

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

Industrial Relations Act 1999 - s. 698 - reprint of award

A J BUSH AND SONS (MANUFACTURES) PTY LTD AWARD - STATE 2005

Following the Declaration of the General Ruling in the 2010 State Wage Case (matter numbers B/2010/20 and B/2010/21), the A J Bush and Sons (Manufactures) Pty Ltd Award - State 2005 is hereby reprinted, pursuant to s. 698 of the *Industrial Relations Act 1999*.

I hereby certify that the Award contained herein is a true and correct copy of the A J Bush and Sons (Manufactures) Pty Ltd Award - State 2005 as at 1 September 2010.

Dated 1 November 2010.

[L.S.] G.D. Savill
Industrial Registrar

A J BUSH AND SONS (MANUFACTURES) PTY LTD AWARD - STATE 2005

PART 1 - APPLICATION AND OPERATION

1.1 Title

This Award is known as the A J Bush and Sons (Manufactures) Pty Ltd Award - State 2005.

1.2 Arrangement

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1.3 Date of operation

This Award takes effect from 1 February 2005.

1.4 Award coverage

1.4.1 This Award applies to A. J. Bush and Sons (Manufactures) Pty Ltd and its employees engaged in or in connection with the work of protein meals and tallow manufacture at the company's works at Bromelton via Beaudesert.

1.5 Definitions

1.5.1 "Act" means the Industrial Relations Act 1999 as amended or replaced from time to time.

1.5.2 "Commission" means the Queensland Industrial Relations Commission.

1.5.3 "Union" means the "The Australian Workers' Union of Employees, Queensland".

1.6 Parties bound

This Award is legally binding on the employer and employees as prescribed by clause 1.4, the Union and its members.

PART 2 - FLEXIBILITY

2.1 Enterprise flexibility

- 2.1.1 As part of a process of improvement in productivity and efficiency, discussion should take place at each enterprise to provide more flexible working arrangements, improvement in the quality of working life, enhancement of skills, training and job satisfaction and to encourage consultative mechanisms across the workplace.
- 2.1.2 The consultative processes established in an enterprise in accordance with clause 2.1 may provide an appropriate mechanism for consideration of matters relevant to clause 2.1.1. Union delegates at the place of work may be involved in such discussions.
- 2.1.3 Any proposed genuine agreement reached between an employer and employee/s in an enterprise is contingent upon the agreement being submitted to the Commission in accordance with Chapter 6 of the Act and is to have no force or effect until approval is given.

PART 3 - COMMUNICATION, CONSULTATION AND DISPUTE RESOLUTION

3.1 Consultative mechanisms and procedures in the workplace

- 3.1.1 The parties to this Award are committed to co-operating positively to increase the efficiency, productivity and competitiveness of the industries covered by this Award and to enhance the career opportunities and job security of employees in such industries.

3.2 Grievance and dispute settling procedure

The matters to be dealt with in this procedure shall include all grievances or disputes between an employee and an employer in respect to any industrial matter and all other matters that the parties agree on and are specified herein. Such procedures shall apply to a single employee or to any number of employees.

- 3.2.1 In the event of an employee having a grievance or dispute the employee shall in the first instance attempt to resolve the matter with the immediate supervisor, who shall respond to such request as soon as reasonably practicable under the circumstances. Where the dispute concerns alleged actions of the immediate supervisor the employee/s may bypass this level in the procedure.
- 3.2.2 If the grievance or dispute is not resolved under clause 3.2.1, the employee or the employee's representative may refer the matter to the next higher level of management for discussion. Such discussion should, if possible, take place within 24 hours after the request by the employee or the employee's representative.
- 3.2.3 If the grievance involves allegations of unlawful discrimination by a supervisor the employee may commence the grievance resolution process by reporting the allegations to the next level of management beyond that of the supervisor concerned. If there is no level of management beyond that involved in the allegation the employee may proceed directly to the process outlined at clause 3.2.5.
- 3.2.4 If the grievance or dispute is still unresolved after discussions mentioned in clause 3.2.2, the matter shall, in the case of a member of a Union, be reported to the relevant officer of that Union and the senior management of the employer or the employer's nominated industrial representative. An employee who is not a member of the Union may report the grievance or dispute to senior management or the nominated industrial representative. This should occur as soon as it is evident that discussions under clause 3.2.2 will not result in resolution of the dispute.
- 3.2.5 If, after discussion between the parties, or their nominees mentioned in clause 3.2.4, the dispute remains unresolved after the parties have genuinely attempted to achieve a settlement thereof, then notification of the existence of the dispute is to be given to the Commission in accordance with the provisions of the Act.
- 3.2.6 Whilst all of the above procedure is being followed, normal work shall continue except in the case of a genuine safety issue.
- 3.2.7 All parties to the dispute shall give due consideration to matters raised or any suggestion or recommendation made by the Commission with a view to the prompt settlement of the dispute.
- 3.2.8 Subject to the normal rights at law to appeal, any Order or Decision of the Commission (subject to the parties'

right of appeal under the Act) will be final and binding on all parties to the dispute.

- 3.2.9 Discussions at any stage of the procedure shall not be unreasonably delayed by any party, subject to acceptance that some matters may be of such complexity or importance that it may take a reasonable period of time for the appropriate response to be made. If genuine discussions are unreasonably delayed or hindered, it shall be open to any party to give notification of the dispute in accordance with the provisions of the Act.

PART 4 - EMPLOYER AND EMPLOYEES' DUTIES, EMPLOYMENT RELATIONSHIP AND RELATED ARRANGEMENTS

4.1 Employment categories

- 4.1.1 Employees covered by this Award shall be advised in writing of their employment category upon appointment. Employment categories are:

- (a) full-time;
- (b) part-time (as prescribed in clause 4.3); and
- (c) casual (as prescribed in clause 4.4).

4.2 Full-time employment

"Full-time employee" shall mean a person who is engaged to work on a full-time basis.

4.3 Part-time employment

- 4.3.1 Part-time employment shall be defined as an employee who is engaged for a lesser number of hours than constitute full-time employment under this Award; of a minimum number of hours, being 15 per week; of a maximum number of hours, being less than 38 per week; of a minimum number of consecutive hours, being 4 per day; of a regular number of ordinary hours per week; and any work outside of the ordinary rostered hours to be paid as overtime.
- 4.3.2 Any variations to work patterns for part-time employees are to be in accordance with Award provisions for full-time employees.
- 4.3.3 Part-time employees are to be paid on a *pro rata* basis (proportionate to the number of hours worked) for wages and employment conditions as specified in this Award for full-time employment for the same kind of work.
- 4.3.4 All other conditions for part-time employment other than those specified above, shall be those that apply to full-time employment.
- 4.3.5 An employee who does not meet the definition of a part-time employee and who is not a full-time employee will be paid as a casual employee in accordance with this Award.
- 4.3.6 Where an employee and the employer agree, part-time employment may be converted to full-time and vice versa on a permanent basis or for a specified period of time. If such as employee transfers from full-time to part-time (or vice versa) all accrued Award and legislative entitlements shall be maintained. Following transfer to part-time employment accrual will occur in accordance with the provisions relevant to part-time employment.

4.4 Casual employment

- 4.4.1 Casual employees shall be employees employed for a lesser period than 38 hours continuously, shall, whilst so employed, be paid 23 per cent in addition to the rate per hour provided for the class of work in which they are employed, even should the period of employment extend into 2 pay periods.
- 4.4.2 A casual employee shall receive a minimum of 4 hours' continuous work. This shall not affect the right of the employer to dismiss any casual employee for malingering, inefficiency, neglect of duty, or misconduct, and in such case wages shall be paid up to the time of dismissal only.
- 4.4.3 Casual employees who are instructed to report for work at a stipulated time, and who report for work at such time but for whom work is not available within thirty minutes of the said stipulated time, shall be paid ordinary casual rates for the said stipulated time.

4.5 Flexibility of work

- 4.5.1 Employees shall perform work as required by the employer provided that such work is within that employee's limits of skills, competence and training:

Provided further that employees shall use tools and equipment as required by the employer subject to appropriate training having been given.

4.5.2 Any direction issued by the employer pursuant to clause 4.5.1 hereof shall be consistent with the employer's responsibility to provide a safe and healthy working environment.

4.6 Incidental and peripheral tasks

4.6.1 An employer may direct an employee to carry out such duties as are reasonably within the limits of the employee's skill, competence and training consistent with the classification structure of this Award provided that such duties are not designed to promote de-skilling.

4.6.2 An employer may direct an employee to carry out such duties and use such tools and equipment as may be required provided that the employee has been properly trained in the use of such tools and equipment (where relevant).

4.6.3 Any direction issued by an employer pursuant to provisions 4.6.1 and 4.6.2 shall be consistent with the employer's responsibilities to provide a safe and healthy working environment.

4.7 Termination of employment

4.7.1 Termination by the employer

(a) In order to terminate the employment of an employee the employer shall give the following notice:

Period of Continuous Service	Period of Notice
not more than one year	1 week
more than one year, but not more than 3 years	2 weeks
more than 3 years, but not more than 5 years	3 weeks
more than 5 years	4 weeks

(b) In addition to the notice in clause 4, 7.1(a) above, employees over 45 years of age at the time of giving of notice and with not less than 2 years continuous service, shall be entitled to an additional week's notice.

(c) Payment in lieu of notice shall be made if the appropriate notice is not given:

Provided that employment may be terminated by part of the period of notice specified and part-payment in lieu thereof.

(d) The period of notice in clause 4.7 shall not apply to casual employees nor in the case of dismissal for misconduct (including dishonesty, intoxication or wilful disobedience) or other grounds that justify instant dismissal.

4.7.2 Notice of termination by employee

(a) The notice required to be given by the employee to the employer is the same as that for the employer set out in 7.7.1(a) except that no additional notice shall be required for employees of 45 years or more in age.

(b) If an employee fails to give notice the employer shall have the right to withhold monies due to the employee with a maximum amount equal to the ordinary time rate for the period of notice.

4.7.3 Casual employees

No notice is required to be given by the employer or the employee to terminate the hourly contract of employment of a casual employee.

4.8 Introduction of changes

4.8.1 Employer's duty to notify

(a) Where an employer decides to introduce changes in production, program, organisation, structure or technology that are likely to have significant effects on employees, the employer shall notify the employees who may be affected by the proposed changes and, where relevant, their Union or Unions.

(b) "Significant effects" includes termination of employment, major changes in the composition, operation or size of the employer's workforce or in the skills required; the elimination or diminution of job opportunities or job tenure; the alteration of hours of work; the need for retraining or transfer of

employees to other work or locations and the restructuring of jobs:

Provided that where the Award makes provision for alteration of any of the matters referred to herein an alteration shall be deemed not to have significant effect.

4.8.2 *Employer's duty to consult over change*

- (a) The employer shall consult the employees affected and, where relevant, their Union or Unions about the introduction of the changes, the effects the changes are likely to have on employees (including the number and categories of employees likely to be dismissed, and the time when, or the period over which, the employer intends to carry out the dismissals), and the ways to avoid or minimise the effects of the changes (e.g. by finding alternate employment).
- (b) The consultation must occur as soon as practicable after making the decision referred to in clause 4.8.1.
- (c) For the purpose of such consultation the employer shall provide in writing to the employees concerned and, where relevant, their Union or Unions, all relevant information about the changes including the nature of the changes proposed, the expected effects of the changes on employees, and any other matters likely to affect employees, provided that any employer shall not be required to disclose confidential information, the disclosure of which would be adverse to the employer's interests.

4.9 **Redundancy**

4.9.1 *Consultation before terminations*

- (a) Where an employer decides that the employer no longer wishes the job the employee has been doing to be done by anyone, and this is not due to the ordinary and customary turnover of labour, and that decision may lead to termination of employment, the employer shall consult the employee directly affected and where relevant, their Union or Unions.
- (b) The consultation shall take place as soon as it is practicable after the employer has made a decision, which will invoke the provisions of clause 4.9.1(a) and shall cover the reasons for the proposed terminations, measures to avoid or minimise the terminations and/or their adverse affects on the employees concerned.
- (c) For the purpose of the consultation the employer shall, as soon as practicable, provide in writing to the employees concerned and, where relevant, their Union or Unions, all relevant information about the proposed terminations including the reasons for the proposed terminations, the number and categories of employees likely to be affected, the number of workers normally employed and the period over which the terminations are likely to be carried out:

Provided that any employer shall not be required to disclose confidential information, the disclosure of which would be adverse to the employer's interests.

4.9.2 *Transfer to lower paid duties*

- (a) Where an employee is transferred to lower paid duties for reasons set out clause 4.9.1 "Consultation before terminations" the employee shall be entitled to the same period of notice of transfer as the employee would have been entitled to if the employee's employment had been terminated under clause 4.7.
- (b) The employer may, at the employer's option, make payment in lieu thereof of an amount equal to the difference between the former amounts the employer would have been liable to pay and the new lower amount the employer is liable to pay the employee for the number of weeks of notice still owing.
- (c) The amounts must be worked out on the basis of:
 - (i) the ordinary working hours to be worked by the employee;
 - (ii) the amounts payable to the employee for the hours including for example, allowances, loadings and penalties; and
 - (iii) any other amounts payable under the employee's employment contract.

4.9.3 *Transmission of business*

- (a) Where a business is, whether before or after the date of insertion of clause 4.9.3 in the Award transmitted from an employer (transmitter) to another employer (transmittee), and an employee who at the time of

such transmission was an employee of the transmitter of the business, becomes an employee of the transferee:

- (i) the continuity of the employment of the employee shall be deemed not to have been broken by reason of such transmission; and
 - (ii) the period of employment which the employee has had with the transmitter or any prior transmitter shall be deemed to be service of the employee with the transferee.
- (b) In clause 4.9.3, "business" includes trade, process, business or occupation and includes a part or subsidiary (which means a corporation that would be taken to be a subsidiary under the Corporations Law, whether or not the Corporations Law applies in the particular case) of any such business and "transmission" includes transfer, conveyance, assignment or succession whether by agreement or by operation of law and "transmitted" has a corresponding meaning.

4.9.4 *Time off during notice period*

- (a) Where a decision has been made to terminate an employee in the circumstances outlined in clause 4.9.1, the employee shall be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment.
- (b) If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee shall, at the request of the employer, be required to produce proof of attendance at an interview or the employee shall not receive payment for the time absent. For this purpose a statutory declaration will be sufficient.

4.9.5 *Notice to Centrelink*

Where a decision has been made to terminate employees in the circumstances outlined in clause 4.9.1, the employer shall notify Centrelink as soon as possible giving all relevant information about the proposed terminations, including a written statement of the reasons for the terminations, the number and categories of the employees likely to be affected, the number of workers normally employed and the period over which the terminations are intended to be carried out.

4.9.6 *Severance pay*

- (a) In addition to the period of notice prescribed for ordinary termination in clause 4.7.2(a), and subject to further order of the Commission, an employee whose employment is terminated for reasons set out in clause 4.9.1(a), shall be entitled to the following amounts of severance pay:

Period of Continuous Service	Severance Pay (weeks' pay)
Less than 1 year	nil
1 year but not more than 2 years	4
More than 2 years but not more than 3 years	6
More than 3 years but not more than 4 years	7
More than 4 years but not more than 5 years	8
More than 5 years but not more than 6 years	9
More than 6 years but not more than 7 years	10
More than 7 years but not more than 8 years	11
More than 8 years but not more than 9 years	12
More than 9 years but not more than 10 years	13
More than 10 years but not more than 11 years	14
More than 11 years but not more than 12 years	15
More than 12 years	16

- (b) "Weeks' Pay" means the ordinary time rate of pay for the employee concerned:

Provided that the following amounts are excluded from the calculation of the ordinary time rate of pay: overtime, penalty rates, disability allowances, shift allowances, special rates, fares and travelling time allowances, bonuses and any other ancillary payments.

4.9.7 *Superannuation benefits*

An employer may make an application to the Commission for relief from the obligation to make severance payments in circumstances where:

- (a) the employer has contributed to a superannuation scheme which provides a particular benefit to an

employee in a redundancy situation; and

- (b) the particular benefit to the employee is over and above any benefit the employee might obtain from any legislative scheme providing for superannuation benefits (currently the federal Superannuation Guarantee levy) or an award-based superannuation scheme.

4.9.8 *Employee leaving during notice*

An employee whose employment is terminated for reasons set out in clause 4.9.1(a), may terminate such employment during the period of notice, and, if so, shall be entitled to the same benefits and payments under clause 4.9 had such employee remained with the employer until the expiry of such notice:

Provided that in such circumstances the employee shall not be entitled to payment in lieu of notice.

4.9.9 *Alternative employment*

An employer, in a particular case, may make application to the Commission to have the general severance pay prescription amended if the employer obtains acceptable alternative employment for an employee.

4.9.10 *Employees with less than one year's service*

Clause 4.9 shall not apply to employees with less than one year's continuous service and the general obligation on employers should be no more than to give relevant employees an indication of the impending redundancy at the first reasonable opportunity, and to take such steps as may be reasonable to facilitate the obtaining by the employees of suitable alternative employment.

4.9.11 *Employees exempted*

Clause 4.9 shall not apply:

- (a) where employment is terminated as a consequence of misconduct on the part of the employee;
- (b) to employees engaged for a specific period or task(s); or
- (c) to casual employees.

4.9.12 *Employers exempted*

- (a) Subject to an order of the Commission, in a particular redundancy case, clause 4.9 shall not apply to an employer including a company or companies that employ employees working a total of fewer than 550 hours on average per week, excluding overtime, Monday to Sunday. The 550 hours shall be averaged over the previous 12 months.
- (b) A "company" shall be defined as:
 - (i) a company and the entities it controls;
 - (ii) a company and its related company or related companies; or
 - (iii) a company where the company or companies has a common Director or common Directors or a common shareholder or common shareholders with another company or companies.

4.9.13 *Exemption where transmission of business*

- (a) The provisions of clause 4.9.6 are not applicable where a business is, before or after the date of the insertion of clause 4.9 into the Award, transmitted from an employer (transmitter) to another employer (transmittee), in any of the following circumstances:
 - (i) where the employee accepts employment with the transmittee which recognises the period of continuous service which the employee had with the transmitter, and any prior transmitter, to be continuous service of the employee with the transmittee; or
 - (ii) where the employee rejects an offer of employment with the transmittee:
 - (A) in which the terms and conditions are substantially similar and no less favourable, considered on an overall basis, than the terms and conditions applicable to the employee at the time of ceasing employment with the transmitter; and

(B) which recognises the period of continuous service which the employee had with the transmitter and any prior transmitter to be continuous service of the employee with the transmittee.

(b) The Commission may amend clause 4.9.13(a)(ii) if it is satisfied that it would operate unfairly in a particular case, or in the instance of contrived arrangements.

4.9.14 Incapacity to pay

An employer in a particular redundancy case may make application to the Commission to have the general severance pay prescription amended on the basis of the employer's incapacity to pay.

4.10 Anti-discrimination

4.10.1 It is the intention of the parties to this Award to prevent and eliminate discrimination, as defined by the Anti-Discrimination Act 1991 and the Industrial Relations Act 1999 as amended from time to time, which includes:

- (a) discrimination on the basis of sex, marital status, family responsibilities, pregnancy, parental status, age, race, impairment, religion, political belief or activity, trade union activity, lawful sexual activity and association with, or relation to, a person identified on the basis of any of the above attributes;
- (b) sexual harassment; and
- (c) racial and religious vilification.

4.10.2 Accordingly, in fulfilling their obligations under the grievance and dispute settling procedure in clause 3.2, the parties to this Award must take reasonable steps to ensure that neither the Award provisions nor their operation are directly or indirectly discriminatory in their effects.

4.10.3 Under the Anti-Discrimination Act 1991 it is unlawful to victimise an employee because the employee has made or may make, or has been involved in a complaint of unlawful discrimination or harassment.

4.10.4 Nothing in clause 4.10 is to be taken to affect:

- (a) any different treatment (or treatment having different outcomes) which is specifically exempted under the *Anti-Discrimination Act 1991*; and
- (b) an employee, employer or registered organisation pursuing matters of discrimination, including by application to the Human Rights and Equal Opportunity Commission/Anti-Discrimination Commission Queensland.

4.11 Continuity of service - transfer of calling

In cases where a transfer of calling occurs, continuity of service should be determined in accordance with sections 67-71 of the Act, as amended from time to time.

PART 5 - WAGES AND WAGE RELATED MATTERS

5.1 Wage rates

Level ONE	Rate of pay per week \$
<p>Employees at this level perform routine duties essentially of a manual nature. In accord with their experience and level of training, they:</p> <p>Have limited knowledge and application of WH & S; Environmental Controls and Quality Assurance.</p> <p><u>Skills:</u> Perform general labouring and cleaning duties; Exercise minimal judgement; Work under supervision; Undertake structured on-the-job training so as to enable them to progress to Plant Technician, Grade 2; Maintain grounds; General hygiene; Basic maintenance;</p>	621.20

Level ONE	Rate of pay per week \$
Undertake training in the process area; and Operate Processing equipment.	

Level TWO	Rate of pay per week \$
An employee at this level performs work above and beyond the skills of Level ONE to the level of their training for this level including certification where relevant.	648.30
<u>Points of Entry</u> An employee at this level performs work above and beyond the skills of Level ONE.	
Has Basic knowledge and application of WH & S; Environmental Controls and Quality Assurance.	
<u>Skills</u> Responsible for the quality of their own work subject to detailed direction; Works in a team environment and/or under routine supervision; Undertakes duties in a safe and responsible manner; Exercises discretion within their level of skills and training; Possesses basic interpersonal communication skills; Undertakes basic clerical duties as required; Possesses basic hygiene knowledge; and Competent in operation of licensed equipment.	
<u>Indicative Duties</u> Operation of forklift and front-end loader; Other tasks determined by Supervisor; Drive vehicles; Vehicle and general hygiene; Basic maintenance; Process operations; and Operation of overhead crane.	

Level THREE	Rate of pay per week \$
An employee at this level performs work above and beyond the skills of Level TWO to the level of their training for this level including certification where relevant.	663.30
Has sound knowledge and application of WH & S; Environmental Controls and Quality Assurance.	
<u>Skills</u> Able to follow detailed instructions and documented operational procedures; Works in a team environment and/or under routine supervision; Responsible for the quality of their own work; Possesses sound interpersonal and communication skills; Competent in operation of licensed equipment; and Competence in transport functions.	
<u>Indicative Duties</u> Transport drivers; Control processing lines; Plant maintenance and servicing; General hygiene; and Process operation in accordance with QA procedures.	

Level FOUR	Rate of pay per week \$
An employee at this level performs work above and beyond the skills of Level THREE to the level of their training for this level. Trades certification must be established to the satisfaction of employer; with that Trade skill relevant, and applied in daily work functions.	682.00

Level FOUR	Rate of pay per week \$
<p>Has excellent knowledge and application of WH & S; Environmental Controls and Quality Assurance.</p> <p><u>Skills</u> Understands and is responsible for quality control standards; Possesses an advanced level of interpersonal and communication skills; Competent keyboard skills; Sound working knowledge of all plant duties performed at levels below this grade, exercises discretion within scope of this grade; May perform work requiring minimal supervision either individually or in a team environment; and Responsible for implementation of maintenance program for defined area.</p> <p><u>Indicative Duties</u> Control processing lines; Product quality control; Mechanical maintenance; Electrical maintenance; Vehicle maintenance; General maintenance; and General hygiene.</p>	

NOTE: The rates of pay in this Award are intended to include the arbitrated wage adjustment payable under the 1 September 2010 Declaration of General Ruling and earlier Safety Net Adjustments and arbitrated wage adjustments. 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.

5.1.2 Juniors

	Percentage of minimum adult rate %
15 years and under 16	50
16 years and under 17	55
17 years and under 18	65
18 years and under 19	75

and thereafter the wages prescribed for adult employees.

5.2 Allowances

5.2.1 Meal Allowance

See clause 6.2.2 of this Award.

5.3 Payment of wages

Payment of wages shall be made weekly unless otherwise mutually agreed upon by the majority of employees and the employer.

5.4 Occupational superannuation

5.4.1 *Application* - In addition to the rates of pay prescribed in clause 5.1, eligible employees (as defined in clause 5.4.3(b)) shall be entitled to occupational superannuation benefits, subject to the provisions of clause 5.4.

5.4.2 Contributions

- (a) Amount - Every employer shall contribute on behalf of each eligible employee, an amount calculated at 9% of the employee's ordinary time earnings, into an approved fund (as defined in clause 5.4.3(a)). Each such payment of contributions shall be rounded off to the nearest 10 cents.
- (b) Regular payment - The employer shall pay such contributions to the credit of each eligible employee at least once each calendar month or in accordance with the requirements of the approved fund trust deed.
- (c) Minimum level of earnings - No employer shall be required to pay superannuation contributions on behalf of any eligible employee whether full-time, part-time, casual, adult or junior in respect of any week during which the employee's ordinary time earnings (as defined in clause 5.4.3(d)) do not exceed 35% of \$309.00 (or such other sum as is determined from time to time in proceedings relating to the state wage or safety net adjustments).
- (d) Absences from work - Contributions shall continue to be paid on behalf of an eligible employee during any absence on paid leave such as annual leave, long service leave, public holidays, sick leave and bereavement leave, but no employer shall be required to pay superannuation contributions on behalf of any eligible employee during any unpaid absences except in the case of absence on workers' compensation. In the case of workers' compensation, the employer shall contribute in accordance with clause 5.4.2(a) whenever the employee is receiving by way of workers' compensation an amount of money no less than the employee's normal award rate of pay.
- (e) Other contributions - Nothing in clause 5.4 shall preclude an employee from making contributions to a fund in accordance with the provisions of the trust deed of the fund.
- (f) Cessation of contributions - An employer shall not be required to make any further contributions on behalf of an eligible employee for any period after the end of the ordinary working day upon which the contract of employment ceases to exist.
- (g) No other deductions - No additional amounts shall be paid by the employer for the establishment, administration, management or any other charges in connection with the fund other than the remission of contributions as prescribed in clause 5.4.

5.4.3 Definitions

- (a) "Approved fund" means a fund (as defined in clause 5.4.3(c)) approved for the purposes of clause 5.4 by the Commission as one to which occupational superannuation contributions may be made by an employer on behalf of an employee, as required by clause 5.4. Such approved fund may be individually named or may be identified by naming a particular class or category.
- (b) "Eligible employee" means any employee who has been employed by the employer during 5 consecutive weeks and who has worked a minimum of 50 hours during that period. After completion of the above qualifying period, superannuation contributions shall then be made in accordance with clause 5.4.2 effective from the commencement of that qualifying period.
- (c) "Fund" means a superannuation fund satisfying the Commonwealth legislation for occupational superannuation funds and satisfying the superannuation fund conditions in relation to a year of income, as specified in the relevant Act and complying with the operating standards as prescribed by Regulations made under the relevant Act. In the case of a newly established fund, the term shall include a superannuation fund that has received a notice of preliminary listing from the Insurance and Superannuation Commissioner.
- (d) "Ordinary time earnings" for the purposes of clause 5.4 means the actual ordinary time rate of pay the employee receives for ordinary hours of work including shift loading, skill allowances and leading hand allowances, where applicable. The term includes any over-award payment as well as casual rates received for ordinary hours of work. Ordinary time earnings shall not include overtime, disability allowances, commission, bonuses, lump sum payments made as a consequence of the termination of employment, annual leave loading, penalty rates for public holiday work, fares and travelling time allowances or any other extraneous payments of a like nature.

5.4.4 For the purposes of this Award, an approved fund means:

- (a) Austsafe
- (b) any named fund as is agreed to between the relevant employer/Union parties to this Award and as recorded in an approved industrial agreement.

- (c) in the case of a minority group of employees of a particular employer, any industry, multi-industry or other fund which has been approved in an award or an agreement approved by an industrial tribunal whether state or federal jurisdiction which has already had practical application to the majority of Award employees of that employer.
- (d) as to employees who belong to the religious fellowship known as the Brethren, who hold a Certificate issued pursuant to section 115 of the Act and are employed by an employer who also belongs to that fellowship, any fund nominated by the employer and approved by the Brethren.
- (e) any fund agreed between an employer and an employee who holds a Certificate issued pursuant to section 115 of the Act where membership of a fund cited in an award would be in conflict with the conscientious beliefs of that employee in terms of section 115 of the Act.
- (f) in relation to any particular employer, any other established fund to which that employer was already actually making regular and genuine contributions in accordance with clause 5.4.2 on behalf of at least a significant number of that employer's employees.
- (g) the employer and employee may agree to have the employee's superannuation contributions made to an approved superannuation fund, other than those specified in this Award.
 - (i) Any such agreement must be recorded in writing and signed by the employer and employee and kept on the employee's file.
 - (ii) A person must not coerce someone else to make an agreement.
 - (iii) Such agreement, where made, will continue until such time as the employer and employee agree otherwise, and shall be made available to relevant persons for the purposes of sections 371 and 373 (inspection of time and wage records) of the Act.
 - (iv) Any dispute arising out of this process will be handled in accordance with the grievance and dispute settling procedure as contained in clause 3.2.

5.4.5 *Challenge of a fund*

- (a) An eligible employee being a member or a potential member of a fund, as well as the Union, may by notification of a dispute to the Commission challenge a fund on the grounds that it does not meet the requirements of clause 5.4.
- (b) Notwithstanding that the Commission determines that a particular fund does not meet the requirements of clause 5.4, the Commission may in its discretion and subject to any recommendation, direction or order it may make, recognise any or all of the contributions previously made to that fund as having met the requirements or part thereof of clause 5.4.2 up to and including the date of that determination.
- (c) In the event of any dispute over whether any fund complies with the requirements of clause 5.4, the onus of proof shall rest upon the employer.

5.4.6 *Fund selection*

- (a) No employer shall be required to make or be prevented from making, at any one time, contributions into more than one approved fund. Such fund, other than a fund referred to in clauses 5.4.4(c), (d), (e), (f) and (g) shall be determined by a majority decision of employees.
- (b) Employees who are members of an established fund covered by clause 5.4.4(f) shall have the right by majority decision to choose to have the contributions specified in clause 5.4.2 paid into a fund as provided for elsewhere in clause 5.4.4 in lieu of the established fund to which clause 5.4.4(f) has application.
- (c) The initial selection of a fund recognised in clause 5.4.4 shall not preclude a subsequent decision by the majority of employees in favour of another fund recognised under clause 5.4.4 where the long-term performance of the fund is clearly disappointing.
- (d) Where clause 5.4.6 has been utilised and as a result another approved fund is determined, access to a further re-appraisal of the fund for the purpose of favouring yet another fund shall not be available until a period of 3 years has elapsed after that utilisation.

5.4.7 *Enrolment*

- (a) Each employer to whom clause 5.4 applies shall as soon as practicable as to both current and future eligible employees:

- (i) notify each employee of the employee's entitlement to occupational superannuation;
 - (ii) consult as may be necessary to facilitate the selection by employees of an appropriate fund within the meaning of clause 5.4.4;
 - (iii) take all reasonable steps to ensure that upon the determination of an appropriate fund, each eligible employee receives, completes, signs and returns the necessary application form/s provided by the employer, to enable that employee to become a member of the fund; and
 - (iv) submit completed application form/s and any other relevant material to the trustees of the fund.
- (b) Each employee upon becoming eligible to become a member of a fund determined in accordance with clause 5.4 shall:
- (i) complete and sign the necessary application form/s to enable that employee to become a member of that fund; and
 - (ii) return such form/s to the employer within 28 days of receipt of the application form/s in order to be entitled to the benefit of the contributions prescribed in clause 5.4.2.
- (c) Where an employer has complied with the requirements of clause 5.4.7(a) and an eligible employee fails to complete, sign and return the application form/s within 28 days of the receipt by the employee of that form/s, then that employer shall:
- (i) advise the eligible employee in writing of the non-receipt of the application form/s and further advise the eligible employee that continuing failure to complete, sign and return such form/s within 14 days could jeopardise the employee's entitlement to the occupational superannuation benefit prescribed by clause 5.4;
 - (ii) in the event that the eligible employee fails to complete, sign and return such application form/s within the specified period of 14 days be under no obligation to make any occupational superannuation contributions in respect of such eligible employee excepting as from any subsequent date from which the completed and signed application form/s is received by the employer;
 - (iii) in the event that the eligible employee fails to return a completed and signed application form/s within a period of 6 months from the date of the original request by the employer, again advise that eligible employee in writing of the entitlement and that the receipt by the employer of a completed and signed application form/s is a pre-requisite to the payment of any occupational superannuation contributions; and
 - (iv) at the same time as advising the eligible employee pursuant to clause 5.4.7(c)(iii) submit both to the Chief Industrial Inspector, Brisbane and to the Union a copy of each letter forwarded by the employer to the eligible employee pursuant to clauses 5.4.7(c)(i) and 5.4.7(c)(iii).
- (d) Where an employer fails to provide an eligible employee with an application form/s in accordance with clause 5.4.7(a)(iii) the employer shall be obliged to make contributions as from the date the employee became an eligible employee provided that the eligible employee completes, signs and returns to the employer an application form/s within 28 days of being provided with the application form/s by the employer. Where the eligible employee fails to complete, sign and return an application form/s within such period of 28 days the provisions of clause 5.4.7(c) shall apply.

5.4.8 *Unpaid contributions*

Subject to Chapter 11, Part 2, Division 5 of the Act and to clause 5.4.5, where the discretion of the Commission has been exercised, should it be established that the employer has failed to comply with the requirements of clause 5.4.2 in respect of any eligible employee such employer shall be liable to make the appropriate contributions retrospectively to the date of eligibility of the employee, plus an amount equivalent to the rate of return those contributions would have attracted in the relevant approved fund, or as necessary a fund to be determined by the Commission under clause 5.4.5, had they been paid on the due dates. The making of such contributions satisfies the requirements of clause 5.4 excepting that resort to clause 5.4.8 shall not limit any common law action which may be available in relation to death, disablement or any similar cover existing within the terms of a relevant fund.

5.4.9 *Exemptions*

An employer may apply to the Commission for exemption from all or any of the provisions of clause 5.4 in the following circumstances:

- (a) incapacity to pay the costs associated with its implementation; or
- (b) any special or compelling circumstances peculiar to the business of the employer.

PART 6 - HOURS OF WORK, BREAKS, OVERTIME, SHIFT WORK, WEEKEND WORK

6.1 Hours of work

6.1.1 Operation of 38 hour week

- (a) Subject to clause 6.1.2 and subject to the exceptions hereinafter provided, the ordinary hours of work shall be an average of 38 per week, to be worked on one of the following bases:
 - (i) 38 hours within a cycle not exceeding 7 consecutive days;
 - (ii) 76 hours within a work cycle not exceeding 14 consecutive days;
 - (iii) 114 hours within a work cycle not exceeding 21 consecutive days; or
 - (iv) 152 hours within a work cycle not exceeding 28 days.

(b) The ordinary hours of work shall not exceed 10 hours per day.

(c) Where necessary, employees shall commence their ordinary hours and breaks at different times to ensure continuity of service.

(d) The ordinary starting and finishing times may be altered to suit geographic, safety, climatic or traffic conditions by the employer with the agreement of the majority of employees concerned:

Provided that any such altered starting and finishing time will not invoke any penalty payment that would not be payable if the Award spread of hours was observed.

(e) Employees are required to observe the nominated starting and finishing times for the work day, including designated breaks to maximise available working time. Preparation for work and cleaning up of the employee's person shall be in the employee's time.

(f) Where a rostered day falls on a public holiday, the following day may be taken where practicable in lieu thereof or the employee and the employer may agree to an alternative day off duty as substitution.

(g) Pay averaging

Employees shall be entitled to a week's wages in accordance with clause 5.1 for each week of the cycle.

(h) The entitlement to a rostered day off on full pay shall be subject to the following:

(i) each day of paid leave taken (not including annual leave, long service leave) and any public holiday occurring during any cycle of 4 weeks shall be regarded as a day worked for accrual purposes.

(ii) an employee who has not worked a complete 4 week cycle in order to accrue a rostered day off shall be paid a *pro rata* amount for credits accrued for each day worked in such cycle payable for the rostered day off (i.e. an amount of 24 minutes for each 8 hour day worked or 2 hours for each 38 hours worked).

For the purposes of clause 6.1.1(h), "worked" includes paid leave referred to in clause 6.1.1(h)(i).

(i) Sickness on a rostered day off which has resulted from the 19 days month work cycle

Where an employee is sick or injured on their rostered day off the employee shall not be entitled to sick pay nor shall their sick pay entitlement be reduced as a result of the sickness or injury on that day.

(j) Payment of wages

In the event that an employee by virtue of the arrangement of the employee's ordinary working hours is rostered off duty on a day which coincides with pay day, such employee shall be paid no later than the working day immediately following such pay day.

6.1.2 Implementation of a 38 hour week

- (a) The 38 hour week shall be implemented on one of the following bases, most suitable to each location, after consultation with and giving reasonable consideration to the wishes of the employees concerned:
 - (i) by employees working less than 8 ordinary hours each day;
 - (ii) by employees working less than 8 ordinary hours on one or more days each work cycle;
 - (iii) by fixing one or more work days on which all employees will be off during a particular work cycle; or
 - (iv) by rostering employees off on various days of the week during a particular work cycle, so that each employee has one work day off during that cycle.
- (b) Subject to clause 6.1.2, employees may agree that the ordinary hours of work are to exceed 8 on any day, thus enabling more than one work day to be taken off during a particular work cycle.
- (c) Notwithstanding any other provision in clause 6.1.2, where the arrangement of ordinary hours of work provides for a rostered day off, the employer and the employee concerned, may agree to accrue up to a maximum of 5 rostered days off. Where such agreement has been reached, the accrued rostered days off shall be taken within 12 calendar months of the date on which the first rostered day off was accrued. Consent to accrue rostered days off shall not be unreasonably withheld by either party.
- (d) Different methods of implementation of the 38 hour week may apply to individual employees, groups or sections of employees in each location concerned.

6.1.3 *Procedure for discussions - 38 hour week*

- (a) The employer and all employees concerned in each establishment shall consult over the most appropriate means of implementing and working a 38 hour week.
- (b) The object of such consultation shall be to reach agreement on the method of implementing and working the 38 hour week in accordance with clause 6.1.
- (c) The outcome of such consultation shall be recorded in writing.
- (d) In cases where agreement cannot be reached as a result of consultation between the parties, either party may request the assistance or advice of their relevant employee or employer organisation.
- (e) Notwithstanding the consultative procedures outlined above, and notwithstanding any lack of agreement by employees, the employer shall have the right to make the final determination as to the method by which the 38 hour week is implemented from time to time.
- (f) After implementation of the 38 hour week, upon giving 7 days' notice, or such shorter period as may be mutually agreed upon, the method of working the 38 hour week may be altered, from time to time, following negotiations between the employer and employees concerned, utilising the foregoing provisions of clause 6.1.3, including 6.1.3 (e).

6.1.4 A roster setting out the employee's days off duty and starting and finishing times on such days shall be displayed in a place conveniently accessible to employees at least 3 days before the commencement of each week.

6.1.5 Rosters shall provide a minimum of 10 hours' break between the finish of ordinary hours on one day and the commencement of ordinary hours on the following day.

6.1.6 Thirty-eight (38) hours shall constitute a week's work to be worked (except where specially provided) on 5 days of the week, Monday to Friday inclusive. A day's work shall consist of 8 hours, and shall be worked between hours as mutually arranged between the employer and the Branch Secretary of The Australian Workers' Union of Employees, Queensland.

6.1.7 Where it is necessary to work 3 shifts the work shall, subject to clause 6.1.6 hereof, be performed as follows:

- (a) day shift - 6 a.m. to 2 p.m. Mondays to Fridays inclusive.
- (b) afternoon shift - 2 p.m. to 10 p.m. Mondays to Fridays inclusive.
- (c) night shift - 10 p.m. Mondays to Fridays to 6 a.m. on the following days.

6.1.8 Where it is necessary to work 2 shifts the work shall, subject to clause 6.1.6 hereof, be performed as follows:

- (a) morning shift - 6 a.m. to 2 p.m. Monday to Friday inclusive.

(b) afternoon shift - 2 p.m. to 10 p.m. Monday to Friday inclusive.

6.1.9 Notwithstanding the above shifts in clause 6.1.7 hereof, agreement may be reached on other shift rosters, after discussion and mutual arrangement between the employer and the majority of employees concerned.

6.1.10 Where more than one shift per day is worked, one half-hour shall be allowed for meals in the employer's time during each 8 hour shift. Day workers shall be allowed not more than one hour for a meal during each shift, such time not to count as working time.

6.1.11 An employee shall be given at least 48 hours' notice of a change in his roster. During the period up until the expiration of such notice all time worked outside the hours specified in the employee's roster as it stood prior to the giving of the notice shall be deemed overtime and paid as such.

6.2 Meal breaks and meal allowance

6.2.1 Unless otherwise provided herein all employees shall be allowed unpaid time for a meal not later than 5 hours after their ordinary starting time each day:

Provided that the time allowed for such meal shall not be less than one half-hour and shall be unpaid.

6.2.2 Where an employee is required to work more than one and a half-hours beyond his or her conclusion of ordinary hours of work a meal allowance of \$9.60 shall be paid unless such meal is provided by the employer.

6.3 Rest pauses

Every employee covered by this Award shall be entitled to a rest pause of 10 minutes' duration in the employer's time in the first and second half of his daily work. Such rest pauses shall be taken at such times as will not interfere with continuity of work where continuity is necessary.

An employee who is required to work overtime for more than one and a-half hours after the normal ceasing time, shall be allowed 30 minutes for a crib prior to commencing the overtime on ordinary rates of pay. After each further period of 4 hours worked such an employee shall be allowed 45 minutes for a crib in the employer's time, and shall be supplied with a substantial meal by the employer or shall be paid \$9.60 in lieu thereof.

6.4 Overtime

6.4.1 *Day Workers* - Subject to clause 6.1.1(b), all time worked in excess of 8 hours on any one day Monday to Friday inclusive or outside of the ordinary working hours or in excess of 38 hours in any one week shall be paid for at the rate of time and a-half for the first 3 hours and at the rate of double time thereafter.

6.4.2 All time worked on a Saturday shall be paid for at the rate of time and a-half for the first 3 hours and double time thereafter, with a minimum of 3 hours' work or payment therefor.

6.4.3 All time worked on Sundays shall be deemed to be overtime and shall be paid for at the rate of double time.

6.4.4 Any employee required to work overtime on a Sunday shall be provided with a minimum of 3 hours' work or payment therefore.

6.4.5 All time worked during the ordinary meal hour shall be paid for at the rate of double time and such rate shall continue to be paid until a meal period of the prescribed duration has commenced.

6.4.6 *Shift Workers* - All overtime worked by shift workers shall be paid for at the rate of double time.

6.4.7 Any shift worker required to work overtime on a Saturday or Sunday shall be provided with a minimum of 3 hours' work or payment therefore:

Provided that this minimum shall not apply where overtime worked by shift workers is continuous with their shift work.

6.4.8 All work performed on their ordinary shifts by continuous shift workers between midnight Friday and midnight Sunday shall be paid at the rate of time and a-half.

6.4.9 An employee who works so much overtime between the termination of his ordinary work on one day and the commencement of his ordinary work on the next day that he has not at least 10 consecutive hours off duty between those times shall be released after completion of such overtime until he has had 10 consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

- 6.4.10 If on the instructions of his employer such an employee resumes or continues work without having had such 10 consecutive hours off duty, he shall be paid double rates until he is released from duty for such period and he shall then be entitled to be absent until he has had 10 consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.
- 6.4.11 The provisions of clause 6.4.11 shall apply in the case of shift workers who rotate from one shift to another as if 8 hours were substituted for 10 hours when overtime is worked:
- (a) for the purposes of changing shift rosters;
 - (b) where a shift worker does not report for duty; or
 - (c) where a shift is worked by arrangement between the employees themselves.

6.5 Shift work

- 6.5.1 All shift workers are entitled to the following allowance in addition to the rates of pay prescribed in clause 5.1 of this Award:
- (a) *Afternoon Shift Allowance*
Afternoon Shift - 2 p.m. to 10 p.m. Mondays to Fridays inclusive.
The percentage allowance to be 12.5% or \$9.70 per shift (whichever is the greater).
 - (b) *Night Shift Allowance*
Night Shift - 10 p.m. Mondays to Fridays to 6 a.m. on the following days.
The percentage allowance to be 15% or \$9.70 per shift (whichever is the greater).

PART 7 - LEAVE OF ABSENCE AND PUBLIC HOLIDAYS

7.1 Annual Leave

- 7.1.1 Every employee (other than a casual employee) covered by this Award shall at the end of each year of his employment be entitled to an annual holiday on full pay as follows:
- (a) not less than 5 weeks if employed on shift work where 3 shifts per day are worked over a period of 7 days per week; or
 - (b) not less than 4 weeks in any other case. For the purposes of this provision "year of employment" shall mean and include any year of employment completed on or after 3 December 1973. Such annual holiday shall be exclusive of any statutory holiday which may occur during the period of that annual holiday and (subject to clause 7.1.7) shall be paid for by the employer in advance:

In the case of any and every employee in receipt immediately prior to that holiday of ordinary pay at a rate in excess of the ordinary rate payable under this Award, at that excess rate; and

In every other case, at the ordinary rate payable to the employee concerned immediately prior to that holiday under this Award.

- 7.1.2 If the employment of any employee is terminated at the expiration of a full year of employment, the employer shall be deemed to have given the holiday to the employee from the date of the termination of the employment and shall forthwith pay to the employee in addition to all other amounts due to him, his pay, calculated in accordance with clause 7.1.7, for 4 or 5 weeks as the case may be and also his ordinary pay for any statutory holiday occurring during such period of 4 or 5 weeks.
- 7.1.3 If the employment of any employee is terminated before the expiration of a full year of employment, such employee shall be paid, in addition to all other amounts due to him, and amount equal to one-ninth of his pay for the period of his employment if he is an employee to whom clause 7.1.1(a) above applies, and one-twelfth of his pay for the period of his employment if he is an employee to whom clause 7.1.1(b) above applies, calculated in accordance with clause 7.1.7.
- 7.1.4 Should any statutory holidays occur during such period of annual holiday one additional day's holiday shall be granted for every holiday so occurring:

Provided that should any statutory holiday occur on a working day on which a shift worker is rostered off duty,

the shift worker concerned shall be paid an additional day's wage or an extra day shall be added to his annual holiday.

7.1.5 Except as hereinbefore provided, it shall not be lawful for the employer to give or for any employee to receive payment in lieu of annual holiday.

7.1.6 Annual holiday shall be in addition to any notice which may be given for the termination of employment. Reasonable notice of the commencement of such leave shall be given to the employee.

7.1.7 *Calculation of annual holiday pay* - In respect to annual holiday entitlements to which clause 7.1.7 applies, annual holiday pay (including any proportionate payments) shall be calculated as follows:

(a) Shift Workers - Subject to clause 7.1.7(c), the rate of wage to be paid to a shift worker shall be the rate payable for work in ordinary time according to the employee's roster or projected roster, including Saturday, Sunday or holiday shifts.

(b) Leading Hands - Subject to clause 7.1.7(c), leading hand allowance and amounts of a like nature otherwise payable for ordinary time worked shall be included in the wages to be paid to employees during annual holidays.

(c) All employees - Subject to the provisions of clause 7.1.7(d), in no case shall the payment by an employer to an employee be less than the sum of the following amounts:

(i) the employee's ordinary wage rate as prescribed by this Award for the period of the annual holiday (excluding shift premiums and week-end penalty rates);

(ii) leading hand allowance or amounts of a like nature; and

(iii) a further amount calculated at the rate of 17 $\frac{1}{2}$ % of the amounts referred to in clause 7.1.7(c)(i) and (ii).

(d) The provisions of clause 7.1.7(c) hereof shall not apply to the following:

(i) any period or periods of annual holidays exceeding:

(A) 5 weeks in the case of employees employed in a calling where 3 shifts per day are worked over a period of 7 days per week; or

(B) 4 weeks in any other case.

(ii) employers (and the employees) who are already paying (or receiving) an annual holiday bonus, loading or other annual holiday payment which is not less favourable to employees.

7.2 Sick leave

7.2.1 Entitlement

(a) Every employee, except casuals and school-based apprentices and trainees, is entitled to one day's sick leave for each 6 weeks of such period:

Provided that part-time employees accrue sick leave on a proportional basis.

(b) This entitlement will accrue at the rate of 8.6 hours' sick leave for each 6 weeks of employment.

(c) Payment for sick leave will be made based on the number of hours which would have been worked by the employee if the employee were not absent on sick leave.

(d) Sick leave may be taken for part of a day.

(e) Sick leave shall be cumulative, but unless the employer and employee otherwise agree, no employee shall be entitled to receive, and no employer shall be bound to make, payment for more than 13 weeks' absence from work through illness in any one year.

7.2.2 Employee must give notice

The payment of sick leave is subject to the employee promptly advising the employer of the employee's absence and its expected duration.

7.2.3 *Evidence supporting a claim*

When the employee's absence is for more than 2 days the employee is required to give the employer a doctor's certificate, or other reasonably acceptable evidence, about the nature and approximate duration of the illness.

7.2.4 *Accumulated sick leave*

An employee's accumulated sick leave entitlements are preserved when:

- (a) the employee is absent from work on unpaid leave granted by the employer;
- (b) the employer or employee terminates the employee's employment and the employee is re-employed within 3 months; or
- (c) the employee's employment is terminated because of illness or injury and the employee is re-employed by the same employer without having been employed in the interim.

The employee accumulates sick leave entitlements whilst absent from work on paid leave granted by the employer.

7.2.5 *Workers' compensation*

Where an employee is in receipt of workers' compensation, the employee is not entitled to payment of sick leave.

7.3 Bereavement leave

7.3.1 *Full-time and part-time employees*

Full-time and part-time employees shall, on the death of a member of their immediate family or household in Australia, be entitled to paid bereavement leave up to and including the day of the funeral of such person. Such leave shall be without deduction of pay for a period not exceeding the number of hours worked by the employee in 2 ordinary days of work. Proof of such death is to be furnished by the employee to the satisfaction of the employer.

7.3.2 *Long-term casual employees*

- (a) A long-term casual employee is entitled to at least 2 days' unpaid bereavement leave on the death of a member of the person's immediate family or household in Australia.
- (b) A "long-term casual employee" is a casual employee engaged by a particular employer, on a regular and systematic basis, for several periods of employment during a period of at least one year immediately before the employee seeks to access an entitlement under clause 7.3.2.

7.3.3 "Immediate family" includes:

- (a) a spouse (including a former spouse, a de facto spouse and a former de facto spouse, spouse of the same sex) of the employee; and
- (b) a child or an adult child (including an adopted child, a foster child, an ex-foster child, a stepchild or an ex-nuptial child), parent, grandparent, grandchild or sibling of the employee or spouse of the employee.

7.3.4 *Unpaid leave*

An employee with the consent of the employer, may apply for unpaid leave when a member of the employee's immediate family or household in Australia dies and the period of bereavement leave entitlement provided above is insufficient.

7.4 Long service leave

All employees covered by this Award are entitled to long service leave on full pay under, subject to, and in accordance with, the provisions of Chapter 2, Part 3, sections 42-58 of the Act as amended from time to time.

7.5 Family leave

The provisions of the Family Leave Award apply to and are deemed to form part of this Award.

7.5.1 It is to be noted that:

- (a) part-time work can be performed by agreement in the circumstances specified in the Family Leave Award;

- (b) a copy of the Family Leave Award is required to be displayed in accordance with section 697 of the Act.

7.5.2 The Family Leave Award also provides for the terms and conditions of leave associated with:

- (a) Maternity leave
- (b) Parental leave
- (c) Adoption leave
- (d) Special responsibility leave for the care and support of the employee's immediate family or household.

7.6 Public holidays

7.6.1 Subject to clause 7.6.7 all work done by any employee on:

- the 1st January;
- the 26th January;
- Good Friday;
- Easter Saturday (the day after Good Friday);
- Easter Monday;
- the 25th April (Anzac Day);
- The Birthday of the Sovereign;
- Christmas Day;
- Boxing Day; or
- any day appointed under the *Holidays Act 1983*, to be kept in place of any such holiday

will be paid for at the rate of double time and a-half with a minimum of 4 hours.

7.6.2 Labour Day

All employees covered by this Award are entitled to be paid a full day's wage for Labour Day (the first Monday in May or other day appointed under the *Holidays Act 1983*, to be kept in place of that holiday) irrespective of the fact that no work may be performed on such day, and if any employee concerned actually works on Labour Day, such employee will be paid a full day's wage for that day and in addition a payment for the time actually worked by the employee at one and a-half times the ordinary time rate of pay prescribed for such work with a minimum of 4 hours.

7.6.3 Annual show

All work done by employees in a district specified from time to time by the Minister by notification published in the *Industrial Gazette* on the day appointed under the *Holidays Act 1983*, to be kept as a holiday in relation to the annual agricultural, horticultural or industrial show held at the principal city or town, as specified in such notification of such district will be paid for at the rate of double time and a-half with a minimum of 4 hours.

In a district in which a holiday is not appointed for an annual agricultural, horticultural or industrial show, the employee and employer must agree on an ordinary working day that is to be treated as a show holiday for all purposes.

7.6.4 Employees who do not work Monday to Friday of each week

Employees who do not ordinarily work Monday to Friday of each week are entitled to public holidays as follows:

- (a) a full-time employee is entitled to either payment for each public holiday or a substituted day's leave;
- (b) a part-time employee is entitled to either payment for each public holiday or a substituted day's leave;

Provided that the part-time employee would have been ordinarily rostered to work on that day had it not been a public holiday.
- (c) where a public holiday would have fallen on a Saturday or a Sunday but is substituted for another day all employees who would ordinarily have worked on such Saturday or Sunday but who are not rostered to work on such day are entitled to payment for the public holiday or a substituted day's leave;
- (d) where Christmas Day falls on a Saturday or a Sunday and the public holiday is observed on another day an employee required to work on Christmas Day (i.e. 25th December) is to be paid at the rate of double time; and
- (e) nothing in clause 7.6.4 confers a right to any employee to payment for a public holiday as well as a

substituted day in lieu.

7.6.5 *Double time and a-half*

For the purposes of clause 7.6 "double time and a-half" means one and a-half day's wages in addition to the employee's ordinary time rate of pay or *pro rata* if there is more or less than a day.

7.6.6 *Stand down*

Any employee, with 2 weeks or more of continuous service, whose employment has been terminated by the employer or who has been stood down by the employer during the month of December, and who is re-employed in January of the following year, shall be entitled to payment at the ordinary rate payable to that employee when they were dismissed or stood down, for any one or more of the following holidays, namely, Christmas Day, Boxing Day and New Year's Day.

7.6.7 *Substitution*

Where there is agreement between the employer and the majority of employees concerned, a public holiday may be substituted for another day. If such other day is worked, then payment for that day will be at the rate of double time and a-half at the employees' ordinary time rate of pay.

7.7 **Jury service**

- (a) An employee, other than a casual employee, required to attend for jury service during their ordinary working hours shall be reimbursed by the employer an amount equal to the difference between the amount paid in respect of their attendance for such jury service and the ordinary pay the employee would have been paid if the employee was not absent on jury service.
- (b) Alternatively, by agreement, fees (other than meal allowance) received by the employee to attend jury service will be paid to the employer and the employer will continue to pay the employee their ordinary pay for the time the employee was absent on jury service.
- (c) Employees shall notify their employer as soon as practicable of the date upon which they are required to attend for jury service and shall provide their employer with proof of such attendance, the duration of such attendance and the amount received in respect thereof.
- (d) If the employee is not required to serve on a jury for a day or part of a day after attending for jury service and the employee would ordinarily be working for all or part of the remaining day, the employee must, if practicable, present for work at the earliest reasonable opportunity.
- (e) "Ordinary pay" means the rate of pay that an employee would normally expect to receive for working ordinary hours on an ordinary day of the week, including any over-award payment. "Ordinary pay" excludes overtime, penalty rates of all types - including those attaching to working ordinary hours (for example) on a Saturday, disability allowances, shift allowances, special rates, fares and travelling time allowances, bonuses and other ancillary payments of a like nature.

PART 8 - TRANSFERS, TRAVELLING AND WORKING AWAY FROM USUAL PLACE OF WORK

No provisions inserted in this Award relevant to this Part.

PART 9 - TRAINING AND RELATED MATTERS

9.1 Commitment to training

The parties to this Award recognise that in order to increase the efficiency and productivity of the enterprise and also the national and international competitiveness of the industries covered by this Award, a greater commitment to training and skill development is required. Accordingly, the parties commit themselves to:

- (a) developing a more highly skilled and flexible workforce;
- (b) providing employees with career opportunities through appropriate training to acquire additional skills; and
- (c) removing barriers to the use of skills acquired.

PART 10 - OCCUPATIONAL HEALTH AND SAFETY MATTERS, EQUIPMENT, TOOLS AND AMENITIES

10.1 Transportation to hospital

Where employees are injured seriously or fall seriously ill at their work, the employer shall provide means of getting them to the nearest hospital, or pay expenses of transmission to hospital.

10.2 First aid kits

First-aid kits in suitable and secure cases shall be provided at central position on the works, so as to be at all times readily available for the use of employees.

10.3 Amenities

10.3.1 The employer shall supply at all works necessary change rooms, with hot showers, and a sufficient supply of boiling water at meal hours.

10.3.2 Water for drinking and washing purposes shall be supplied, and water for drinking purposes shall be boiled water, tank water, well water, or other uncontaminated water. A vessel with a covered top and tap shall be provided for holding such water.

10.3.3 A suitable dining-room and change room shall be supplied for employees adjacent to the works.

10.3.4 Suitable and sufficient sanitary accommodation shall be supplied and shall be kept clean by the employer.

10.3.5 A clock shall be supplied by the employer and installed in a central position in the works.

10.4 Protective clothing

Each employee shall be supplied with 3 pairs of shorts, 3 pairs of trousers, 3 shirts and one pair of boots per year for use in the performance of his work. Such clothing and boots shall remain the property of the employer but shall be maintained by the employee. Upon a termination of employment the employer may request the employee to return the current issue of clothing and boots. Should an employee fail, upon request by the employer, to return such clothing and boots, the value of the clothing and boots not returned, shall be deductible from wages owing. In assessing the amount to be deducted, due regard shall be given to fair wear and tear of the clothing and boots supplied. In lieu of the supply of one pair of boots the employer may pay 50 cents per week.

PART 11 - AWARD COMPLIANCE AND UNION RELATED MATTERS

Preamble

Clauses 11.1 and 11.2 replicate legislative provisions contained within the Act. In order to ensure the currency of existing legal requirements parties are advised to refer to sections 366, 372 and 373 of the Act as amended from time to time.

11.1 Right of entry

11.1.1 Authorised industrial officer

- (a) An "Authorised industrial officer" is any Union official holding a current authority issued by the Industrial Registrar.
- (b) Right of entry is limited to workplaces where the work performed falls within the registered coverage of the Union.

11.1.2 Entry procedure

- (a) The authorised industrial officer is entitled to enter the workplace during normal business hours as long as:
 - (i) the authorised industrial officer alerts the employer or other person in charge of the workplace to their presence; and
 - (ii) shows their authorisation upon request.
- (b) Clause 11.1.2(a)(i) does not apply if the authorised industrial officer establishes that the employer or other person in charge is absent.
- (c) A person must not obstruct or hinder any authorised industrial officer exercising their right of entry.

- (d) If the authorised industrial officer intentionally disregards a condition of clause 11.1.2 the authorised industrial officer may be treated as a trespasser.

11.1.3 *Inspection of records*

- (a) An authorised industrial officer is entitled to inspect the time and wages record required to be kept under section 366 of the Act.
- (b) An authorised industrial officer is entitled to inspect such time and wages records of any former or current employee except if the employee:
 - (i) is ineligible to become a member of the Union;
 - (ii) is a party to a QWA or ancillary document, unless the employee has given written consent for the records to be inspected; or
 - (iii) has made a written request to the employer that they do not want their record inspected.
- (c) The authorised industrial officer may make a copy of the record, but cannot require any help from the employer.
- (d) A person must not coerce an employee or prospective employee into consenting, or refusing to consent, to the inspection of their records by an authorised industrial officer.

11.1.4 *Discussions with employees*

An authorised industrial officer is entitled to discuss with the employer, or a member or employee eligible to become a member of the Union:

- (a) matters under the Act during working or non-working time; and
- (b) any other matter with a member or employee eligible to become a member of the Union, during non-working time.

11.1.5 *Conduct*

An authorised industrial officer must not unreasonably interfere with the performance of work in exercising a right of entry.

11.2 Time and wages record

11.2.1 An employer must keep, at the place of work in Queensland, a time and wages record that contains the following particulars for each pay period for each employee, including apprentices and trainees:

- (a) the employee's award classification;
- (b) the employer's full name;
- (c) the name of the award under which the employee is working;
- (d) the number of hours worked by the employee during each day and week, the times at which the employee started and stopped work, and details of work breaks including meal breaks;
- (e) a weekly, daily or hourly wage rate - details of the wage rate for each week, day, or hour at which the employee is paid;
- (f) the gross and net wages paid to the employee;
- (g) details of any deductions made from the wages; and
- (h) contributions made by the employer to a superannuation fund.

11.2.2 The time and wages record must also contain:

- (a) the employee's full name and address;
- (b) the employee's date of birth;

- (c) details of sick leave credited or approved, and sick leave payments to the employee;
- (d) the date when the employee became an employee of the employer;
- (e) if appropriate, the date when the employee ceased employment with the employer; and
- (f) if a casual employee's entitlement to long service leave is worked out under section 47 of the Act - the total hours, other than overtime, worked by the employee since the start of the period to which the entitlement relates, worked out to and including 30 June in each year.

11.2.3 The employer must keep the record for 6 years.

11.2.4 Such records shall be open to inspection during the employer's business hours by an inspector of the Department of Industrial Relations, in accordance with section 371 of the Act or an authorised industrial officer in accordance with sections 372 and 373 of the Act.

11.3 Trade union training leave

11.3.1 Upon application to the employer by the accredited employee representative which is endorsed by the Union and on giving at least one month's notice, such employee shall be granted up to 5 working days' leave (non-cumulative) on ordinary pay each calendar year to attend courses and seminars conducted by a relevant registered provider or the Union.

11.3.2 The granting of such leave shall be subject to the convenience of the employer and will not unduly affect the operations of the employer.

11.3.3 The scope, content and level of the course shall be such as to contribute to a better understanding of industrial relations within the employer's operations.

11.3.4 The employer may make may seek to verify with those employees who have been released on trade union training leave to satisfy the employer that such employees actually attend such trade union training leave.

11.3.5 Such paid leave will not affect other leave granted to employees.

11.4 Posting of award

A true copy of this Award must be exhibited in a conspicuous and convenient place on the premises of the employer so as to be easily read by employees.

11.5 Union encouragement

Preamble

Clause 11.5 gives effect to section 110 of the Act in its entirety. Consistent with section 110 a Full Bench of the 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 the Union.

11.5.1 Documentation to be provided by employer

At the point of engagement, the employer shall provide employees with a document indicating that a Statement of Policy on Union Encouragement has been issued by the Commission, a copy of which is to be kept on the Premises of the employer in a place readily accessible by each employee.

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

11.5.2 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.

Dated 3 June 2005.

By the Commission,
[L.S.] G.D. SAVILL,

Operative Date: 1 February 2005.
New Award - A J Bush and Sons (Manufactures) Pty Ltd Award - 2005

