. This includes claims relating to changes arising from award variations or decisions of the Commission other than changes that are consistent with the terms of this agreement.

**CLAUSE 14 AVOIDANCE OF INDUSTRIAL DISPUTES**

The parties to this agreement agree to be bound by the avoidance of industrial disputes procedure included in Appendix 1.

**CLAUSE 15 RENEGOTIATION PERIOD**

The parties agree that a review of this agreement should occur no earlier than 3 months before the expiration of this agreement. This review will include discussions about future enterprise agreements.

**CLAUSE 16 SIGNATORIES**

Signed for and on behalf of the  
Australian Services Union

Signed for and on behalf of  
Toll Fashion

Name

Name

Position

Position

Dated

Dated

Witness

Witness

Position

Position

Dated

Dated

## **APPENDIX 1**

### **SETTLEMENT OF DISPUTE PROCEDURES**

It is the intention of this procedure, wherever possible, to resolve by consultation and negotiation between the parties, any dispute or grievance that may arise as a result of, or during the life of this agreement.

In so doing, it is recognised that disputes are more readily resolved as close as possible to the shop floor level. Wherever possible, dispute avoidance or resolution will be encouraged at this level.

Issues of concern will be fully and openly discussed and options for resolution shall be explored at each stage of the process.

Any dispute, grievance or claim as to the application of this agreement or related matters shall be settled in the following manner:

1. The employee shall raise the matter with his/her immediate supervisor as soon as possible.
2. If a matter remains unresolved, the employee shall raise the matter with the Operations Manager. All employees shall have, as of right, the ability to seek the assistance of and presence of an accredited ASU shop steward in these discussions.
3. If the matter is still not resolved, the union shall be notified of all matters unresolved and shall seek discussions with the appropriate officers with a view to resolution of the issue as expeditiously as possible. Except where a bona fide health and safety issue is involved, work shall continue as normal.

Where it is agreed there is an existing work practice, work shall continue in accordance with the work practice. A party shall not be prejudiced as to final settlement by the continuation of work in accordance with this subclause.

4. If the dispute is not settled or satisfactory progress towards resolution is not made, it shall be referred by either party to the Australian Industrial Relations Commission. The parties agree to abide by the determinations and procedures of the Commission, which includes conciliation and/or arbitration.

5. If any matter likely to cause dispute comes to either party's attention they shall raise it directly with the other party.

## **APPENDIX 2**

### **RATES OF PAY**

(effective 1 April 2003)

	Weekly	Hourly
Grade 1	\$537.70	\$14.15
Grade 2	\$562.78	\$14.81
Grade 3	\$577.60	\$15.20
Grade 4	\$611.42	\$16.09
Grade 5	\$653.98	\$17.21
Grade 6	\$701.86	\$18.47

(effective 1 May 2004)

	Weekly	Hourly
Grade 1	\$559.36	\$14.72
Grade 2	\$585.20	\$15.40
Grade 3	\$600.78	\$15.81
Grade 4	\$636.12	\$16.74
Grade 5	\$680.20	\$17.90
Grade 6	\$729.98	\$19.21

### APPENDIX 3

#### REDUNDANCY SCHEDULE,

In the event of redundancy, the following arrangements and payments will be implemented.

#### Notice Period Involuntary

- 1 to 3 years service	=	2 weeks notice
- 3 to 5 years service	=	3 weeks notice
- More than 5 years service	=	4 weeks notice

Where an Employee is over 45 years of age and has completed at least 2 years continuous service, the period of notice is increased by one week.

Payment In Lieu of Notice: Where payment is to be made in lieu of notice, the payment should be made at ordinary time rate of pay. There shall not be any payment in lieu of notice in a voluntary retrenchment situation.

Annual Leave: All accrued annual leave owing at the time of termination.

Annual Leave Loading: Paid out according to the relevant Award provision.

RDO's: Payout of all accumulated RDO's.

Superannuation: Superannuation will be paid out. Industry super payments will be ceased.

Long Service Leave: Paid out on the relevant legislative provisions applicable under state legislation.

Service Payment: A service payment of 3 weeks ordinary time wages for each year of service and pro rata for part years.

For example:

- Up to 12 months service	=	3 weeks wages
- After 2.5 years	=	7.5 weeks wages
- After 5 years	=	15 weeks wages
- After 8 years 8 months	=	26 weeks wages
- After 13 years	=	39 weeks wages
- After 17 years	=	51 weeks wages

Maximum Payment: The maximum amount payable under this clause as a service payment shall be one year's ordinary time wages.

In addition to payment accrued under the provisions of this agreement additional weeks pay, made at ordinary time rate of pay, shall be provided for each year of continuous service in excess of 20 years.

Minimum Service Payment: The minimum service payment to any Employee retrenched shall be 3 weeks wages.

Application: Any involuntary retrenchments shall be determined on a "last on first off by classification" basis, the Company however, shall have the right to hold and not apply this subclause to any Employee who in the opinion of the Company has specific skills required by the Company