

AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

Workplace Relations Act 1996
S.170LS Agreement about industrial dispute (Division 3)

Daimler Chrysler Australia Pacific P/L

and

Australian Municipal, Administrative, Clerical and Services Union
(AG2004/3072)

**DAIMLER CHRYSLER AUSTRALIA/PACIFIC PTY LTD ENTERPRISE
AGREEMENT 2004**

Vehicle industry

COMMISSIONER HINGLEY

MELBOURNE, 17 MAY 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 17 May 2004 and shall remain in force until 31 December 2006.

BY THE COMMISSIONER:

COMMISSIONER

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DAIMLERCHRYSLER AUSTRALIA/PACIFIC PTY LTD
ENTERPRISE AGREEMENT 2004

1. TITLE

This Agreement will be known as the DaimlerChrysler Australia/Pacific Pty Ltd Enterprise Agreement 2004.

2. ARRANGEMENT

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3. APPLICATION OF AGREEMENT

This Agreement will apply at DaimlerChrysler Australia/Pacific Pty Ltd located at Lexia Place, Mulgrave, Victoria to all employees employed in classifications covered by the DaimlerChrysler Australia/Pacific Pty Ltd Clerks Award 1999 ("the Award").

4. PARTIES BOUND

The parties to this Agreement are:

4.1 DaimlerChrysler Australia/Pacific Pty Ltd - ("the Company" or "DCAuP"); and

4.2 All employees of DCAuP located at Lexia Place, Mulgrave, Victoria employed in classifications covered by the Award;

and

4.3 The Australian Municipal, Administrative, Clerical and Services Union ("the ASU").

5. DATE AND PERIOD OF OPERATION

This Agreement will operate from the first full pay period commencing on or after 1 January, 2004 and will remain in force for a period of three (3) years.

6. NO EXTRA CLAIMS

6.1 It is agreed by the parties that up to the nominal expiry date of this Agreement, the employees will not pursue any extra wage claims, whether award or over award, nor seek any changes to conditions of employment.

6.2 This agreement will cover all matters or claims regarding the employment of the employees, which could otherwise be the subject of protected action pursuant to the Workplace Relations Act 1996 and is intended to be exhaustive of the terms and conditions of the employment relationship; and the employees and any party to this Agreement, undertake not to engage in protected action, in relation to the performance of any work covered by this Agreement.

7. RELATIONSHIP OF AGREEMENT TO AWARD & AGREEMENTS

7.1 This Agreement will be read and interpreted wholly in conjunction with the Award. However where there is any inconsistency this Agreement will take precedence to the extent of the inconsistency

7.2 This Agreement wholly supersedes and replaces the following Agreements:

- Mercedes-Benz (Australia) Pty Ltd Enterprise Agreement 1995
- Mercedes-Benz (Australia) Pty Ltd Enterprise Agreement 1997
- DaimlerChrysler Australia/Pacific Pty Ltd Enterprise Agreement 2000
- DaimlerChrysler Australia/Pacific Pty Ltd Enterprise Agreement 2001

8. REVIEW/RENEWAL OF AGREEMENT

The parties will address the issue of renewal or replacement of this Agreement three (3) months prior to its expiration.

9. GRIEVANCE OR DISPUTE PROCEDURE

The grievance or dispute procedure set out in clause 10 of the Award will be observed by those involved in resolving a grievance or dispute. Under step 5 of that procedure, if the grievance is not resolved, the matter may be referred to the Australian Industrial Relations Commission whose decision will be final and is to be accepted by all parties concerned. This decision will be subject to any rights of appeal.

10. ANNUALISED SALARY

10.1 All employees may elect to transfer to be employed on the DCAuP monthly payroll. All current employees who make the election and all new employees will be remunerated through an annualised salary package. Current employees who propose to elect to transfer to the monthly payroll will receive a written offer of an annualised salary package.

10.2 Acceptance of a position on the monthly payroll is to be voluntary. Where an employee accepts such a monthly paid position, the following employment conditions relevant to that employee will not apply:

- * overtime
- * rostered days off
- * allowances
- * fortnightly payment of salary

10.3 For the avoidance of doubt, where an employee accepts a position on the monthly payroll, any award and enterprise agreement entitlements will not apply from the date of the transfer or appointment.

10.4 Salaries of employees on the monthly payroll will be reviewed annually consistent with the DCAuP annual salary review for monthly paid staff.

10.5 The Company will not be obliged to apply to an employee on the monthly payroll any salary or wage increases ordered by the Australian Industrial Relations Commission ("the Commission").

11. SALARY INCREASES

11.1 The salary of each fortnightly paid employee will be reviewed annually in the month of February consistent with the DCAuP salary review budget for that year and the DCAuP performance appraisal process set out in clause 12 of this Agreement.

11.2 Any salary increase arising from this annual review process will comprise a

guaranteed component and may also comprise a performance based component subject to the conditions set out in this Clause. Any such salary increase will be effective from the first full pay period on or after 1 January in that calendar year.

11.3 This annual salary review process will replace any previous arrangement of general wage increases under enterprise agreements. Any salary increases arising from this review process will absorb any award safety net wage increases awarded by the Commission.

11.4 Whilst the actual annual salary increase percentages may vary between employees the aggregate of all salary increases for all employees will not exceed the DCAuP salary review budget for that year.

11.5 Notwithstanding sub-clause 11.4, the guaranteed components of the annual salary increases payable to a fortnightly paid employee during this Agreement are set out below:

11.5.1 A first stage increase of two percent (2%) from the first full pay period commencing on or after 1 January 2004

11.5.2 A second stage increase of two percent (2%) from the first full pay period commencing on or after 1 January 2005

11.5.3 A third stage increase of two percent (2%) from the first full pay period commencing on or after 1 January 2006

11.6 In addition to the guaranteed components of the annual salary increases payable under sub-clause 11.5, a fortnightly paid employee may also be eligible for performance based components of the salary increases. Subject to sub-clause 11.4 the average of the performance based components for all fortnightly paid employees during this Agreement will be as set out below:

11.6.1 A first stage increase of a minimum one percent (1%) from the first full pay period commencing on or after 1 January, 2004

11.6.2 A second stage increase of a minimum one percent (1%) from the first full pay period commencing on or after 1 January, 2005

11.6.3 A third stage increase of a minimum one percent (1%) from the first full pay period commencing on or after 1 January, 2006

Eligibility for each of these performance based components of the salary increases will be subject to the fortnightly paid employee's satisfactory achievement of their annual performance goals and demonstration of desired Company behaviours under the Performance Appraisal Process set out in Clause 12.

12. PERFORMANCE APPRAISAL PROCESS

12.1 The DCAuP Performance Appraisal Process will apply to employees covered by this Agreement. The appraisal process will be a fair and objective assessment.

12.2 This process will include the following elements:

- The setting of annual performance goals.
- A properly structured and prepared performance feedback discussion with the Manager on a half-yearly and end-of-year basis.
- A positive process which is designed to focus on goal achievement. Where required, the Manager will identify knowledge, skills or behaviours to be developed based on current performance and organisational needs. This may need to involve the

development of an individual training plan consistent with identified needs arising from current performance and organisational learning and development, which addresses the requirements of the employee's current position and his or her possible future career path development/progression. This training will include accredited training where it is relevant to skills held and used in that position.

12.3 This process will not be used as a tool for disciplinary purposes. Unsatisfactory work performance will be dealt with in accordance with the DCAuP disciplinary procedure.

In summary, except in cases of summary dismissal, the stages of the DCAuP disciplinary procedure are :

- verbal counselling
- first written warning
- final written warning (including an extension of the final warning by one month where jointly agreed)
- termination with notice (or in certain circumstances suspension without pay for up to one week with a final written warning)

13. ROSTERED DAYS OFF

Employees with an existing entitlement to rostered days off ("RDOs") at the date of this Agreement will adopt the following flexibility principles in the taking of their RDOs for the life of this Agreement:

- Six (6) RDOs will be rostered on a Tuesday, Wednesday or Thursday during work weeks with no public holidays. The remaining six (6) RDOs will be rostered on a day adjacent to a weekend or public holiday. By mutual agreement between the Manager and the clerk/administrative employee and with reasonable notice in the circumstances by the Manager or the clerk, an RDO may be changed to a day other than the roster arrangements referred to above.
- By mutual agreement between the Manager and the clerk/administrative employee, banking of up to three (3) RDOs, as set out in the 1995 EA, may apply. By their further mutual agreement, up to three (3) of these banked days may be paid out at ordinary rates at the end of each calendar year in lieu of them being taken as time off.

14. JOB SIZING

14.1 During the life of this Agreement, DCAuP may, subject to Board approval, introduce job sizing of all positions and classifications covered by this Agreement. The term "job sizing" refers to the relative ranking of jobs according to their size and importance to DCAuP based on criteria such as technical knowledge, supervisory responsibility, human relations skills, level of autonomy and degree of accountability.

14.2 In the context of this job sizing process, annual salary ranges for the award classifications will be established to replace all previous wage and salary levels applicable to the award structure. These salary ranges will absorb any award minimum rates and any safety net wage increases awarded by the Commission.

14.3 Employees' individual salary levels will be determined within these salary ranges by reference to the relevant award classification definitions, their individual performance appraisal and the Company's needs for competencies & skills to be held and used at a particular level. Actual salaries of current employees at the date of this Agreement will not be reduced by the transition to these salary ranges.

15. MATERNITY LEAVE

15.1 After the birth of the child, an employee who is eligible and applies for maternity leave will be entitled to receive a "Maternity Leave Payment".

15.2 The Maternity Leave Payment is defined as the employees normal rate of pay for the six week period of compulsory maternity leave absence, less the value of the Commonwealth Government's maternity allowance, or its successor.

15.3 To be eligible for the Maternity Leave Payment an employee will have to comply with all the criteria established in the Award for unpaid maternity leave. In particular, the employee will have to have accrued a period of twelve (12) months continuous service prior to proceeding on maternity leave.

15.4 Before the Maternity Leave Payment will be made, an employee will be required to provide a certificate from a registered medical practitioner stating the date she gave birth to the child.

15.5 Payment of the Maternity Leave Payment may be made by mutual agreement in a lump sum through the company's normal payroll procedures at the commencement of leave or through the normal wage payment process.

15.6 Where the pregnancy of an employee terminates after 28 weeks, other than by the birth of a living child, the employee will retain eligibility for the Maternity Leave Payment.

15.7 An employee claiming the Maternity Leave Payment will be required to repay this payment to the company if she does not work with the company for a period of three months following the expiration of her approved maternity leave absence. The exception to this will be where medical reasons associated with the new child preclude a return to work and necessitate the resignation of the employee.

15.8 These provisions will be applicable to female employees who give birth to a child on or after the date of this agreement and will be applied in conjunction with the Maternity Leave Clauses in the Award.

16. HIGHER DUTIES ALLOWANCE

The higher duties allowance in clause 18 of the Award does not apply.

17. LONG SERVICE LEAVE

17.1 The parties agree that effective from the first full pay period to commence on or after 1 January, 1999, employees will be entitled to accrue Long Service Leave on the basis of thirteen (13) weeks after ten (10) years' service.

17.2 Employees covered by this Agreement will be subject to the following transitional arrangements:

17.2.1 In respect of their service prior to the first full pay period to commence on or after 1st January, 1999, employees will accrue their entitlement to Long Service Leave on the basis of 0.866 weeks per year of completed service.

17.2.2 In respect of their service on or after the first full pay period to commence on or after 1st January, 1999, employees will accrue their entitlement to Long Service Leave on the basis of 1.3 weeks per year of completed service.

17.3 Pro rata Long Service Leave will be available to employees who have seven years continuous service. An employee who has between seven (7) years and fifteen (15) years continuous service:

17.3.1 may be granted Long Service Leave on a pro rata basis at the appropriate accrual rate set out in Sub-clause 17.2. Approval of Long Service Leave requests will take into account operational requirements and approval will not be unreasonably withheld.

17.3.2 will be paid pro rata Long Service Leave on termination at the appropriate accrual rate set out in Sub-clause 17.2

17.4 In respect of those matters not specifically covered above, the provisions of the Vehicle Industry (Long Service Leave) Award 1977, as varied from time to time, will apply.

18. EQUAL EMPLOYMENT OPPORTUNITY & SEXUAL HARASSMENT

DCAuP is committed to the principles of equal opportunity in employment and their actions in this regard will be governed by the spirit and the intent of the relevant legislation.

DCAuP will not tolerate discriminatory behaviour or sexual harassment and appropriate action will be taken if either is found to occur.

DCAuP policies on Equal Employment Opportunity and Sexual Harassment will be maintained to address these issues and provide appropriate protection for employees.

19. REDUNDANCY

19.1 This clause will apply in redundancy situations such as: an economic downturn where the Company deems it has an excess of employees because of a reduction in work available; the introduction of technical change; restructuring or a change in business strategy.

19.2 Where a redundancy situation is likely, the Company will endeavour to redeploy an affected employee. Should redeployment to another suitable position not be feasible, on termination of employment a fortnightly paid employee will receive the payments set out below as applicable.

Redundancy payment

A redundancy payment consisting of:

* 4 weeks' notice (plus an additional week's notice for a staff member who is aged 45 years or more at his/her date of termination), plus

* a severance payment of 3.5 weeks' pay for each completed year of continuous service, plus

The redundancy payment will be capped at 56 weeks.

Sick Leave

A payout of a maximum of 25 days unused sick leave Long Service Leave

Pro rata long service leave after the completion of 5 years for compulsory redundancy (or at 7 years for voluntary redundancy).

Annual Leave

Payment for the balance of unused accrued and pro rata annual leave including the 17.5% annual leave loading.

Alternative employment

Branch Secretary
Australian Services Union
Private Sector Victorian Branch

P. McDonell Date
Senior Manager Human Resource Services
DaimlerChrysler Australia/Pacific Pty Ltd

D. Redmond Date
Consultative committee employee representative

I. Stitt Date
Branch Secretary
Australian Services Union
Private Sector Victorian Branch