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No. 21

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

Industrial Relations Act 1999
Industrial Relations (Tribunals) Rules 2000

NOTICE

The following Agreements have been certified by the Commission:-

No/s	Title	Date certified	Cancelling
CA324/01	Isis Central Sugar Mill Company Limited Enterprise Bargaining – Certified Agreement No. 4	30/7/01	CA217/98
CA325/01	Tully Sugar Limited Tully Mill Enterprise Bargaining - Certified Agreement No. 5	30/7/01	CA205/98
CA303/01	Joyce Foam Products Australia Limited - AWU- Certified Agreement 2001	2/8/01	CA225/00
CA278/01	John Paul College Limited - Certified Agreement	3/8/01	
CA279/01	Fairholme College - Certified Agreement	3/8/01	CA399/98
CA280/01	Kings Christian College - Certified Agreement	3/8/01	CA552/98
CA328/01	Toowoomba City Council Enterprise Bargaining - Certified Agreement No 4	6/8/01	CA733/00
CA338/01	Mackay Sugar Co-operative Enterprise - Certified Agreement 2001	6/8/01	CA365/99
CA340/01	Pioneer Construction Materials Pty Ltd South East Queensland Transport Operations Agitator & Tipper Transport Drivers – Certified Agreement	6/8/01	CA312/99
CA341/01	Driza Bone Pty Ltd Enterprise Agreement 2001 - Certified Agreement	6/8/01	
CA343/01	Zarb Road Transport Pty Ltd - Certified Agreement 2001	6/8/01	CA294/98
CA339/01	Kmart Australia Pty Ltd AWU - Certified Agreement 2001	7/8/01	CA378/98
CA342/01	Kariway Pty Ltd trading as Subway Gladstone - Certified Agreement	7/8/01	
CA335/01	Calvary Christian College - Certified Agreement	9/8/01	CA582/98
CA336/01	St Michael's College Inc - Certified Agreement	9/8/01	CA168/99
CA337/01	All Souls St Gabriels School Enterprise Bargaining – Certified Agreement 2001	9/8/01	

No/s	Title	Date certified	Cancelling
CA330/01	University of Qld/CSIRO Joint Building Project - Certified Agreement 2001	13/8/01	
CA331/01	Atlantic Concrete Services Pty Ltd - Certified Agreement	13/8/01	
CA332/01	G Findlay t/a AGF Building & Maintenance - Certified Agreement	13/8/01	
CA333/01	Arbor Pty Ltd - Certified Agreement	13/8/01	
CA334/01	Embercliff Pty Ltd t/a Dirkswell - Certified Agreement	13/8/01	
CA353/01	Fred Foster t/a Ironbark Reinforcements - Certified Agreement	13/8/01	
CA354/01	Bestime Pty Ltd t/a Jeff Egan Concrete Cutting Services - Certified Agreement	13/8/01	
CA355/01	Riverfern Pty Ltd T/A Instant Scaffolds Gold Coast - Certified Agreement	13/8/01	CA564/97

E. EWALD
Industrial Registrar

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INDUSTRIAL COURT OF QUEENSLAND

Industrial Relations Act 1999 – s. 341(2) – appeal against decision of industrial magistrate

Watpac Australia Pty Ltd AND Stewart Campbell Rosenlund (No. C50 of 2001)

PRESIDENT HALL

9 August 2001

DECISION

The matters before the Industrial Magistrate are serious matters.

The appellant is the defendant in a complaint by which contraventions of s. 28 of the *Workplace Health and Safety Act 1995* are alleged in respect of an incident which occurred on a worksite at Brisbane on 25 September 1999. Two counts are averred. The first count is brought about the system of work and about the instruction, training and supervision of an employee engaged in placing a concrete boom. A circumstance of aggravation is alleged. The circumstance of aggravation is said to be that the appellant's failure (as employer) to discharge its obligation under the *Workplace Health and Safety Act 1995* caused a worker employed by it to sustain bodily harm. The second count alleges a failure to ensure the workplace health and safety of a person other than one of the appellant's workers. Once again a circumstance of aggravation is alleged. It is alleged that as a consequence of the appellant's failure to discharge its obligation the person suffered fatal injury.

Whilst it is true that the liberty of the subject is not involved, the appellant faces exposure to significant monetary penalties. Further, it is notoriously true that conviction on counts of the type brought against the appellant may (and should) cause enormous damage to the reputation of a corporation in the event of a conviction.

When the matter was called in the Industrial Magistrates Court, there was an initial difficulty arising out of the unavailability of a critical witness. An adjournment was sought. Submissions were made about the matter. In the end result the Industrial Magistrate decided to use the time set aside to hear so much of the matter as he could, notwithstanding that the hearing would have to be resumed at a later date and His Worship would be confronted with the difficulties which arise out of a broken trial. It is appropriate to add that is apparent from the transcript that the Industrial Magistrate was concerned at the demands which the proposed (quite lengthy) hearing would make upon the resources of the Magistrates Court. I rather suspect that it was that concern which prompted the remarks, now complained of, which fell from His Worship when the matter was resumed on 31 July 2001.

The complaint made is that the Industrial Magistrate made remarks which showed that His Worship had pre-judged the case and that His Worship should have acted upon the appellant's submission that he disqualify himself from further participation in the matter. As recently as December of 2000 in *Ebner v Official Trustee and Bankruptcy* 75 ALJR 277 at paras. 6-10 Gleeson CJ, McHugh, Gummow and Hayne JJ observed –

“A judge is disqualified if a fair-minded lay observer might reasonably apprehend that the judge might not bring an impartial mind to the resolution of the question the judge is to decide . . . deciding whether a judicial officer (or juror) *might* not bring an impartial mind to the resolution of a question that has not been determined requires no prediction about how the judge or jury will in fact approach the matter. The question is one of possibility (real or not remote), not probability. Similarly, if the matter has already been decided, the test is one which requires no conclusion about what factors actually influence the outcome. No attempt need be made to enquire of the actual thought processes of the judge or juror.”

Here, complaint is made of four passages. The first passage complained of was “That seems to be a strong case, Mr Griffin”. If the matter had stopped there, given the qualification involved in “seems”, I doubt that a fair-minded lay observer might reasonably apprehend that the Industrial Magistrate had pre-judged the matter. However, the passage was immediately followed by a further remark, *viz* “You would say it's a strong case.”. A fair-minded lay person might reasonably construe that remark as a deliberate re-visiting of the topic in order to withdraw the qualification and to emphasise the strength of the complainant's case. It is appropriate to interpolate here that the remarks followed a fulsome opening of the complainant's case and the tendering of some documentary evidence (by consent), including the statement of a witness.

The second of the two statements complained of was followed by a discussion about the *Penalties and Sentences Act 1992* which, if a lay observer understood it at all, would indicate that the Industrial Magistrate was inviting the appellant to consider (or re-consider) the advantage which might accrue from a timely plea. The Industrial Magistrate then went on to observe “I wouldn't like to think we're spending days going into this unnecessarily.”. Once again, if the passage had stood alone it would have been innocuous. But coming as it did immediately after the other statements complained of and a discussion about the *Penalties and Sentences Act 1992*, it seems to me that a reasonable lay observer might conclude that the Industrial Magistrate was informing the parties that he understood his own mind, and that if the case outlined (supported as it was by some documentary materials) could be made out, His Worship would convict and that it was wasteful of community resources to canvas other matters.

Granted that one is concerned with what a reasonably minded lay observer might possibly infer from what was said, it seems to me that the appellant has made out a case which required the Industrial Magistrate to disqualify himself. Doubtless, the possibility has to be real but one is not to descend into an assessment of probabilities.

It was for those reasons that on 31 July 2001 that I allowed the appeal, quashed the decision of the Industrial Magistrate refusing to disqualify himself and ordered that the Industrial Magistrate who heard the matter of *S. Roselund and Watpac Australia Pty Ltd* on 30 and 31 July 2001 be disqualified from further hearing the matter. I then remitted the matter to the Industrial Magistrates Court at Brisbane to be heard and determined according to law.

The appellant asked for costs. Consistent with the reasoning in *WorkCover Queensland v Trevor Ernest Markwell* (No. 2) 166 QGIG 427, I rejected the request as being beyond the power conferred by s. 335.

Dated this ninth day of August, 2001.

D.R. HALL, President.

Appearances:-

Mr R. Douglas SC instructed by McCullough Robertson for the appellant.

Mr M.J. Griffin SC and with him Mr S. Habermann instructed by Workplace Health and Safety for the respondent.

Released: 9 August 2001

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INDUSTRIAL COURT OF QUEENSLAND

WorkCover Queensland Act 1996 – s. 509 – appeal against decision of industrial magistrate

WorkCover Queensland AND Shane Donald Zanoletti (No. C48 of 2001)

PRESIDENT HALL

10 August 2001

DECISION

On 8 September 1998 the respondent lodged an application for compensation under the *WorkCover Queensland Act 1996*. It is clear from the evidence that the application was for reporting purposes only. No compensation was paid. On 3 March 2000 the respondent sought to re-open the original WorkCover claim in order to recover his loss of wages and medical expenses. On 8 March 2000 the claim was rejected. The respondent sought a statutory review. By a letter dated 23 October 2000, the Review Officer advised the respondent that the decision of WorkCover Queensland had been confirmed. On 16 November 2000 the respondent appealed to the Industrial Magistrate at Innisfail. The appeal was successful. By an Application to Appeal which reached the Industrial Registrar on 30 July 2001 and which appears on its face to have been received by the Industrial Magistrate at Innisfail on 24 July 2001, WorkCover Queensland seeks to appeal against the decision of the Industrial Magistrate pursuant to s. 509 of the *WorkCover Queensland Act 1996*. The proceedings have been conducted on the basis that the 21 day time limit for the commencement of an appeal imposed by s. 346(1) of the *Industrial Relations Act 1999* is applicable to the appeal. I am content to deal with the matter on that basis.

The limitation period of 21 days at s. 346(1) should not be seen as an arbitrary cut-off point unrelated to the demands of justice. It should be treated as representing the Legislature's judgement that the community will best be served by appeals being commenced within that brief limitation period, notwithstanding that on occasion the limitation period may defeat a perfectly good case: compare *Brisbane South Regional Health Authority v Taylor* (1996) 186 CLR 540 at 553 per McHugh J (with whom Dawson J agreed). The discretion to allow an extension of time at s. 346(2) should not be treated as having equal standing with s. 346(1). It is not the case that once an application for extension of time is made, the Court is to exercise a broad discretion about whether to refuse or to grant the extension. The task confronting the Court is to exercise a power to grant an extension upon the footing that the interests of the Queensland community are best served by the 21 day limitation period at s. 346(1). An applicant for an extension of time has the positive burden of demonstrating that the justice of the case requires the indulgence of a further period, *Brisbane South Regional Health Authority v Taylor* (1996) 186 CLR 540 at 547 per Toohey and Gummow JJ and at 554 per McHugh J (with whom Dawson J agreed).

Section 346(2) gives no direct guidance as to the basis upon which the power is to be exercised. It should be treated as a "full and unlimited" discretionary power. It is useful to marshal up the cases, e.g. *Canaway v Workers Compensation Board* (1996) 152 QGIG 1186 and *Carmody v Workers Compensation Board* (1998) 157 QGIG 119, in which the power has been exercised (or not exercised) and distil "principles" or "guidelines" for the disposition of other cases in which the power at s. 346(2) is invoked. However, any such set of "principles" or "guidelines" may not be treated as exhaustive. Neither may testing the circumstances of a particular case against the "principles" or "guidelines" become a substitute for the exercise of the power itself.

I consider this to be a clear case.

The appeal was a mere 6 days out of time. There is an explanation for the delay. By s. 507 of the *WorkCover Queensland Act 1996* the Industrial Magistrate was required to give the decision in open Court. His Worship did so, at Innisfail. Understandably, WorkCover Queensland was represented by a town agent. The communication of the town agent to WorkCover Queensland is in evidence. It informed WorkCover Queensland that the now respondent had been successful and how the matter of costs was to be dealt with. It did not inform WorkCover Queensland that the Industrial Magistrate had made the Order now complained of, viz –

"I order WorkCover Queensland to grant the appellant compensation on the basis of a 5% total disability."

(That order, I should interpolate, had not been sought by either party.) On 28 June 2001 WorkCover Queensland corresponded with the Industrial Magistrates Court at Innisfail by facsimile seeking a copy of the written decision required to be made available by s. 507. A copy was not received until on or about 11 July 2001. By that time WorkCover Queensland had a mere 6 days to take advice and lodge any appeal. It was probably remiss of the town agent to fail to notice the Order. The conduct of the town agent is the conduct of WorkCover Queensland (the principal). However, the system of delivery of judgement required by the *WorkCover Queensland Act 1996* and the delay at the Industrial Magistrates Court at Innisfail have contributed greatly.

This is a case where the applicant for an extension of time is enthusiastic about pressing the appeal. The decision of the Industrial Magistrate, which is entirely novel, creates a precedent which might be followed in other cases.

Without pre-judging the matter, WorkCover Queensland would appear to have a strong case. The appeal to the Industrial Magistrate was an appeal pursuant to s. 498. It was an appeal against a decision of the Review Unit which had not dealt with the matter of percentage of disability. There is a substantial argument that it is the scheme of Chapter 3, Part 9 of the *WorkCover Queensland Act 1996* that a disagreement about such a matter may be settled only by agreement between the parties or by a decision of the Medical Tribunal; see especially s. 204.

The delay has not caused any prejudice to the respondent. Doubtless, by exposing the respondent to the perils of an otherwise dormant appeal a decision of the Court extending time will prejudice the respondent.

As indicated, I consider this to be a clear case. I extend time to commence the appeal until 24 July 2001.

WorkCover Queensland also seeks a stay. It is possible to hear the substantive appeal with a week. The monies would not be paid to the respondent within that period in any event. I adjourn the application for a stay.

Dated this tenth day of August, 2001.

D.R. HALL, President.

Released: 10 August 2001

Appearances:-

Mr B. Thomas instructed by WorkCover Queensland for the applicant.

Mr M. Pope instructed by Bruce K Gillan, Solicitor, for the respondent.

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QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

Industrial Relations Act 1999 – s. 125 – application to amend award

**Australian Rail, Tram and Bus Industry Union of Employees, Queensland Branch
AND Queensland Rail (No. B675 of 2001)**

**Queensland Rail AND Australian Rail, Tram and Bus Industry Union of Employees,
Queensland Branch (No. B1199 of 2001)**

QUEENSLAND RAILWAY AWARD – STATE

PRESIDENT HALL
COMMISSIONER BECHLY
COMMISSIONER ASBURY

9 August 2001

Application to amend award – Amendment based on certified agreement – Principle 10 – Impact on enterprise bargaining – Absorption of future arbitrated State Wage increases – Absorption required.

DECISION

On 10 April 2001 the Australian Rail, Tram and Bus Industry Union of Employees, Queensland Branch made application pursuant to s. 125 of the *Industrial Relations Act 1999* to amend the *Queensland Rail Award – State*. The amendments were based on, but not the same as, some, but not all, of the provisions of the *QR Enterprise Agreement 4, 2000 Certified Agreement*. Section 129 of the Act authorises grant of such an application. On 9 July 2001 Queensland Rail, the respondent to the application of 10 April 2001, itself made application to amend the *Queensland Rail Award – State*. Queensland Rail sought to add to the amendments proposed by the employee organisation amendments based on the roster arrangements in the Certified Agreement previously referred to. That matter was not contentious. The employee organisation did not oppose joinder of the two applications, though it (rightly) made the point that the success of the application first filed was not dependent on the success of the application of 9 July 2001.

Grant of the applications will not result in any employee being paid more than the employee is currently paid. The existing Award rates do not have a relativity basis to be destroyed by grant of the applications. The difficulties arise out of the proposed new clause 3.2(1)(d). The clause proposed is:

“(d) *Absorption Clause* – The rates of pay in this clause have been adjusted to include pay rates based upon QR EA 4 2000, (CA 168/00). The rates of pay include the arbitrated wage adjustment payable under the 1 September 2000 Declaration of General Ruling and earlier safety net adjustments. The rates of pay in this award are not to be adjusted for State Wage Case increases, granted during 2001.”

The difficulty surfaces as a dispute about the date of operation of the proposed amendments. It is the submission of the employee organisation that the date of operation should be the date on which the amendments are made. Queensland Rail seeks to defer the date of operation until the end of 2002. Queensland Rail’s submission arises out of the circumstances that Queensland Rail wishes to enter negotiations for a further certified agreement in the course of which it will seek productivity changes. The apprehension of Queensland Rail, based (it is said) on past experience, is that if the negotiations take place against the background of an expectation that there will in 2002 be a State Wage Case based salary increase in any event, the negotiations are likely to be protracted and difficult. (Queensland Rail is prepared to consent to the insertion in the Award of all but the most recent Certified Agreement increase.) Reliance is placed on Principle 10 of the Commission’s Statement of Principles, *viz* –

“Subject to s. 129 the Commission may include in an award provisions that are based on a certified agreement whether or not there be consent by all parties to be bound. Without limiting the matters to be taken into account by the Commission, the Commission should consider whether inclusion of the provision will act as a disincentive to enterprise bargaining. If the effect of grant of the application will be to increase wages payable under the award, the Commission is to insist on submissions about how future State Wage increases are (if at all) to be absorbed into the increase. Where such increases distort relativities, the Commission must ensure that the relativities and the wage increases are separately expressed. [The Commission is not restricted to hearing submissions about future State Wage increases.]”

In particular, reliance is placed on the reference to “disincentive to enterprise bargaining”. In the circumstances of the case we find it unnecessary to turn our minds to the question as to whether the onus on the issue of “disincentive to enterprise bargaining” is carried by the party opposing or by the party supporting amendments to the general Award. Neither have we considered such questions as whether the “disincentive” must be shown to be real as distinct from ephemeral or shown to be substantial. The difficulty really arises because it is intended to be the effect of the clause that after 2001 State Wage increases (if any) will not be absorbed into that part of the wage rates in the Award originally sought in the Certified Agreement. A table has been tendered which shows that the rates in the Certified Agreement are very much higher than the rates in the Award.

The Commission’s principles of course do not have the force of law. However, Queensland Rail may legitimately claim to have a reasonable expectation that if the proposed amendments were not made and the overaward amounts continued to flow from the Certified Agreement, Queensland Rail would be permitted to absorb future State Wage increases (if any) into the overaward payments. One of the “rights” which Queensland Rail acquired when agreeing to pay those larger sums of money was the “right” to absorb future State Wage increases. We are not satisfied that it is appropriate to deprive Queensland Rail of that “right”. It is not to the point that the proposed clause 3.2(1)(d) has, *by consent*, been adopted in other cases where provisions based on certified agreements have been inserted in awards. Here, there is no such consent. Queensland Rail will consent to a non-absorption clause

only if it commences to run after 31 December 2002. We propose to amend the proposed clause 3.2(1)(d) by deleting the full stop which appears after 2001 and adding, as suggested by Queensland Rail, the words "or any further State Wage adjustment increases granted during 2002". Otherwise we make the amendments sought by the applications. The date of operation is 9 August, 2001.

Dated this ninth day of August, 2001.

D.R. HALL, President.

R.E. BECHLY, Commissioner.

I.C. ASBURY, Commissioner.

Released: 9 August 2001

Appearances:-

Ms B. Houston for Australian Rail, Tram and Bus Industry Union of Employees, Queensland Branch.

Mr P. Lucas and with him Ms L. Collins for Queensland Rail.

Mr J. Spreckley for Queensland Council of Unions and The Electrical Trades Union of Employees of Australia, Queensland Branch.

Mr E. Moorhead for Automotive, Metals, Engineering, Printing and Kindred Industries Industrial Union of Employees, Queensland.

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QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

Industrial Relations Act 1999 – s. 74 – application for reinstatement

**Nigel Maurice Nicholson AND Stewart's Criterion Hotel Pty Limited
t/a Stewarts Kawana Waters Hotel (No. B1387 of 2000)**

COMMISSIONER EDWARDS

13 August 2001

Application for Reinstatement – Termination – Dismissal – Evidence – Promotion – Offer of Employment – Applicant Declined – Application Dismissed.

DECISION

The applicant commenced work as a Duty Manager at Stewart's Kawana Waters Hotel on 6 May 1998. He remained in that position until he was promoted to Assistant Manager of that Hotel as from 21 March 1999. In late 2000 he applied for the position of Venue Manager, Alexandra Headlands Hotel but was unsuccessful. On 2 August 2000 he was attending a training course in Brisbane and was called to a meeting with Todd Clayton, Group Operations Manager for the Stewarts Group (the Company).

The evidence of Mr Clayton and the applicant conflicted to the extent that Mr Clayton refers to acceptance whereas the applicant refers to the fact that he was considering the situation. Both parties agree there was a telephone call on 4 August 2000. Mr Clayton's version is as follows:-

"On Friday 4 August 2000, Nigel Nicholson phoned me on my mobile and said that he would like to accept the offer of employment. I advised him that the location was the Hotel Broadway and he replied 'I accept your offer'."

The applicant's version is:-

"I phoned Clayton on the morning of Friday, 4 August 2000, and advised I would seriously consider a move to Brisbane if something came up. My stating this was on the basis there would be no movement on the Sunshine Coast for a period of two (2) years. At the time Clayton advised me he would be coming up to the Sunshine Coast later that day and would discuss it with me further then but that I was not to tell anybody he was coming. Again there was no mention of any venue, salary or conditions."

It is the evidence of the applicant that at the meeting with Mr Clayton:-

- He was asked whether he would consider a move to Brisbane some time in the future;
- He was informed that there would be changes in the Brisbane management but no indication was given as to a specific site;
- In regard to the Sunshine Coast, Mr Clayton advised the applicant there would be no movement for the next two years;
- Never at any stage did Mr Clayton advise the applicant that he would not be considered for appointment as a Venue Manager of any of the Hotels on the Sunshine Coast;
- There was no mention of salary or that a move to Brisbane would be part of a series of managerial moves within the group.
- There was no firm offer.

In evidence the applicant outlined that on the morning of Friday 4 August 2000 he advised Mr Clayton by telephone that he would seriously consider a move to Brisbane if something came up. He made this decision on the basis that there would be no movement on the Sunshine Coast for a period of two years. In response, Mr Clayton advised the applicant he would have discussions later that day during his visit to the Sunshine Coast.

It was the evidence of the applicant that on 4 August 2000 he met Sue Henderson, Human Resource Manager and in discussion:-

- He advised that he was concerned about the way an employee's contract was not renewed;
- He indicated he had not accepted the position at the Broadway Hotel and her response was that Mr Clayton told her an acceptance had already been received and confirmed.

The Commission was further advised that on the same day he had expressed concern to Ms Sandy Regan, Administration Manager about the way things were handled. Earlier in the morning he had advised her that he had told Mr Clayton he would give serious consideration to a move to Brisbane.

On 8 August the applicant attended the Broadway Hotel for a Wine Festival meeting. The attendees at that meeting included Robyn Boak, Todd Clayton, Bill Stewart, Michelle La Pla, Julian Roberts and Ted Glasson and others.

The applicant reiterated that at no time did he advise Tony Weldon the Venue Manager, Broadway Hotel he would be prepared to accept the offer.

On 18 August 2000 he telephoned Mr Clayton to express concern about the management of certain matters. On 21 August he received a call requesting that he see Mr Clayton after the course the applicant was attending in Brisbane had finished. The meeting was arranged for 4.30pm at the Broadway Hotel. There was minimal communication at this meeting at which time the applicant advised that he declined the transfer. The meeting concluded with the advice from Mr Clayton that he needed two weeks to consider the situation.

In evidence Mr Clayton outlined his conversation of events as follows:–

“On Wednesday 2 August 2000 I had a meeting with Nigel Nicholson at Vinos at Eagle Street the City, to discuss career opportunities within the Stewarts Group. It was at this meeting that I made an offer of employment as Venue Manager of a Brisbane hotel on a salary of \$43,000 per annum.

Nigel did ask which property he would be going to but I replied saying we had to have confirmation from him, and there were other people to have discussions with – so it was sensitive.

Nigel knew that it would be one of three hotels in Brisbane operated by the Stewarts Group.

Nigel Nicholson was very excited about the offer and immediately accepted the position. I told him that he should think about the offer and talk it over with his wife and then get back to me. He agreed and added it should not be a problem because his wife was looking at studies in Brisbane anyway. Commuting was discussed and Nigel replied that he would find accommodation down here until his wife got her studies finalised.

On Friday 4 August 2000, Nigel Nicholson phoned me on my mobile and said that he would like to accept the offer of employment. I advised him that the location was the Hotel Broadway and replied ‘I accept your offer’.

Based on Nigel Nicholson’s acceptance of the offer of employment, I offered his former position as Assistant Manager of Stewarts Kawana Waters Hotel to another person. That person promptly accepted the position. (Refer to Exhibit B – Change to Pay Rate and/or Permanent Employee Details – Peter Maddox) (Refer to Exhibit C – Employment Agreement – Peter Maddox).”.

When Mr Clayton arrived at the Kawana Waters Hotel the applicant was called to the boardroom and advised that the contract of Phil McKelson was not being renewed and the applicant was appointed Acting Manager of the Kawana Waters Hotel. In addition, the applicant outlined that in the presence of key personnel an announcement was made that as from 4 September 2000 he would be promoted to the position of Venue Manager, Broadway Hotel, Brisbane. The applicant advised in his affidavit that he had not previously been informed of the appointment nor had he agreed to accept the position. He described his response as, “I was dumbfounded”.

Irrespective of the version of events both parties agree that on 4 August 2000 the appointment was announced at the Kawana Waters Hotel Management Meeting. The Commission was provided with Exhibit 6D (Memo dated 4 August 2000) which states, *inter alia*:–

“ . . .

As of September 4, 2000, Nigel Nicholson will be promoted to the position of Venue Manager Broadway Hotel, Brisbane. This is one of Stewart’s boutique hotels what has been developed into one of Brisbane’s ‘happening places’ with the assistance of Tony Weldon’s marketing expertise.

. . .”.

The Stewarts News of July/August 2000 (Exhibit 6E) also states:–

“ . . .

Congratulations to each of the following people who have been recognised for their excellent performance and rewarded with added responsibility.

. . .

Nigel Nicholson, Assistant Manager of Kawana Waters Hotel will take over as Venue Manager of the Hotel Broadway.

. . .”.

On 29 August 2000 the applicant attended a medical practitioner and was given a certificate for 10 days. Although Mr Clayton had heard rumours it was not until 18 August 2000 that the applicant phoned to advise that he no longer wanted the position. The applicant provided a letter dated 12 September 2000 (Exhibit 6L) declining the position.

The letter of 29 August from the Company to the applicant outlined the programming, which had been initiated as a result of the Company’s firm understanding that he had accepted the position. Even so the Managing Director, Mr Ted Stewart reaffirmed the appointment and indicated that he was looking forward to a starting date of 5 September 2000.

On 12 September 2000 (Exhibit 6L) the applicant advised the Company as follows:–

“I refer to the offer of venue managers position at the Broadway Hotel, I do not wish to accept nor have I previously accepted this position.

. . .”.

As a result of the applicant’s letter of 12 September 2000 the Company advised him by letter of even date (Exhibit 6M) as follows:–

“ . . .

You have refused to report for duty at The Hotel Broadway, despite our confirmation to you that the position is yours.

In these circumstances, we are left with no alternative but to deem that your conduct amounts to your resignation as our employee.

...”.

The evidence of Ms Tammy Nicholson, Ms Sandra Regan and Ms Janet Badke was of minimal benefit as they were not present at the meeting on 2 August 2000 but needed to rely on information provided by Mr M Nicholson.

On consideration of all the evidence the Commission has placed considerable weight on the fact that the Company initiated staff changes and informed affected staff as well as communicated widely within the organisation the proposals. Each of their decisions was based on the Company's understanding that the applicant had made a firm decision. The applicant as a Manager was either aware or should have been aware of the Company's method of providing feedback to their employees, namely Exhibits 6D and 6E. Furthermore, as a Manager, the Commission would expect that he would be aware that the managing of the human resource aspects of such a Company would include giving adequate notice to staff of proposed transfers and appointments. The position of Assistant Manager, Stewart's Kawana Waters Hotel was filled on 4 August 2000 (Exhibit 6D) but there was a considerable delay before the applicant clearly indicated his desire to remain at Kawana Waters and declined the offer of a transfer to the Broadway Hotel. The Commission is satisfied that the Company had no alternative but to terminate the applicant.

The application is dismissed.

The Commission orders accordingly.

K.L. EDWARDS, Commissioner.

Appearances:-

Ms B. Callaghan instructed by Mr S. Crew of Boyce Garrick Lawyers on behalf of the applicant.

Mr C. Lentini of Queensland Hotels Association, Union of Employers, with him Mr E. Stewart on behalf of the respondent.

Released: 13 August 2001

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QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

Industrial Relations Act 1999 – s. 276 – application to amend a contract

Helen Miller AND the Rector and Wardens of the All Saints Church Anglican Parish of Brisbane (No. B625 of 2001)

COMMISSIONER ASBURY

13 August 2001

Unfair contract – Contract of service – Alleged variation to contract – Consideration of what constitutes unfairness – Contract not unfair when entered into – Contract did not become unfair – No variation to contract – Alleged discussion not pleaded – Importance of pleadings – Alleged discussion not a minor oversight – Evidence about the alleged discussion not admitted – Discussion could not constitute a variation to the contract in any event – Application dismissed.

DECISION

An application has been brought by the Australian Municipal, Administrative, Clerical and Services Union, Central and Southern Queensland Clerical and Administrative Branch, Union of Employees on behalf of Ms Helen Miller (the applicant), pursuant to s. 276 of the *Industrial Relations Act 1999* (the Act). The applicant seeks a declaration that a contract, said to exist between the applicant and Rector and Wardens of the All Saints Church Anglican Parish of Brisbane (the respondent) be declared void, save and except for provisions of that contract which have previously entitled the applicant to remuneration. The application also seeks an order that the respondent pay to the applicant monies that are alleged to be owing, with respect to notice.

The applicant was employed by the respondent as the Manager of a facility known as the All Saint's Centre, which was available to the Parish and the general community to be used as a function centre. The applicant was employed on a series of employment agreements, with the most recent agreement operating from 1 July 2000, for a period of twelve months.

It would appear from the evidence, that the employment agreement which was said to operate from 1 July 2000, was signed by the applicant on 12 July 2000. That agreement relevantly provides the following at clause 1:-

“1. The period of operation of the Agreement shall be from the 1st July, 2000 for a period of twelve months. The Agreement shall be terminable by either party on the giving of one month's written notice during the term of the Agreement. The terms of the Agreement may be amended by agreement in writing signed by Helen Miller and the Rector and Wardens.”.

A letter was also provided to the applicant dated 12 July 2000, in the following terms:-

“Dear Mrs Miller

Along with the offer of an employment contract for a further twelve months, we take this opportunity to inform you that it is our intention to restructure the entire operation of All Saints' at the end of the twelve month period of the contract.

One result of this restructure will be that the task of Centre Manager will no longer be a full-time position.

It is our intention to wait until the period of this contract has come to an end. We would understand, however, if you wished to resign earlier so as to accept an offer of alternative employment. In that case, we would be prepared to waive the four weeks' notice provided for in the Contract. This will enable us to begin the process of restructuring sooner.”.

This letter was signed by the Rector and the Wardens of All Saints', but was not signed by the applicant. The applicant's evidence about when she received the letter was unclear, and this lack of clarity was not assisted by the fact that the copy of the Agreement between the applicant and the respondent which was appended to the applicant's witness statement, and which went into evidence, was not dated. This was not apparent until submissions of Counsel for the respondent revealed the fact that the parties were referring to copies of the agreement dated by hand, 12 July 2000.

On 8 November 1998, the applicant was advised in writing that her employment was to be terminated with effect from 8 December 2000, in accordance with clause 1 of her employment agreement. The applicant was paid one month's salary in lieu of notice (an amount of \$2,621) and a further amount of \$5,242 representing two weeks' annual leave and a further "gratis" payment.

Clearly the employment agreement constituted a contract of service. Section 276(1) of the Act provides that on application, the Commission may amend or declare void (wholly or partly) a contract if it considers that the contract is unfair. Section 276(1)(a) provides that the Commission may take such action, in the case of a contract of service, if it considers that the contract is not covered by an industrial instrument. In this case, it was not argued that the contract was covered by an industrial instrument, and on that basis, I do not propose to decide that it was. However, I note that the description of the duties performed by the applicant, which was appended to her affidavit, indicates the possibility that her contract of service would be covered by an industrial instrument, even if the applicant was partially exempt from such instrument on the basis of the level of her salary.

To succeed with the application, the applicant must prove on the balance of probabilities, that the contract was, or became, unfair. Section 276(2) provides that in deciding whether to amend or void a contract, the Commission may consider the relative bargaining power of the parties, whether undue influence or pressure was exerted on, or any unfair tactics were used against, a party to the contract. However, the starting point is a finding that the contract is unfair. An "unfair" contract is defined by s. 276(7) as a contract that:-

- “(a) is harsh unconscionable or unfair; or
- (b) is against the public interest; or
- (c) provides, or has provided, a total remuneration less than that which a person performing the work as an employee would receive under an industrial instrument or this Act; or
- (d) is designed to, or does, avoid the provisions of an industrial instrument.”.

Section 276(4) provides that the Commission may consider a contract to be unfair if it considers the contract was unfair when it was entered into, or became unfair because of the conduct of the parties, or a variation to the contract, or for any other reason it considers sufficient.

In *P & J Trucking Pty Ltd v Toll Transport Pty Ltd* (2001) 166 QGIG 434 at 435 Blades C referred to a number of New South Wales cases dealing with the question of what constitutes "unfairness". Those cases were determined under s. 275 of the *Industrial Relations Act 1991 (NSW)*, which is very similar to s. 276 of the Queensland Act. In *Palmer v TNT Australia Pty Limited v/a TNT Express* (1995) NSW IRC 24, Hungerford J adopted the approach in an earlier decision of Sheldon J in *Davies v General Transport Development Pty Limited* (1967) AR (NSW) 371, that the unfairness of a contract or arrangement, was to be determined on the basis of common sense, characteristic of the "ordinary jurymen" and as a matter of morals not of law.

Essentially, the applicant's case as pleaded, is that the contract was varied by the letter of 12 July 2000, so that it entitled her to twelve months' notice of the termination of her employment, rather than one month's notice, which the contract had provided for prior to its variation. The applicant claims that the terms of the amended contract, entitled her to be paid in lieu of notice, up to 30 June 2001, when the contract period expired.

In this case, I am unable to be satisfied, pursuant to s. 276(4)(a) that the contract between the applicant and the respondent was unfair, when it was entered into. In my view, the cessation date in the contract of employment simply records the outer of a period beyond which the contract of employment will not run (12 months from 1 July 2000). Within that period, the period of the contract is indeterminate (*Andersen v Umbakumba Community Council* (1995) 1 IRCR 457 at 463).

Pursuant to s. 276(4)(b) of the Act, I am also unable to be reasonably satisfied that the contract became unfair. In my view, the letter dated 12 July 2000, does not vary the applicant's employment contract. The plain meaning of that letter is to advise the applicant of the respondent's intentions with respect to restructuring. Far from varying the one month notice period in the applicant's employment contract, the letter actually reinforces that notice period, by stating that it will be waived by the respondent, if the applicant finds other employment before the end of the contract. To construe the letter of 12 July 2000 in the manner that is argued for the applicant, would depart from the common sense approach which should be applied in determining whether a contract is unfair.

Further, the letter of 12 July 2000, cannot constitute an amendment to the contract, by virtue of the terms of the contract itself. The contract clearly provides that it can be amended only by an agreement signed by the applicant and the Rector and Wardens of All Saints.

I am unable to be reasonably satisfied that any actions of the respondent made the contract unfair. Under cross-examination, the applicant said that she had held a conversation with Father David Chislett of the respondent, when he handed her the letter dated 12 July 2000. The applicant said that this conversation had culminated in a verbal agreement, effectively guaranteeing her employment for a twelve month period.

The alleged verbal agreement was not referred to in the applicant's pleadings, or in the affidavit setting out the evidence of the applicant. In her response to questions during cross-examination, the applicant attempted to extend the pleadings to cover the alleged verbal agreement. In my view, the pleadings quite clearly refer only to the letter dated 12 July 2000, and in fact directly quote that letter.

In *P & J Trucking Pty Ltd v Toll Transport Pty Ltd* abovementioned, Blades C highlighted the importance of proper pleadings in relation to applications under s. 276, citing *AWU v Hammonds Pty Ltd* 165 QGIG and *Quality Bakers v Bennett (No 2)* (1993) 52 IR 5. However, Blades C did not go so far as to determine that parties to s. 276 applications are restricted to their pleadings, commenting that:-

“... it is probably best just to point out the difficulties a party may face if insufficient attention is paid to proper pleadings rather than to refuse to allow the point to be raised.”.

The matter of pleadings was also considered by Hall P in *TDG Logistics Pty Ltd v Peter William Reilly* (2001) 167 QGIG 247. The ground of appeal being considered in that case, was that the Commissioner who heard the matter at first instance, had determined it upon a ground which was not pleaded, and on a case which was not fought. In that decision, the President cited the following passage from *Gould and Birbeck and Bacon v Mt Oxide Mines Limited* (in liquidation) 1916 22 CLR 490 at 517, noting that it is settled that:-

“... pleadings are only a means to an end, and if the parties in fighting their legal battles choose to restrict them, or to enlarge them, or to disregard them and meet each other on issues fairly fought out, it is impossible for either of them to hark back to the pleadings and treat them as governing the area of the contest.”.

In this case, the pleadings did not disclose the contention that a verbal undertaking had been given to the applicant when she had been given the letter dated 12 July by the respondent. Further, the affidavit outlining the applicant's evidence did not make any reference to this alleged conversation. The

respondent, on the basis of the pleadings and the affidavit outlining the applicant's evidence, chose (in my view quite legitimately) not to call any evidence in reply. In my view, the failure to plead this aspect of the claim or to mention it in the applicant's affidavit, was not a minor oversight. In the circumstances of this case, to admit evidence of the conversation, given while the applicant was under cross-examination, would be unfair to the respondent, and would be tantamount to "trial by ambush".

In any event, I am also of the view that in the face of the plain meaning of the letter of 12 July 2000, and the requirements of the terms of the contract to effect a variation, that a conversation between the applicant and Father Chislett, whatever its terms, could not constitute a variation to the contract.

The applicant has not satisfied me that the contract of service was an unfair contract, or that it became so because of the conduct of the parties, or a variation to the contract, or for any other reason. The respondent has simply terminated the applicant's contract in accordance with its terms, and has made an additional *ex gratia* payment to the applicant. Further, the applicant has not satisfied me that any of the considerations in s. 276(2) have occurred in the circumstances of this case. The application is dismissed.

I order accordingly.

I.C. ASBURY, Commissioner.

Appearances:-

Ms K. Parkin of the Australian Municipal, Administrative, Clerical and Services Union, Central and Southern Queensland Clerical and Administrative Branch, Union of Employees on behalf of the applicant.

Released: 13 August 2001

Mr A. Horneman-Wren instructed by Denise Maxwell, Solicitor on behalf of the respondent.

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QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

Industrial Relations Act 1999 – s. 74 – application for reinstatement

Tungia Hikaiti AND Dunwoodys Management Pty Ltd (No. B1948 of 2000)

COMMISSIONER BECHLY

14 August 2001

Unfair dismissal – Job description – Restructuring of position – Increase in workload – Applicant requested higher salary – Respondent refused pay increase – Refusal by applicant to accept change to employment role – Change to role was reasonable – Dismissal not a breach of act – Application refused.

DECISION

Tungia Hikaiti has made an application for reinstatement to the position of Gaming and Promotions Coordinator employed by Dunwoodys Management Pty Ltd.

She commenced in that position on 12 April 1999 with a salary of \$45,000 per annum, a motor vehicle and a mobile phone. Her employment ceased on 4 December 2000.

The role which she was required to perform is defined in the letter of offer of employment which followed a job interview whereat details of the job requirements and the applicant's capacity to perform those requirements were discussed.

The job description is in the following terms:-

"Your role will include training staff on the correct operational and audit procedures on the gaming machines, implementing service standards and promotions, co-ordinating gaming and promotional activity within the on premise structure of each of the Hedley hotels. Your overall objective is to create an atmosphere which will see Hedley gaming facilities as the premier gaming rooms in Cairns and Townsville and to build a team and an environment where they will perform at an optimum level."

There is a disagreement between the parties as to a significant factor within that job description.

The respondent's evidence is that the Promotion Coordination role went beyond the gaming machine activities as conducted in the various hotels operated by it and went to all "on premise" activities, that is, liquor sales over the bars and restaurant/food outlet sales.

It is the applicant's contention that coordination of promotional activities related only to gaming machine promotions.

Early in the applicant's employment there is evidence that she was engaged on two promotional events which went to promoting sales of liquor generally although one of them, which involved the giving of a \$5 voucher, could have been redeemed at the gaming machines as well as for liquor or food sales.

Although little information was provided, later promotions seem to have had the emphasis on attracting customers to gaming machines. This seems to be in accord with the major thrust of the job description and is consistent with the reason given by the respondent for the creation of the role.

Initially the applicant's job included involvement with the respondent's hotels in Townsville. On the evidence approximately one week each month was spent in Townsville. In August 2000 all of the Townsville responsibility was removed from her. On her evidence she was not informed of the reason for this reduction in the area of her responsibility.

On the evidence of Mr Stephen Donnelly, a Director of the respondent, it was the result of dissatisfaction over an incident where he states the applicant had, without authorisation, taken the keys to the gaming machines at one of the Townsville hotels which were later stolen. Of concern to the respondent were two separate stories said to have been told to Mr Donnelly as to the circumstance of the theft of the keys. As well, there was some dissatisfaction about the effectiveness of the applicant's performance.

On the applicant's evidence she did not have a good working relationship with the Director responsible for the Townsville hotels.

In November 2000 the respondent decided to restructure the applicant's position. This appears to have been largely related to the reduced workload said to have resulted from the removal of the Townsville hotels.

She was informed of this on 20 November 2000 and advised that she would report to Mr Daryl Cutuli the new Regional Manager for Cairns and Innisfail. Meetings were arranged where the restructured role was to be fully outlined. Some advice was given by Mr Cutuli which indicated that the applicant's workload would be increased.

She expressed some dissatisfaction at this. Further discussion was deferred until the first formal meeting to discuss the issue on 27 November 2000.

The evidence of the applicant and Mr Cutuli, as could be expected, differs somewhat as to the content of that meeting and the subsequent meeting on 4 December 2000.

An examination of all of the evidence indicates the following issues were discussed at meetings held on 27 November and 4 December 2000.

There was a discussion about the promotional duties which the respondent wished the applicant to perform. The applicant believed that the changes would result in a very significant increase in the workload which would require planning activities months in advance of promotions coming into effect.

The applicant informed the respondent that a higher salary should be paid for the new role. She did not believe it would have been possible to continue her existing duties together with the new duties without working longer hours. She had not received any performance based pay in the past and believed that it was unlikely that she would receive any performance based pay if she took on the promotions and they went well.

The respondent's representative, Mr Cutuli, referred to his being newly appointed to the position of Manager, Cairns and Innisfail region without salary increase but with the expectation that improved performance should result in increased salary.

The applicant formed the belief from a comment made by Mr Cutuli that he was unaware of all the duties performed by the applicant. It was agreed that he would review details of all her functions and targets reached so that he may see whether a pay increase was warranted.

Mr Cutuli advised the applicant that he had reviewed the applicant's position as requested by her on 27 November and informed her that he could not justify a pay increase. Discussion ensued on poker machine targets and performance and whether increased takings from machines was the result of purchase of additional machines or the applicant's job role in bringing machines on line.

The applicant formed the belief that Mr Cutuli had made no effort to get an understanding of her job and had no idea what he was talking about nor did he understand the machine results upon which she based her belief that she should receive an increase.

She believed that everything she was saying was falling on deaf ears and so said:-

"Nothing I say will change the situation because you have no idea what I'm talking about or the slightest understanding, so there's nothing more I can say."

There was much circular discussion about the expectations in the proposed altered role and performance in the existing role until the applicant stated:-

"No way! I'm not doing it without a pay rise. I'm quite happy to do everything, as you know, by the agenda I put forward to you implementing these new job tasks, so contrary to what you believe I deserve it and am entitled to it and I'm not quitting." (Exhibit 1)

The conversation between the applicant and Mr Cutuli then circled through the above issues until the applicant stated, "If you want to get rid of me you are going to have to sack me. I'm not quitting.", to which Mr Cutuli responded, "I'm not going to sack you, I'm simply offering you another job description", and, "If you don't accept it you do not have a position with the Company.", to which the applicant stated, "So does this mean that I am finished?", which attracted the response, "If you are saying that you will not accept the new duties then I have no option but to say yes." (Exhibit 1 and Exhibit 2)

This brought the employment to an end.

CONCLUSIONS

On the evidence before me the respondent was not expecting that the meeting of 4 December would result in a termination of employment. No procedures had been put in place by the respondent which would be the case if a termination was contemplated by it.

The respondent argues that the termination was not at its initiative and that the applicant brought her own employment to an end when she refused to accept a reasonable alteration to her employment role which was within her original contract of employment.

It further argues that the alteration of her duties was reasonable and did not impose an unrealistic burden upon her in the light of the removal of the Townsville duties.

On consideration of the applicant's own evidence that she was "quite happy to do everything, as you know by the agenda I put forward to you implementing these new job tasks." (Exhibit 1 para.16) I accept that the proposed change was reasonable and that the real issue behind the objection of the applicant was the salary to be paid.

Material which supports the belief that the proposed change was reasonable are:-

- Although the emphasis in the contract is on gaming machines the contract is wide enough in its terms to include the duties proposed. Some such duties had been performed in the early period of employment but promotional work moved to gaming machines and the work associated with bringing on line a substantial increase in the number of machines operated by the respondent which required the applicant to prepare necessary documentation and liaise with the appropriate authorities. She performed these duties in addition to the coordination of promotional activities.
- The removal of the Townsville duties and the obvious circumstances that the expansion of gaming machines would come to an end when existing hotel refurbishments were completed did and would further reduce the applicant's workload. On the evidence there were only three hotels in Cairns which required much of her time. The hotels had in employment staff responsible for the management and operation of the gaming machines as well as staff responsible for the management of liquor sales through bars as well as other points of sale.
- Whether it be for gaming machines or liquor sales, promotional coordination is sufficiently similar (if not the same) as to fall within the skills and attributes possessed by the applicant and for which she was employed.

The applicant clearly sought an increase in salary to perform the additional duties. Whether that was a reasonable belief is an issue that should be taken into account.

The contract provided for a salary review after three months and was to be based on average daily turnover per machine and the group's overall turnover.

It is the respondent's evidence that in the first month of the applicant's employment gaming revenue declined and that in August 1999 there was a steady decline in gaming revenue based on the number of gaming machines until the applicant's employment ended. The dissatisfaction of the respondent with this outcome was discussed with her and an alternative salary package based on commission or machine performance was proposed.

For a variety of reasons this proposal, which seems to have been accepted by the applicant, was not put into effect. One of the reasons given by the applicant is that she complained to a Mr T. Hedley who was the controller of the respondent about the matter and subsequent to that her salary package remained unchanged. Other reasons were given by the respondent.

Since being assigned only to the Cairns and Innisfail area the nett metered win performance criteria showed a decline on the evidence of the respondent.

The applicant adopted the position that her duties in bringing about the installation of new machines as well as the increased revenue created thereby warranted a salary increase.

In the face of the position adopted by the respondent that the capital injection to purchase the additional gaming machines was the cause of generation of increased revenue and that there was a steady decline in gaming revenue per machine, the rejection of the applicant's request for a salary increase was not unreasonable.

It was also argued that the company acted harshly in the manner in which it dealt with the applicant on 4 December when the termination occurred. It was proposed that the respondent should have provided counselling as to better time management and better dealt with the conflict which preceded the termination.

The issue of the better application of time management was, at an earlier date, raised with the applicant by Mr S. Donnelly. According to his evidence he did discuss with the applicant her presence on site when technicians were installing gaming machines and the absence of any necessity for her to be present during that process. The discussion related to the hotel in Innisfail.

As to the events on 4 December 2000 I had the opportunity to observe the applicant and formed the view that she was a capable and forthright person and quite able to explain her views without agitation or fear while under the pressure of cross-examination.

It is equally clear from the evidence that she had decided that she would not perform the altered duties without additional remuneration and would not be moved from that position. Her evidence was that she would continue to perform the then existing duties but would not perform the additional duties as directed by the respondent. She had overnight to reflect on what had occurred but initiated steps the following day to seek documentation to confirm the termination of her position.

The applicant expressed the belief that there was a conspiracy to get rid of her after the Townsville incident and when a new salary package was proposed. There was no evidence to support this belief.

In all the circumstances I cannot find that there was a breach of the Act with respect to wrongful dismissal.

I decline to make the orders sought by the applicant.

R.E. BECHLY, Commissioner.

Released: 14 August 2001

Appearances:-

Mr C.J. Ryall instructed by Lagois Magoffin Rose for the applicant.

Mr C.W. Agnew as agent for the respondent, with him Mr S. Donnelly.

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QUEENSLAND INDUSTRIAL REGISTRAR

Industrial Relations Act 1999 – s. 482 – arrangement for conduct of election

Queensland Nurses' Union of Employees (No. Q28 of 2001)

REGISTRAR EWALD

13 August 2001

Conduct of Election — Reason for Election – Casual Vacancies –Electoral Commission to Conduct Election

DECISION

On 9 August 2001, the Queensland Nurses' Union of Employees lodged in the Registry under section 481 of the *Industrial Relations Act 1999* the information as prescribed in section 36 of the *Industrial Relations Regulation 2000* in relation to its request for the conduct of an election by the Electoral Commission for the following Offices:-

<i>Office</i>	<i>Number of Positions</i>
Councillors	4

Reason For Election

The Industrial Organisation advises that there are four (4) casual vacancies due to resignations.

Method of Election

Rule 37 prescribes the conduct of elections by the Returning Officer as a direct vote by way of a secret postal ballot to every financial member of the Union entitled to vote.

Conduct of Election

I have considered the application, the Act and Rules, and I am satisfied that an election is required to be held under the rules of each of the above positions of Office.

Therefore, under section 482 of the *Industrial Relations Act 1999*, I am making arrangements for the conduct of the election of the above named positions by the Electoral Commission of Queensland.

Dated this thirteenth day of August, 2001.

E. EWALD
Industrial Registrar

Released: 13 August 2001

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QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

Industrial Relations Act 1999 – s. 125 – making, amending and repealing awards

**Textile, Clothing and Footwear Union of Australia, Queensland Branch,
Union of Employees AND Queensland Chamber of Commerce and Industry Limited,
Industrial Organisation of Employers and Others (No. B799 of 2001)**

CLOTHING TRADES AWARD – SOUTHERN AND CENTRAL DIVISIONS

VICE PRESIDENT LINNANE

27 July 2001

AMENDMENT

THIS matter coming on for hearing before the Commission at Brisbane on 18 June and 27 July 2001, this Commission orders that the said Award be amended as follows as from the twenty-seventh day of July, 2001:–

1. By deleting subclause (4) of clause 6 (Overtime) and inserting the following in lieu thereof:–

“(4) No employee under the age of 16 years shall be employed on overtime.”.

2. By deleting clause 10 (Wages) and inserting the following in lieu thereof:–

“WAGES AND RELATED MATTERS

10.1. Wage Rates Pre Transition Period

- (a) An adult employee (other than an apprentice, junior employee or employee employed under a supported wage system or National Training Wage Award) will be graded in accordance with the skill level classification structure and descriptors contained in clause 10(3). An adult employee will be paid the minimum weekly award wage rate assigned to that skill level set out in the following table from the 1st December 2001 in accordance with clause 10(2). Subsequent wage adjustments will also be paid in accordance with clause 10(2).

Classification Skill Level	Minimum Weekly Award Wage Rate as at 1/12/2001 (\$)
Trainee	
1	396.60
2	408.90
3	432.00
4	449.60
5#	474.10

Wage Band

- (b) The new skill structure, for which the weekly wages are outlined above emphasises and describes the skills employees use in their work. The new structure has five levels, starting at Trainee, Skill Level 1 and going up to Skill Level 4. The following procedures are provided to enable workplaces to translate their employees from their present classifications in the Clothing Trades Award – Southern and Central Divisions, to the new Skill Based Classification Structure under the Clothing Trades Award – Southern and Central Divisions. The translation of employees to the new Skill Based Classification Structure shall be conducted by:
 - a Translation Committee, consisting of at least an equal number of employee/union representatives as there are management representatives;
 - or

The Translation Procedure is Appendix A to this Award and shall be completed by the 1st December 2001.

(2) Wage Rates Post Transition Period

All adult employees will be paid in accordance with the following table of wage rates and adjustments at the dates specified. Until such time as the broadbanded wage adjustment is paid in accordance with column 3, all employees shall continue to receive the minimum award rate of pay in accordance with their existing wage band number as found in column 1 and its associated minimum award rate of pay as found in column 2.

Subsequent adjustments as prescribed in columns 3, 4, 5, 6 and 7 will be paid at the times specified in those columns.

At the conclusion of the minimum rates adjustment exercise on 1st December 2003, all adult employees will be subject to new minimum award rates of pay in accordance with column 8.

Wage band and number		Broadbanded wage band number	Minimum Award Rates \$		
Number COLUMN 1	Wage Rate (1/9/00) COLUMN 2		Broadbanding Adjustment (1/12/01) COLUMN 3	MRA (1/5/02) COLUMN 4	MRA (1/12/02) COLUMN 5
			Adjustment	Adjustment	Adjustment
		Trainee			
1A	381.30		15.30		
1B	396.60	1	0.00	5.12	5.12
2A	405.60		3.30		
2B	408.90	2	0.00	7.67	7.67
3A	417.80		14.20		
3B	432.00	3	0.00	7.12	7.12
4	449.60	4	0.00	10.65	10.65
5	474.10	5	0.00	14.95	14.95

Broadbanded Wage Band Number	Minimum Award Rates \$		
	MRA (1/5/03) COLUMN 6	MRA (1/12/03) COLUMN 7	Minimum Award rate as at 1/12/2003 COLUMN 8
	Adjustment	Adjustment	
Trainee			
1	5.13	5.13	417.10
2	7.68	7.68	439.60
3	7.13	7.13	460.50
4	10.65	10.65	492.20
5	14.45	14.95	533.90

Junior employees shall receive the stated percentage of these respective amounts according to the percentage rates as specified in clause 12.

NOTE: The rates of pay in this award include broadbanded and minimum rates adjustments available under the Principles of the State Wage Case July 1991 decision (found at 137 QGIG 486). The rates of pay in this award also include the arbitrated wage adjustments payable under the 1 September 2000 Declaration of General Ruling and earlier Safety Net Adjustments. These adjustments may be offset against any equivalent amount in rates of pay received by employees whose wages and conditions of employment are regulated by this award which are above the wage rates prescribed in the award. Such payments include wages payable pursuant to certified agreements, currently operating enterprise flexibility agreements, Queensland workplace agreements, award amendments to give effect to enterprise agreements and overaward arrangements. Absorption which is contrary to the terms of an agreement is not required.

Increases made under previous State Wage Cases or under the current Statement of Principles, excepting those resulting from enterprise agreements, are not be used to offset arbitrated wage adjustments.”.

(3) Skill Levels

(a) Trainee

(i) Employees at this level:

- Will be new entrants into the industry.
- Will for a period of up to three months undergo approved (including induction) training so as to enable them to achieve the level of competence required to be classified at skill level 1.
- Will work under the following conditions – Totally defined procedures and methods; constant direct supervision; constant direct training; progressive assessment and feedback.

(ii) Training for new entrants will be determined in accordance with the needs of the enterprise, but will involve instruction aimed at assisting trainees to achieve the range of competencies required at skill level 1, including:

- The knowledge and skills required to apply relevant Occupational Health and Safety practices and procedures.
- The knowledge and skills required to apply specified quality control standards to their own work.
- The knowledge and skills required to apply specified operation practices and procedures and to meet efficiency requirements.
- The knowledge and skills required to apply minor equipment/machine maintenance relevant to the equipment involved in the performance of their own work.

(b) *Skill Level 1*

(i) Employees at this level:

- Will work to defined procedures/methods either individually or in a team environment.
- Will exercise skills to perform basic tasks.
- Will be aware of and apply basic quality control skills in the receipt and completion of their own work to the specified quality standards.

(ii) In addition, according to the needs and operational requirements of the enterprise, employees at this level:

- May be required to exercise the skill necessary to assist in providing basic on the job instruction by way of demonstration and explanation.
- May be required to record basic information on production and/or quality indicators as required.
- May be required to work in a team environment.
- May be required to apply minor equipment/machine maintenance.
- May be required to exercise key pad skills.
- May be required to exercise the level of English literacy and numeracy skills to effectively perform their tasks.
- May commence training in additional skills required to advance to a higher skill level.

(c) *Skill Level 2*

(i) Employees at this level exercise the skills required to be graded at skill level 1, and:

- Will work to defined procedures/methods, either individually or in a team environment.
- Will exercise the skills to perform intermediate tasks.
- Will understand and apply quality control skills in their own work and component parts (including understanding of the likely cause/s of deviations to specified quality standards in their own work).

(ii) In addition, according to the needs and operational requirements of the enterprise, employees at this level:

- May be required to exercise the skill necessary to assist in providing on the job instruction to employees in skills required at skill level 2 and below by way of demonstration and explanation.
- May be required to record detailed information on production and/or quality indicators as required.
- May be required to exercise team work skills.
- May be required to identify and rectify minor equipment/machine faults, and report problems that cannot be rectified to a mechanic or supervisor.
- May be required to exercise basic computer skills.
- May commence training in additional skills required to advance to a higher skill level.

(d) *Skill Level 3*

(i) Employees at this level exercise the skills required to be graded at skill level 2, and:

- Will exercise discretion, initiative and judgment on the job in their own work, either individually or in a team environment.
- Will exercise skills to perform a complex task/s or perform a series of different operations on a machine/s or use a variety of machine types three of which require the exercise of level 2 skills.

(ii) Will be responsible for quality assurance in their own work and assembly of component parts including having an understanding of how this work relates to subsequent production processes and its contribution to the final appearance of the garment.

(iii) In addition, according to the needs and operational requirements of the enterprise, employees at this level:

- May be required to investigate causes of quality deviations to specified standards and recommend preventative action.
- May be required to exercise the skills necessary to assist in providing on the job instruction to employees in skills required at skill level 3 and below by way of demonstration and explanation.
- May be required to record detailed information on, and recommend improvements to, production and/or quality.
- May be required to take a co-ordinating role for a group of workers or in a team environment (which includes contributing to the identification and resolution of the problems of others and assisting in defining work group procedures and methods), where the members of the group or team are at skill level 3 and below.
- May be required to exercise advanced equipment maintenance and problem solving skills (including identification of major equipment faults).
- May commence training in additional skills required to advance to a higher skill level.

(e) *Skill Level 4*

(i) Employees at this level exercise the skills required to be graded at skill level 3 and have a comprehensive knowledge of product construction.

(ii) Employees at this level will also:

- Apply skills and knowledge, equivalent to that of a qualified tradesperson, that have been acquired as a result of training or experience, or
- Hold a relevant trade certificate.
- Will work largely independently (including developing and carrying out of a work plan to specifications).
- Will exercise a range of skills involving planning, investigation and resolution of problems, and/or training, and/or supervision, and/or specialised technical tasks, or
- Will make a whole garment to specifications, or exercise equivalent skills.

(iii) In addition, according to the needs and operational requirements of the enterprise, employees at this level:

- May be required to apply quality control/assurance techniques to their work group or team.
- May have designated responsibility for the training of other employees (and if so will be trained trainers).
- May be responsible for quality and production records relating to their own work group or team.
- May be required to take a co-ordinating role for a group of workers or in a team environment (which includes contributing to the identification and resolution of the problems of others and assisting in defining work group procedures and methods), where the members of the group or team are at skill level 4 and below.
- May be required to exercise advanced equipment maintenance and problem solving skills (including identification of major equipment faults and organisation or performance of necessary repair).
- May commence training in additional skills required to advance to a higher skill level.

(4) Explanation Of Terms

(a) *Basic tasks*

Uncomplicated tasks which are easily learned and involve little decision making whether machine or non-machine. Basic machine tasks are those where the positioning of the work may be controlled by guidebars and sensor lights, or other such guiding devices or where there is uncomplicated feeding of the fabric.

(b) *Intermediate tasks*

Tasks which are more difficult to learn, involve more decision making than skill level 1 tasks and which may require fabric knowledge, whether machine or non-machine. Intermediate machine tasks require skill in positioning, feeding and handling of work involving directional changes, contouring or critical stopping points, or require feeding and handling skills beyond those of a skill level 1 operator because of fabric variation. Intermediate non-machine tasks require skills to perform a sequence of related tasks.

(c) *Complex tasks*

Tasks which are more difficult to learn and involve a higher level of decision making than skill level 2 tasks, whether machine or non-machine. Complex machine tasks require fabric manipulation skills and knowledge beyond those of a skill level 2 operator to perform more difficult tasks or to handle and align the sections while ensuring correct shaping of the end result because of the complexity of combining parts or because of frequent variation in fabrics.

(d) *Series of different operations on a machine/s*

Performing a sequence of different operations on a machine/s to complete the majority of a complex garment.

(e) *Machine*

Any piece of equipment which performs a significant part of an operation in:

- designing/grading of patterns;
- marker spreading;
- spreading of fabric; and
- cutting, sewing, finishing, pressing and packaging of products.

and which is powered by an external source i.e. electricity, steam or compressed air or combinations of these. Hand tools are not machines and refer to those items which are primarily powered by the operator e.g. scissors, shears, staplers, tagging guns and tape dispensers.

(f) *Variety of machine types*

Three or more different types of machines which are sufficiently different in their operation to require the exercise of different skills (i.e. a button holer and a button sewer are the same machine type for this purpose whereas a button holer and an overlocker are different machine types).

(g) *Whole garment machinist or equivalent skills*

A machinist who works largely independently in producing a complex garment from written specifications and patterns. Examples of "equivalent skills" include:

- sample machinist;
- a machinist who performs each of the operations required to complete a complex whole garment from specifications; and
- a fully multi-skilled machinist who is required to perform any of the operations involved in the making of a complex whole garment to specification.

(h) *Skill*

The application of a combination of abilities, knowledge and attributes to competently perform a given activity or activities.

(i) *Competence*

The ability to perform a particular activity or activities to a prescribed standard (or standards) and under a prescribed set of circumstances.

(j) *Component parts*

The parts of the product which the operator receives in order to perform their job.

(k) *Key pad skills*

Ability to use a small panel of keys, either numerical or with symbols, to operate equipment.

(l) *Basic computer skills*

Use of a computer to enter, retrieve and interpret data.

(m) *Co-ordinating role*

A role which involves responsibility for organising and bringing together the work and resource requirements of a work group or team.

(n) *Defined procedures/methods*

Specific instructions outlining how an operator is to do their job.

(o) *Largely independently*

Where the employee is accountable for own results including:

- carrying out assigned task;
- co-ordinating processes; and
- setting and working to deadlines.

(p) *Designated responsibility*

Identified by management as a person with a specific role or responsibility.

(q) *Minor equipment/machine maintenance*

Includes cleaning and minor adjustments to the equipment involved. In the case of sewing machines for example, it may include:

- changing needles;
- cleaning;
- lubrication; and
- tension and stitch adjustment.

(r) *On-the-job instruction*

Demonstrating, showing, explaining and/or guiding other employees as to how to perform a particular task or operation to a competent standard.

(s) *Quality assurance*

The overall system and plans used to provide confidence that goods and services will satisfy given requirements.

(t) *Quality control*

The activities used to check that materials and products meet quality specifications; includes the grading of product into acceptable and unacceptable categories.

(u) *Quality deviations*

Departures from a quality standard.

(v) *Quality indicators*

Information used to determine whether a quality standard has been met.

(w) *Specified quality standards*

Detailed standards against which quality is measured.

(x) *Team environment*

An environment involving work arrangements in which a group of people work closely, flexibly and in co-operation with each other to ensure efficient and effective performance.”.

3. By deleting clause 11 (Females Entering the Industry at 21 Years of Age or Over With Less Than Six Months Experience) and inserting the following in lieu thereof:—

**“New Employees Entering the Industry at 21 Years of Age or
Over With Less Than Six Months Experience**

- 11.(1) Any adult employee entering the industry *as from the date of this Award* with less than *six months’* experience in the industry within the classification in which she or he is employed shall be paid the percentage hereunder set out of the appropriate adult weekly wage prescribed in clause 10 of this Award for the class of work being performed.

First three months' experience – 85%;
 Second three months' experience – 90%;
 Thereafter – 100%.

The percentage wages set out above shall be calculated in multiples of 10 cents, amounts of less than 5 cents being taken to the lower multiple and amounts of 5 cents and in excess of 5 cents being taken to the higher multiple.

(2) For the purpose of ascertaining the percentage payable to any adult employee entering the industry with less than six months' experience, any service with one employer or several shall be taken into consideration and accrued to the credit of that employee.”.

4. By deleting subclause (3) of clause 12 (Rates of Pay – Seniors) and inserting the following in lieu thereof:–

“(3) No employee under the age of 18 years shall work on a ‘Hoffman’ type manually operated press.”.

5. By deleting clause 21 (Casual Workers) and inserting the following in lieu thereof:–

“Casual Workers

21. Employees may be employed in any week as casual employees for up to 38 hours (exclusive of overtime) but shall be paid as follows:–

- (a) If on time work – The ordinary rate plus 33 1/3 per cent.
- (b) If on any system of payment by results – The appropriate rate plus 33 1/3 per cent.”.

6. By deleting clause 22 (Part-Time Employees) and inserting the following in lieu thereof:–

“Part-Time Employees

22. Where an employer is willing to employ employees full-time, but such employees are only able to accept work for a limited number of hours each week, then such employees may be employed as part-time employees provided that the employer first gives written notification of such proposed employment and details of the hours to be worked to the Secretary of the Textile, Clothing and Footwear Union of Australia, Queensland Branch, Union of Employees.

The following terms and conditions shall be observed in respect of any employment of a part-time employee:–

- (a) Each employee must be an adult employee or paid on the basis of the wage rate for adult employees.
- (b) Each such employee shall be employed for not less than 20 hours in any week.
- (c) A part-time employee shall be paid at the rate of 1/38th of the weekly rate prescribed by this award for the class of work performed per hour.
- (d) The payment or deduction of payment in lieu of notice of termination of employment shall be two-fifths of the pay of the preceding week of the employee concerned.
- (e) A part-time employee shall be entitled to receive *pro rata* entitlements to annual leave, public holidays (on which employees are normally rostered to work) and sick leave in accordance with this award.
- (f) Save as aforesaid, the provisions of this Award shall apply to such part-time employees.”.

7. By deleting clause 30 (Preference) and inserting the following in lieu thereof:–

“Union Encouragement

30.(1) Union Encouragement

(a) This clause gives effect to s. 110 of the *Industrial Relations Act 1999* in its entirety. Consistent with s. 110 a Full Bench of the Queensland Industrial Relations Commission has issued a Statement of Policy on Union Encouragement [reported 165 QGIG 221] that encourages an employee to join and maintain financial membership of an organisation of employees that has the right to represent the industrial interests of the employees concerned.

(b) At the point of engagement, an employee to whom this Award applies shall provide employees with a document indicating that a Statement of Policy on Union Encouragement has been issued by the Queensland Industrial Relations Commission, a copy of which is to be kept on the premises of the employer in a place readily accessible by the employee.

(c) The document provided by the employer shall also identify the existence of a union encouragement clause in this Award.

(2) Union Delegates

(a) Union delegates and job representatives have a role to play within a workplace. The existence of accredited union delegates and/or job representatives is encouraged.

(b) The employer shall not unnecessarily hinder accredited union delegates and/or job representatives in the reasonable and responsible performance of their duties.

(3) Payroll Deductions

(a) Where arrangements can be entered into, employers are encouraged to provide facilities for the deduction and remittance of union fees for employees who signify in writing to their employer, their desire to have such membership fees deducted from their wages.”.

8. By adding "Appendix A" to the end of the Award as follows:-

"APPENDIX A – Translation Procedure

Step 1 Getting ready

- * Arrange and conduct a meeting of the Translation Committee to:
- * Conduct a survey of the language needs of the workforce.
- * Carry out an inspection of the factory/workplace to familiarise the committee with the different sections/work areas.

Step 2 Planning

- * Set date/s for information session/s to workforce and make the necessary arrangements.
- * Set date/s for transferring the workforce to the new skill levels.
- * Arrange for suitable interpreters to be available for information sessions and completion of the questionnaire (and checklist where used).
- * Agree on the order in which different sections of the factory/workplace will be translated and establish and prominently display a timetable for translation including the date/s for information sessions to the workforce and for the completion of the questionnaire (and checklist where used). Translation should commence as soon as possible, and must be completed within the transition period.
- * Agree on how the completion of the questionnaire (and checklist where used) will be managed e.g. by sections, by language groups.
- * Select appropriate space within the factory/workplace to carry out translation procedures.
- * Obtain all the materials necessary.
- * Provide information to the whole of the workforce on the translation to the new Skill Based Classification Structure. This may be provided verbally and/or in written form and/or by way of a poster. This may be delivered in sections or language groups or to the workforce as a whole.
- * Arrange for the Committee to brief supervisors on the translation process and provide a copy of written materials.

Step 3 Preparing the skills questionnaire (and checklist where used)

- * In preparation for the Skills Based Classification Structure, an enterprise may, in consultation with the Committee choose to list machine types and then classify the operations performed on them into:
 - Basic;
 - Intermediate; and
 - Complex.

This information (checklist) can be used to assist in determining skill levels by identifying technical skills. It cannot be used without the questionnaire.

The checklist must be agreed to as accurate by the Committee before it can be used in the translation process.

Arrange for the questionnaire (and checklist where used) to be copied for each member of the workforce.

Number each questionnaire (and its accompanying checklist where used) consecutively beginning with number 1.

Every page of the same questionnaire (and accompanying checklist where used), should be given the same number so that if pages of a completed questionnaire (and checklist where used) become detached, they can be identified.

The Skill Based Classification Structure, the Skills Questionnaire, Guidelines for Assessing the Questionnaire and Skill Level Allocation Form are found at the end of this Appendix.

Step 4 Completing the questionnaire (and checklist where used)

- * Responses to the questionnaire (and checklist where used) should relate to recurring activities which an employee is competent in and is expected to carry out. Activities which are carried out infrequently or at unpredictable times should be included as long as they are recurring activities which an employee is competent in and is expected to carry out during a normal twelve monthly production cycle.

Activities which an employee has been called on to carry out, only from time to time, because of extraordinary production requirements would not be included. In this case, where employees are called on to exercise high level skills, they would be paid in accordance with clause 5.8. Mixed Functions, of this award.

For example, an employee called on to carry out the activities of another employee because that employee is temporarily absent for a short period of time would not include these activities in their responses to the questionnaire (and checklist where used). However, if it is part of an employee's specific duties to relieve in the case of absence of other employees, as is the case for utility machinists, then those activities should be included.

Periods of training are not to be regarded as part of an employee's usual work.

- * Arrange for the questionnaire (and checklist where used) to be completed by each worker, in manageable groups, during working hours in the manner agreed by the committee e.g. in section/work area, language group.

- * At least one union and one employer representative of the committee, with the help of interpreters if necessary, will act as facilitators for each group and the facilitators shall explain the questionnaire (and checklist where used) and how to fill it out. They will answer questions about the questionnaire (and checklist where used) and ensure that all of the relevant questions have been answered. The role of facilitators is to clarify the meaning of questions to enable employees to make their own responses.
- * An employee may request a supervisor to complete the checklist (where used) on behalf of the employee.
- * Facilitators should pay particular attention to filling in the name of the worker, the job title and the wage band number on to the skill allocation form.
- * Facilitators should answer any questions about what happens next.

Step 5 Allocating skill levels

The committee shall meet and perform the following procedures:-

- * Ensure a committee secretary is present and has a Skill Level Allocation Form for each worker.
- * Ensure that each member has a copy of the completed questionnaire (and checklist where used) for each worker in the same order and a copy of the Skill Based Classification Structure.
- * The committee shall then call in supervisors to endorse the employee responses to the questionnaire (and checklist where used). Where supervisors disagree with certain responses they shall give their reasons for such differences and these shall be discussed with the employee concerned, with the assistance of an interpreter if necessary. The Committee may seek any other information in an attempt to determine whether the disputed responses are acceptable and may view the employee at his or her work station. Where the committee cannot make a decision, the employee's responses must be accepted.
- * For each worker:
 - determine the minimum skill level of the worker by comparing his/her wage band with the minimum skill level table appearing below. For example, a worker in wage band 2B will have a minimum skill level of skill level 2.

Minimum skill level table

Wage band	Skill level
1A	1
1B	1
2A	2
2B	2
3A	3
3B	3
4	4
5*	5*

* Wage Band

Old wage band table

GROUP A – ORDER TAILORING FOR MALES

WAGE BAND NUMBER

The weekly wage for every description of work done in connection with the making and/or altering and/or repairing and/or work incidental thereto of all male outer garments of any description (including dressing gowns) cut and made to chart measure or cut and made to an individual measure and garments that are fitted on shall be as follows:-

1.	Cutter, marking in and/or cutting out.	5
2.	Trimmer, marking in and/or cutting out linings and trimmings.	3B
3.	Fitter up and/or shaper.	3B
4.	Head of table or bench of machines, in charge of four or more persons – above appropriate machinist rate.	\$11.60
5.	Tailor or tailoress employed making and/or altering coats by hand or by machine and who in the ordinary course of employment is performing similar work to that ordinarily performed by an order tailor.	4
6.	Coat maker engaged on three of any of the following operations:	3B
	(a) Canvassing fore-parts by hand;	
	(b) basting-under the basting-out facings by hand;	
	(c) inserting pads, basting on under-collars and basting in sleeves for try on;	
	(d) hand felling top collars; and	
	(e) basting-in sleeves by hand and working sleeve heads;	

	<u>WAGE BAND NUMBER</u>
7. Employees employed making and/or altering by hand or by machine any part of a dress coat, tuxedo, frock coat, dinner jacket, or body coats of all description.	3B
8. Coat table hand or coat machinist.	2B
9. Trousler hand or trouser machinist.	2A
10. Vest table hand or vest machinist.	2A
11. Embosser, embroiderer, cornelli worker.	2B
12. Presser, pressing off and/or underpressing.	3A
13. Examiner examining for faults in construction.	3B
14. All others not herein classified.	1A

GROUP B – ORDER TAILORING FOR FEMALES

The weekly wage for every description of work done in connection with order tailoring for females which includes the making and/or altering and/or repairing and/or work incidental thereto of tailored female outer garments cut and made to chart measure or cut and made to an individual measure and garments that are fitted on shall be as follows:-

15. Cutter, marking in and/or cutting out.	5
16. Trimmer, marking in and/or cutting out linings or trimmings.	3B
17. Fitter up and/or shaper.	3B
18. Head of a table or a bench of machines, in charge of four or more persons above appropriate machinist rate.	\$11.60
19. Tailor or tailoress employed making and/or altering coats by hand or by machine and who in the ordinary course of employment is performing similar work to that ordinarily performed by and order tailor.	4
20. Coat maker engaged on three of any of the following operations:	3B
(a) Canvassing fore-parts by hand;	
(b) Basting-under the basting-out facings by hand;	
(c) inserting pads, basting on under-collars and basting in sleeves for try on;	
(d) hand felling top collars;	
(e) Basting-in sleeves by hand and working sleeve heads;	
21. Coat table hand or coat machinist.	2B
22. Skirt maker and/or machinist.	2A
23. Outer leg wear maker and/or machinist.	2A
24. Embosser, embroiderer, cornelli worker.	2B
25. Presser pressing off and/or underpressing.	3A
26. Examiner examining for faults in construction.	3B
27. All others not herein classified.	1A

GROUP C – READY MADE CLOTHING FOR MALES

The provisions contained in this group shall not apply to the making of cardigans, pullovers and knitted swimsuits in establishments of employers wherein the principal business of such employer consists of the knitting of materials and the making of garments so knitted. The weekly wage for every description of work done in connection with the making and/or altering and/or repairing and/or work incidental thereto of all male outer garments of any description (including dressing gowns) excepting those specified in Groups A and I shall be as follows:-

28. Cutter, laying up and/or marking in and/or using marker lay and/or cutting out.	4
29. Die cutter in cutting room.	4
30. Trimmer marking in and/or cutting out linings or trimmings.	3B
31. Fitter up and/or shaper.	3B

	<u>WAGE BAND NUMBER</u>
32. Head of table or a bench of machines, in charge of four or more persons above appropriate machinist rate.	\$8.45
33. Tailor or tailoress.	4
34. Alteration or repair hand (tailor or tailoress).	4
35. Alteration hand (other than tailor or tailoress) in retail establishment.	3A
36. Coat table hand or coat machinist.	2B
37. Trousers table hand or trouser machinist.	2A
38. Vest table hand or vest machinist.	2A
39. Presser pressing off and/or underpressing garments other than the garment which the employee is making.	3A
40. Durable crease setters and/or sprayers.	2B
41. Seam presser and/or seam opener by machine or by hand.	2A
42. Canvas fuser and/or air operated fusing machine operator other than on a Hoffman type press.	2A
43. Embosser, embroiderer, cornelli worker.	2B
44. Proofer.	2A
45. Examiners, examining for faults in construction:	
(a) Tailor or tailoress; and	3B
(b) Others.	2B
46. Brusher and folder.	2A
47. Hand sewer of buttons, hooks, eyes, press studs and the like.	2A
48. Operator, electronic welding machine.	1B
49. Operator of press or riveting machine.	1B
50. Transporter operator, i.e. employee operating console.	2B
51. All others not herein classified.	1A

GROUP D – ORDER DRESSMAKING

The weekly wage for every description of work done in connection with order dressmaking which includes the making and/or altering and/or repairing and/or adorning and/or work incidental thereto of all female outer garments of any description (including dressing gowns) cut and made to an individual measure and garments that are fitted on other than such items of outer wearing apparel as are specified in Group B, hereof shall be as follows:—

52. Cutter, marking in and/or cutting out.	5
53. Head of a table or bench of machines, in charge of four or more persons – above machinists rate.	\$11.60
54. Table hand or machinist.	2B
55. Presser operating Hoffman type press or hand iron more than 3.63kg (81bs) in weight (not counterbalanced).	3A
56. Presser pressing off and/or underpressing – other.	2B
57. Pleater making patterns and pleating by hand or machine.	3B
58. Pleater, rolling in by hand or machine and/or inserting pleat into pattern.	2A
59. Embosser, embroiderer, cornelli worker.	2B
60. Fitter-on trying on to a customer unfinished or finished garments.	3A
61. Hand sewer of buttons, hooks, eyes, press studs and the like.	2A
62. All others not herein classified.	1A

GROUP E – READY MADE DRESSMAKING AND READY MADE TAILORING FOR FEMALESWAGE BAND NUMBER

The provisions contained in this group shall not apply to the making of cardigans, pullovers and knitted swimsuits in establishments of employers wherein the principal business of such employer consists of the knitting of materials and making of garments so knitted. The weekly wage for every description of work done in connection with the making and/or altering and/or repairing and/or adorning and/or work incidental thereto of all descriptions of ready made garments or outer wearing apparel for females excepting those specified in Groups B, D and I, which shall include tea, dressing or house gowns, blouses, fronts, collars collarettes, cuffs and children's garments (other than those included in Group F) shall be as follows:

63.	Cutter, marking in and/or cutting out.	4
64.	Die cutter in cutting room.	4
65.	Trimmer marking in and cutting out linings and/or trimmings.	3B
66.	Fitter up and/or shaper.	3B
67.	Head of a table or a bench of machines, in charge of four or more persons above appropriate machinist rate.	\$8.45
68.	Tailor or tailoress.	4
69.	Table hand finisher or machinist.	2B
70.	Embosser, embroiderer, cornelli worker.	2B
71.	Alteration hand (other than tailor or tailoress) in retail establishment.	3A
72.	Presser pressing off and/or underpressing operating Hoffman type press or hand iron more than 3.63kg (81bs) in weight (not counterbalanced).	3A
73.	Presser pressing off and/or underpressing – other.	2B
74.	Fusing machine operator.	2B
75.	Seam presser and/or seam opener by machine or by hand.	2A
76.	Durable crease setter and/or sprayer.	2B
77.	Pleater making patterns and pleating by hand or by machine.	3B
78.	Pleater, rolling in by hand or by machine and/or inserting pleat into pattern.	2A
79.	Examiner, examining for faults in construction.	2B
80.	Hand sewer of buttons, hooks, eyes, press studs and the like.	2A
81.	Operator, electronic welding machine.	1B
82.	Operator of press stud or riveting machine.	1B
83.	Transporter operator, i.e. employee operating console.	2B
84.	All others not herein classified.	1A

GROUP F – UNDERCLOTHING

The provisions contained in this group shall not apply to establishments of employers wherein the principal business of such employers consists of the knitting of goods and making of garments from goods so knitted. The weekly wage for every description of work done in connection with the making and/or altering and/or repairing and/or adorning and/or work incidental thereto of all descriptions of underclothing for females which includes corsets, brassieres, nightgowns, pyjamas, pinafores and aprons for females and sunsuits, playsuits and similar garments for children not exceeding eight years of age shall be as follows:

85.	Cutter, marking in and/or cutting out.	4
86.	Die cutter in cutting room.	4
87.	Head of a table or a bench of machines, in charge of four or more persons – above machinist rate.	\$8.45
88.	Machinist.	2A
89.	Adornment worker.	2A
90.	Table hand and/or finisher.	2A

	<u>WAGE BAND NUMBER</u>
91. Presser and/or ironer operating Hoffman type press or hand iron more than 3.63kg (81bs) in weight (not counterbalanced).	3A
92. Presser and/or ironer – other.	2A
93. Transferer.	2A
94. Examiner examining for faults in construction.	2A
95. Hand sewer of buttons, hooks, eyes, press studs and the like.	2A
96. Transporter operator, i.e. employee operating console.	2A
97. All others not herein classified.	1A

GROUP G – WHITEWORK

The weekly wage for every description of work done in connection with the making and/or altering and/or repairing and/or adorning and/or work incidental thereto of all descriptions of whitework which shall include all descriptions napery and/or sheets and/or pillow slips and/or pillow shams and/or diapers and/or handkerchiefs and/or towels and/or chenille bedspreads and/or mosquito nets and/or chenille bath mats and, when made in clothing and whitework factories, toys and/or lamp shades and/or cot covers and/or blankets and/or bedspreads, shall be as follows:–

98. Cutter, marking in and/or cutting out.	4
99. Die cutter in cutting room.	4
100. Head of a table or bench of machines, in charge of four or more persons – above machinist rate.	\$8.45
101. Machinist and/or table hand.	2A
102. Transferer and/or adornment worker.	2A
103. Presser and/or ironer operating Hoffman type press or hand iron more than 3.63kg (81bs) in weight (not counterbalanced).	3A
104. Presser and/or ironer - other.	2A
105. Examiner.	2A
106. Dyer and/or bleacher (chenille).	3A
107. Vat attendant (chenille).	2A
108. Divider of material.	2A
109. All others not herein classified.	1A

GROUP H – COLLARS, SHIRTS, TIES, SCARVES AND PYJAMAS

The weekly wage for every description of work done in connection with the making and/or altering and/or repairing and/or adorning and/or work incidental thereto of collars, ties, scarves, cuffs, shirts, shirt fronts, pyjamas for males, singlets or underpants (except knitted goods) shall be as follows:

110. Cutter, marking in and/or cutting out.	4
111. Die cutter in cutting room.	4
112. Head of a table or bench of machines in charge of four or more persons above machinist rate.	\$8.45
113. Machinist and/or table hand and/or adornment worker.	2A
114. Presser and/or ironer operating Hoffman type press or hand iron more than 3.63kg (81bs) in weight (not counterbalanced).	3A
115. Presser and/or ironer – other.	2A
116. Fuser.	2A
117. Examiner examining for faults in construction.	2A
118. Transporter operator, ie employee operating console.	2A
119. All others not herein classified.	1A

GROUP I – INDUSTRIAL CLOTHINGWAGE BAND NUMBER

The weekly wage for every description of work done in the making and/or work incidental thereto of industrial clothing for males and females which includes industrial uniforms, overalls (excluding what are known in the trade as shaped garments) boiler suits, dust coats and industrial shorts, made from materials other than woollen or worsted shall be as follows:–

120.	Cutter, marking in and/or cutting out.	4
121.	Die cutter in cutting room.	4
122.	Head of a table or bench of machines in charge of four or more persons above machinist rate.	\$8.45
123.	Machinist and/or table hand.	2A
124.	Presser and/or ironer operating Hoffman type press or hand iron more than 3.63kg (81bs) in weight (not counterbalanced).	3A
125.	Presser and/or ironer – other.	2A
126.	Examiner.	2A
127.	Operator, electronic welding machine level 1 engaged in the manufacture of other industrial safety equipment or exercising skill with no requirement to reset machine or mould regularly.	1B
127A	Operator electronic welding machine level 2 engaged in the manufacture of industrial safety clothing of whatever nature or constructing the whole of a garment or adapting setting of machine regularly to different tasks.	2B
128.	Operator of press stud or riveting machine.	1B
129.	Transporter operator, i.e. employee operating console.	2A
130.	All others not herein classified.	1A

GROUP J – HEADWEAR

The weekly wage for every description of work done in connection with the making and/or altering and/or repairing and/or adorning and/or work incidental thereto of any kind of hats, caps, bonnets, helmets, berets or any other kinds of headwear (except such hats as are made under the provision of the Felt Hatting Award) shall be as follows:–

131.	Cutter other than milliner.	4
132.	Head of a table or a bench of machines in charge of four or more persons – above machinist rate.	\$8.45
133.	Hand blocker.	4
134.	Machine blocker.	3A
135.	Helmet maker.	2B
136.	Cap maker.	2B
137.	Machinist and/or table hand.	2A
138.	Model milliner designing original models.	3A
139.	Milliner.	2A
140.	Presser and/or ironer operating Hoffman type press or hand iron more than 3.63kg (81bs) in weight (not counterbalanced).	3A
141.	Presser and/or ironer – other.	2A
142.	Operator, electronic welding machine.	1B
143.	All others not herein classified.	1A

GROUP K – UMBRELLAS

The weekly wage for every description of work done in connection with the making and/or altering and/or repairing and/or work incidental thereto of any description of umbrellas, parasols, or the like, shall be as follows:–

144.	Gore cutter, marking in and/or cutting out.	3B
145.	Machinist.	2A

	<u>WAGE BAND NUMBER</u>
146. Examiner.	2A
147. Hand ironer.	2A
148. Frame maker.	2A
149. Umbrella assembler, including rib assembling, band fixing, topping, clipping in, rolling, studding, pulling up and fitting handles, angle joints, runners, notches, bells and spikes.	1B
150. All others not herein classified.	1A

GROUP L – FUR TRADE

The weekly wage for every description of work done in connection with the making and/or altering and/or remodelling and/or repairing and/or work incidental thereto of all types of garments or articles such as coats, jackets, capes, headwear, scarves, collars, cuffs, neckwear, muffs, rugs, mats and toys made in the establishment of a furrier from furred and/or haired and woolled skins shall be as follows:

151. Cutter marking in and/or cutting out.	5
152. Head of a table or bench of machines in charge of four or more persons above appropriate machinist rate.	\$8.45
153. Nailer.	3A
154. Fur machinist.	3A
155. Machinist (other than on fur machine) and/or table hand.	2B
156. All others not herein classified.	1A

GROUP M – ARTIFICIAL FLOWERS AND BRUSHED SILK EMBLEMS

The weekly wage for every description of work done in connection with the making and/or work incidental thereto of all types of artificial flowers and brushed silk emblems shall be as follows:

157. Cutter and/or stamper.	3A
158. Dyer.	3A
159. Shaper of petals by hand, with aid of curling iron and/or bowler and assembling the petals so shaped.	2B
160. Employee assembling and/or making and/or tying and/or pressing artificial flowers.	2B
161. Tiers and/or cutters and/or brushers of emblems.	2B
162. All others not herein classified.	1A

**** END OF OLD WAGE BAND TABLE****

- review the completed questionnaire (and checklist where used) for the worker.
- where a worker's questionnaire (and checklist where used) question/s are not answered clearly and members of a committee require clarification of an employee's response this should be sought from the employee and if necessary their supervisor.
- compare the completed questionnaire (and checklist where used) with the skill level above the minimum skill level for the worker.
- if the worker cannot be allocated to the skill level above their minimum skill level then he/she remains on their minimum skill level.
- if the worker can be allocated to the skill level above their minimum skill level then compare the completed questionnaire (and checklist where used) with the next skill level and so on until the worker can be allocated.
- the skill level allocated is the highest level in which the employee satisfies all the necessary requirements.
- the committee secretary should record the skill level and key reasons for the decision on the Skill Allocation form.
- the questionnaires (and checklists where used) and the Skill Level Allocation Forms should be kept in a safe place and be available for any subsequent review processes.

Step 6 Where consensus on the appropriate skill level is reached

- * Notify management and the worker of the recommended skill level.

- * If both the management and worker accept the recommendation it becomes the confirmed skill level and shall remain so until at least the expiry of the transition period.

Step 7 Where consensus on the appropriate skill level cannot be reached or where it is but the recommendation is not acceptable to management and/or the worker

- * The committee will meet with management and the worker separately. It will then review its decision taking into consideration the additional information it has obtained, and attempt to reach a consensus, which will be notified to management and the worker.
- * If consensus still cannot be reached within the committee or its recommendation is still not acceptable to management and/or the worker, the matter shall be referred to senior management and a union official who shall endeavour to reach agreement.

Step 8 Senior management and the union official cannot reach agreement

- * If agreement cannot be reached between senior management and the union official the matter may be referred to the Queensland Industrial Relations Commission in accordance with clause 14B Grievance and Dispute settlement procedure, of the *Clothing Trades Award – Southern and Central Divisions*.

TRANSITION PERIOD

- (a) A transition period for the purpose of translating employees to the new Skill Based Classification Structure specified above shall commence from the beginning of the first pay period to commence on or after 1 August 2001 and continue until the beginning of the first pay period to commence on or after 1 December 2001.
- (b) Employees shall be paid in accordance with clause 10.1. Wage Rates Pre-Transition Period, of this award for the duration of the period specified in subclause (a) Transition Period.
- (c) Employees shall be paid in accordance with clause 10.2. Wage Rates Post-Transition Period, from the beginning of the first pay period to commence on or after 1 December 2001.
- (d) The translation of employees to the Skill Based Classification Structure specified in clause 10.2. Wage Rates Post Transition Period, of this award shall be conducted by:

a translation committee consisting of at least an equal number of employee/union representatives as there are management representatives.

Provided that where a consultative committee has already been established, it shall be the translation committee.

All meetings shall be conducted in working hours and paid for as time worked.

- (e) An employer may prepare for the translation of his or her employees to the Skill Based Classification Structure specified in clause 10.2. Wage Rates Post-Transition Period, of this Award by following steps 1, 2 and 3 of the Translation Procedure.
- (f) An employer shall conduct the translation of his or her employees to the Skill Based Classification Structure specified in clause 10.2. Wage Rates Post-Transition Period, of this Award by following the steps 4, 5, 6, 7 and 8 of the translation procedure.

Non-unionised workplaces

- (g) In workplaces where the employees are not members of the Textile, Clothing and Footwear Union of Australia, Queensland Branch, Union of Employees, an employer shall conduct the translation of his or her employees to the Skill Based Classification Structure specified in clause 10.2. Wage Rates Post Transition Period, of this Award by following the steps 4, 5, 6, 7 and 8 of the translation procedure with the following exceptions:–
 - (i) A translation committee consisting of at least an equal number of employee representatives, elected by and from the employees, as there are management representatives shall be set up.
 - (ii) The employer shall notify the relevant State Secretary of the union that the translation committee is about to be set up.
 - (iii) The relevant state secretary of the union may assist in the conduct of the election for employee representatives on the translation committee.
 - (iv) The employer shall notify the relevant state secretary of the union that the translation committee is about to translate employees to the Skill Based Classification Structure specified in clause 10.3, Skill Levels, of this Award.
 - (v) The relevant state secretary of the union may attend the meetings of the translation committee specified in paragraph (i) hereof.

Small workplaces

- (h) In workplaces where less than twenty employees are employed an employer shall conduct the translation of his or her employees to the Skill Based Classification Structure specified in clause 10.3, Skill Levels, of this Award by following the steps 4, 5, 6, 7 and 8 of the translation procedure with the following exceptions:–
 - (i) A translation committee consisting of at least an equal number of employee representatives, elected by and from the employees, as there are management representatives shall be set up.
 - (ii) The employer shall notify the relevant state secretary of the union that the translation committee is about to be set up.
 - (iii) The relevant state secretary of the union may assist in the conduct of the election for employee representatives on the translation committee.
 - (iv) The employer shall notify the relevant state secretary of the union that the translation committee is about to translate employees to the Skill Based Classification Structure specified in clause 10.3, Skill Levels, of this Award.
 - (v) The relevant state secretary of the union may attend the meetings of the translation committee specified in paragraph (g)(i) hereof.

with the exception that if there is not the capacity or resources or where the employee representatives do not wish to participate, the translation procedure shall be carried out by management and a nominee of the relevant state secretary of the union in lieu of the conduct of this procedure by the translation committee specified in subclause (h) hereof.

Skill Based Classification Structure

Trainee

Employees at this level:

- Will be new entrants into the industry.
- Will for a period of up to three months undergo approved (including induction) training so as to enable them to achieve the level of competence required to be classified at Skill Level 1.
- Will work under the following conditions – Totally defined procedures and methods; constant direct supervision; constant direct training; progressive assessment and feedback.

Training for new entrants will be determined in accordance with the needs of the enterprise, but will involve instruction aimed at assisting trainees to achieve the range of competencies required at Skill Level 1, including:

- The knowledge and skills required to apply relevant Occupational Health and Safety practices and procedures.
- The knowledge and skills required to apply specified quality control standards to their own work.
- The knowledge and skills required to apply specified operation practices and procedures and to meet efficiency requirements.
- The knowledge and skills required to apply minor equipment/machine maintenance relevant to the equipment involved in the performance of their own work.

Skill level 1

Employees at this level:

- Will work to defined procedures/methods either individually or in a team environment.
- Will exercise skills to perform basic tasks.
- Will be aware of and apply basic quality control skills in the receipt and completion of their own work to the specified quality standards.

In addition, according to the needs and operational requirements of the enterprise, employees at this level:

- May be required to exercise the skill necessary to assist in providing basic on the job instruction by way of demonstration and explanation.
- May be required to record basic information on production and/or quality indicators as required.
- May be required to work in a team environment.
- May be required to apply minor equipment/machine maintenance.
- May be required to exercise key pad skills.
- May be required to exercise the level of English literacy and numeracy skills to effectively perform their tasks.
- May commence training in additional skills required to advance to a higher skill level.

Skill Level 2

Employees at this level exercise the skills required to be graded at Skill Level 1, and –

- Will work to defined procedures/methods, either individually or in a team environment.
- Will exercise the skills to perform intermediate tasks.
- Will understand and apply quality control skills in their own work and component parts (including understanding of the likely cause/s of deviations to specified quality standards in their own work).

In addition, according to the needs and operational requirements of the enterprise, employees at this level:

- May be required to exercise the skill necessary to assist in providing on the job instruction to employees in skills required at Skill Level 2 and below by way of demonstration and explanation.
- May be required to record detailed information on production and/or quality indicators as required.
- May be required to exercise team work skills.
- May be required to identify and rectify minor equipment/machine faults, and report problems that cannot be rectified to a mechanic or supervisor.
- May be required to exercise basic computer skills.
- May commence training in additional skills required to advance to a higher skill level.

Skill Level 3

Employees at this level exercise the skills required to be graded at Skill Level 2, and:

- Will exercise discretion, initiative and judgment on the job in their own work, either individually or in a team environment.
- Will exercise skills to perform a complex task/s or perform a series of different operations on a machine/s or use a variety of machine types three of which require the exercise of level 2 skills.
- Will be responsible for quality assurance in their own work and assembly of component parts including having an understanding of how this work relates to subsequent production processes and its contribution to the final appearance of the garment.

In addition, according to the needs and operational requirements of the enterprise, employees at this level:

- May be required to investigate causes of quality deviations to specified standards and recommend preventative action.
- May be required to exercise the skills necessary to assist in providing on the job instruction to employees in skills required at Skill Level 3 and below by way of demonstration and explanation.
- May be required to record detailed information on, and recommend improvements to, production and/or quality.
- May be required to take a co-ordinating role for a group of workers or in a team environment (which includes contributing to the identification and resolution of the problems of others and assisting in defining work group procedures and methods), where the members of the group or team are at Skill Level 3 and below.
- May be required to exercise advanced equipment maintenance and problem solving skills (including identification of major equipment faults).
- May commence training in additional skills required to advance to a higher skill level.

Skill Level 4

Employees at this level exercise the skills required to be graded at Skill Level 3 and have a comprehensive knowledge of product construction.

Employees at this level will also:

- Apply skills and knowledge, equivalent to that of a qualified tradesperson, that have been acquired as a result of training or experience, or
- Hold a relevant trade certificate.
- Will work largely independently (including developing and carrying out of a work plan to specifications).
- Will exercise a range of skills involving planning, investigation and resolution of problems, and/or training, and/or supervision, and/or specialised technical tasks, or
- Will make a whole garment to specifications, or exercise equivalent skills.

In addition, according to the needs and operational requirements of the enterprise, employees at this level:

- May be required to apply quality control/assurance techniques to their work group or team.
- May have designated responsibility for the training of other employees (and if so will be trained trainers).
- May be responsible for quality and production records relating to their own work group or team.
- May be required to take a co-ordinating role for a group of workers or in a team environment (which includes contributing to the identification and resolution of the problems of others and assisting in defining work group procedures and methods), where the members of the group or team are at Skill Level 4 and below.
- May be required to exercise advanced equipment maintenance and problem solving skills (including identification of major equipment faults and organisation or performance of necessary repair).
- May commence training in additional skills required to advance to a higher skill level.

SKILLS QUESTIONNAIRE

INTRODUCTION TO THE SKILLS QUESTIONNAIRE

Your responses to the Questionnaire (and Checklist where it is used) should relate to recurring activities which you are competent in and expected to carry out.

Activities which are carried out infrequently or at unpredictable times, should be included, as long as they are recurring activities which you are competent in and are expected to carry out during a normal twelve monthly production cycle.

Activities which you have been called on to carry out only from time to time because of extraordinary production requirements would not be included. In this case, where you have been called on to exercise higher skills levels, you would be paid in accordance with clause 13 - Mixed Functions of the *Clothing Trades Award – Southern and Central Divisions*.

For example, when you are called upon to carry out the activities of another employee because that employee is temporarily absent for a short period of time, you will not include these activities in your responses to the Questionnaire (and Checklist where it is used).

However, if it is part of your specific duties to relieve in the case of absence of other employees, as is the case of the utility machinist, then those activities should be included.

Periods of training are not to be regarded as part of your usual work.

SKILLS QUESTIONNAIRE

NAME:

QUESTIONNAIRE NO.:

BUNDY NUMBER (IF APPROPRIATE):

JOB TITLE:

Please tick the boxes beside the statements which most closely describe what you do at work. If you need to you may tick more than one box in each question.

Please read all the questions through carefully before you begin to fill in the questionnaire.

Question 1:

I am a trainee – I have worked in the clothing industry less than three months, and someone is showing me what to do and checking my work all the time.

Question 2:

- (a) I follow instructions, set procedures and methods.
- (b) I follow instructions, but decide things for myself, such as:
- the best way to do different work.
 - Ways to fix a problem with the work.
 - What changes I have to make in my work when fabrics change.
- (c) I work largely independently, deciding the way in which I will carry out assigned tasks, co-ordinating processes and setting and working to deadlines.

Question 3:

- (a) I carry out basic machine tasks which:
- require little decision making and are easily learned; and
 - where there is uncomplicated feeding of the fabric; or
 - where positioning of the work may be controlled by guidebars or sensor lights etc.
- Some examples of the work may be, bartacking, button holing, and button sewing.
- (b) I carry out intermediate machine tasks which:
- require more decision making and are more difficult to learn than basic tasks; and
 - require me to have skills in:
 - positioning;
 - feeding and handling;
 - moving the fabric to change the direction of the sewing or pressing;
 - sewing or pressing shapes and curves;
 - sewing to an exact stopping point.
- (c) I carry out intermediate machine tasks which:
- require more decision making and more difficult to learn than basic tasks because.
 - they require me to have skills in feeding, handling and sewing different kinds of fabric.
- (d) I carry out one or more complex machine tasks which require:
- a higher level of decision making and are more difficult to learn than intermediate tasks.
 - fabric handling skills and knowledge which is higher than intermediate tasks.
 - skills to perform tasks more difficult than intermediate tasks because of the:
 - requirements to handle and align the sections, whilst ensuring correct shaping of the end result because of the complexity of combining parts or pressing garments; or
 - frequent fabric changes in sewing or pressing.
- (e) I perform a sequence of different operations on a machine/s to complete the majority of a complex garment.
- (f) I use three or more different machine types, and perform intermediate tasks on at least three of them.

An example of machines which are the same type are flat sewing machines such as single needle lockstitch, twin needle lockstitch and lockstitch

zig-zag. Another category of machine type is overlock sewing machines such as single needle overlocker, twin needle overlocker and safety stitch.

(g) My work involves making a complex whole garment from written specification and patterns.

Examples may include:

- sample machinist;
- a machinist who performs each of the operations required to complete a complex whole garment from specifications; or
- a fully multi-skilled machinist who is required to perform any of the operations involved in making a complex whole garment to specifications.

(h) I hold a relevant trade certificate.

(i) I apply skills and knowledge equivalent to that of a qualified trades person.

Question 4:

(a) I carry out basic non-machine tasks which:

- require little decision making and are easily learned.

Some examples of this kind of work may be, turning, clipping, and ticketing.

(b) I carry out intermediate non-machine tasks which:

- require more decision making and are more difficult to learn than basic tasks; and
- may require some fabric knowledge.

Some examples of this kind of work are:

- examination/ clean;
- clean, trim and inspect;
- carry out a series of related tasks such as:
 - collect parts;
 - sort sizes;
 - check shade;
 - bundle ticketing;
 - recording information.

OR:

- fold;
- pin;
- hang/ bag;
- ticket.

OR:

- Laying Up involving straightforward methods:
 - get work order;
 - set up table;
 - check fabric/ check shades;

- lay up correct pieces;
- return unused fabric;
- record information.

(c) I carry out complex non-machine tasks which are more difficult to learn and require a higher level of decision making than intermediate tasks.

Examples may include:

- Quality Controller.
- Assistant Supervisor.
- Laying up using complex methods.

(d) I exercise a range of skills involving planning work, and investigating and solving problems, which may include one or more of the following:

- Training other workers.
- Supervising other workers.
- Carrying out specialised technical tasks.

Question 5:

If none of the questions describe the work you do please tick this box and the Committee will discuss your work with you.

GUIDELINES FOR ASSESSING THE QUESTIONNAIRE

For Committee use only

These guidelines are only a tool for the Committee to use in assessment. The most important document is the Skill Based Classification Structure and Explanation of Terms. This tool must be used with the Skill Based Classification Structure and Explanation of Terms. The employee's skill levels will be determined by the combination of answers to the Questionnaire (and Checklist where used). No one answer can determine the Skill Level.

Question 1 A tick for this question indicates a **trainee**

Question 2 A tick in (a) may indicate a **Level 1 or 2.**
 A tick in (b) may indicate a **Level 3.**
 A tick in (c) may indicate a **Level 4.**

Question 3 A tick in (a) may indicate a **Level 1.**
 A tick in (b) or (c) may indicate a **Level 2.**
 A tick in (d) or (e) of (f) may indicate a **Level 3.**
 A tick in (g) of (h) or (i) may indicate a **Level 4.**

Question 4 A tick in (a) may indicate a **Level 1.**
 A tick in (b) may indicate a **Level 2.**
 A tick in (c) may indicate a **Level 3.**
 A tick in (d) may indicate a **Level 4.**

Question 5 A tick for this question indicates that the questions have not provided for the skills of an employee. The Committee will therefore be required to interview this employee to discuss the work they do.

SKILL LEVEL ALLOCATION FORM

Name:

Bundy Number (if appropriate):

Job Title:

Current Classification:.....

Minimum Translation Level:.....

Recommended Skill Level:.....

Key Reasons:.....

.....

.....

Management's Agreement:

Yes

No

If no, reasons:
.....
.....

Employee's Agreement:

Yes

No

If no, reasons:
.....
.....

Skill Level Allocated:.....

MINIMUM SKILL LEVEL TABLE

The minimum skill level that an employee can be given will be that which corresponds to his/her level in the current structure as shown in the following Minimum Skill Level Table.

Wage Band	Minimum Skill Level
1A	1
1B	1
2A	2
2B	2
3A	3
3B	3
4	4
5*	5*

*Wage band".

Dated this twenty-seventh day of July, 2001.

By the Commission,
[L.S.] E. EWALD,
Industrial Registrar.

Operative Date: 27 July 2001
Amendment –Various Clauses
Released: 16 August 2001

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QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

Industrial Relations Act 1999

MODELS AND MANNEQUINS AWARD – STATE

(Gazette, 6th February, 1985)

AMENDMENT
(Correction of Error)

WHEREAS an error occurred in the Amendment (General Ruling) as published in the *Queensland Government Industrial Gazette* of 6 August 1999, Vol. 161, No. 16, pages 494-499, the following corrections are made:-

In clause 4 (Rates of Payment) :-

- (a) by deleting from subclause (1)(a) the amount of "\$17.76" and inserting the amount of "\$17.7640" in lieu thereof; and
- (b) by deleting from subclause (1)(b) the amounts of "\$125.32" and "\$17.76" and inserting the amounts of "\$125.63" and "\$17.7640" respectively in lieu thereof; and
- (c) by deleting from subclause (2) the amount of "\$12.01" and inserting the amount of "\$12.0080" in lieu thereof; and
- (d) by deleting from subclause (3)(a) the amount of "\$57.76" and inserting the amount of "\$52.76" in lieu thereof; and
- (e) by deleting from subclause (3)(b) the amount of "\$17.76" and inserting the amount of "\$17.7640" in lieu thereof; and
- (f) by deleting from subclause (3)(d) the amount of "\$35.29" and inserting the amount of "\$35.2905" in lieu thereof; and

- (g) by deleting from subclause (5)(b) the amounts of "\$29.57" and "\$35.29" and inserting the amounts of "\$29.5655" and "\$35.2905" respectively in lieu thereof; and
- (h) by deleting from subclause (5)(e) the amount of "\$29.44" and inserting the amount of "\$29.4415" in lieu thereof; and
- (i) by deleting from subclause (6)(a)(i) the amount of "\$35.29" and inserting the amount of "\$35.2905" in lieu thereof; and
- (j) by deleting from subclause (6)(b)(ii) the amount of "\$35.29" and inserting the amount of "\$35.2905" in lieu thereof; and
- (k) by deleting from subclause (6)(b)(iii) the amount of "\$29.44" and inserting the amount of "\$29.4415" in lieu thereof; and
- (l) by deleting from subclause (8)(c) the amount of "\$5.80" and inserting the amount of "\$5.7975" in lieu thereof; and
- (m) by deleting from subclause (8)(d) the amounts of "\$25.17", "\$32.35" and "\$38.19" and inserting the amounts of "\$25.1735", "\$32.3455" and "\$38.1945" respectively in lieu thereof; and
- (n) by deleting from subclause (9) the amount of "\$23.57" and inserting the amount of "\$23.5720" in lieu thereof; and
- (o) by deleting from subclause (10)(c) the amount of "\$17.13" and inserting the amount of "\$17.1340" in lieu thereof.

Dated this third day of May, 2001.

E. EWALD
Registrar.

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QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

Industrial Relations Act 1999

MODELS AND MANNEQUINS AWARD – STATE

(Gazette, 6th February, 1985)

AMENDMENT
(Replacement)

WHEREAS an error occurred in the Amendment (General Ruling) as published in the *Queensland Government Industrial Gazette* of 30 November 2000, Vol. 165, No. 15, pages 508-512, the following Amendment shall replace the aforementioned Amendment in its entirety as from the first day of September, 1999:–

- 1. By deleting clause 4 and inserting the following in lieu thereof:–

“Rates of Payment

- 4. The following shall be the minimum rates of pay for the following classes of work:–

(1) *Gala Parades and Trade Showings* –

- (a) Day (not later than 6.00 p.m.) – \$108.12 for the first two hours or part thereof and \$18.2560 per half hour or part thereof thereafter.
- (b) Night (later than 6.00 p.m.) – \$129.11 for the first two hours or part thereof and \$18.2560 per half hour or part thereof thereafter.

(2) *Store Parades* –

Store parades shall not exceed 15 minutes each and shall be paid for as follows:–

	Per Day
For engagements of –	\$
1 to 3 parades	72.29
4 to 6 parades	96.14
7 to 9 parades	120.16
Over 9 parades	153.01

Provided that engagements of three parades or less that occupy a spread of more than 2-1/2 hours from the commencement of the first parade to the conclusion of the final parade shall be paid for at the rate of \$65.94 and \$12.3405 for each further half hour in excess of the said 2 1/2 hours.

(3) *Manufacturers and/or Fashion Agents Showings* –

- (a) *Rates*.– Mannequins shall be engaged and paid in accordance with the following periods of work:–

	\$
Complete Day (9.00 a.m. to 5.30 p.m.)	90.19
Half Day (9.00 a.m. to 1.00 p.m. or 1.30 p.m. to 5.30 p.m.)	54.22
Single Showing (maximum period of two hours and minimum engagement)	36.27

- (b) *Work Outside Ordinary Hours*.– Except as provided in placitum (c) hereof, where a mannequin is required to commence work prior to 9.00 a.m. and/or continue working subsequent to 5.30 p.m., she shall be paid for all time so worked at the rate of \$18.2560 per hour.

- (c) *Evening Showings*.– Where a mannequin is required to perform a separate evening showing, commencing after 5.30 p.m., she shall be paid \$81.25.

Provided that no mannequin shall be required to work later than 10.00 p.m.

- (d) *Fittings*.— Where a mannequin is engaged to attend a showroom or other place at a specified time for fittings only, she shall be paid at the rate of \$36.2680 per hour or part thereof for all time spent on such engagement.

(4) *Hostessing* –

Models and/or mannequins subject to this Award who are engaged to act as hostesses shall be paid the same rates as prescribed in subclause (1) hereof.

(5) *Special Hairstyles, Tints, &c.* –

- (a) The rates prescribed in this subclause shall only apply in those instances where the employer instructs the model to have a specified hairstyle and/or tint.
- (b) For the time occupied in obtaining the following hair treatment, a model shall be paid –

	Per Hour \$
Setting and water rinses.....	30.3845
Semi-permanent dye or bleach.....	36.2680

- (c) The rates prescribed in paragraph (b) hereof shall be in addition to the fees prescribed elsewhere in this clause for the class of work being performed:

Provided that where special hairstyles and/or tints, &c. are for the purpose of demonstrating and/or promoting such hairstyles and/or tints or products connected with coiffure, the rates shall be as prescribed for the class of parade in subclauses (1), (2) or (3) hereof in addition to the rates prescribed in placitum (b) of this subclause:

Provided further that photographic engagements connected with the advertising of coiffure and/or coiffure products shall be paid for as prescribed in subclause (8) hereof in addition to the rates prescribed in placitum (b) of this subclause.

- (d) For the purposes of this subclause, the term 'semi-permanent dye' shall be deemed to mean and include any artificial colouring or tinting that cannot be removed immediately following the engagement.
- (e) Where the hair of a model has been re-styled and/or colour rinsed or temporarily tinted, such model's hair shall be restored to the style, colour and/or tint of her hair immediately prior to the engagement. Such restoration shall be carried out in the employer's time and shall be paid for at the rate of \$30.2570 per hour.

Provided that where a model so requests she may forgo any one or more of the requirements of this placitum and provided further that nothing prescribed in this placitum shall be deemed to apply to permanent dyes as defined in paragraph (d) hereof.

(6) *Fittings and Rehearsals (Excluding Manufacturers and/or Fashion Agents Showings)* –

(a) *Fittings* –

- (i) *Fittings Only*.— Where a mannequin is engaged to attend for fittings only, she shall be paid at the rate of \$36.2680 per hour or part thereof.
- (ii) *Other Fittings*.— Where a mannequin is required to attend for fittings in conjunction with another class of engagement, she shall be paid at the rate of \$12.34 per twenty minutes or part thereof for the time spent in fitting:

Provided that where such fittings are carried out later than 6.00 p.m. the mannequin shall be paid at the rate of \$18.25 for twenty minutes or part thereof in lieu of the aforementioned rate.

(b) *Rehearsals* –

- (i) *Dress Rehearsals*.— Dress rehearsals shall be paid for at the same rate as is prescribed for a Gala Parade or Trade Showing in accordance with subclause (1) hereof.
- (ii) *Rehearsals Including Fittings*.— Where a mannequin is booked for rehearsals and fittings combined in the same engagement, she shall be paid at the rate of \$36.2680 per hour or part thereof.
- (iii) *Other Rehearsals*.— All other classes of rehearsals shall be paid for at the rate of \$30.2570 per hour or part thereof.

(7) *Fashion Compering* –

The rates for compering a parade shall be the same as prescribed for mannequins in accordance with subclauses (1), (2) or (3) hereof, depending upon the class of parade being performed, with the addition of the following allowance:—

	\$
For compering only.....	24.22
For compering and providing a script for a paradette.....	30.26
For compering and providing a script for a parade.....	54.22

(8) *Photographic modelling – Fashion and/or Advertising* –

(a) *For an assignment of* –

	\$
Up to and including 1 hour.....	48.15
Up to and including 2 hours.....	75.21

	\$
Up to and including 3 hours	96.14
Up to and including 4 hours	117.14
Up to and including 5 hours	138.07
Up to and including 6 hours	159.20
Up to and including 7 hours	180.04
Up to and including 8 hours	201.13

- (b) By mutual agreement between the Actors, Entertainers and Announcers Equity Association, Queensland, Union of Employees, and the Queensland Master Photographers' Association, established models shall be graded in accordance with the grades set out hereunder and shall be paid the following rates in lieu of those prescribed in placitum (a) hereof:-

	"A Grade Model \$	Premier Model \$
For an assignment of -		
Up to and including 1 hour.....	54.22	60.27
Up to and including 2 hours	87.16	99.23
Up to and including 3 hours	114.11	131.96
Up to and including 4 hours	141.12	165.19
Up to and including 5 hours	168.01	198.04
Up to and including 6 hours	197.34	230.89
Up to and including 7 hours	221.84	263.88
Up to and including 8 hours	248.93	296.79

- (c) *Work Outside Ordinary Hours.*- Where a model is required to work outside of the hours of 8.00 a.m. and 6.00 p.m., she shall be paid the rates prescribed in placitum (a) or (b) hereof, as the case may be, plus an extra \$5.9580 per hour or part thereof.
- (d) *Work in Excess of Eight Hours.*- Except as hereinafter provided, where a model is required to work in excess of eight hours in any one day, she shall be paid for such work at \$25.8710 per hour or part thereof:

Provided that those models graded in accordance with placitum (b) hereof shall be paid at the following rates:-

"A Grade Model \$	Premier Model \$
33.2415	39.2525

- (e) *Travelling Time.*- Where a model is engaged for work on location, she shall be paid, in addition to all other moneys due to her, at the rates prescribed in placitum (a) hereof for all time spent in travelling outside of a five mile radius of the G.P.O., Brisbane, or the main Post Office in other centres. For the purposes of this Award, the term 'on location' shall mean any place outside of a photographer's studio.
- (f) *Novice Models.*- Novice models shall be paid at the rate of 75% of the rates prescribed in placitum (a) hereof: Provided that a model shall be deemed to be a novice until such time as she has completed twelve professional photographic assignments in any period of twelve months: Provided further that the term 'novice' shall also be deemed to mean and include any person who is not usually engaged in the modelling profession for the major and substantial part of her employment.

(g) *Bookings* -

- (i) The prescribed rates are to be paid as from the time that a model is booked to commence work until the time that she is released from such work, including all travelling time except where otherwise provided in placitum (e) hereof: Provided that a model shall arrive ready to commence work, or in sufficient time to prepare herself for such engagement, unless the assignment demands the use of some special cosmetics or other special preparation in which case such preparation shall be carried out in the employer's time.
- (ii) Where a model arrives late for an assignment and, without reasonable excuse, delays the work of the photographer, she shall only be paid as from the time that her work commences and shall forfeit an amount not exceeding 25% of the hourly rate for each period of 15 minutes or part thereof, that she is late in arriving.

(h) *Cancellations* -

- (i) *Weather Check.*- Except as provided in paragraph (ii) hereof, where an engagement is not carried out on a weather check, a model shall not be entitled to receive any payment apart from travelling time rates in accordance with placitum (e) hereof.
- (ii) *On Location.*- Where an engagement is cancelled on location, a model shall be entitled to receive full payment.
- (iii) *General.*- Except as provided in paragraph (iv), hereof, where a model receives less than 24 hours' notice of cancellation of an engagement she shall receive full payment and where she receives at least 24 hours' but less than 48 hours' notice of such cancellation, she shall receive 45% payment: Provided that where at least 48 hours' notice of cancellation is given, the model is not entitled to receive any payment whatsoever.
- (iv) *Short Notice Bookings.*- Where a model is booked for an assignment on less than 48 hours' notice and such assignment is subsequently cancelled she shall, where 50% or more of the period of notice of assignment has elapsed, receive 50% payment and 10% payment in any other instance.

(i) *Postponements* -

- (i) Where an assignment is postponed on at least 48 hours' notice, the model shall not be entitled to any payment whatsoever.
- (ii) Where an assignment is postponed on at least 24 hours' notice, the model shall be entitled to 10% payment.

- (iii) Where an assignment is postponed on less than 24 hours' notice, the model shall be entitled to full payment: Provided that where the model is available, and such assignment can be carried out within 24 hours of the original time fixed, the model shall only be entitled to receive 25% payment.
- (iv) Provided always that a model shall, in addition to any postponement payment in accordance with this Award, be entitled to receive full payment for an assignment after it has subsequently been completed.
- (j) *Calculation of Payment.*— For the purposes of calculating the payment due to a model who has had work cancelled or postponed, the photographer shall, when booking a model, specify the approximate period of time that will be involved in an engagement and such cancellation and/or postponement payments shall be calculated upon such approximate period of time.

(9) *Photographic Modelling – Art and/or Figure Photography –*

	\$
Per hour or part thereof.....	24.2250
Half Day.....	72.29
Full Day.....	144.09

(10) *Television –*

(a) *Advertising –*

	\$
Full Day.....	150.17
Half Day (minimum fee).....	90.12

(b) *Parades –*

Ten minutes or less.....	48.15
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- (c) Where a mannequin is required to attend a television studio prior to the commencement of a parade or remain at a studio subsequent to a parade, all such time in excess of thirty minutes shall be paid for at the rate of \$17.6085 per hour or part thereof.

(11) *Film Work (other than as prescribed in subclause (9) hereof) –*

(a) *On location or in studio –*

	\$
Per Day.....	150.17
Per Half Day (minimum fee).....	90.12
On call – per day.....	90.12

- (b) For the purposes of this subclause, the term 'on call' shall be deemed to mean and include any attendance at a location or studio for the purpose of appearing in a film where the model is not required to work whether by reason of inclement weather, unsuitability, or any other cause brought about by no fault of the model concerned.

(12) *Bookings (other than photographic) –*

Where a mannequin is engaged for a parade, she shall arrive at least fifteen minutes before the first parade or at the time fixed when the booking was made. In the event of the mannequin arriving late, she may forfeit her booking, or, if at the discretion of the principal, she is allowed to join in subsequent parades, she shall only be entitled to a proportionate payment based on the number of parades in which she actually participates.

(13) *Cancellations (other than photography) –*

The following shall be the minimum rates payable in the event of work being cancelled by the Employer through no fault of the model and/or mannequin concerned:—

- (a) Where cancellation occurs two days or less prior to the commencement of an engagement, a model and/or mannequin shall be paid the full rate.
- (b) Where cancellation occurs seven days and more than two days prior to the commencement of an engagement, a model and/or mannequin shall be paid 45% of the rate.
- (c) Where cancellation occurs after seven days and up to ten days prior to the commencement of an engagement, a model and/or mannequin shall be paid 25% of the rate.
- (d) Provided that no model and/or mannequin shall be entitled to claim cancellation pay in respect of any day or part of a day on which she may receive payment for an alternative engagement.

(14) *Modellettes and/or Novices (other than photographic) –*

Modellettes and/or novices shall be paid 75%, of the rates prescribed for the class of engagement.

For the purposes of this provision, a model and/or mannequin shall be deemed to be a modellette and/or novice during her first twelve months' experience in the modelling profession: Provided that such model and/or mannequin shall have completed at least twelve professional engagements during such period of twelve months and that in the event of her not having completed such twelve engagements, she shall remain classified as a modellette and/or novice until such time as she has completed twelve professional engagements.

Confirmation of such twelve months' experience shall be obtainable from Union membership records and evidence of such twelve professional engagements shall be supplied by the model and/or mannequin.

(15) Calculation of Hourly Rates –

Except where otherwise provided, all hourly rates hereinbefore prescribed shall, for the purposes of payment, be taken to the next highest complete half hour: Provided that where the work ceases on a complete half hour, such rates shall only be for the actual time worked.

The rates of pay in this Award are intended to include the arbitrated wage adjustment payable under the 1 September 1999 Declaration of General Ruling and earlier Safety Net Adjustments. [Disputed cases are to be referred to the President.] This arbitrated wage adjustment may be offset against any equivalent amount in rates of pay received by employees whose wages and conditions of employment are regulated by this Award which are above the wage rates prescribed in the Award. Such payments include wages payable pursuant to certified agreements, currently operating enterprise flexibility agreements, Queensland workplace agreements, award amendments to give effect to enterprise agreements and overaward arrangements. Absorption which is contrary to the terms of an agreement is not required.

Increases made under previous State Wage Cases or under the current Statement of Principles, excepting those resulting from enterprise agreements, are not to be used to offset arbitrated wage adjustments.”.

2. By deleting clause 8 (Make-Up) and inserting the following in lieu thereof:–

“8. Where a special make-up or leg tan is required by the employer for an engagement, such special make-up or tan shall be supplied by the employer free of cost and shall be applied and/or removed in the employer’s time:

Provided that where the rates prescribed for the class of work being performed are not specific at an hourly rate and/or are outside the prescribed ordinary hours, such time shall be paid for at a rate of \$25.7540 per hour.

Dated this third day of May, 2001.

E. EWALD
Registrar.

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QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

Industrial Relations Act 1999 – s. 125 – application for amendment

Queensland Nurses’ Union of Employees AND Private Hospitals’ Association of Queensland (Inc) (No. B1491 of 1999)

PRIVATE HOSPITAL NURSES’ AWARD – STATE

VICE PRESIDENT LINNANE
COMMISSIONERS BLOOMFIELD AND SWAN

29 May 2001

AMENDMENT

THIS matter coming on for hearing before the Commission at Brisbane on 25, 26 and 27 October and 13 November 2000, this Commission orders that the said Award be amended as follows as from the sixteenth day of July, 2001:–

1. By deleting paragraph (d) of subclause 4.1.2 (Rosters) and inserting the following in lieu thereof:–

“(d) Unless the employee/s otherwise agree, an employer desiring to change a roster/s shall give the employee/s at least 7 days’ notice unless the change is necessary to meet unforeseen fluctuations in patient demand for services, or where another employee is absent from duty on account of illness or an emergency.”.

2. By deleting the first paragraph of subclause 4.2.6 (Break after Overtime) and inserting the following in lieu thereof:–

“An employee who works so much overtime between the termination of their ordinary work on the one day and the commencement of their ordinary work on the next day that they have not had at least ten consecutive hours off duty between those times (i.e. the cessation of work on the one day and the commencement of work on the next day), shall, subject to this subclause, be released after completion of such overtime until they have had 10 consecutive hours off duty without loss of pay for ordinary working time occurring during such absence. If, on the instructions of their employer, such an employee resumes or continues work without having had ten consecutive hours off duty they shall be paid double rates until they are released from duty for such period, and such employee shall then be entitled to be absent until they have had ten consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.”.

3. By deleting clause 4.3 (Meal Breaks) and inserting the following in lieu thereof:–

“4.3 MEAL BREAKS

4.3.1 Where an employee is rostered to work at least 6 hours continuously the employee shall be entitled to a meal break of not less than 30 minutes between the fourth and sixth hour after the commencement of duty, and thereafter at intervals of no more than 6 hours.

4.3.2 (a) Except as hereinafter provided in paragraph (b) of this subclause double time shall be paid for all work done during meal breaks and thereafter in that shift until a meal break is taken.

(b) Payment at double time will be made in accordance with paragraph (a) when an employee has, within the 6 hour period referred to in subclause 4.3.1 above, informed their immediate supervisor or other appropriate management representative that they are unable to take a meal break, and they have received authorisation from that person to work through the meal break and/or beyond the sixth hour without a meal break. In order to qualify for double time payment under this subclause 4.3.2 an employee’s inability to take a meal break must be for reasons other than to suit an employee’s own particular requirements:

Provided that paragraphs (a) and (b) of this subclause do not apply to Registered Nurses level 3, 4 and 5 as these employees are to organise their work time so that a meal break is taken at an appropriate time.”.

4. By deleting paragraph (b) of subclause 5.4.1 and inserting the following in lieu thereof:—

“(b) **Certificate** – Every employee absent from work through illness on the production of a certificate from a duly qualified medical practitioner specifying the period or approximate period during which the employee will be unable to work, or of other evidence of illness to the satisfaction of the employer at any time (e.g. duly completed statutory declaration), shall, subject as herein provided, be entitled to payment in full for all time the employee is so absent from work:

Provided that it shall not be necessary for an employee to produce such a doctor’s certificate if the absence from work on account of illness does not exceed 2 days.”.

Dated this twenty-ninth day of May, 2001.

By the Commission,
[L.S.] E. EWALD,
Industrial Registrar.

Operative Date: 16 July 2001
Amendment – Rosters, Breaks, Medical Certificate
Released: 9 August 2001