

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

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

**BRISBANE CITY COUNCIL - MISCELLANEOUS WORKERS' AWARD 2002**

Following the Declaration of the General Ruling for Overtime Meal Allowance (matter numbers B/2010/34 and B/2010/38), the Brisbane City Council - Miscellaneous Workers' Award 2002 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 Brisbane City Council - Miscellaneous Workers' Award 2002 as at 1 January 2011.

Dated 1 March 2011.

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

**BRISBANE CITY COUNCIL - MISCELLANEOUS WORKERS' AWARD 2002**

**PART 1 - APPLICATION AND OPERATION**

**1.1 Title**

This Award is known as the Brisbane City Council - Miscellaneous Workers' Award 2002.

**1.2 Arrangement**

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### **1.3 Coverage**

This Award shall apply to those employees of the Brisbane City Council whose classifications and rates of pay are prescribed in clauses 5.2 and 5.3 of this Award.

### **1.4 Date of operation**

This Award takes effect from 6 January 2003.

### **1.5 Award objectives**

The objectives of this Award include the following:

- (a) Ensuring that all reasonable steps are taken to avoid any action which disrupts continuity of operation, by resolving employee concerns effectively and speedily through full and open communication and agreed consultative, negotiation and grievance procedures.
- (b) Facilitating opportunities for employees to broaden their skills, fulfil their potential and meet the needs of constantly changing customer requirements and technological changes.
- (c) Maintaining a payment system which recognises and rewards employee performance, skills enhancement and skills utilisation.
- (d) Facilitating working relationships on the basis of co-operation, mutual trust, understanding and sincerity.
- (e) Supporting and maintaining the standards that will ensure responsible, efficient and safe operations.
- (f) Ensuring that the Award achieves that objective of the Council's corporate plan which establishes fair and equitable job evaluation systems for all employees.
- (g) Enabling those objectives of the Council's corporate plan which ensure the identification of skill requirements and learning plans to be developed and reflected in the Workplace Role Statements.

## **1.6 Parties bound**

This Award shall be legally binding upon the employees as prescribed by clause 1.3 and their employers, and upon the Australian Liquor, Hospitality and Miscellaneous Workers Union, Queensland Branch, Union of Employees and its members.

## **1.7 Definitions**

- 1.7.1 The "Act" means the *Industrial Relations Act 1999* as amended or replaced from time to time.
- 1.7.2 "Commission" means the Queensland Industrial Relations Commission.
- 1.7.3 The "Council" means the Brisbane City Council.
- 1.7.4 "Premises" means all classes of buildings and their environs whether enclosed or not enclosed, and shall include - buildings in the course of construction or demolition, construction works, show grounds, sportsgrounds, sports venues, car parks, cemeteries and any other place where the service of employees subject to this Award may be required.
- 1.7.5 "Union" means the Australian Liquor, Hospitality and Miscellaneous Workers Union, Queensland Branch, Union of Employees.

## **1.8 Leave reserved**

- 1.8.1 Ordinary time work on Saturday by car park attendants.

## **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 the 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 that Union and the senior management of the employer or the employer's nominated industrial representative. An employee who is not a member of the Union may report the grievance or dispute to senior management or the nominated industrial representative. This should occur as soon as it is evident that discussions under clause 3.1.2 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 Workplace consultation**

The Council has established a consultative mechanism to facilitate improved workplace communication between Council and its employees to ensure effective workplace employee relations. A corporate and departmental/divisional consultative committed structure has been established to facilitate these processes.

### **3.3 Counselling procedure**

- 3.3.1 A counselling and warning system is to be adopted in relation to employees' absenteeism, time-keeping, job performance, safety attitude, as follows:
  - (a) When an incident or incidents warrant corrective action, the supervisor will have a counselling session with the employee, with the supervisor fully explaining the corrective action required.
  - (b) A repeat incident by the employee will result in a first warning being given to the employee by an appropriate representative of management. This warning will be given with either the Union delegate/organiser present or the employee's chosen representative and the details will be recorded.
  - (c) A further repeat of this incident will result in a final warning being given to the employee, this warning will be given by appropriate Council representatives in the presence of the witness as identified in clause 3.3.1(b).

- (d) This final warning will be recorded in writing and will be signed by the employee concerned, the Council representative and the witness as identified 3.3.1(b).
- (e) These warnings will be retained in the employee's file for a period of 2 years after which time they will be revoked.
- (f) A further occurrence will result in the dismissal of the employee.
- (g) This procedure is to operate in connection with the termination of employment other than in cases of retrenchment or summary dismissal and in accordance with the Ordinances and the *City of Brisbane Act 1924* as amended.

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

### **4.1 Employment categories**

4.1.1 Employees (other than casual employees) covered by this Award shall be advised in writing of their employment category upon appointment. Employment categories are:

- (a) Full-time is an employee engaged by the week.
- (b) Part-time (as prescribed in clause 4.2); and
- (c) Casual (as prescribed in clause 4.3).
- (d) Temporary employment (as prescribed in clause 4.4).

### **4.2 Part-time employment**

4.2.1 A part-time employee is an employee who:

- (a) is employed for a minimum of 21 hours per week and for less than 30 ordinary hours per week; and
- (b) is engaged to work a regular number of hours and in completing the fixed number of weekly hours there is no requirement to work on consecutive days; and
- (c) receives, on a *pro rata* basis, equivalent pay and conditions to those of full-time employees covered by this Award:

4.2.2 At the time of engagement, the employer and the employee will agree in writing on the pattern of work required, including specifying the number of ordinary hours per week, the days on which the work is to be performed and the usual daily starting and finishing times.

4.2.3 Any variation to the normal starting and ceasing times will be by mutual agreement.

4.2.4 The agreed number of ordinary hours per week may only be varied by mutual agreement. Any such agreed variation to the number of weekly hours of work will be recorded in writing.

4.2.5 An employer is required to roster a part-time employee for a minimum of 2 consecutive hours on any day.

4.2.6 All time worked outside the spread of ordinary working hours as provided for in clause 6.1 and all time worked outside of the usual commencing and ceasing times as mutually arranged in clause 4.2.1 or 4.2.2 will be overtime and paid for at the rates prescribed in clause 6.4 - Overtime.

4.2.7 A 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.

4.2.8 Where a public holiday falls on a day upon which an employee is normally employed, that employee will be paid the appropriate rate for the number of hours normally worked on that day.

### **4.3 Casual employment**

4.3.1 A casual employee means an employee who is employed for less than 32 ordinary hours in any one week under this Award and who is not a part-time employee as defined in clause 4.2.

4.3.2 The hourly rate of pay for casual employees shall be ascertained by dividing the appropriate weekly minimum award rate for employees of the same classification by 38.

- 4.3.3 In addition to the hourly rate calculated in clause 4.3.2 above casual employees shall be paid a loading of 23%.
- 4.3.4 Casual security operatives shall be entitled to a minimum of 4 hours for each engagement where the engagement does not exceed 4 hours, or to a minimum of 8 hours for engagements exceeding 4 hours:
- Provided that all time worked in excess of 8 hours on any one day shall be paid for at overtime rates. For the purposes of clause 4.3.4 each day's work constitutes a separate engagement. In this context "day" means each period of 24 hours from the commencement of the job.
- 4.3.5 The minimum period of engagement for casual gatekeepers shall be not less than 8 hours.
- 4.3.6 The minimum period of engagement for any casual swimming pool employee shall be 3 hours and if not required to work for such minimum period the employee shall nevertheless be paid for 3 hours' work at the ruling rate.
- 4.3.7 Except where otherwise expressly provided herein, the minimum period of engagement of casual employees shall be not less than 2 hours.

#### **4.4 Temporary employment**

- 4.4.1 Temporary employees shall mean employees engaged for a set term to perform special projects or for a period not exceeding 12 months in total to take up work occasioned by full-time employee being absent on approved extended periods of leave e.g., sick leave, long service leave, workers' compensation, family leave etc.
- 4.4.2 Temporary employees shall be entitled to all award conditions and shall be paid at the rates prescribed by this Award for permanent employees of the same classification.
- 4.4.3 Temporary employees may be used where the security and tenure of employment of additional staff required to meet peak workloads cannot be guaranteed.
- 4.4.4 The employment of temporary employees will not be used to avoid increasing staff requirements to meet developing work demands of a permanent and continuous nature.
- 4.4.5 Temporary wages employees shall be employed under the conditions of this Award, the Council's Ordinances and any special Council decisions that may be applied from time to time.
- 4.4.6 Temporary wages employees shall be notified in writing at the time of engagement of the approximate period of employment. In order to extend this engagement by a further approximate period or periods, appropriate written notification must be given to the employee on each occasion clearly specifying the terms of such extension.
- 4.4.7 Temporary employees shall be entitled to receive *pro rata* entitlements to all leave benefits referred to in Part 7 of this Award.

#### **4.5 Termination of employment**

##### *4.5.1 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.

##### *4.5.2 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.

#### 4.5.3 *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 one week:

Provided that resident managers, caretakers and/or persons in charge of municipal swimming pools may terminate their employment by giving the Council 2 week's notice of attention so to do and in default shall forfeit a maximum of 2 week's pay.

4.5.4 Annual leave or part thereof cannot be counted as notice of termination by either party.

#### 4.5.5 *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.

### **4.6 Introduction of changes**

#### 4.6.1 *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.

#### 4.6.2 *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 4.6.1.
- (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.

## **4.7 Redundancy**

### *4.7.1 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 4.7.1(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.

### *4.7.2 Transfer to lower paid duties*

- (a) Where an employee is transferred to lower paid duties for reasons set out clause 4.7.1 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 4.5.
- (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.

### *4.7.3 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 4.7.3, '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.

### *4.7.4 Time off during notice period*

- (a) Where a decision has been made to terminate an employee in the circumstances outlined in clause 4.7.1, 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.

#### 4.7.5 *Notice to Centrelink*

Where a decision has been made to terminate employees in the circumstances outlined in clause 4.7.1, 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.

#### 4.7.6 *Severance pay*

- (a) In addition to the period of notice prescribed for ordinary termination in clause 4.5.2(a), and subject to further order of the Commission, an employee whose employment is terminated for reasons set out in clause 4.7.1(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.

#### 4.7.7 *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.

#### 4.7.8 *Employee leaving during notice*

An employee whose employment is terminated for reasons set out in clause 4.7.1(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.

#### 4.7.9 *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.

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

Clause 4.7 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.

#### 4.7.11 *Employees exempted*

Clause 4.7 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.

#### 4.7.12 *Employers exempted*

- (a) Subject to an order of the Commission, in a particular redundancy case, clause 4.7 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.

#### 4.7.13 *Exemption where transmission of business*

- (a) The provisions of clause 4.7.6 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 4.7.13(a)(ii) if it is satisfied that it would operate unfairly in a particular case, or in the instance of contrived arrangements.

#### 4.7.14 *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.

### **4.8 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.

### **4.9 Anti-discrimination**

4.9.1 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 varied 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.

4.9.2 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.

4.9.3 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.

4.9.4 Nothing in clause 4.9 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.

#### **4.10 Cleaners**

4.10.1 No employee shall be required to clean conveniences of the opposite gender when cleaners of the first gender are on duty, or during business hours.

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

#### **5.1 Classification and operating principles**

##### *5.1.1 Basis for remuneration*

Payment is determined by the skill level of the role, not the tasks undertaken. Therefore, payment does not automatically vary when particular tasks or new tasks are performed. Employees will on occasion perform work of a similar nature and because of the different skill levels required, attract different classification rates. This principle adheres to the concepts of competency based remuneration and payment for skills required.

##### *5.1.2 Higher duty performance*

Employees temporarily called upon to perform all, or a substantial part of a role at a higher grade, will attract a pay rate applicable to that grade, provided they have undertaken work at the higher grade for a full working day.

##### *5.1.3 Working within skill and safety limits*

The Council may direct an employee to carry out such duties as 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 and are in accordance with the *Workplace Health and Safety Act 1995* and Regulations.

##### *5.1.4 Award flexibility*

The parties agree in principle that the new Award skill level definitions and agreed classification structures will be more suitable for the needs of the Council, generally more broadly based, more truly reflective of the different skill levels of the tasks now performed, and which shall incorporate the ability for an employee to perform a wider range of duties where appropriate. This ability is limited to the extent of their training, accreditation and licensing requirements.

##### *5.1.5 Role evaluation process*

When departments/divisions, following consultation and agreement with the Union, decide to restructure work to meet business needs, or decide to expand operations into new areas, workplace statements will be created and graded according to an agreed role evaluation process.

The role evaluation process is designed to meet the following agreed principles:

(a) Allows employee consultation;

(b) Ensures workplace statement quality (content);

(c) Ensures corporate grading consistency; and

(d) Ensures equity.

The workplace statements are to be developed according to an agreed format and to be submitted for role evaluation through the process indicated below:

<b>1. Local work area</b>  Develop and agree Workplace Statements	<b>2. Corporate grading committee</b>  Establish role grading	<b>Branch/section management</b>  Appoint employees to roles
---	---	--

<b>Process Steps</b>	<b>Composition</b>	<b>Purpose</b>	<b>Action</b>
1. Local work area	Employee reps where role exists Supervisors Section Head Facilitator (SDO or Corporate Training Officer)	Develop and agree WPS to ensure consistent quality of WPS through the use of the structured format	Forward agreed WPS to Corporate Grading Committee (Step 2) If no agreement on WPS refer to award grievance procedure
2. Corporate grading committee	3. Inter-Departmental Management reps Union official HRD Officer	Establish role grading Ensure corporate consistency	Communicates decision on final grading to Department or Division
The evaluation of the workplace role statements by the corporate grading committee will occur through the application of the agreed role evaluation methodology.			

#### 5.1.6 Appointment process

Employees are attached to workplace statements through an appointment selection process when vacancies occur or new roles are created. Employees are selected based on skill, knowledge, and personal attributes, as assessed against the advertised selection criteria in accordance with the agreed Council merit-based recruitment and selection process.

## 5.2 Classification standards

5.2.1 The following classification standards are generic and indicate in broad terms the skills and in some instances, the type of work that may be required of employees. The standards are complimentary to an agreed role evaluation methodology, which values the work role against the classification standards.

The work role is reflected in a workplace statement that specifies for employees the responsibility and skill requirements of the role.

The classification standards extend across the work and skill range typically performed by employees represented in the following areas:

- City Hall
- Cleaners
- Car parks
- Cemeteries
- Art gallery
- City venues

#### 5.2.2 Miscellaneous worker - Entry grade

General features of the role

Employees appointed to this grade have limited or no relevant work experience. This grade is used to assess the employee's skill level and physical capacity to perform the relevant work. The employee remains in this grade for 6 months and undertakes induction training and competency assessment and works under close supervision preferably in a team environment.

#### 5.2.3 Miscellaneous worker - Grade 1

General features of the role

Upon appointment to this grade an employees is expected to undertake a range of activities at a base level preferably in a team environment.

#### 5.2.4 *Miscellaneous worker - Grade 2*

General features of the role

An employee appointed to this grade is expected to undertake a range of activities and commensurate responsibilities preferably within a team environment that requires skills that build on the competencies developed in grade one.

#### 5.2.5 *Miscellaneous worker - Grade 3*

General features of the role

An employee appointed to this grade is expected to undertake a range of activities and commensurate responsibilities preferably within a team environment that requires skills that build on the competencies developed in grade 2.

An employee at this grade may be expected to be part of a small work team and to operate cleaning equipment if required by the business needs as reflected in the workplace statement. A typical skill required in this grade would be cleaning skills.

#### 5.2.6 *Miscellaneous worker - Grade 4*

General features of the role

An employee appointed to this grade is expected to undertake a range of activities and commensurate responsibilities within a team environment that requires skills that build on the competencies developed in grade 3.

An employee at this grade may be required to operate specific plant or equipment if required by the business needs as reflected in the workplace statement.

Typical skills required in the grade would include those involved in cleaning, grave digging, preparing meals and customer counter work.

#### 5.2.7 *Miscellaneous worker - Grade 5*

General features of the role

An employee appointed to this grade is expected to undertake a range of activities and commensurate responsibilities within a team environment that requires skills that build on the competencies developed in grade 4.

An employee at this grade may be required to provide supervision to a work team, operate plant and equipment if required by the business needs as reflected in the workplace statement.

Typical skills required in this grade would include those involved in tour guiding, catering, pool attending, car parking and gallery attending.

#### 5.2.8 *Miscellaneous worker - Grade 6*

General features of the role

An employee appointed to this grade is expected to undertake a range of activities and commensurate responsibilities within a team environment, that requires skills that build on the competencies developed in grade 5.

An employee at this grade may be required to supervise a team and operate plant and equipment if required by the business needs as reflected in the workplace statement.

Typical skills required in this grade would include those involved in security.

#### 5.2.9 *Miscellaneous worker - Grade 7*

#### General features of the role

An employee appointed to this grade is expected to undertake a range of activities and commensurate responsibilities within a team environment, that requires skills that build on the competencies developed at grade 6.

Typical skills required in this grade would include those involved in the supervision of car parking.

#### 5.2.10 *Miscellaneous worker - Grade 8*

##### General features of the role

An employee appointed to this grade is expected to undertake a range of activities and commensurate responsibilities within a team environment that requires skills that build on the competencies developed in grade 7.

Typical skills required in this grade would include those involved in sports centre management and supervision in City Hall.

#### 5.2.11 *Miscellaneous worker - Grade 9*

##### General features of the role

An employee appointed to this grade is expected to undertake a range of activities and commensurate responsibilities within a team environment that requires skills that build on the competencies developed in grade 8.

#### 5.2.12 *Miscellaneous worker - Grade 10*

##### General features of the role

An employee appointed to this grade is expected to undertake a range of activities and commensurate responsibilities within a team environment that requires skills that build on the competencies developed in grade 9.

### 5.3 Wages

The minimum rates of wages to be paid to the classes of employees in clause 5.2 are as follows:

Classification	Relativity	Award Rate Per Week \$
Miscellaneous Worker:	%	
Entry	87.5	627.90
Grade 1	90.0	638.30
Grade 2	92.5	648.70
Grade 3	95.0	659.10
Grade 4	97.5	669.60
Grade 5	100.0	682.00
Grade 6	105.0	702.90
Grade 7	110.0	723.70
Grade 8	115.0	742.60
Grade 9	120.0	763.40
Grade 10	125.0	784.30

NOTE 1: 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.

NOTE 2: The percentage relativities column relates to percentages applying before the application of the arbitrated safety net adjustments made in accordance with the November, 1994, State Wage Case and the October, 1995, State Wage Case Decision. The percentage relativities are based on a base rate and supplementary payment totalling \$417.20 per week.

## 5.4 Allowances

- 5.4.1 *Toilet cleaning* - Employees required to clean toilets connected with septic tanks or sewer, other than merely by hosing them, shall be paid an allowance of \$7.90 per week:

Provided that this allowance shall not apply to employees at City Hall, Victoria Park Golf Course and Abbotsford Road Depot because toilet cleaning has been assessed as part of the normal duties and has been included in the classification and rate of pay.

- 5.4.2 *Work in rain* - When employees are required to work in the rain and by so doing get their clothes wet, they shall be paid double rates for all work so performed. Such payment shall continue until such time as they finish work or are able to change into dry clothes:

Provided that cemetery employees shall not be required to perform work in the rain except for burials or time graves.

Provided further that clause 5.4.2 shall not apply where the employee has been supplied with adequate rainproof clothing.

- 5.4.3 *Poison sprays* - Employees using poisonous sprays shall be paid an extra \$12.30 per week whilst so engaged.

### 5.4.4 *Cemetery employees*

- (a) *Removals or exhumations* - In the case of removals or exhumations, the employee actually doing such removals or exhumations, shall be paid \$40.67 extra for the first body from a grave and \$20.30 for each additional body from the same grave:

Provided that employees who only assist in the removal or exhumation shall be paid an extra \$16.34:

Provided further that not less than 4 employees shall be employed on any exhumation and/or removal of a person over 8 years of age; nor shall less than 2 employees be employed on the exhumation and/or removal of children between the ages of 2 and 8 years. When bones only are to be removed one employee may be employed, and shall be paid \$40.67 extra for such service

### (b) *Wet graves*

- (i) Where employees are required to dig graves in ground wherein human seepage is draining from other graves, they shall be paid an extra \$3.35 a day.
- (ii) All employees engaged upon digging graves in waterlogged ground shall be supplied with suitable rubber boots by the Council.
- (c) *Hammer and drill work* - Grave diggers engaged on hammer and drill work, using gads and moils, machine drills, pneumatic picks or mechanical picks, shall be paid an extra \$2.28 for each such grave:
- (d) *Payment for re-opening graves* - Where gravediggers are required to re-open graves later than 6 days after burial and/or before 6 months after burial, they shall be paid an extra \$3.29 for each such grave:

Provided that where, in the opinion of the City Health Surveyor, the ground conditions warrant it, not less than 2 employees shall be employed on re-opening graves which are required to be sunk more than 2.13 metres.

- 5.4.5 *First-aid allowance* - Any qualified employee appointed by the Council to perform first-aid duties and who works 3 days or more in any one week shall be paid \$12.40 per week in addition to their ordinary rate of pay.

## 5.5 Payment of wages

- 5.5.1 Wages shall be paid at least weekly by electronic funds transfer to the employee's credit in an account nominated by the employee. The weekly pay day may be altered after a period of 3 calendar months provided that employees are given at least 2 weeks' notice of such change:

Provided that not more than 2 days' pay may be held by the Council:

Provided further that the Council, with the agreement of employees, may elect to pay wages by cash or cheque

## **5.6 Superannuation**

In addition to the rates of pay prescribed by this Award employees shall be entitled to occupational superannuation benefits in accordance with the relevant legislation and Trust Deed of the Brisbane City Council Superannuation Plan.

## **5.7 Calculation of monetary amounts**

5.7.1 Notwithstanding anything to the contrary in this Award, the following shall apply in calculating the entitlements of employees of the Council in respect of any monetary amounts prescribed in this Award:

- (a) Any monetary amount specified as applying on a per hour basis shall be multiplied by the fraction 40/38. If expressed on a daily basis shall be multiplied by the fraction 10/9.
- (b) Any monetary amount specified as applying on a rate per week basis shall be divided by 38 where it is necessary to determine an hourly rate in order to calculate an entitlement in respect to a part of a week.

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

### **6.1 Hours of work**

6.1.1 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:

- (a) 38 hours within a work cycle not exceeding 7 consecutive days; or
- (b) 76 hours within a work cycle not exceeding 14 consecutive days; or
- (c) 114 hours within a work cycle not exceeding 21 consecutive days; or
- (d) 152 hours within a work cycle not exceeding 28 consecutive days.

6.1.2 Subject to the exceptions hereinafter provided the ordinary hours of work prescribed may be worked on any 5 days in the week, Monday to Sunday inclusive, subject to the following:

- (a) Ordinary hours worked on a Saturday and Sunday shall be paid at the appropriate overtime rate;
- (b) Any arrangement of hours which includes a Saturday or Sunday as ordinary hours shall be subject to agreement between the Council and the majority of employees concerned.

6.1.3 The ordinary hours of work prescribed herein shall be worked continuously, except for meal breaks and rest pauses, between 6 a.m. and 6 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 Council and the majority of employees concerned:

Provided that work done outside the hours of 6 a.m. to 6 p.m. shall be paid at overtime rate and will be deemed to be part of the ordinary hours of work for the purposes of clause 6.1.

6.1.4 The ordinary starting and finishing times of various group of employees or individual employees, may be staggered, provided that there is agreement between the Council and the majority of employees concerned.

6.1.5 The ordinary hours of work prescribed herein shall not exceed 10 hours on any day:

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 Council and the majority of the employees concerned:

Provided further that by arrangement between the Council, the Union and the majority of employees the work section or sections concerned, ordinary hours not exceeding 12 on any day may be worked subject to:

- (a) the Council and the employees concerned being guided by the occupational health and safety provisions of the ACTU Code of Conduct on 12 hour shifts;
- (b) proper health monitoring procedures being introduced;
- (c) suitable roster arrangement being made; and
- (d) proper supervision being provided.



- 6.1.6 Employees are required to observe the nominated starting and finishing of the work day, including designated breaks to maximise available working time. Preparation for work and cleaning up of the employee's person shall be in the employee's time.
- 6.1.7 All ordinary time worked on a Saturday by car park attendants, other than continuous shift workers and casuals, shall be paid for at the rate of time and a-quarter for all such ordinary time .
- 6.1.8 All ordinary time worked on Saturday by casual car park attendant in excess of 4 hours shall be paid for at the rate of time and a-quarter.

## **6.2 Meal breaks**

- 6.2.1 Employees shall be entitled to meal break of not less than 30 minutes and not more than one hour.
- 6.2.2 Subject to the provisions of clause 6.2.6, the time allowed for such meal break shall commence not later than 6 hours after the ordinary starting time each day.
- 6.2.3 The duration of meal break having been determined as the recognised meal break in accordance with clause 6.2 may only be altered by mutual agreement to a proposed change or be giving of one week's notice to employee concerned.
- 6.2.4 Shift workers shall be allowed 30 minutes for crib without loss of pay to be taken in such a manner as to not interfere with the continuity of work.
- 6.2.5 Except as provided for in clause 6.2.6, all work done during the recognised meal break shall be paid for at double time. Such payment will continue until a meal break is taken.
- 6.2.6 *Continuity of work during meal breaks:*

- (a) Where the efficiency of the Council may be increased through a job being completed or work being continued for up to 30 minutes into the normal meal break, the meal break may be delayed up to a maximum of 30 minutes, without penalty.

The normal meal break shall be taken on the completion of the job or when 30 minutes has elapsed.

- (b) Where work requires, the Council and the employees may agree to reduce the normal meal break duration to 30 minutes taken within the normal starting and ceasing time of the meal break:

Provided that employees who normally have a one hour or 45 minute meal break shall finish work 30 minutes or 15 minutes earlier respectively.

### *6.2.7 Meal breaks during overtime*

- (a) Employees required to continue work after the normal ceasing time shall be entitled to a 30 minute crib break after 2 hours' work where work is to continue beyond 4 hours:

Provided that where such overtime continues beyond 6.00 p.m., a 30 minute crib break shall be provided after one hour where work is to continue beyond 4 hours.

- (b) In all other circumstances, an employee shall be entitled to a crib break of 30 minutes after 5 hours of overtime where the employee is required to work beyond the fifth hour. A further crib break of 45 minutes shall be provided after each additional period of 4 hours where the employee is required to work beyond this period. No deduction of pay shall be made for such crib breaks.

- (c) Except as hereinafter provided, all employees called upon to work overtime for more than one hour without receiving notice of intention to work such overtime on the previous day shall be paid \$12.10 for each meal between the ordinary ceasing time and the completion of overtime work, unless the Council provides such meal for them. In cases of emergency where employees are unable to leave their work to procure a meal, the same shall be provided by the Council:

Provided that, where essential overtime is worked on a daily basis in connection with the security of Premises, such meal allowance shall not be payable during such normal daily hours of work but shall be payable upon the commencement of any additional overtime.

## **6.3 Rest pauses**

- 6.3.1 Full-time employees - Full-time employees shall receive a rest pause of 10 minutes' duration in the first half and the second half of each day worked.
- 6.3.2 Rest pauses shall be taken in the Council's time.
- 6.3.3 Rest pauses shall be taken at times to suit the convenience of the Council and so as not to interfere with the continuity of work where continuity is necessary:

Provided that where the Council and employee so agree both 10 minute rest pauses may be combined into one 20 minute rest pause thus allowing for 3 continuous periods of work per day.

- 6.3.4 *Casual and part-time employees* - Casual and part-time employees who work a minimum of 4 consecutive ordinary hours but less than 8 consecutive ordinary hours on any one day shall receive a rest pause of 10 minutes duration. Employees who work a minimum of 8 consecutive ordinary hours (excluding the meal break) on any one day shall receive a rest pause of 10 minutes' duration in the first half and the second half of the period worked, or, by agreement between the employer and the majority of employees, one single 20 minute break may be taken.

## **6.4 Overtime**

- 6.4.1 All authorised time worked outside or in excess of the ordinary hours fixed in accordance with clause 6.1, on any one day, shall be deemed to be overtime.

Except as hereinafter provided, overtime shall be paid 1 ½ times the ordinary rate for the first 3 hours and double time thereafter.

- 6.4.2 Overtime worked on Saturday shall be paid for at the rate of time and a-half for the first 3 hours and double time thereafter with a minimum payment of 3 hours at overtime rates. An employee shall not be entitled to a minimum payment in respect of each separate period of overtime.

No minimum payment shall apply where the overtime is continuous with an employee's ordinary hours of work.

- 6.4.3 Overtime worked on a Sunday shall be paid for at the rate of double time with a minimum payment of 3 hours at overtime rates.

No minimum payment shall apply where the overtime is continuous with an employee's ordinary hours of work.

- 6.4.4 *Shift workers* - All authorised overtime performed by shift workers shall be paid for at the rate of double time.

- 6.4.5 *Rostered day off* - An employee required to work on the rostered day off shall be paid at the rate of time and a-half for the first 3 hours and double time thereafter with a minimum payment of 3 hours.

- 6.4.6 When an employee is required to work during a recognised meal break they shall be paid at the rate of double time for all such work and such payment shall be continued until they are given one-half hour for a meal.

- 6.4.7 An employee recalled to work overtime on one of their ordinary working days shall receive a minimum payment of 4 hours at the prevailing overtime rate.

- (a) An employee shall not be entitled to a minimum payment in respect of each call-out on the same day:

Provided that in lieu of the 4 hours' minimum payment mentioned above, where the employee was notified of the need to return to perform work prior to the completion of the ordinary hours on the day in question a minimum of 2 hours at the prevailing overtime rate shall be payable.

Employees recalled to work overtime may be required to perform additional work of a breakdown or emergent nature which arises during the course of the work which was the subject of the recall.

- (b) Overtime worked in the circumstances specified in clause 6.4.7 shall not be regarded as overtime for the purposes of clause 6.4.8 where the actual time worked is less than 2 hours on such recall or on each of such recalls.

- (c) Clause 6.4.7 shall not apply in cases where it is customary for an employee to return to the Council's Premises to perform a specific job outside the ordinary working hours, or where the overtime is continuous (subject to a reasonable meal break) with the completion or commencement of ordinary working time.

- 6.4.8 An employee who works so much overtime between the termination the ordinary work on one day and the commencement of the ordinary work on the next day that the employee has not at least 10 consecutive hours off duty between those times shall, subject to clauses 6.4.8 and 6.4.9, be released after completion of such overtime

until the employee has had 10 consecutive hours off duty without loss of pay for ordinary working time occurring during such absence. If on the instructions of the Council such an employee resumes or continues work without having had such 10 consecutive hours off duty, the employee shall be paid double rates until the employee is released from duty for such period and the employee shall then be entitled to be absent until the employee has had 10 consecutive hours of duty without loss of pay for ordinary working time occurring during such absence.

6.4.9 The provisions of clause 6.4.8 shall apply in the case of shift workers who rotate from one shift to another as if 8 hours were substituted for 10 hours when overtime is worked:

- (a) for the purpose of changing shift rosters;
- (b) where a shift worker does not report for duty;
- (c) where a shift is worked by arrangement between the employees themselves.

## **6.5 Shift work**

6.5.1 The Council may require specific work to be performed on the basis of shift work. Prior to implementing a system of shift work, consultation shall take place between the Council and the employees affected.

6.5.2 The ordinary hours of shift workers shall average 38 hours per week inclusive of crib time and shall not exceed 152 hours in 28 consecutive days.

6.5.3 The ordinary hours of work may be worked according to a roster agreed upon between the Union and the Council to suit the needs and circumstances of each establishment.

6.5.4 Except at the regular changeover of shifts, an employee shall not be required to work more than one shift in each 24 hours.

6.5.5 Unless otherwise agreed between the Council and the majority of employees affected:

- (a) An afternoon shift shall be a shift finishing after 6.00 p.m. and at or before midnight.
- (b) A night shift shall be a shift finishing after midnight and at or before 8.00 p.m.

### *6.5.6 Shift allowances*

(a) In addition to the rates of pay prescribed by clause 5.3 (Wages), employees whilst engaged on afternoon shift and night shift, as established pursuant to clause 6.5.5 above, shall be paid an additional penalty rate for each such shift as follows:

- |                     |  |
|---------------------|--|
| (i) Afternoon shift | 15% (or \$9.70 whichever is the greater) |
| (ii) Night shift    | 15% (or \$9.70 whichever is the greater) |

The percentage which is quoted shall be the amount which is payable for each shift in addition to the employee's ordinary time wage rate.

(b) This additional shift allowance shall not apply to shift work performed on a Saturday or Sunday. All ordinary time worked by shift workers between midnight Friday and midnight Saturday shall be paid for at the rate of time and a-half for the first 3 hours and double time thereafter and between midnight Saturday and midnight Sunday shall be paid for at the rate of double time.

(c) The shift allowances prescribed in clause 6.5.6 shall not apply in addition to rates payable for work performed on a public holiday, nor when an employee may be working overtime.

(d) These shift allowances shall not apply to carpark attendants as their rate of pay contains a component for compensation for shift work.

6.5.7 All ordinary time worked by continuous shift security operatives, other than casuals, up to 7.6 hours in any one shift between midnight Friday and midnight Saturday shall be paid at one and one-half times the ordinary rate and between midnight Saturday and midnight Sunday shall be paid at the rate of double time.

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

### **7.1 Annual leave**

- 7.1.1 Every employee (other than a casual employee) shall at the end of each year of their employment be entitled to annual leave on full pay as follows:
- (a) not less than 4 weeks; and
  - (b) 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.
- 7.1.2 Such annual leave is exclusive of any public holiday which may occur during the period of that annual leave and (subject to clause 7.1.5) must 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 wages at a rate in excess of the ordinary wages payable under clause 5.3, at that excess rate; and
  - (b) in every other case, at the ordinary time rate of pay payable under clause 5.3 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 termination of the employment and shall immediately pay to the employee, in addition to all other amounts due to them, their pay, calculated in accordance with clause 7.1.5, for 4 or 5 weeks as the case may be and also their ordinary time rate of pay for any public holidays 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 in the case of a shift worker, and 1/12th of their pay for the period of their employment in the case of a day worker, calculated in accordance with clause 7.1.5.
- 7.1.5 *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 7.1.5(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 public holiday shifts.
  - (b) All employees - Subject to the provisions of clause 7.1.5(c), 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 5.3 for the period of the annual leave (excluding shift premiums and weekend penalty rates);
    - (ii) a further amount calculated at the rate of 17.5% of the amounts referred to in clauses 7.1.5(b)(i) and 7.1.5(c)(i).
  - (c) Clause 7.1.5(c) does not apply to the following:
    - (i) 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; or
      - 4 weeks in any other case; or
    - (ii) employers who are already paying an annual leave bonus, loading or other annual leave payment which is not less favourable to employees.
- 7.1.6 Unless the employee agrees otherwise, the employer must give the employee at least 14 days' notice of the date from which the employee's annual leave will be taken.
- 7.1.7 Except as provided in clause 7.1.4, it is not lawful for the employer to give, or for the employee to receive, payment in lieu of annual leave.
- 7.1.8 Calculation of such entitlements to annual leave of employees shall be in hours as agreed between the Union and the Council.

7.1.9 *Annual shut down* - The Council may close down a plant, or a section or sections thereof for a period of at least 21 consecutive days and grant the balance of the annual leave due to an employee in one continuous period in accordance with a roster:

Provided that by agreement with the majority of employees concerned, the Council may close down a plant for a period of at least 14 consecutive days including non-working days and grant the balance of annual leave due to the employee by mutual arrangement.

## **7.2 Sick leave**

### *7.2.1 Accumulation and Payment*

(a) Every employee, except casuals and school-based apprentices and trainees, will accumulate 91.2 hours' sick leave for each completed year of their employment with their employer:

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

(b) Sick leave will accrue at the rate of 7.6 hours' sick leave for each month of employment.

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

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

(e) Sick leave shall be cumulative, but unless the employer and employee otherwise agree, no employee shall be bound to receive, and the employer shall not be bound to make, payment for more than 13 weeks' absence from work through illness in any one year.

### *7.2.2 Employee must give notice*

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

### *7.2.3 Evidence supporting a claim*

When the employee's absence is for more than 2 days the employee is required to give the employer a medical certificate from a duly qualified medical practitioner, or of other evidence of illness to the satisfaction of the employer, describing the nature and approximate duration of the illness.

### *7.2.4 Accumulated sick leave*

An employee's accumulated sick leave shall be 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 within 12 months without otherwise having been employed within 12 months;

(d) the period during which the employment of the employee with the employer is interrupted, or determined, in any of the above circumstances, shall not be taken into account in calculating the period of employment with the employer; and

(e) the employee shall accumulate sick leave 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.

### *7.2.6 Sickness during annual leave*

While on annual leave, if an employee is certified by a duly qualified medical practitioner as being incapacitated to an extent that the employee would be unfit to perform their normal duties for a period of not less than 5 days, such period shall on the application of the employee concerned be debited against the employee's accrued sick leave and a corresponding annual leave credit allowed.

### **7.3 Long service leave**

All employees covered by this Award shall be entitled to long service leave on full pay under, subject to and in accordance with the provisions of the Ordinances of the Brisbane City Council.

### **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, 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 the 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 Upon the death of an employee's brother-in-law, sister-in-law, daughter-in-law, son-in-law the employee is entitled to one day's bereavement leave.

7.4.5 Where the employee is the sole surviving relative responsible for all funeral arrangements or the legal guardian of a deceased uncle, aunt, cousin, nephew, niece or friend the employee is entitled to one day's bereavement leave.

#### *7.4.6 Unpaid leave*

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

### **7.5 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 All work done by any employee on:*

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

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

#### 7.6.2 *Labour Day*

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

#### 7.6.3 *Annual show*

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

#### 7.6.4 *Double time and a-half*

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

#### 7.6.5 *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 they were dismissed or stood down, for any one or more of the following holidays, namely, Christmas Day, Boxing Day and New Year's Day.

7.6.6 Except as provided in clause 7.6.1, if a public holiday falls on an employee's rostered day off, an extra day shall be added to such employee's annual holiday.

### 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**

## **8.1 Security operatives**

8.1.1 Security operatives (not including security operatives who have been shift workers for more than 4 weeks) completing their work between midnight and 6.00 a.m. shall, when there is not train or bus running by which they may readily proceed to their homes be provided with suitable transport to their homes by the Council.

## **8.2 Court attendance**

8.2.1 Employees required to attend a court of justice in connection with their duties shall be paid travelling time if outside their ordinary working hours, fares, and ordinary rates of wages for the time they are attending the court.

## **PART 9 - TRAINING AND RELATED MATTERS**

### **9.1 Training arrangements and career path development**

9.1.1 The parties agree that the award structure and processes creates a more genuine career path for employees which allows advancement based on relevant accreditation, access to training, and the business needs of the Council. Accordingly, the parties commit themselves to:

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

9.1.2 The relevant consultative committee will advise and assist in the development of training programmes consistent with:

- (a) business needs, as reflected in the size, structure, and nature of Council operations.
- (b) the current and future skill needs of the Council.
- (c) the need to develop vocational skills relevant to the Council through on-the-job competency development and courses conducted internally by accredited providers or through external providers such as TAFE.

9.1.3 *Training Programs* - Any work subject to the coverage of this Award may be performed by employees engaged in accordance with the terms of nominated Federal or State Government employment/training programs.

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

### **10.1 Amenities**

Suitable workplace amenities will be supplied by the Council so as to comply with the "Workplace Amenities Advisory Standard 2000" issued under the *Workplace Health and Safety Act 1995*

### **10.2 Clothing**

The Council shall provide clothing to employees in accordance with the Council's Corporate Wardrobe Policy.

### **10.3 Night workers**

10.3.1 Night workers shall be able to leave the Premises in cases of necessity and will be provided the necessary door keys for out of hours access.

10.3.2 Night workers shall not be required to clean the outside windows above the ground floor, or, in other than retail shops, the inside windows, if the cleaner is required to work more than 3.04 metres from the ground or floor.

## **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 they do not want their record inspected.
- (c) The authorised industrial officer may make a copy of the record, but cannot require any help from the employer.
- (d) A person must not coerce an employee or prospective employee into consenting, or refusing to consent, to the inspection of their records by an authorised industrial officer.

#### 11.1.4 *Discussions with employees*

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

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

#### 11.1.5 *Conduct*

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

### **11.2 Time and wages record**

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

- (a) the employee's award classification;

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

11.2.2 The time and wages record must also contain:

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

11.2.3 The employer must keep the record for 6 years.

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

### **11.3 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**

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

#### **11.5 Trade union training leave**

11.5.1 Any permanent employee nominated by the Union shall be granted 5 working days' leave on ordinary pay each calendar year non-cumulative to attend courses and seminars conducted by the Union provided that:

- (a) The Council receives reasonable written notice from the employee, setting out times, dates, content and venue of the course, and that such notice is endorsed by the Union.
- (b) The Council is not involved in any other costs except for the payment of extra remuneration where relieving arrangements are instituted to cover the absence of the employee.
- (c) The granting of such leave shall be subject to Council convenience and will not unduly affect the operation of the Council.
- (d) Nominations will not involve absences of more than 3 employees per department/division at the same time and not more than 6 employees irrespective of Union affiliations from and department/division in any calendar year.

Notwithstanding clause 11.5 any Union which has not had one of its members attend a course or seminar in a calendar year may make special representations to the Council for leave to be granted to a member in accordance with clause 11.5.

- (e) The Council is satisfied that the course or seminar is of such a nature as to assist in reducing labour disputes and that the scope, content and level shall be such as to contribute to a better understanding of Industrial Relations.
- (f) At the conclusion of the course or seminar the employee must produce to the supervisor a Certificate of attendance thereat to enable the payment of the relevant salary or wages.

Dated 6 November 2002.

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

Operative Date: 6 January 2003