

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

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

**Local Government Association of Queensland Ltd AND
The Australian Workers' Union of Employees, Queensland and Others (A/2011/44)**

**AWARD FOR ACCOMMODATION AND CARE SERVICES EMPLOYEES FOR AGED PERSONS - STATE
(EXCLUDING SOUTH-EAST QUEENSLAND) 2004**

COMMISSIONER THOMPSON

31 January 2012

AMENDMENT

This matter coming on for hearing before the Commission at Brisbane on 31 January 2012 this Commission orders that the said Award be amended as follows as from 31 January 2012:

1. By deleting clause 1.4.3 and inserting the following in lieu thereof:

1.4.3 This Award shall not apply to employees of the Government of Queensland as identified in Chapter 15 of the Act.

2. By deleting clauses 4.7.12(a) and 4.7.12(b) and inserting the following in lieu thereof:

(a) Subject to an order of the Commission, in a particular redundancy case, clause 4.7 shall not apply to an employer that employs 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.

3. By deleting clause 4.8.1(a) and inserting the following in lieu thereof:

(a) discrimination on the basis of sex, relationship status, family responsibilities, pregnancy, parental status, breastfeeding, age, race, impairment, religious belief or religious activity, political belief or activity, trade union activity, lawful sexual activity, gender identity, sexuality and association with, or relation to, a person identified on the basis of the above attributes;

4. By deleting clause 5.2 and inserting the following in lieu thereof:

5.2 Juniors

5.2.1 The minimum rates of wages for juniors shall be:

	%
Under 18 years of age	65

5.2.2 Junior rates shall be calculated in multiples of 10 cents with any result of 5 cents or more being taken to the next highest 10 cent multiple.

5.2.3 Any junior employee required to perform the work of a head cook or other cook shall be paid the rates prescribed for such employees.

5. By deleting clause 5.4 and inserting the following in lieu thereof:

5.4 Occupational superannuation

5.4.1 *Local Government Employees*

All Local Governments and Local Government Entities subject to this Award must comply with superannuation arrangements prescribed in the *Local Government Act 2009* and the *Local Government (Operations) Regulation 2010*.

Local Governments and their Entities employing persons defined as being "non-contributory members" of the LG Super Scheme pursuant to s. 223 of the *Local Government Act 2009*, shall on behalf of such employees, contribute an amount

to the LG Super Scheme that the Local Government must make to avoid being required to pay the superannuation guarantee charge under *Superannuation Guarantee (Administration) Act 1992* in respect to such employees.

5.4.2 *Non Local Government Employees*

(a) *Application* - In addition to the rates of pay prescribed in clause 5.1 of this Award, all employees employed under this Award or who are performing or executing work to which this Award ordinarily is applicable, other than those employees employed by an Employer referred to in clause 5.4.1 for which the LG Super Scheme applies, shall be entitled to occupational superannuation provisions as prescribed in clause 5.4.2.

(b) *Definitions*

(i) "The Fund" means Sunsuper as well as any other Occupational Superannuation Scheme approved in accordance with the Commonwealth Operational Standards for Occupational Superannuation Funds under the *Occupational Superannuation Standards Act 1987*.

(ii) "Contributory Wage" means -

(A) the ordinary weekly rate of pay applicable to each employee's classification as provided in clause 5.1; or

(B) the hourly rate of pay for casual employees as prescribed by clause 4.3.

(c) *Freedom of choice* - Each employee shall be given equal access to information regarding Sunsuper as well as such other approved Occupational Superannuation Schemes made available by the employer for the employee's consideration, in order that the employee is able to make an informed choice as to which Occupational Superannuation Scheme the employee wishes the employer to contribute the amount specified in clause 5.4.2(e).

The respective employer associations, or individual independent employers as necessary, and Union, undertake to monitor co-operation and compliance with the intent of clause 5.4.2(c).

(d) *Eligibility period* - An employer shall not be required to make contributions during the first 4 weeks of an employee's employment with that employer. However, after an employee has completed 4 weeks employment, the employer shall make such contributions as are prescribed by clause 5.4.2 and such contributions shall be backdated to the date the employee commenced employment with the employer.

Where an employee who works for an employer for a period of less than 4 weeks, then no payments under clause 5.4.2 shall be made.

(e) *Contributions*

Amount - As from 1 January 2005 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 this clause. Each such payment of contributions shall be rounded off to the nearest ten (10) cents:

Provided that where an employee is absent and is receiving by way of workers' compensation an amount of money no less than the award rate of pay the contribution shall be calculated at 3%.

Provided that in any instance where the amount as calculated above represents less than \$5.00 per fortnight, no contribution will be payable by the employer:

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.

(f) *Other Contributions* - The obligation upon an employer to make Occupational Superannuation contributions under clause 5.4.2, shall be in addition to and distinguishable from any contributions being made by such an employer in accordance with the Rules of any other particular Scheme prior to the introduction of clause 5.4.2.

(g) *Cessation of contributions* - The employer shall not be required to make any further contributions on behalf of any employee after the end of the last day from which the employee's resignation or dismissal becomes effective.

6. By deleting clause 7.3.1 and inserting the following in lieu thereof:

7.3.1 Full-time and part-time employees shall, on the death of a member of their immediate family or household 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. By deleting clause 7.4 and inserting the following in lieu thereof:

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, ss. 42-58 of the Act as amended from time to time.

Portability of long service leave entitlements for Local Government employees is provided pursuant to Division 4; Part 3; Chapter 5 - Administration, of the *Local Government (Operations) Regulation 2010*.

8. By deleting clause 7.5 and inserting the following in lieu thereof:

7.5 Family leave

The provisions of the *Family Leave Award 2003* 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 2003*;
- (b) a copy of the *Family Leave Award 2003* is required to be displayed in accordance with section 697 of the Act.

7.5.2 The *Family Leave Award 2003* also provides for the terms and conditions of leave associated with:

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

9. By deleting clauses 11.1.3(b)(ii) and (iii) and inserting the following in lieu thereof:

- (ii) has made a written request to the employer that they do not want their record inspected.

10. By deleting clause 11.2.4 and inserting the following in lieu thereof:

11.2.4 Such records shall be open to inspection during the employer's business hours by an inspector of the Department of Justice and Attorney-General, in accordance with s. 371 of the Act, or an authorised industrial officer in accordance with ss. 372 and 373 of the Act.

Dated 31 January 2012.

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

Operative Date: 31 January 2012
Amendment - Award review
Released: 6 March 2012