

CITATION: *Bag-Making Award - South-Eastern Division 2003*
Reprint of Award - 1 November 2010
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QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

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

BAG-MAKING AWARD - SOUTH-EASTERN DIVISION 2003

Following the Declaration of the General Ruling in the 2010 State Wage Case (matter numbers B/2010/20 and B/2010/21), the Bag-Making Award - South-Eastern Division 2003 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 Bag-Making Award - South-Eastern Division 2003 as at 1 September 2010.

Dated 1 November 2010.

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

BAG-MAKING AWARD - SOUTH-EASTERN DIVISION 2003

PART 1 - APPLICATION AND OPERATION

1.1 Title

This Award is known as the Bag-Making Award - South-Eastern Division 2003.

1.2 Arrangement

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1.3 Date of operation

This Award takes effect from 24 March 2003.

1.4 Coverage

This Award applies to employers and employees engaged in the calling of bag making and repairing in the South-Eastern Division of the State of Queensland.

For employees of the Bundaberg Bag Company in Bundaberg, refer to Schedule 1 for provisions relating to: mixed duties, classifications, wage rates, allowances, meal breaks and overtime.

1.5 Definitions

1.5.1 The "Act" shall be taken to mean 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 Australian Workers' Union of Employees, Queensland.

1.6 Area of operation

The South-Eastern Division of Queensland shall comprise the district within the following boundaries:

Commencing at Point Danger, and bounded then by the southern boundary of the State westerly to 151 degrees of east longitude; then by that degree of longitude bearing true north to 24 degrees 30 minutes of south latitude; then by that parallel of latitude bearing true east to the sea-coast; and then by the sea-coast southerly to the point of commencement.

1.7 Parties bound

This Award is legally binding upon the employees as prescribed by clause 1.4 and their employers, and The Australian Workers' Union of Employees, Queensland, 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 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.

3.1.1 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 may bypass this level in the procedure.

3.1.2 If the grievance or dispute is not resolved under clause 3.1.1, 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.

3.1.3 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 3.1.5.

3.1.4 If the grievance or dispute is still unresolved after discussions mentioned in clause 3.1.2, the matter shall, in the case of a member of the Union, be reported to the relevant officer of the 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 employer's nominated industrial representative. This should occur as soon as it is evident that discussions under clause 3.1.2 will not result in resolution of the dispute.

3.1.5 If, after discussion between the parties, or their nominees mentioned in clause 3.1.4, 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.

- 3.1.6 Whilst all of the above procedure is being followed, normal work shall continue except in the case of a genuine safety issue.
- 3.1.7 The *status quo* existing before the emergence of the grievance or dispute is to continue whilst the above procedure is being followed.
- 3.1.8 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.
- 3.1.9 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.
- 3.1.10 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 Contract of employment

- 4.1.1 Employees (other than casuals) 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 4.2); or
- (c) casual (as prescribed in clause 4.3).

4.2 Part-time employees

- 4.2.1 A part-time employee is an employee who:

- (a) is engaged to work on pre-determined days of the week for a regular number of hours;
- (b) works more than sixteen but less than 32 hours per week; and
- (c) receives, on a proportionate basis, equivalent pay and conditions to those of full-time employees who do the same kind of work.

- 4.2.2 An employer is required to roster a part-time employee for a minimum of 4 consecutive hours on any engagement.

- 4.2.3 A part-time employee who works in excess of the ordinary daily or weekly hours prescribed in the contract of employment shall be paid overtime in accordance with clause 6.3 (Overtime).

- 4.2.4 A regular part-time employee employed under the provisions of clause 4.2 must be paid for ordinary hours worked at the rate of 1/38th of the weekly rate prescribed for the class of work performed.

- 4.2.5 Where a public holiday falls on a day upon which an employee is normally engaged, that employee shall be paid the appropriate rate for the number of hours normally worked on that day.

- 4.2.6 Where an employee and their employer agree in writing, 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 an 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.

4.3 Casual employees

- 4.3.1 Casual employees (i.e. persons employed for not more than three days per week) shall be paid a loading of 23% per hour in addition to the appropriate hourly rate prescribed by this Award.

4.3.2 The hourly rate is to be ascertained by dividing the appropriate weekly rate by 38.

4.4 Piecework

4.4.1 Agreements for piecework may be entered into between an employer and the Southern District Secretary of the Union. The piecework rate shall be such as will enable the average employee to earn not less than 15% over the weekly rate fixed by this Award for the class of work performed. In no case shall the employee be paid less than the weekly rate fixed by this Award for the class of work performed.

4.4.2 Where an employee works as a pieceworker and as other than a pieceworker during any week, the employee shall be paid as a pieceworker for whatever time is worked at piecework and at not less than the minimum rate prescribed by this Award for the class or classes of work upon which such employee is employed for the remainder of the week.

4.5 Trainees

Trainees are engaged under this Award, except as amended from time to time by the Order for *Apprentices' and Trainees' Wages and Conditions (Excluding Certain Queensland Government Entities)*.

4.6 Anti-discrimination

4.6.1 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.

4.6.2 Accordingly, in fulfilling their obligations under the grievance and disputes 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.

4.6.3 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.

4.6.4 Nothing in clause 4.6 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*;

(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.

4.7 Termination of employment

4.7.1 Statement of employment

An employer shall, in the event of termination of employment, provide upon request to the employee who has been terminated a written statement specifying the period of employment and the classification or type of work performed by the employee.

4.7.2 Termination by employer

(a) An employer may dismiss an employee only if the employee has been given the following notice:

Period of Continuous Service	Period of Notice
Not more than 1 year	1 week
More than 1 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 (a) above, employees 45 years old or over and who have completed at least 2 years' continuous service with the employer 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) In calculating any payment in lieu of notice the minimum compensation payable to an employee will be at least the total of the amounts the employer would have been liable to pay the employee if the employee's employment had continued until the end of the required notice period. The total must be worked out on the basis of:
 - (i) the ordinary working hours to be worked by the employee; and
 - (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.
- (e) The period of notice in this clause shall not apply in the case of dismissal for misconduct or other grounds that justify instant dismissal, or in the case of a casual employee, or an employee engaged by the hour or day, or an employee engaged for a specific period or tasks.

4.7.3 *Notice of termination by employee*

The notice of termination required to be given by an employee shall be the same as that required of an employer, save and except that there shall be no additional notice based on the age of the employee concerned. 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 amount the employee would have received under clause 4.7.2.

4.7.4 *Time off during notice period*

During the period of notice of termination given by the employer, an employee shall be allowed up to one day's time off without loss of pay for the purpose of seeking other employment. This time off shall be taken at times that are convenient to the employee after consultation with the employer.

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 alternative 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 effects 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 in clause 4.9.1 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; and
 - (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 this clause in the Award transmitted from an employer (transmittor) to another employer (transmittee), and an employee who at the time of such transmission was an employee of the transmittor of the business, becomes an employee of the transmittee:
 - (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 transmittor or any prior transmittor shall be deemed to be service of the employee with the transmittee.
- (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 this clause 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; or
- (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; or
 - (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 this clause into the Award, transmitted from an employer (transmittor) 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 transmittor, and any prior transmittor, 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 transmittor; and
 - (B) which recognises the period of continuous service which the employee had with the transmittor and any prior transmittor 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 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.

PART 5 - WAGES AND WAGE RELATED MATTERS

5.1 Wage rates

5.1.1 The minimum rates of wages payable to the following classes of employees are:

- (a) Seniors

Classification	Award Rate Per Week \$
Bag branding	
Machine operator	595.50
Machinists	590.70
Balers and issuers	590.70
All others	588.20

- (b) Employees when operating a fork-lift shall be paid at the rate of the following weekly amounts for each hour or part of an hour whilst so engaged, with a minimum of two hours:

Classification	Award Rate Per Week \$
Operator of fork-lift of lifting capacity of up to 4,536 kg.	618.20
Operator of fork-lift of lifting capacity in excess of 4,536 kg.	621.30

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.

- (c) Juniors

	Percentage of minimum adult rate %
Under 15 years	40
15 and under 16	45
16 and under 17	50
17 and under 18	55
18 and under 19	65
19 and under 20	75
20 and under 21	85

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 Allowances

5.2.1 *Machinists on repairs*

Machinists repairing second-hand bags shall be paid \$3.20 per week in addition to their ordinary rates of wages.

5.3 Payment of wages

5.3.1 Except upon the termination of employment all wages including overtime and allowances shall be paid at least fortnightly.

5.3.2 Payment of wages shall, at the discretion of the employer, be by one of the following means:

- (a) cash;
- (b) cheque; and
- (c) payment directly into an employee's nominated bank account, credit union or building society account

without cost to the employee.

5.3.3 Where an employee is paid in cash, payment for work performed during such a pay cycle shall not be held by the employer for a period in excess of 2 days.

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 shall be entitled to occupational superannuation benefits, subject to the provisions of clause 5.4.

5.4.2 Contributions

(a) *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%.

(b) *Regular payment* - The employer shall pay such contributions to the credit of each such 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 who works less than 12 hours per week.

(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.

(e) *Other contributions* - Nothing in clause 5.4 shall preclude an employee from making contributions to a fund in accordance with the provisions thereof.

(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 herein.

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" shall mean any employee who has been employed by the employer during 8 consecutive weeks and who has worked a minimum of 96 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 as defined in the relevant Commonwealth occupational superannuation legislation 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" shall mean the actual ordinary rate of pay the employee receives for ordinary hours of work including shift loading and leading hand, in-charge or supervisory 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 An approved fund means

- (a) Sunsuper.
- (b) Any named fund as is agreed to between an employer and the Union 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 and 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 covered by this Award as at 29 September 1989 and continues to make such contribution.
- (g) The employer and employee may agree to have the employee's superannuation contributions made to an approved 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 purpose of s. 371 and s. 373 (time and wage records) of the *Industrial Relations Act 1999*.
 - (iv) Any dispute arising out of this process will be handled in accordance with clause 3.1.

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 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 the clause, 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 clause 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 that clause 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 employees 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 forms provided by the employer, to enable that employee to become a member of the fund; and
 - (iv) Submit all completed application forms 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 forms to enable that employee to become a member of that fund; and
 - (ii) return such forms to the employer within 28 days of receipt 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 within 28 days of the receipt by the employee of that form, then that employer shall:
 - (i) Advise the eligible employee in writing of the non-receipt of the application form and further advise the eligible employee that continuing failure to complete, sign and return such form 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 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 completed and signed application form is received by the employer.
 - (iii) In the event that the eligible employee fails to return a completed and signed application form 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 is a pre-requisite to the payment of any occupational superannuation contributions.
 - (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 Secretary of 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 in accordance with clause 5.4.7(a)(iii) the employer shall be obliged to make contributions as from the date of operation of this clause or from the date the employee became the "eligible employee" if that occurs thereafter provided that the eligible employee completes, signs and returns to the employer an application form within 28 days of being provided with the application form by the employer. Where the eligible employee fails to complete, sign and return an application form 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 this 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 *Day workers*

- (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 work cycle not exceeding 7 consecutive days; or
 - (ii) 76 hours within a work cycle not exceeding 14 consecutive days; or
 - (iii) 114 hours within a work cycle not exceeding 21 consecutive days; or
 - (iv) 152 hours within a work cycle not exceeding 28 consecutive days.
- (b) Where shift work is required to be performed, the hours of work for the respective shifts shall be as follows:
 - (i) Day shift - Commencing at 8.00 a.m. and ending at 4.00 p.m. Mondays to Fridays, inclusive.
 - (ii) Afternoon shift - Commencing at 4.00 p.m. and ending at midnight Mondays to Fridays, inclusive.
 - (iii) Night shift - Commencing at midnight on Sundays to Thursdays and ending at 8.00 a.m. on the following days.
 - (iv) By rostering employees off on various days of the week during a particular work cycle, so that each employee has the one day off during that cycle.

The working of broken shifts shall not be permitted.

- (c) The ordinary hours of work prescribed herein shall not exceed 10 hours on any one day and shall be worked on any 5 out of 7 days, Monday to Sunday inclusive:

Provided that where the ordinary working hours are to exceed 8 on any day, the arrangement of hours shall be subject to the agreement of the employer and the majority of employees concerned:

- (d) The ordinary hours of work prescribed herein shall be worked continuously, except for meal breaks and rest pauses, between 6.00 a.m. and 6.00 p.m. The spread of hours prescribed herein may be altered as to all or a section of employees provided there is agreement between the employer and the majority of employees concerned:

Provided further that work done outside the hours of 6.00 a.m. to 6.00 p.m. shall be paid at overtime rates and will be deemed to be part of the ordinary hours of work for the purposes of clause 6.1.1.

- (e) Not less than 30 minutes shall be allowed for the midday meal on all working days.

6.1.2 *Implementation of the 38 hour week*

- (a) The 38 hour week shall be implemented on one of the following bases, most suitable to each employer, 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; or
 - (ii) by employees working less than 8 ordinary hours on one or more days each work cycle; or

- (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) 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 majority of employees 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.

6.1.3 *Procedures for individual employer discussions*

- (a) The employer and its employees concerned shall consult over the most appropriate means of implementation and working a 38 hour week.
- (b) The objective of such consultation shall be to reach agreement on the method of implementing and working the 38 hour week.
- (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 the Union or the respective employer industrial 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 or worked 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, including clause 6.1.3(e).

6.2 Rest pauses

6.2.1 Where practicable every employee covered by this Award shall be entitled to a rest pause of 10 minutes' duration in the employers time in the first and second half of the working day. Such rest pauses shall be taken at such times as will not interfere with the continuity of work where continuity is necessary:

Provided that where there is agreement between the employer and the majority of employees concerned, the rest pauses may be combined into one 20 minute rest pause to be taken in the first part of the ordinary working day, with such 20 minute rest pause and the meal break arranged in such a way that the ordinary working day is broken up into 3 approximately equal working periods.

6.2.2 Consent to combine the rest pauses shall not be unreasonably withheld by either party.

6.3 Overtime

6.3.1 All time worked in excess of that provided for in clause 6.1 or before the ordinary starting time or after the ordinary ceasing time shall be deemed overtime, each day to stand by itself when overtime is being computed, except where an employee commences overtime on one day and continues to work such overtime into the next day.

6.3.2 All overtime, except as otherwise provided, shall be paid for at one and a-half times the ordinary rate for the first three hours, after which double time shall be paid until the ordinary starting time next morning.

6.3.3 If employees are called upon to work overtime commencing on Saturday they shall be paid at one and a-half times the ordinary rate for the first 3 hours and double time thereafter with a minimum period of 2 hours' work or payment in lieu.

6.3.4 All overtime worked by any employee on Sunday shall be paid for at the rate of double time, with a minimum

payment of 2 hours at such overtime rate.

6.3.5 All time worked in the ordinary meal period shall be paid for at the rate of double time.

6.3.6 When an employee is called upon to work overtime for more than 2 hours after the ordinary ceasing time he or she shall be paid the sum of \$9.60 as meal money in addition to the overtime payment for the time worked.

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 their employment, be entitled to annual leave 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; and
- (b) Not less than 4 weeks in any other case.

7.1.2 Such annual leave shall be exclusive of any public holiday which may occur during the period of that annual leave and (subject to clause 7.1.6) shall be paid for by the employer in advance:

- (a) In the case of any and every employee in receipt immediately prior to that leave of ordinary pay at a rate in excess of the ordinary wages payable under clause 5.1, at that excess rate; and
- (b) In every other case, at the ordinary rate of pay payable under clause 5.1 to the employee concerned immediately prior to that leave.

7.1.3 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 leave 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 them, their pay, calculated in accordance with clause 7.1.6, for 4 or 5 weeks as the case may be and also their ordinary pay for any public holiday occurring during such period of 4 or 5 weeks.

7.1.4 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, an amount equal to 1/9th of their pay for the period of their employment if they are an employee to whom clause 7.1.1(a) applies, and 1/12th of their pay for the period of their employment if they are an employee to whom clause 7.1.1(b) applies, calculated in accordance with clause 7.1.6.

7.1.5 Unless the employee shall otherwise agree, the employer shall give the employee at least 14 days notice of the date from which such employee's annual leave shall be taken.

7.1.6 *Calculation of annual leave pay:*

In respect to annual leave entitlements to which clause 7.1 applies, annual leave pay (including any proportionate payments) shall be calculated as follows:

- (a) Shift workers - Subject to clause 7.1.6(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 etc - Subject to clause 7.1.6(c), leading hand allowances 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 leave.
- (c) All employees - Subject to the provisions of clause 7.1.6(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 in clause 5.1 for the period of the annual leave (excluding shift premiums and weekend penalty rates);
 - (ii) Leading hand allowance or amounts of a like nature;
 - (iii) A further amount calculated at the rate of 17 1/2% of the amounts referred to in clauses 7.1.6(c)(i) and 7.1.6(c)(ii).

(d) Clause 7.1.6(c) does not apply to:

(a) any period or periods of annual leave exceeding:

- 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;
- 4 weeks in any other case; and

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

7.2 Sick leave

7.2.1 Entitlement

- (a) Every employee, except casuals, pieceworkers, and school-based apprentices and trainees, is entitled to 8 days' sick leave for each completed year of their employment with their employer.
- (b) This entitlement will accrue at the rate of one day's sick leave after each 6 weeks of employment.
- (c) Payment for sick leave will be made based on the ordinary number of hours that 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.
- (f) Part-time employees accrue sick leave on a proportional basis.

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 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;
- (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 Absenteeism control measures

7.3.1 Sick leave is unlike annual or long service leave in that it is conditional upon an employee being ill or injured to the point of being unfit for duty. It is an insurance to protect the employee and their family against hardship should the employee be unable to continue in their normal occupation and should be only so utilised.

7.3.2 This procedure is designed to curtail sick leave abuse by employees who are absent from work and who are not

genuinely unfit for duty and is to operate notwithstanding the provisions of clause 7.3.

- 7.3.3 At the end of each 3 monthly period or such other period as presently applies, the employer may review the sick leave records with a view to establishing a list of employees whose record of attendance gives cause for reasonable concern.
- 7.3.4 Any employee with an unsatisfactory record shall be interviewed by the employer in the presence of the Union representative if the employee so requests. If the discussion with respect to the absences does not provide satisfactory reason for the absences, then a letter of warning is to be sent to the employee.
- 7.3.5 If no improvement is observed in the next period, the employee is to be again interviewed (as in clause 7.3.4 above), and if the interview results in unsatisfactory reasons being given, then a second letter of warning is to be sent to the employee, also indicating proof of illness or a certificate may be required for any absence.
- 7.3.6 If the above action still results in unsatisfactory attendance at work then a final warning is to be given and if this is disregarded then good grounds will have been established for termination of employment.
- 7.3.7 The above procedure does not operate to withdraw the employer's right to take termination action or other disciplinary action against any employee if that employee has been found guilty of filling out a false sick leave pay application form and claiming sick leave pay when that period was not genuinely on sick leave. That is a matter relating to fraudulent misrepresentation which may justify instant dismissal.

7.4 Bereavement leave

7.4.1 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.

7.4.2 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 7.4.2.

7.4.3 "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.

7.4.4 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.

7.5 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.

7.6 Family leave

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

7.6.1 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.

7.6.2 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.

7.7 Public holidays

7.7.1 Subject to clause 7.7.7, all work done by any employee on:

- the 1st of January;
- the 26th of January,
- Good Friday;
- Easter Saturday (the day after Good Friday);
- Easter Monday;
- the 25th of 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

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

7.7.2 Labour Day

All employees covered by this Award shall be 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 shall 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 rate prescribed for such work with a minimum of 4 hours.

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

7.7.4 Double time and one-half

For the purposes of clause 7.7, where the rate of wages is a weekly rate, "double time and a-half" shall mean one and one-half day's wages in addition to the prescribed weekly rate, or *pro rata* if there is more or less than a day.

7.7.5 Extra payment for work outside certain hours

All time worked on any of the public holidays mentioned in clauses 7.7.1, 7.7.2 and 7.7.3 outside the ordinary starting and ceasing times prescribed by this Award for the day of the week on which such holiday falls shall be paid for at double the rate prescribed by the Award for such time when worked outside the ordinary starting and ceasing times on an ordinary working day.

7.7.6 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 the 1st January (New Year's Day).

7.7.7 Substitution

Where there is agreement between the majority of employees concerned and the employer, and subject to statutory limitations, other ordinary working days may be substituted for the public holidays specified in clause 7.7:

Provided that, where an employee is subsequently required to work on such substituted day, the employee shall be paid the rate applicable for the holiday that has been substituted.

7.8 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

NOTE: No provisions inserted in this Award relevant to this Part.

PART 9 - TRAINING AND RELATED MATTERS

9.1 Training

9.1.1 Following proper consultation, the employer shall develop a training policy and programme consistent with:

- (a) the current and future skill needs of the enterprise;
- (b) the size, structure and nature of the operations of the enterprise; and
- (c) the need to develop vocational skills relevant to the enterprise and the industry through courses conducted by appropriate educational institutions and training providers.

9.1.2 *Various costs associated with training*

- (a) Where, as a result of consultation, it is agreed by the employer that additional training in accordance with the programme developed in accordance with clause 9.1.1 should be undertaken by an employee, that training may be undertaken either on or off the job:
Provided that if the training is undertaken during ordinary working hours the employee concerned shall not suffer any loss of pay. The employer shall not unreasonably withhold such paid training leave.
- (b) Any costs associated with standard fees for prescribed courses and textbooks (excluding those textbooks which are available in the employer's technical library) incurred in connection with the undertaking of training shall be reimbursed by the employer upon production of evidence of such expenditure:

Provided that reimbursement shall be on an annual basis, subject to the presentation of reports of satisfactory progress.
- (c) Travel costs incurred by an employee undertaking training in accordance with this clause which exceed those normally incurred in travelling to and from work shall be reimbursed by the employer.

9.2 Commitment to training and careers

- 9.2.1 The parties acknowledge that varying degrees of training are provided to employees in the establishment, both via, internal on-the-job and through external training.
- 9.2.2 The parties commit themselves to continuing such training as is regarded by them as appropriate and improving training in cases where this is required.
- 9.2.3 It is agreed that the parties will co-operate in ensuring that appropriate training is available for all employees in the establishment and the parties agreed to co-operate in encouraging both employers and employees to avail themselves of the benefits to both from such training.

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

10.1 Boiling water

Boiling water shall be supplied to employees for rest pauses and the midday meal.

10.2 Seats for employees

Where required by employees, and where practicable, suitable seats shall be provided for employees in positions handy to their work.

10.3 First aid kit

First aid kits in suitable and secure cases shall be provided at central positions at the workplace so as to be at all times readily available for the use of the employees.

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; or
 - (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 the employee does not want that employee's 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 Union encouragement

Clause 11.3 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.

11.3.1 Documentation to be provided by employer

At the point of engagement, an employer 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 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.

11.3.2 Union delegates

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.

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

11.3.3 Deduction of union fees

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.

11.4 Posting of award

Every employer shall post a copy of this Award in a conspicuous place on the employer's premises so it can be easily read by employees.

SCHEDULE 1

This schedule shall be applicable to the processing and manufacturing of blow-moulded bags as produced by the Bundaberg Bag Company in Bundaberg, QLD.

1.1 Mixed duties

Where any person on any one day performs 2 or more classes of work to which a differential rate fixed by Schedule 1 is applicable, such person, if employed for more than 4 hours on the class or classes of work carrying a higher rate, shall be paid in respect of the whole time during which they work on that day at the same rate, which shall be at the highest rate fixed by this Schedule in respect of any of such classes of work, and, if employed for 4 hours or less on the class or classes carrying a higher rate, they shall be paid at such highest rate for 4 hours.

2.1 Definitions of classifications

Classification definitions - Employees shall be graded at these levels where the principal characteristics of their employment, as determined by the employer, are identified as follows:

2.1.1 Bag making employee Level 1

- (a) An employee at this level undertakes induction training, which may include information on the enterprise, conditions of employment, introduction of supervisors and fellow workers, training and career path

opportunities, plant layout, work and documentation procedures, occupational health and safety, equal employment opportunity, quality control/assurance, and the training to operate the machinery.

- (b) Skills/duties:
 - (i) Performs routine duties associated with the manufacturing process including labouring and cleaning duties;
 - (ii) In a structured training process for minimum of 6 months to operate machinery within a specific department to the required efficiency level;
 - (iii) Exercises a level of judgement in line with the trainee process; and
 - (iv) Works under direct supervision.
- (c) Employees in this category:

All new employees.

2.1.2 *Bag making employee Level 2*

- (a) The employee at this level is one who has completed up to 6 months structured training so as to enable the employee to perform work within the scope of this level and above and beyond bag making Level 1.
- (b) Skills/duties
 - (i) Works under direct supervision either individually or in a team environment; and
 - (ii) Understands and undertakes basic quality control/assurance procedures including the ability to recognise basic quality/deviation faults.
- (c) Indicative of the tasks which an employee at this level may perform:
 - (i) Performs repetitive work on automatic, semi-automatic or single purpose machines or equipment;
 - (ii) Processes goods using basic written, spoken and/or diagrammatic instructions in a manufacturing environment;
 - (iii) Measures accurately using equipment for the purpose and records;
 - (iv) Maintains records; and
 - (v) Operates all machinery that has been trained for to the required efficiency level.
- (d) Employees in this category:

G.T. operators who operate the line to a maximum of 3% waste level combined with quality tape with 1 fellow operator and a charge hand;

Loom operator who can run 4 looms front and back to the minimum efficiency level at 80%;

Conversion operator who with one fellow operator can operate a conversion line at a minimum of 25 sacks per minute and capable of setting up new orders under supervision;

Loose Liners who can add this secondary process at a minimum rate of 1600 per hour;

Liner Openers who can add this secondary process at a minimum of 875 per hour; and

Labourers Blown Film Line Operators and Fork Lifts Licence holders who have moved through Level 1 and loom change person.

2.1.3 *Bag making employee Level 3*

- (a) The employee at this level performs work above and beyond the skills of an employee at bag making Level 2 and to the level of their training required for this level.
- (b) Skills/duties:

- (i) Is responsible for the quality of own work;
 - (ii) Works in a team environment and/or under supervision;
 - (iii) Undertakes duties in a safe and reasonable manner;
 - (iv) Exercises discretion within the employees level of skills and training;
 - (v) Possesses basic interpersonal and communication skills; and
 - (vi) Able to impart their skills to new and fellow employees.
- (c) Employees in this category:
- Line setter and loom trainer; and
- Afternoon conversion supervisor.

2.1.4 *Bag making employee Level 4*

- (a) An employee at this level performs work above and beyond the skills of an employee at bag making Level 3 and to the level of the training required for this level.
- (b) Skills/duties:
 - (i) Is able to undertake detailed instructions and work from procedures;
 - (ii) Is able to co-ordinate work in a team environment under limited supervision;
 - (iii) Is responsible for quality of own work and employees at Levels 1, 2 and 3; and
 - (iv) Possesses sound interpersonal and communication skills.
- (c) Employees in this category:

Loom change hands.

2.1.5 *Bag making employee Level 5*

- (a) An employee at this level performs work above and beyond the skills of an employee at bag making Level 4.
- (b) Skills/duties:
 - (i) Understands and is responsible for quality control standards;
 - (ii) Possesses an advanced level of interpersonal and communication skills;
 - (iii) Has a sound working knowledge of production/manufacturing duties below this grade; and
 - (iv) Performs under limited supervision;
- (c) Employees in this category:

G.T. Change Hand Class 2.

2.1.6 *Bag making employee Level 6*

- (a) A bag making employee Level 6 performs work above and beyond the skills of an employee at bag making Level 5.
- (b) Skills/duties:
 - (i) Capable of implementing quality critical techniques and procedures;
 - (ii) Possesses highly developed level of interpersonal and communication skills;

- (iii) Possesses the ability to supervise and take control of whole factory processes in emergency;
 - (iv) Possesses a sound knowledge of the employer's operations; and
 - (v) Performs as the safety officer.
- (c) Employees in this category:
- Shift supervisor.

2.2 Wage rates

2.2.1 The minimum rates of wages payable to the following grades of employees shall be:

Classification and relativity	(%)	Award rate payment
		per week \$
Bag making employee Level 1	78.80	603.55
Bag making employee Level 2	81.50	614.80
Bag making employee Level 3	83.90	624.85
Bag making employee Level 4	87.60	640.25
Bag making employee Level 5	92.40	660.30
Bag making employee Level 6	95.00	671.10

2.2.2 *Juniors*

	Percentage of minimum adult rate %
Under 15 years of age	40
16 and under 17	45
17 and under 18	50
18 and under 19	55
19 and under 20	65
20 and under 21	85

and thereafter the minimum rate prescribed for adults.

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.

2.2.3 Casual employees shall be paid 23% in addition to the rate per hour provided for the class of work in which they are employed such rate per hour being determined to be 1/38th of the weekly rate).

2.2.4 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.

2.3 Allowances

2.3.1 *First aid allowance*

An allowance of \$9.60 per week will be paid to qualified employees for such time that they are nominated by the company to act as first aid attendants.

2.3.2 *Shift allowances*

In addition to the rates of pay prescribed in clause 2.2 of this Schedule, employees whilst engaged on afternoon and night shift, as defined, shall be paid an additional penalty rate for each such shift as follows;

- (a) Afternoon shift allowance 12.5% or \$9.70 per shift (whichever is the greater); and
- (b) Night shift allowance 15% or \$9.70 per shift (whichever is the greater).

For the purposes of clause 2.3.2:

- (i) 'afternoon shift' means a shift, other than a night shift as defined herein, commencing at or after 2.30 p.m.; and
- (ii) 'night shift' means any shift commencing at or after 11 p.m. and before 6 a.m.
- (c) The percentage which is quoted shall be the amount which is payable for each shift in addition to the employee's ordinary time wage.
- (d) This allowance shall not apply to work performed on Saturday or Sunday and public holidays where extra payments apply for such work.

3.1 Meal Breaks

3.1.1 Day workers shall be allowed not less than 30 minutes nor more than one hour for a meal which shall be in the employees' time and shall be taken between the 4th and the 6th hour from ordinary commencing time.

Where more than one shift per day is worked, an unbroken 30 minutes shall be allowed for crib in the employers' time during each shift in such a manner as not to interfere with the continuity of work.

3.1.2 *Meals or meal allowance during overtime* - An employee, who is required to continue work after the usual ceasing time shall be supplied with a reasonable meal at the employer's expense, or be paid \$9.60 in lieu thereof, after 2 hours, or after one hour if overtime continues beyond 6 p.m.; and,

Employees who are required to continue work after their usual ceasing time shall be entitled to a 30 minute crib break after 2 hours, or after one hour if overtime continues beyond 6 p.m.

3.1.3 After each further period of four hours the employee shall be allowed 45 minutes for crib and normal meal allowance of \$9.60 shall apply or a meal shall be supplied in each such instance. No deduction of pay shall be made in respect of any such crib breaks.

3.1.4 Where an employee is called upon to work for more than one and a-half hours before the ordinary commencing or after the ordinary ceasing time, they shall be supplied with a meal by the employer or shall be paid \$9.60 in lieu thereof.

3.1.5 Where an employee has provided themselves with customary meals because of receipts of notice to work overtime, they shall, in the event of the work not being done or ceasing before the respective meal times, be entitled to an allowance of \$9.60 for each meal so provided.

4.1 Overtime

4.1.1 Overtime shall be paid for at the rate of time and a-half for the first 2 hours on any one day and double time thereafter.

Dated 30 January 2003.

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

Operative Date: 24 March 2003