

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

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

**BISCUIT MANUFACTURING INDUSTRY AWARD - STATE 2003**

Following the Declaration of the General Ruling in the 2010 State Wage Case (matter numbers B/2010/20 and B/2010/21), the Biscuit Manufacturing Industry Award - State 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 Biscuit Manufacturing Industry Award - State 2003 as at 1 September 2010.

Dated 1 November 2010.

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

**BISCUIT MANUFACTURING INDUSTRY AWARD - STATE 2003**

**PART 1 - APPLICATION AND OPERATION**

**1.1 Title**

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### 1.3 Date of operation

This Award takes effect throughout the State of Queensland from 12 May 2003.

### 1.4 Coverage

1.4.1 This Award applies to employees, and their employers, in the following industries:

- (a) the manufacture of confectionery in the Central Division; and

(b) the manufacture of biscuits throughout the State of Queensland in respect of all employees for whom classifications are hereinafter provided in biscuit manufacturers' establishments;

(c) this Award does not apply to employees of employers whose principal industry is the retail industry.

## **1.5 Definitions**

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

1.5.2 "Commission" means the Queensland Industrial Relations Commission.

1.5.3 "Union" means the Australian Liquor, Hospitality and Miscellaneous Workers Union, Queensland Branch, Union of employees.

## **1.6 Area of operation**

For the purposes of this Award, the Divisions and Districts will be as follows:

### **1.6.1 Divisions**

Northern Division - That portion of the State along or north of a line commencing at the junction of the sea coast with the 21st parallel of south latitude; then by that parallel of latitude due west to 147 degrees of east longitude; then by that meridian of longitude due south to 22 degrees 30 minutes of south latitude; then by that parallel of latitude due west to the western border of the State.

Mackay Division - That portion of the State within the following boundaries: Commencing at the junction of the sea-coast with the 21st parallel of south latitude; then by that parallel of latitude due west to 147 degrees of east longitude; then by that meridian of longitude due south to 22 degrees of south latitude; then by that parallel of latitude due east to the sea coast; then by the sea-coast northerly to the point of commencement.

Central Division - That portion of the State of Queensland between the parallels of 22 degrees and 24 degrees 30 minutes south latitude and the meridian of 147 degrees east longitude.

Southern Division - That portion of the State not included in the Northern, Mackay and Central Divisions.

### **1.6.2 Districts**

(a) Northern Division:

Eastern District - That portion of the Northern Division along or east of 144 degrees 30 minutes of east longitude.

Western District - The remainder of the Northern Division.

(b) Southern Division:

Eastern District - That portion of the Southern Division along or east of a line commencing at the junction of the southern border of the State with 150 degrees of east longitude; then by that meridian of longitude due north to 25 degrees of south latitude; then by that parallel of latitude due west to 147 degrees of east longitude; then by that meridian of longitude due north to the southern boundary of the Mackay Division.

Western District - The remainder of the Southern Division.

## **1.7 Parties bound**

This Award is legally binding upon the employees as prescribed by clause 1.4 and their employers, and the Union and its members.

## **PART 2 - FLEXIBILITY**

### **2.1 Enterprise flexibility**

2.1.1 As part of a process of improvement in productivity and efficiency, discussion should take place at each enterprise to provide more flexible working arrangements, improvement in the quality of working life, enhancement of skills, training and job satisfaction and to encourage consultative mechanisms across the workplace.

- 2.1.2 The consultative processes established in an enterprise in accordance with clause 2.1 may provide an appropriate mechanism for consideration of matters relevant to clause 2.1.1. Union delegates at the place of work may be involved in such discussions.
- 2.1.3 Any proposed genuine agreement reached between an employer and employee/s in an enterprise is contingent upon the agreement being submitted to the Commission in accordance with Chapter 6 of the Act and is to have no force or effect until approval is given.

### **PART 3 - COMMUNICATION, CONSULTATION AND DISPUTE RESOLUTION**

#### **3.1 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/s 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 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.

#### **3.2 Consultation**

- 3.2.1 The parties are committed to a thorough examination of all Awards and Industrial Agreements covering the industry to ensure that they reflect the needs of a modern and efficient industry and to eliminating or amending provisions which restrict the ability of the industry to adapt quickly and efficiently to the changes which may occur now and in the future and to providing a more efficient service to their customers.
- 3.2.2 The parties are committed to modernising the terms of the Award so that it provides for more flexible working arrangements, improves the quality of working life, enhances skills and job satisfaction and assists positively in the restructuring process.

3.2.3 In conjunction with the proposed new Award structure the Union is prepared to discuss with employers all matters raised by the employer designed to increase flexibility and efficiency in the industry:

Provided that the changes will not be of a negative cost cutting nature, the parties agree that under this heading any matter can be raised for discussion.

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

### **4.1 Contract of employment**

4.1.1 Employees covered by this Award shall be advised in writing of their employment category upon appointment.

Employment categories are:

- (a) full-time;
- (b) part-time (as prescribed in clause 4.3); or
- (c) casual (as prescribed in clause 4.4); or
- (d) fixed term (as prescribed in clause 4.5).

### **4.2 Full-time employment**

Employees other than casual or part-time employees will be deemed to be full-time employees and entitled to all of the benefits provided by this Award.

### **4.3 Part-time employment**

4.3.1 "Part-time employee" means an employee engaged for a regular number of hours per week, of not more than 32 and not less than 10, unless otherwise agreed between the parties.

4.3.2 Part-time employees will be paid an hourly rate equal to 1/38th of the weekly rate prescribed in clause 5.2 for the classification under which they are engaged.

4.3.3 Part-time employees who work in excess of their ordinary daily or weekly hours will be paid overtime in accordance with clause 6.4 (Overtime).

4.3.4 Part-time employees will receive *pro rata* entitlements to annual leave, public holidays, sick leave, bereavement leave and long service leave in accordance with the provisions contained in this Award.

4.3.5 Where a public holiday falls on a day on which a part-time employee is normally rostered to work, that employee will be paid at the appropriate rate for the number of hours so rostered.

### **4.4 Casual employment**

4.4.1 "Casual employee" means an employee who is engaged by the hour and who is usually employed for less than 38 hours in any one week.

4.4.2 Casual employees will be paid at the rate of 1/38th of the weekly rate prescribed in clause 5.2 for the classification plus 23% loading.

4.4.3 Casual employees will be engaged for a minimum of 3 hours per engagement or receive a minimum payment of 3 hours per engagement.

4.4.4 The ratio of casual employees to full-time employees will not exceed 25% of the total number of full-time employees employed in any one establishment.

4.4.5 From the beginning of August to the end of November each year, the ratio of casual employees to full-time employees will not exceed 30% of the total number of full-time employees employed in any one establishment.

4.4.6 By agreement between the parties, the ratios prescribed in clauses 4.5.4 and 4.5.5 may be amended to accommodate specific needs of the business.

### **4.5 Fixed term employment**

- 4.5.1 "Fixed term employee" means a full-time or part-time employee who is engaged to perform specific work for a specified period of time at the end of which the contract of employment ceases to have effect on its own accord.
- 4.5.2 An employee may be engaged for a specified period of time in order to meet peak or reasonable demands or special projects as the need arises.

#### **4.6 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)*.

#### **4.7 Mixed functions**

- 4.7.1 Employees engaged in duties carrying a higher rate than their ordinary classification for more than 4 hours on any one day, will be paid at the higher rate for the whole day.
- 4.7.2 Employees engaged in duties carrying a higher rate than their ordinary classification for less than 4 hours on any one day, will be paid at the higher rate for 4 hours.

#### **4.8 Incidental and peripheral tasks**

- 4.8.1 An employer may direct an employee to carry out any duties which are within the limits of the employee's skill, competence and training consistent with the classification structure of this Award, provided that such duties are not designed to promote deskilling.
- 4.8.2 An employer may direct an employee to carry out any duties and use whatever tools and equipment are necessary, provided the employee has been trained in the use of the relevant tools and equipment.
- 4.8.3 Any directions issued by an employer pursuant to clauses 4.8.1 and 4.8.2 must be consistent with the employer's responsibility to provide a safe and healthy working environment.

#### **4.9 Abandonment of employment**

Where an employee is absent from work for a period of 5 consecutive working days without notification to the employer of illness or other reasonable explanation, the employee will be considered to have terminated employment from the point of absence from work. In such cases, the employer will only be liable to pay wages and other payments up to and including the last day of actual work.

#### **4.10 Anti-discrimination**

- 4.10.1 It is the intention of the parties to this Award to prevent and eliminate discrimination as defined by the *Anti-Discrimination Act 1991* and the *Industrial Relations Act 1999* as amended from time to time which includes:
- (a) discrimination on the basis of sex, marital status, family responsibilities, pregnancy, parental status, age, race, impairment, religion, political belief or activity, trade union activity, lawful sexual activity and association with, or relation to, a person identified on the basis of the above attributes;
  - (b) sexual harassment; and
  - (c) racial and religious vilification.
- 4.10.2 Accordingly, in fulfilling their obligations under the grievance and dispute settling procedure in clause 3.1, the parties to this Award must take reasonable steps to ensure that neither the Award provisions nor their operation are directly or indirectly discriminatory in their effects.
- 4.10.3 Under the *Anti-Discrimination Act 1991* it is unlawful to victimise an employee because the employee has made or may make or has been involved in a complaint of unlawful discrimination or harassment.
- 4.10.4 Nothing in clause 4.10 is to be taken to affect:
- (a) any different treatment (or treatment having different outcomes) which is specifically exempted under the *Anti-Discrimination Act 1991*; or
  - (b) an employee, employer or registered organisation, pursuing matters of discrimination, including by application to the Human Rights and Equal Opportunity Commission/Anti-Discrimination Commission Queensland.

#### **4.11 Counselling procedure**

#### 4.11.1 *Counselling and verbal warnings*

- (a) Where the employer has concerns about the work performance or conduct of an employee, the employer will initiate counselling of the employee concerned to make them aware of the deficiencies in their performance and the standard of performance the employer requires the employee to meet.
- (b) At the commencement of counselling, the employer will make the employee aware of the nature of the counselling meeting and the specific areas of concern. Such counselling may or may not conclude with the employer giving the employee a verbal warning to improve performance or cease the conduct complained of.

#### 4.11.2 *Counselling and written warnings*

Where the employer believes that an employee's work performance or conduct requires it, or continuing work performance or conduct following the procedure in clause 4.11.1 having been completed, has not improved, the employer may counsel or further counsel as the case may be and will give a written warning outlining the employer's concerns and reasons for coming to that conclusion.

4.11.3 Nothing in this procedure will restrict the employer's right to summarily dismiss an employee in circumstances that warrant summary dismissal.

4.11.4 Nothing in this procedure will prevent the employer from repeating steps specified in clause 4.11.1 or clause 4.11.2 where the particular circumstances require it.

4.11.5 In relation to this procedure, the employer will ensure that:

- (a) where the employee has been counselling or warned to improve work performance or conduct, a reasonable time will be given to enable the employee to comply;
- (b) the employee is given an opportunity to respond to any concern or allegation made; and
- (c) in a process where the employee is likely to be given a verbal or written warning, the employee is to be informed of their right to be accompanied by their Union or other personal representative.

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### **4.12 Termination of employment**

#### 4.12.1 *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.

#### 4.12.2 *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.

#### 4.12.3 *Notice of termination by employee*

The notice of termination required to be given by an employee shall be one week. If an employee fails to give notice, the employer shall have the right to withhold monies due to the employee with a maximum amount equal to the ordinary time rate for the period of notice

Notice of termination shall not be given or received during any period of annual leave, unless mutually agreed otherwise.

#### 4.12.4 *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.

### **4.13 Introduction of changes**

#### 4.13.1 *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.

#### 4.13.2 *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 4.13.1.
- (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.

### **4.14 Redundancy**

#### 4.14.1 *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 4.14.1(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.

#### 4.14.2 *Transfer to lower paid duties*

- (a) Where an employee is transferred to lower paid duties for reasons set out clause 4.14.1 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 4.12.
- (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.

#### 4.14.3 *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 4.14.3, '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.

#### 4.14.4 *Time off during notice period*

- (a) Where a decision has been made to terminate an employee in the circumstances outlined in clause 4.14.1, 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.

#### 4.14.5 *Notice to Centrelink*

Where a decision has been made to terminate employees in the circumstances outlined in clause 4.14.1, 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.

#### 4.14.6 *Severance pay*

- (a) In addition to the period of notice prescribed for ordinary termination in clause 4.12.2(a), and subject to further order of the Commission, an employee whose employment is terminated for reasons set out in clause 4.14.1(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.

#### 4.14.7 *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.

#### 4.14.8 *Employee leaving during notice*

An employee whose employment is terminated for reasons set out in clause 4.14.1(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.

#### 4.14.9 *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.

#### 4.14.10 *Employees with less than one year's service*

Clause 4.14 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.

#### 4.14.11 *Employees exempted*

Clause 4.14 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.

#### 4.14.12 *Employers exempted*

- (a) Subject to an order of the Commission, in a particular redundancy case, clause 4.14 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.

#### 4.14.13 *Exemption where transmission of business*

- (a) The provisions of clause 4.14.6 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 4.14.13(a)(ii) if it is satisfied that it would operate unfairly in a particular case, or in the instance of contrived arrangements.

#### 4.14.14 *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.

### **4.15 Continuity of service - transfer of calling**

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

## **PART 5 - WAGES AND WAGE RELATED MATTERS**

### **5.1 Definition of classifications**

#### 5.1.1 *Production employee Level 1* (Relativity to Trade: 82%)

- (a) A Level 1 employee has no previous comparable experience in the biscuit industry. Level 1 is a trainee level and each employee will be employed for a maximum of 3 months at this level.

Employees at Level 1 perform routine duties of an essentially manual nature in the following manner:

- (i) exercises minimal judgement;
  - (ii) works under direct supervision;
  - (iii) works within the limits of the training undertaken and safe working procedures.
- (b) Employees at this level will possess or be required to obtain the following skills or attributes:
- (i) physical capacity to perform Level 1 duties;
  - (ii) ability to carry out simple routine tasks requiring manual dexterity;
  - (iii) basic literacy and numeracy skills;
  - (iv) ability to understand and carry out simple verbal instructions.

5.1.2 *Production employee Level 2* (Relativity to Trade: 87.4%)

- (a) An employee who has been employed for 3 months will advance to Level 2. This is the entry point for workers with previous relevant experience in the biscuit industry.

Employees at Level 2 perform repetitive and routine duties of a manual nature, which are fully prescribed and are usually performed in response to standardised instructions or requests.

Employees at this level would:

- (i) work under direct supervision, either individually or as a part of a team at standard routine tasks and procedures;
- (ii) understand and apply quality control procedures;
- (iii) have a basic understanding of food hygiene; and
- (iv) have a basic understanding of the appropriate occupational health and safety standards.

- (b) Employees at this level will possess or be required to obtain the following skills or attributes:

- (i) physical capacity to perform Level 2 duties;
- (ii) literacy and numeracy skills; and
- (iii) relevant training for equipment/machinery used.

- (c) Indicative duties of employees at this level include:

- (i) keeping of minor (pro-forma) records;
- (ii) sorting;
- (iii) packaging by hand;
- (iv) wrapping
- (v) stacking;
- (vi) assembling;
- (vii) palletising and use of lifting equipment not requiring a licensed operator;
- (viii) weighing;
- (ix) washing utensils and ingredients;
- (x) feeding;
- (xi) garnishing;
- (xii) cleaning;
- (xiii) general labouring;
- (xiv) use of basic testing equipment;
- (xv) passing on of results of testing;
- (xvi) assisting trainees;
- (xvii) duties as directed.

5.1.3 *Production employee Level 3* (Relativity to Trade: 90%)

- (a) Level 3 employee work under general direction and may operate individually or as a member of a work group. Only limited supervision is necessary and employees may exercise discretion regarding the

completion of a task. Employees at this level may have limited on the job training responsibilities and/or proven expertise in a particular operation and demonstrated proficiency in applying established techniques.

Level 3 employees perform work above and beyond the skills of an employee at Level 2 and may:

- (i) work under limited supervision, as part of a team or individually;
  - (ii) be responsible for the quality of their work;
  - (iii) assist in the provision of on the job training; and
  - (iv) perform non-repetitive tasks governed by established procedures, specific guidelines or standardised instructions.
- (b) Employee at this level will possess or be required to obtain the following skills or attributes:
- (i) physical capacity to perform Level 3 duties;
  - (ii) ability to follow written instructions and procedures; and
  - (iii) organisation and communication skills to support provision of supervision.
- (c) Indicative duties of employees at this level will be as for a Level 2 employee and also include:
- (i) attendance and operation of production line machinery requiring operator adjustment;
  - (ii) operation of testing and analytical equipment;
  - (iii) interpretation of testing results;
  - (iv) training and induction;
  - (v) part-time use of mobile lifting equipment requiring a licensed operator.

#### 5.1.4 *Production employee Level 4* (Relativity to Trade: 92.4%)

- (a) Level 4 employees have undertaken training and are proficient in the operation and setting up of machinery. Employees at this level have technical skills not requiring a trade equivalent and operate machinery to perform routine and standard functions. A detailed knowledge of the section's operations practices and procedures is necessary for competent performance.

Employees at this level may operate individually or as a member of a team. Experience or practical application of a high level of skills characterises the work of employees at this Level. Employees at this level may:

- (i) provide "on the job" training to other employees;
  - (ii) be responsible for the quality of their work;
  - (iii) operate and set up machinery;
  - (iv) maintain records; and
  - (v) understand safety procedures relevant to the work environment.
- (b) Employees at this level will possess or be required to obtain the following skills or attributes:
- (i) ability to follow detailed written instructions and procedures;
  - (ii) ability to understand and apply written policies and guidelines;
  - (iii) ability to maintain numeric and written records,
  - (iv) ability to prepare simple reports;
  - (v) ability to set up and operate machinery;
  - (vi) an understanding of product and process specifications applicable to the work at this level; and

(vii) ability to operate licensed mobile lifting equipment requiring a licensed operator.

(c) Indicative duties of employees at this level will be as for Level 2 and 3 employees and also includes:

- (i) setting up and operation of production line machinery requiring operator adjustment;
- (ii) mixing;
- (iii) decorating;
- (iv) baking;
- (v) full time use of mobile lifting equipment requiring a licensed operator;
- (vi) duties incidental or peripheral to the above;
- (vii) fault finding on machinery.

#### 5.1.5 *Production employee Level 5* (Relativity to Trade: 96%)

- (a) Level 5 employees are multi-skilled workers capable of performing duties relating to the operation of a variety of types of machinery. Employees at this level have technical skills not requiring a trade equivalent.
- (b) Seen as "troubleshooters", employees at this level are competent to set up and operate a number of machines or processes on the line.
- (c) In addition to the duties at Levels 3 and 4, employees at Level 5 require a thorough knowledge of the company's operating procedures as they relate to a number of different machines or processes on the line. Complex testing of equipment is required to regularly operate such machinery and equipment.
- (d) Level 5 employees understand and apply product and process specification applicable to work at this level and are required to work flexibly and interchangeably between tasks.

Indicative duties of employees at this level will be as for Level 3 and 4 employees and also include:

- (i) operation of a variety of types of machinery throughout a production process;
- (ii) operation of a variety of complex laboratory equipment requiring appropriate tertiary qualifications.

#### 5.1.6 *Production employee Level 6* (Relativity to Trade: 100%)

- (a) Level 6 employees must possess a relevant trade qualification or, in the opinion of the employer, an equivalent qualification.

Employees at this level are multi-skilled in the operation of a variety of machinery (including baking, mixing, further processing, cutting, packaging) and will be trained in and have an understanding of an entire production process. Employees at this level may also be required to complete specific training courses as required.

Indicative duties of an employee at this level will be as for Level 3, 4 and 5 employees and also include:

- (i) performance of specialised duties associated with a trade person;
- (ii) operation of a variety of machinery at own discretion;
- (iii) co-ordination of production process;
- (iv) training and general co-ordination of machine operators and other personnel;
- (v) ensuring compliance with safe work procedures.

#### 5.1.7 *Production employee Level 7* (Relativity to Trade: 105%)

- (a) Level 7 employees perform work above and beyond the skills of an employee at Level 6 and to the level of their training.
- (b) Duties at this level may require the application of post trade technical skills, or the application of planning,

co-ordinating, training or supervision skills.

- (c) Employees at this level would possess an overall understanding of the operating principles of the manufacturing system, equipment and varying product grades.

Employees at this level:

- (i) possess intimate knowledge of all functions performed at the employer business;
- (ii) have an understanding of the employers operations and business strategies;
- (iii) are accountable for control and co-ordination of production and manufacturing; and
- (iv) possess trade equivalent qualifications or, in the opinion of the employer and the union, experience considered the equivalent

- (d) Indicative duties of employees at this level will be as for Level 6 employees and also include:

- (i) co-ordinating work flow process;
- (ii) training subordinate staff;
- (iii) responsibility for output of workgroups;
- (iv) staff assessment;
- (v) performance counselling;
- (vi) product development and testing;
- (vii) ensure compliance with safe work procedures.

## 5.2 Wage Rates

### 5.2.1 Adult employees

Classification	Award Rate Per Week \$
Production employee -	
Level 1	604.90
Level 2	627.40
Level 3	637.50
Level 4	648.30
Level 5	663.00
Level 6	682.00
Level 7	702.90

The rates of pay in this Award are intended to include the arbitrated wage adjustment payable under the 1 September 2010 Declaration of General Ruling and earlier Safety Net Adjustments and arbitrated wage adjustments. This arbitrated wage adjustment may be offset against any equivalent amount in rates of pay received by employees whose wages and conditions of employment are regulated by this Award which are above the wage rates prescribed in the Award. Such payments include wages payable pursuant to certified agreements, currently operating enterprise flexibility agreements, Queensland workplace agreements, award amendments to give effect to enterprise agreements and overaward arrangements. Absorption which is contrary to the terms of an agreement is not required.

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

### 5.2.2 Junior employees

"Junior" means an employee under 18 years of age.

The minimum rates of wages payable to junior employees will be:

Years of Age	Percentage of Minimum Adult Rate %
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Under 16 years of age	65
16 and under 17 years of age	75
17 and under 18 years of age	85

At 18 years and over, employees will be paid at the minimum rate of pay prescribed for the classification under clause 5.2.1.

Junior rates will be calculated in denominations of 10 cents. Any broken part of 10 cents equalling 5 cents or more to be taken up to the next highest 10 cent denomination.

### 5.2.3 *Division & District allowance*

(a) Adults employed outside the Eastern District of the Southern Division will be paid the following amounts in addition to the rates of wages prescribed by clause 5.2.1 for employees employed within that District -

	Per Week \$
Northern Division, Eastern District	1.05
Northern Division, Western District	3.25
Mackay Division	0.90
Southern Division, Western District	1.05

(b) Junior employees likewise situated will be paid, in addition to the rates of wages prescribed by clause 5.2.2 amounts calculated by applying the scale of percentages set out in clause 5.2.2 to the prescriptions contained in clause 5.2.3.

## 5.3 **Payment of wages**

5.3.1 Wages will be paid at least weekly or fortnightly by either cash, cheque or electronic funds transfer at the discretion of the employer. Wages will be paid on the same day every week but will not be paid on Saturdays or Sundays:

Provided that the introduction of fortnightly pays will only be introduced by agreement with the employer and the Union.

5.3.2 Not more than 2 days' pay may be held by the employer.

## 5.4 **Allowances**

### 5.4.1 *Supervisory allowances*

An employee appointed by the employer as a leading hand will be paid the following allowance:

In charge of -	Per Day \$
1 to 3 other employees	3.98
4 to 7 other employees	4.41
8 or more other employees	5.29

### 5.4.2 *Cleaning allowance*

Employees required to clean toilets will be paid \$7.70 per week. This rate will apply for all purposes of the Award.

### 5.4.3 *First aid attendant*

Employees holding an approved first aid certificate who are appointed by the employer to render first aid, will be paid \$13.90 per week in addition to the employee's ordinary rate of pay.

## 5.5 **Occupational superannuation**

5.5.1 The superannuation provisions for all employees covered by this Award will be in accordance with the Declaration of General Ruling handed down by the Full Bench of the Queensland Industrial Relations Commission and contained in the Queensland Government Industrial Gazette 55 QGIG 504.

5.5.2 For each employee, the employer will contribute a sum in accordance with the provision of the Superannuation Guarantee Charge. This sum is to be paid to an approved superannuation scheme, retrospective to the date of the



employee's appointment.

5.5.3 Contributions will be made into one of the following funds:

- (a) Campbell's Arnott's Superannuation Plan;
- (b) AUST;
- (c) GWF Retirement Plan;
- (d) Paradise Food Industries Pty Ltd National Mutual Tailored Super (P0071); or
- (e) Sunsuper.

5.5.4 (a) A person must not coerce someone else to make an agreement.

(b) Such agreement, where made, will continue until such time as the employer and employee agree otherwise, and shall be made available to relevant persons for the purposes of s. 371 and s. 373 (time and wages records) of the *Industrial Relations Act 1999*.

(c) Any dispute arising out of this process will be handled in accordance with the Disputes Settling Procedure as contained in this Award.

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

### **6.1 Hours of work**

6.1.1 Ordinary working hours will not exceed an average of 38 per week or 8 per day, and will be worked between the hours of 6.00 a.m. and 6.00 p.m. on Monday to Friday inclusive.

6.1.2 Notwithstanding the provisions of clause 6.1.1, ordinary working hours will be worked as follows:

- (a) 152 in any 4 week period; or
- (b) 160 hours per 4 week period with a paid day off which, by mutual agreement, may be banked per period up to a maximum of 5 days; or
- (c) a combination of both clauses 6.1.2 (a) and (b).

6.1.3 Mixing room employees are permitted to start work 30 minutes earlier than other employees.

6.1.4 Hours other than those prescribed by clause 6.1.1 may be worked by agreement between the Union and the relevant employer.

6.1.5 Where an employee changes shifts, such employee will be entitled to a break of at least 8 hours between the normal ceasing time of one shift and the normal commencement time of the next shift.

### **6.2 Meal breaks**

6.2.1 A period of not less than 30 minutes and not more than 60 minutes will be allowed for a meal break to be taken between the commencement of the 4th and the completion of the 6th hour from the employee's commencing time each day.

6.2.2 Where the employees are required to continue working past the 6th hour without a meal break, they will be paid at the rate of double time for work performed during the prescribed meal break. Payment at this rate will continue until such time as the employee has been allowed a 30 minute meal break or ceases work for the day.

### **6.3 Rest pauses**

#### *6.3.1 Full-time employees*

Full-time employees will receive a rest pause of 10 minutes' duration in the first half and second half of each day worked.

#### *6.3.2 Part-time and casual employees*

Part-time and casual employees who work a minimum of 4 consecutive ordinary hours but less than 8 consecutive ordinary hours on any one day will receive a rest pause of 10 minutes' duration.

- 6.3.3 Employees who work a minimum of 8 consecutive ordinary hours (excluding the meal break) on any one day will receive a rest pause of 10 minutes' duration in the first half and the second half of the period worked.
- 6.3.4 By agreement between the parties, two 10 minute rest pauses may be combined to provide for one 20 minute rest pause.
- 6.3.5 Rest pauses will be taken in the employer's time.
- 6.3.6 Rest pauses will be taken at times to suit the convenience of the employer and so as not to interfere with the continuity of work where continuity is necessary.

## **6.4 Overtime**

### *6.4.1 Conditions*

Except as otherwise provided by clause 6.4, all time worked outside or in excess of the ordinary hours prescribed in clause 6.1 will be deemed to be overtime and will be paid for at the rate of time and a-half for the first 3 hours and double time thereafter.

### *6.4.2 Payment for shift workers*

All time worked by shift workers in excess of the hours prescribed by clause 6.5 or in excess or outside of the ordinary hours agreed to in pursuance of clause 6.5 will be deemed to be overtime and will be paid for at the rate of double time.

### *6.4.3 Payment for Saturdays*

All overtime worked on Saturdays will be paid for at the appropriate overtime rate with a minimum payment as for 3 hours' work.

### *6.4.4 Payment on Sundays*

All overtime worked on Sundays will be paid for at the rate of double time with a minimum payment as for 4 hours' work.

### *6.4.5 Meal provisions*

Employees who are required to continue working for more than one hour beyond their ordinary ceasing time will be provided with an adequate meal by the employer or paid a meal allowance of \$9.60:

Provided that where employees have provided themselves with a meal due to receipt of notice to work overtime and such overtime is not worked, they will be paid \$9.60 for any meal so provided.

### *6.4.6 Payment for recall*

Employees recalled to work after having ceased work for the day, will be paid for such time at the rate of double time with a minimum payment as for 4 hours' work:

Provided that where employees are required to continue working for more than 2 hours after the completion of an afternoon shift, they will be allowed a 20 minute paid crib break to be taken at a time which does not interfere with the continuity of work:

Provided further that employees may elect to forego such crib break subject to agreement by the employer.

### *6.4.7 Meal breaks*

Employees required to continue working for more than 90 minutes beyond their ordinary ceasing time, will be allowed a 30 minute unpaid meal break:

Provided that after each subsequent period of 4 hours' work, an employee will be allowed a 20 minute paid crib break:

Provided further that, by mutual agreement between the employer and the employee, the 30 minute meal break may be dispensed with.

### *6.4.8 Work performed on rostered days off*

All time worked on an employee's rostered day off will be paid for at the appropriate overtime rate with a minimum payment as for 3 hours' work:

Provided that in the case of unforeseen circumstances such as material shortages, power failures, overstocking due to unpredictable market conditions or the breakdown of machinery, the company and the employee, or majority of employees affected, may agree to substitute another day in lieu of the rostered day off.

In such cases, the day that had been rostered off will be regarded as an ordinary working day.

#### 6.4.9 *Rest period after overtime*

Employees who:

- (a) work so much overtime between the termination of their ordinary work on the one day or shift and the commencement of ordinary work on the next day or shift; and
- (b) have not had at least 10 consecutive hours off duty between those times will be released after completion of such overtime until they have had 10 consecutive hours off duty without loss of pay for ordinary working time occurring during such absences.

Employees required by the employer to resume or continue work without having had 10 consecutive hours off duty, will be paid at double time until they are released from duty for such period. Such employees will then be entitled to be absent until they have had 10 consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

### 6.5 **Shift work**

6.5.1 "Afternoon shift" means any shift commencing between 12 midday and 8.00 p.m.

6.5.2 "Night shift" means any shift commencing after 8.00 p.m. and terminating at or before 8.00 a.m. or the normal day work commencing time.

6.5.3 The ordinary hours for shift workers will not exceed an average 38 per week or 8 in any one day, Monday to Friday inclusive.

6.5.4 Employers may require employees to work shift work in accordance with clause 6.5 or otherwise as mutually agreed between the employer and the Union:

#### 6.5.5 *Facilitative provisions*

Hours other than those prescribed by clause 6.5 may be worked by agreement between the Union and the relevant employer.

#### 6.5.6 *Shift penalty*

In addition to the rates of pay prescribed by clause 5.2, employees whilst engaged on afternoon shift and night shift, as defined will be paid an additional penalty rate as follows:

- (a) Afternoon shift 12.5% (or \$9.70 per shift which ever is greater)
- (b) Night shift 15% (or \$9.70 per shift whichever is greater)

#### 6.5.7 *Crib break*

Shift workers will be allowed a 30 minute paid crib break during each shift.

#### 6.5.8 *Night shifts commencing on Sundays and public holidays*

By agreement between the employer and the Union, where the ordinary night shift commences prior to midnight on Sunday, or a public holiday, the time between the commencement of the ordinary night shift and midnight will not be deemed to be work done on Sunday or the public holiday and the night shift rate will apply.

## **PART 7 - LEAVE OF ABSENCE AND PUBLIC HOLIDAYS**

### **7.1 Annual leave**

The provisions of clause 7.1 apply to all full-time employees and on a *pro rata* basis to part-time employees.

"Shift worker" for the purpose of clause 7.1 means an employee engaged on shift work where 3 shifts per day are worked over a period of 7 days per week.

### 7.1.1 Entitlement

Full-time employees will be entitled, at the end of each year of employment, to annual leave on full pay as follows:

- (a) not less than 190 hours for shift workers;
- (b) not less than 152 hours in any other case.

### 7.1.2 Payment

Subject to clause 7.1.4, annual leave will be paid in advance on the commencement of leave as follows:-

- (a) in the case of employees in receipt, immediately prior to that leave, of ordinary wages at a rate in excess of the ordinary wages payable under clause 5.2, at that excess rate; and
- (b) in every other case, at the ordinary time rate of pay payable under clause 5.2 to the employee concerned immediately prior to that leave.

### 7.1.3 Public holidays excluded

Annual leave will be exclusive of any public holiday which may occur during the period of that annual leave.

### 7.1.4 Calculation of annual leave pay

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

- (a) Shift workers - Subject to clause 7.1.4 (c), the rate of wage to be paid to shift workers will be the rate payable for work in ordinary time according to the employee's roster or projected roster, including Saturday, Sunday or public holiday shifts.
- (b) Supervisors etc. - Subject to clause 7.1.4 (c), supervisory allowances and amounts of a like nature otherwise payable for ordinary time worked will be included in the wages to be paid to employees during annual leave.
- (c) All employees - Subject to the provisions of clause 7.1.4 (d), in no case will 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 5.2 for the period of the annual leave (excluding shift premiums and week-end penalty rates);
  - (ii) Supervisory allowance prescribed in clause 5.4;
  - (iii) a further amount calculated at the rate of 17 1/2% of the amounts referred to in clauses 7.1.4(c)(i) and (ii).
- (d) The provisions of clause 7.1.4(c) of this clause will not apply to the following:
  - (i) any period or periods of annual leave exceeding -
    - (1) 190 hours in the case of shift workers; or
    - (2) 152 hours in any other case.
  - (ii) 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.

### 7.1.5 Payment upon termination

- (a) If an employee is terminated at the expiration of a full year of employment, the employer will be deemed to have given the leave to the employee from the date of termination of employment and shall immediately pay to the employee, in addition to all other amounts due to the employee, the employee's pay, calculated in accordance with clause 7.1.4 for 152 or 190 hours as the case may be, as well as the employee's ordinary time rate of pay for any public holiday occurring during such period of 152 or 190 hours.
- (b) If an employee is terminated before the expiration of a full year of employment, the employee will be paid, in addition to all other amounts due, an amount equal to:

- (i) 1/9th of the employee's pay for the period of employment in the case of a shift worker; and
- (ii) 1/12th of the employee's pay for the period of employment in the case of the other employees.

#### 7.1.6 *Payment in lieu prohibited*

It will not be lawful for the employer to give, or for an employee to receive, payment in lieu of annual leave.

### **7.2 Sick leave**

#### 7.2.1 *Entitlement*

- (a) Every employee, except casuals, and school-based apprentices and trainees, is entitled to 60.8 hours' sick leave for each completed year of their employment with their employer.
- (b) This entitlement will accrue at the rate of 7.6 hours' 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 the employee's 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 to the employer's satisfaction, about the nature and approximate duration of the illness.

#### 7.2.4 *Accumulated sick leave*

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

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

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

#### 7.2.5 *Workers' compensation*

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

### **7.3 Bereavement leave**

#### 7.3.1 *Full-time and part-time employees*

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

#### 7.3.2 *Long-term casual employees*

- (a) A long-term casual employee is entitled to at least 2 days unpaid bereavement leave on the death of a

member of the person's immediate family or household in Australia.

- (b) A "long-term casual employee" is a casual employee engaged by a particular employer, on a regular and systematic basis, for several periods of employment during a period of at least one year immediately before the employee seeks to access an entitlement under clause 7.3.2

7.3.3 "Immediate family" includes:

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

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

## **7.4 Long service leave**

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

## **7.5 Family leave**

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

7.5.1 It is to be noted that:

- (a) part-time work can be performed by agreement in the circumstances specified in the Family Leave Award;
- (b) a copy of the Family Leave Award is required to be displayed in accordance with section 697 of the Act.

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

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

## **7.6 Public holidays**

7.6.1 Subject to clause 7.6.6, all work done by any employee on:

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

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

### *7.6.2 Labour Day*

All employees covered by this Award will 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. If an employee concerned actually works on Labour Day, the employee will be paid a full day's wage for that day as well as payment for the time actually worked at one and a-half times the ordinary rate prescribed for such work with a minimum of 4 hours.

### 7.6.3 Annual Show

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

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

### 7.6.4 Double time and one half

For the purposes of clause 7.6, where the rate of wages is a weekly rate, "double time and a-half" means 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.

### 7.6.5 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 dismissed or stood down, for any one or more of the following holidays, namely, Christmas Day, Boxing Day and 1st January (New Year's Day).

### 7.6.6 Substitution

Where there is agreement between the employer and the majority of employees concerned, a public holiday, may be substituted for another day. If that other day is worked, then payment for that day will be at the rate of double time and a-half of the ordinary rate of pay prescribed for that work. In such cases, work performed on the actual public holiday will be paid at ordinary rates.

## 7.7 Jury service

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.

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.

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.

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.

"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 Commitment to training and careers**

9.1.1 The parties commit themselves to continuing and upgrading the training provided to employees.

9.1.2 It is agreed that the parties will co-operate in ensuring that training is maintained and improved.

9.1.3 This training will form the basis of an enhanced career structure in the industry.

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

### **10.1 Uniforms**

10.1.1 The employer will provide uniforms to employees required by the employer to wear such uniforms

10.1.2 Uniforms will be laundered by the employer free of cost to the employee.

10.1.3 Employees will be responsible for any loss or damage of such uniforms, fair wear and tear excepted.

### **10.2 Provision of seating**

Suitable seats will be provided, and where practicable, may be used by employees whilst packing and/or labelling biscuits or confectionery.

## **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 will 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 the employee.

The document provided by the employer will 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 will 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 Trade union training leave**

#### 11.4.1 *Entitlement*

Upon written application by the Union to the employer, and with the prior approval of the employer, an employee will be granted paid leave of absence of up to 5 working days' (non-cumulative) on ordinary pay each calendar year to attend Union training courses approved by the State executive of the Union. The scope, content and level of such courses or seminars will be such as to contribute to a better understanding of industrial relations within the employer's operations.

Other courses mutually agreed between the Union and the employer, or employers, may be included under clause 11.4.

For the purposes of clause 11.4 'ordinary pay' will mean the ordinary time earnings paid to the employee exclusive of any allowance for travelling time and fares.

#### 11.4.2 *Application to attend training*

Any written application by the Union seeking release of a delegate/representative to attend a course will include details of the type and content of the course to be attended as well as the dates upon which the course is proposed to be conducted.

Application will be made not less than 8 weeks before the intended course, or a lesser period as agreed between the employer, Union and the employee concerned.

#### 11.4.3 *Eligibility*

The granting of this leave will be subject to the following conditions:

- (a) the employee must have at least 12 months' continuous service with the employer prior to the leave being granted and be the elected Union delegate/representative; and
- (b) unless otherwise agreed, the maximum number of employees of one and the same employer attending a training course or seminar each year will be as follows -

Where the employer employs between 10-50 employees	1
Where the employer employs between 51-100 employees	2
Where the employer employs over 100 employees	4

#### 11.4.4 *Release of employees*

The granting of the leave will be subject to the convenience of the employer so that the operations of the employer will not be adversely affected.

Where an employer approaches the Union and demonstrates genuine difficulties with respect to the release of a particular employee at a particular time (including where the employer might have previously advised of its ability to release the employee) the Union will not unreasonably press its request for the release of that employee at that time.

If the matter is not amicably resolved, it will be processed in accordance with clause 3.1 (Grievance and dispute settling procedure).

#### 11.4.5 *Costs*

In granting this leave, the employer is not responsible for any additional costs except the payment of extra remuneration where relieving arrangements are instituted to cover the absence of the employee.

#### 11.4.6 *Attendance on rostered day off*

Leave granted to attend such training courses will not incur any additional payment or alternate time off if the course coincides with an employee's rostered day off or with any other concessional leave.

#### 11.4.7 *Effect on other leave*

This paid leave will not affect other leave granted to employees under this Award.

#### 11.4.8 *Proof of attendance*

On completion of the course an employee will, upon request, provide to the employer proof of their attendance at the course. Except in the case of sick leave or other authorised leave, non-attendance at a training course will result in the employee not being paid for such time.

### **11.5 Award posting**

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

## **SCHEDULE 1**

### **Matters previously dealt with by the Biscuit, Cake and Pastrygoods Manufacturing - Weston Baked Foods (Queensland) - Industrial Agreement**

The following provisions have application to Weston Baked Foods (Queensland) and its employees and in the case of any inconsistency between the provisions of this schedule and any other provision of the Award, this schedule will have application to the extent of that inconsistency:

#### 1. Proof of Illness (refer clause 7.2.3):

Where an employee has received counselling or a first written warning in terms of unsatisfactory work performance for absenteeism, the employer may request proof of illness, a certificate for every absence.

#### 2. Early shift allowance - cake and pastrygoods section (refer clause 6.4.3):

Where an employee is required to commence the ordinary hours of work prior to 5.00 a.m., the employee will be paid a loading of 35% of the appropriate rate of pay for all time so worked.

#### 3. Hours of Duty - cake and pastrygoods section (refer clause 6.1.1):

The ordinary hours of work for employees engaged in the cake and pastrygoods section will be worked between 12 midnight and 6.00 p.m.

#### 4. Meal breaks (refer clause 6.2):

Meal breaks will be taken at a time to suit production requirements.

#### 5. Meal money (refer clause 6.4.5):

Employees who are required to continue working for more than one hour beyond their ordinary ceasing time, if not notified on the previous working day, will be provided with an adequate meal by the employer or paid a Meal Allowance of \$9.60:

Provided that where employees have provided themselves with a meal due the receipt of notice to work overtime and such overtime is not worked, they will be paid \$9.60 for any meal so provided.

Dated 13 March 2003.

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

Operative Date: 12 May 2003