

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

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

**EDIBLE NUT PROCESSING AWARD - STATE 2003**

Pursuant to s. 698 of the *Industrial Relations Act 1999* the Edible Nut Processing Award - State 2003 with all amendments as at 10 December 2009, is hereby reprinted.

I hereby certify that the Award contained herein is a true and correct copy of the Edible Nut Processing Award - State 2003 as at 10 December 2009.

Dated 10 December 2009.

G.D. Savill  
Industrial Registrar

**EDIBLE NUT PROCESSING AWARD - STATE 2003**

**PART 1 - APPLICATION AND OPERATION**

**1.1 Title**

This Award is known as the Edible Nut Processing Award - State 2003.

**1.2 Arrangement**

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**1.3 Commencement date and period of operation**

This Award takes effect from 24 March 2003.

**1.4 Coverage**

This Award shall apply to all employers and employees engaged in shelling and grading and processing of edible nuts, and work incidental thereto, in any part of the State of Queensland, other than those covered by any other award or industrial agreement applying to edible nut shelling and grading and processing.

**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 "Adult" means an employee 21 years of age and over.
- 1.5.3 "Blanching Plant Stream" means any production work carried out in areas regarding blanched or roasted products.
- 1.5.4 "Casual employee" means any employee engaged for less than one week.
- 1.5.5 "Commission" means the Queensland Industrial relations Commission.
- 1.5.6 "Junior" means an employee under 21 years of age.
- 1.5.7 "Laboratory Stream" means any testing or analysis work carried out in the laboratory.
- 1.5.8 "Maintenance Stream" means and includes all work of installing, dismantling, repairing, modifying and/or replacing worn parts and assembling of any unit of machinery, also the repairing, modifying and extending of machinery, also the repairing, modifying and extending of chutes, cyclones and any portions of existing buildings or fixtures.
- 1.5.9 "Raw Plant Stream" means any production work carried out in areas regarding receiving, internal movement, and finished production of raw product.
- 1.5.10 "Union" means The Australian Workers' Union of Employees, Queensland.

## **1.6 Area of operation**

For the purposes of this Award, the Divisions and Districts are 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; from that latitude due west to 147 degrees of east longitude; from that longitude due south to 22 degrees 30 minutes of south latitude; from that 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; from that latitude due west to 147 degrees of east longitude; from that longitude due south to 22 degrees of south latitude; from that latitude due east to the sea coast; from the sea-coast northerly to the point of commencement.

Southern Division - That portion of the State not included in the Northern or Mackay 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; from that longitude due north to 25 degrees of south latitude; from that latitude due west to 147 degrees of east longitude; from that longitude due north to the southern boundary of the Mackay Division.

Western District - The remainder of the Southern Division.

## **1.7 Pre-existing conditions**

Nothing herein contained shall be deemed or construed to withdraw any benefits, concessions or privileges at present being received by employees covered by this Award.

## **1.8 Parties bound**

This Award is legally binding upon the employees as prescribed by 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 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 any 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 a Union, be reported to the relevant officer of that Union and the senior management of the employer or the employer's nominated industrial representative. An employee who is not a member of the Union may report the grievance or dispute to senior management or the nominated industrial representative. This should occur as soon as it is evident that discussions under clause 3.1.2 will not result in resolution of the dispute.
- 3.1.5 If, after discussion between the parties, or their nominees mentioned in clause 3.1.4, the dispute remains unresolved after the parties have genuinely attempted to achieve a settlement thereof, then notification of the existence of the dispute is to be given to the Commission in accordance with the provisions of the Act.
- 3.1.6 Whilst all of the above procedure is being followed, normal work shall continue except in the case of a genuine safety issue.
- 3.1.7 The *status quo* existing before the emergence of the grievance or dispute is to continue whilst the above procedure is being followed.
- 3.1.8 All parties to the dispute shall give due consideration to matters raised or any suggestion or recommendation made by the Commission with a view to the prompt settlement of the dispute.
- 3.1.9 Any Order or Decision of the Commission (subject to the parties' right of appeal under the Act) will be final and binding on all parties to the dispute.
- 3.1.10 Discussions at any stage of the procedure shall not be unreasonably delayed by any party, subject to acceptance that some matters may be of such complexity or importance that it may take a reasonable period of time for the appropriate response to be made. If genuine discussions are unreasonably delayed or hindered, it shall be open to any party to give notification of the dispute in accordance with the provisions of the Act.

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

#### 4.1 Employment categories

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

Employment categories are:

- (a) Full-time;
- (b) Part-time (as defined); or
- (c) Casual (as defined).

#### 4.2 Engagement

The term of engagement of all employees, other than casual employees, shall be weekly, terminable by a week's notice by the employee, or by the employer in accordance with the Act, or payment or forfeiture of the applicable period's wages in lieu of notice:

Provided that such notice shall not be counted as annual leave.

#### 4.3 Part-time employees

Part-time employees may be engaged on the following terms:

- 4.3.1 A part-time employee means a weekly employee who is engaged to work on a pre-determined days of the week for a regular number of hours, being more than 16 but less than 32 hours per week. Except as hereinbefore provided, all conditions provided for weekly full-time employees shall apply to part-time employees.
- 4.3.2 Part-time employees shall be paid an hourly rate equal to 1/38th of the weekly rate prescribed by this Award for the classification under which they are engaged.
- 4.3.3 A part-time employee who works in excess of the ordinary daily or weekly hours prescribed in the contract of employment shall be paid overtime in accordance with 6.5 (Overtime).
- 4.3.4 Part-time employees shall be entitled to receive *pro rata* entitlements to annual leave, sick leave, bereavement leave, and long service leave, in accordance with the provisions contained in this Award.
- 4.3.5 Part-time employees shall be entitled to receive payment for ordinary hours they would have otherwise worked on any public holiday on which they would have been ordinarily rostered for duty.

#### 4.4 Junior employees

##### 4.4.1 Proportion of juniors

For one, 2 or 3 adults employed receiving not less than the minimum wage, 2 juniors may be employed. For every additional 3 adults to the first 3, 2 juniors may be employed.

##### 4.4.2 Juniors

Years of age	% of Minimum Adult Award Rate
15 and under 16 years	45
16 and under 17 years	50
17 and under 18 years	55
18 and under 19 years	65
19 and under 20 years	75
20 and under 21 years	85

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

No juvenile under the age of 15 years shall be employed under this Award.

#### 4.5 Anti-discrimination

4.5.1 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.

4.5.2 Accordingly in fulfilling their obligations under the grievance and disputes 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.

4.5.3 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.

4.5.4 Nothing in clause 4.5 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.

## **4.6 Termination of employment**

### *4.6.1 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.

### *4.6.2 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 two 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.

### *4.6.3 Notice of termination by employee*

The notice of termination required to be given by a full-time or part-time 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 amount the employee would have received under clause 4.6.2(d) for a period of notice of one week.

#### 4.6.4 *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.

### **4.7 Introduction of changes**

#### 4.7.1 *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.

#### 4.7.2 *Employer's duty to consult over change*

- (a) The employer shall consult the employees affected and, where relevant, their Union or Unions about the introduction of the changes, the effects the changes are likely to have on employees (including the number and categories of employees likely to be dismissed, and the time when, or the period over which, the employer intends to carry out the dismissals), and the ways to avoid or minimise the effects of the changes (e.g. by finding alternate employment).
- (b) The consultation must occur as soon as practicable after making the decision referred to in clause 4.7.1.
- (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.

### **4.8 Redundancy**

#### 4.8.1 *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 4.8.1(a) and shall cover the reasons for the proposed terminations, measures to avoid or minimise the terminations and/or their adverse affects on the employees concerned.
- (c) For the purpose of the consultation the employer shall, as soon as practicable, provide in writing to the employees concerned and, where relevant, their Union or Unions, all relevant information about the proposed terminations including the reasons for the proposed terminations, the number and categories of employees likely to be affected, the number of workers normally employed and the period over which the terminations are likely to be carried out:

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

#### 4.8.2 *Transfer to lower paid duties*

- (a) Where an employee is transferred to lower paid duties for reasons set out clause 4.8.1 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 4.6.
- (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

#### 4.8.3 *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 (transmitter) to another employer (transmittee), and an employee who at the time of such transmission was an employee of the transmitter of the business, becomes an employee of the 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 transmitter or any prior transmitter shall be deemed to be service of the employee with the transmittee.
- (b) In clause 4.8.3, '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.

#### 4.8.4 *Time off during notice period*

- (a) Where a decision has been made to terminate an employee in the circumstances outlined in clause 4.8.1, 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.

#### 4.8.5 *Notice to Centrelink*

Where a decision has been made to terminate employees in the circumstances outlined in clause 4.8.1, 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.

#### 4.8.6 *Severance pay*

- (a) In addition to the period of notice prescribed for ordinary termination in clause 4.6.2(a), and subject to further order of the Commission, an employee whose employment is terminated for reasons set out in clause 4.8.1(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.

#### 4.8.7 *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.

#### 4.8.8 *Employee leaving during notice*

An employee whose employment is terminated for reasons set out in clause 4.8.1(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.

#### 4.8.9 *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.

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

Clause 4.8 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.

#### 4.8.11 *Employees exempted*

Clause 4.8 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.

#### 4.8.12 *Employers exempted*

(a) Subject to an order of the Commission, in a particular redundancy case, clause 4.8 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.

#### 4.8.13 *Exemption where transmission of business*

- (a) The provisions of clause 4.8 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 4.8.13(a)(ii) if it is satisfied that it would operate unfairly in a particular case, or in the instance of contrived arrangements.

#### 4.8.14 *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.

### **4.9 Trainees**

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

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

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

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

### **5.1 Definition of classifications**

#### 5.1.1 *Grade One Level*

New Entry Employee - As a new entrant, an employee would be undertaking up to 38 hours induction training which may include information on the enterprise, conditions of employment, introduction to supervisors and fellow workers, training and career path opportunities, plant layout, work and documentation procedures, occupational health and safety, equal employment opportunity and quality control/assurance.

An employee at this level performs routine duties essentially of a manual nature and to the level of their training:

- (a) performs general labouring and cleaning duties;
- (b) exercises minimal judgement;
- (c) works under direct supervision; or
- (d) is undertaking structured training so as to enable them to work at Grade 2 level.
- (e) This classification level shall not apply to employees who have previously completed up to 3 months' employment at this level. Such employees shall be classified no lower than Grade 2.

#### 5.1.2 *Grade 2 Level*

Blanching Plant, Raw Plant, Laboratory, and Maintenance Employee -

General

An employee who has completed up to 3 months structured training or has equivalent experience so as to enable the employee to perform work within the scope of this level.

An employee at this level performs work above and beyond the skills of an employee at Grade 1 and to the level of their training:

- (a) works under direct supervision either individually or in a team environment;
- (b) understands and undertakes basic quality control/assurance procedures including the ability to recognise basic quality deviations/faults;
- (c) understands and utilises basic statistical process control procedures.
- (d) Indicative classifications of employees at this level.

- (i) Blanching Plant:

- Pickers and Sorters of extraneous matter
  - Bulk Bag or Bulk Cage Filling
  - Bag Filling with Sewing

- (ii) Raw Plant:

- Pickers and Sorters of extraneous matter
  - Bulk Bag or Bulk Cage Filling
  - Bag Filling with Sewing
  - Dryer Assistant

- (iii) Laboratory:

- Intake Tester

- (iv) Maintenance:

- General Assistant

### 5.1.3 *Grade 3 Level*

Blanching Plant, Raw Plant, Laboratory and Maintenance Employee -

General

An employee who has completed a relevant certificate or equivalent training or experience so as to enable the employee to perform work within the scope of this Grade level.

An employee at this level performs work above and beyond the skills of an employee at Grade 2 and to the level of their training:

- (a) is responsible for the quality of their own work subject to routine supervision;
- (b) works under routine supervision either individually or in a team environment;
- (c) exercises discretion within their level of skills and training;
- (d) Indicative classifications of employees at this level:

- (i) Blanching Plant:

- Granulator Operator
  - Quality Tester
  - Mini-Laboratory Operator
  - Gas Flush Packaging Operator

- (ii) Raw Plant:

- Sample Auger Operator
  - Quality Tester
  - Sample Room Duties

- (iii) Laboratory:

Routine Tester

(iv) Maintenance:

Routine checking and maintenance

#### 5.1.4 *Grade 4 Level*

Blanching Plant, Raw Plant, Laboratory and Maintenance employee.

An employee who has completed a relevant certificate or equivalent training or experience so as to enable the employee to perform work within the scope of this level.

An employee at this level performs work above and beyond the skills of an employee at Grade 3 and to the level of their training:

- (a) works from complex instructions and procedures;
- (b) assists in the provision of on-the-job training to a limited degree;
- (c) co-ordinates work in a team environment or works individually under general supervision;
- (d) is responsible for assuring the quality of their own work.
- (e) Indicative classifications of employees at this level.

(i) Blanching Plant:

Blancher  
Forklift Operator

(ii) Raw Plant:

Gravity Operator  
Eye Operator  
Form Fill Operator  
Stockfeed Operator  
Forklift Operator  
Truck Driver (rigid frame)  
Storeperson for Section supplies  
Intake Nut Runner  
Tipping Operator  
Cleaning Plant Operator  
Transfer Operator  
Dryer Operator  
Sample Auger with intake testing.

(iii) Laboratory:

Laboratory Assistant

(iv) Maintenance:

Production equipment repairs with limited fabrication

#### 5.1.5 *Grade 5 Level*

Blanching Plant, Raw Plant, Laboratory, and Maintenance employee -

General

An employee who has completed a relevant certificate or equivalent training or experience so as to enable the employee to perform work within the scope of this level.

An employee at this level performs work above and beyond the skills of an employee at Grade 4 and to the level of their training:

- (a) works from complex and multiple instructions and procedures;

- (b) assists in the provision of on-the-job training to a limited degree;
- (c) co-ordinates work in a team environment or works individually under limited supervision
- (d) is responsible for assuring the quality of their own work;
- (e) has a knowledge of quality control standards and procedures and may carry out quality checks on other employees.
- (f) Indicative classifications of employees at this level:
  - (i) Blanching Plant:
    - Supervisor
    - Roaster Operator
    - Colour Sorter Operator
  - (ii) Raw Plant:
    - Supervisor
    - Sheller Operator
    - Storeperson for all store requirements
    - Sheller Intake Nut Runner with Testing
  - (iii) Laboratory:
    - Laboratory Supervisor
  - (iv) Maintenance:
    - Maintenance Worker for all sections of factory

#### 5.1.6 *Grade 6 Level*

Blanching Plant, Raw Plant, Laboratory and Maintenance employee -

General

An employee who has completed a relevant certificate or equivalent training or experience so as to enable the employee to perform work within the scope of this level.

An employee at this level performs work above and beyond the skills of an employees at Grade 5 and to the level of their training:

- (a) able to inspect production and/or materials for conformity with established operational standards;
- (b) works from complex and multiple instructions and procedures;
- (c) assists in the provision of on-the-job training to a limited degree;
- (d) co-ordinates work in a team environment or works individually under limited supervision;
- (e) is responsible for assuring the quality of their own work;
- (f) has a knowledge of quality control standards and procedures and may carry out quality checks on other employees.
- (g) Indicative classifications of employees at this level:
  - (i) Blanching Plant:
    - Assistant Foreperson
  - (ii) Raw Plant:
    - Assistant Foreperson
  - (iii) Laboratory:

Laboratory Technician

(iv) Maintenance:

Maintenance Worker (certified)

#### 5.1.7 *Grade 7 Level*

Blanching Plant, Raw Plant, Laboratory, and Maintenance Employee -

General

An employee who has completed a relevant certificate or equivalent training or experience so as to enable the employee to perform work within the scope of this level.

An employee at this level performs work above and beyond the skills of an employee at Grade 5 and to the level of their training:

- (a) able to inspect production and/or materials for conformity with established operational standards;
- (b) works from complex and multiple instructions and procedures;
- (c) assists in the provision of on- the- job training to a limited degree;
- (d) co-ordinates work in a team environment or works individually under limited supervision;
- (e) is responsible for assuring the quality of their own work;
- (f) has a knowledge of quality control standards and procedures and may carry out quality checks on other employees.

(g) Indicative classifications of employees at this level:

(i) Blanching Plant:

Foreperson

(ii) Raw Plant:

Foreperson

(iii) Laboratory:

Foreperson

(iv) Maintenance:

Foreperson

5.1.8 *Classifications definitions* - Previous employment at a classification level in this Award, shall be deemed to be sufficient to enable an employee to be engaged at that level with another employer.

An employer shall remain at a particular level until they are capable of effectively performing through assessment or appropriate certification the tasks required of this function so as to enable them to progress to the next level as a position becomes available.

## 5.2 **Wages**

5.2.1 The minimum rates of wages payable for the Southern Division Eastern District to the following classes of employees shall be the sum of the following columns and shall be paid for all purposes of the Award. The wage rate shall be calculated to the nearest ten cents, with five cents or more being taken upwards:

Grade Level	Total Minimum Rate Per Week \$
1	568.30
2	584.90

Grade Level	Total Minimum Rate Per Week \$
3	601.60
4	618.30
5	639.10
6	662.00
7	682.90

NOTE: The rates of pay in this Award are intended to include the arbitrated wage adjustment payable under the 1 September 2009 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 Casual employees shall be paid an hourly rate equal to 1/38th of the weekly rate plus 23%.

### 5.3 Payment of wages

Wages shall be paid fortnightly in the employer's time, in the Southern Division, and weekly in the employer's time in the Northern Division:

Provided that in the Northern Division where it is mutually agreed between the employer and the branch secretary of the Union, wages may be paid fortnightly:

Provided further that where practicable and mutually agreed upon by the majority of employees and the employer, wages shall be paid by electronic funds transfer into an employee's nominated bank or building society account.

### 5.4 Payment on dismissal

In the case of dismissal of an employee, or of an employee leaving the service of the employer, after the prescribed notice having been given in either case, the employee shall be paid all monies due within 15 minutes of ceasing work. If such monies are not paid within the time prescribed, all waiting time in excess of 15 minutes shall be paid for at ordinary rates.

Except as provided hereunder, in the event of an employee being discharged, or leaving, without notice, such employee shall be paid all monies due within 24 hours of the termination of employment, and if is kept waiting for more than 24 hours such employee shall be paid at ordinary rates for all time such employee is kept waiting after the 24 hours have elapsed.

In the event of an employee being discharged or leaving without notice outside ordinary pay office hours such employee shall be paid all monies due within one hour of the ordinary time of re-opening of the employer's pay office, and if such employee is kept waiting for more than one hour after such time such employee shall be paid at ordinary rates for all time such employee is kept waiting after the one hour has elapsed.

### 5.5 Allowances

#### 5.5.1 Divisional District allowances

Adult employees in the Northern Division, Eastern District shall be paid \$1.05 per week in addition to the rates prescribed in clause 5.2.1.

#### 5.5.2 Afternoon and night shift allowances

(a) In addition to the rates of pay prescribed by clause 5.2 of this Award, employees whilst engaged on afternoon shift and night shift, as established pursuant to clause 6.1 of this Award, shall be paid an additional penalty rate for each such shift as follows:

Afternoon Shift	12.5% (or \$9.70 whichever is the greater)
Night Shift	15% (or \$9.70 whichever is the greater)

(b) For the purposes of clause 5.5.2

(i) 'Afternoon shift' shall mean any shift finishing after 6.00 p.m. and at or before midnight;

- (ii) 'Night shift' shall mean any shift finishing after midnight and at or before 8.00 a.m. or where the majority of hours worked in the shift falls between midnight and 8.00 a.m.; and
  - (iii) 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.
- (c) No employee shall as a result of clause 5.5.2 suffer any reduction to their current entitlement to shift allowance.

### 5.5.3 *First aid allowance*

Where the services of a qualified employee are available that employee shall be appointed by the company to perform first aid duty and shall be paid an additional \$13.30 per week.

### 5.5.4 *Dirt money*

Employees operating intake cleaning machines or cleaning out bins or dust rooms shall be paid 65.65c per hour whilst so engaged in addition to their ordinary rate.

## 5.6 **Superannuation**

5.6.1 *Superannuation Legislation* - The subject of superannuation is dealt with extensively by legislation including the *Superannuation Guarantee (Administration) Act 1992*, the *Superannuation Industry (Supervision) Act 1993* and the *Superannuation (Resolution of Complaints) Act 1993* (collectively the superannuation legislation). This legislation, as varied from time to time, governs the superannuation rights and obligations of the parties.

5.6.2 *Definitions* - For the purposes of this clause, the following definitions shall apply:

"Fund" means a complying superannuation fund as that term is used in the superannuation legislation

"Ordinary time earnings" means the relevant award classification rate, overaward payments and shiftwork loadings (where relevant).

5.6.3 *Employee Contributions* - An employer must, in accordance with the governing rules of the relevant fund, make such superannuation contributions for the benefit of an employee as will avoid the employer being required to pay superannuation guarantee charge under the superannuation legislation with respect to that employee. For the purposes of the superannuation legislation, an employee's ordinary time earnings are intended to provide that employee's notional earning base.

5.6.4 *Voluntary Employee Contributions* - Subject to the governing rules of the relevant fund, an employee who wishes to make contributions to the fund may either forward their own contribution directly to the fund administrators or authorise the employer to pay into the fund from the employee's wages, amounts specified by the employee.

The amount of contributions shall be expressed in whole dollars.

An employee shall have the right to adjust the level of contribution made on their own behalf from the first of the month following the giving of three months' written notice to the employer.

Contributions deducted under this clause shall be forwarded to the fund at the same time as contributions under 5.5.3.

5.6.5 *Superannuation Fund* - An employer must, in accordance with the governing rules of the relevant fund, make superannuation contributions to any of the following funds:

(a) Austsafe; or

(b) any fund agreed between the Union and an employer respondent to this Award.

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

### **6.1 Hours of work**

6.1.1 (a) Subject to 6.2 (Implementation of 38 hour week) and subject to the exceptions hereinafter provided, the ordinary hours of work shall be an average of 38 per week, to be worked on one of the following bases:

- (i) 38 hours within a work cycle not exceeding 7 consecutive days; or

- (ii) 76 hours within a work cycle not exceeding 14 consecutive days; or
- (iii) 114 hours within a work cycle not exceeding 21 consecutive days; or
- (iv) 152 hours within a work cycle not exceeding 28 consecutive days.

(b) The ordinary hours of work prescribed shall be worked between the hours of 6.00 am and 6.00 pm, Monday to Friday, inclusive.

- 6.1.2 The ordinary starting and ceasing times of various groups of employees or individual employees, may be staggered provided that there is agreement between the employer and the majority of employees directly affected.
- 6.1.3 The spread of hours as prescribed above may be altered as to all or a section of employees provided that there is agreement between the employer and the majority of employees directly affected, provided that such spread of hours shall not exceed 12 hours:

Provided further that work done outside the hours of 6.00 am to 6.00 pm shall be paid at overtime rates and will be deemed to be part of the ordinary hours of work for the purposes of clause 6.1.3.

- 6.1.4 Employees are required to observe the nominated starting and finishing times for the work day, including designated breaks to maximise available working time. Preparation for work and cleaning up of the employee's person shall be in the employee's time.
- 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 employer and the majority of employees concerned:

Provided further that where any arrangement of ordinary hours exceed 8 on any one day, the Chief Industrial Inspector and the Union shall be notified in writing within 14 days of commencement of work under such arrangement.

- 6.1.6 Subject to the provisions of clause 6.1.1, where 2 shifts are worked they shall be worked according to the following roster:

First shift - 6.00 a.m. to 2.40 p.m. with 40 minutes for a meal, which shall be commenced not less than 3 hours after the ordinary commencing time and no later than 6 hours after the ordinary commencing time. Such meal break shall be in the employee's time.

Second shift - 2.40 p.m. to 11.20 p.m. with 40 minutes for a meal, shall be commenced not less than 3 hours after the ordinary commencing time and no later than 6 hours after the ordinary commencing time. Employees shall be paid for 30 minutes of the said meal break at ordinary time, in addition to their payment for the full 8 hours worked.

- 6.1.7 By agreement between an employer, the Union and the majority of employees in the plant or work section or section concerned, ordinary hours not exceeding 12 on any day may be worked subject to:

- (a) the employer and the employee 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 arrangements being made; and
- (d) proper supervision being provided.

- 6.1.8 Where the employer and the branch secretary of the Union mutually agree, arrangements may be made for the working of 3 shifts per day.

- 6.1.9 *Facilitative provisions procedure* - The procedure for employers and employees to implement the facilitative provisions under clause 6.1 shall be in accordance with the following guidelines:

- (a) Facilitative provisions such as: hours of work - day/shift, meal breaks, staggered starting and finishing times, and 10 ordinary hours, can be negotiated between management and employees who are directly affected by such proposals.

Employees may be represented by their local Union delegate/s and shall have the right to be represented by their local Union official/s.

- (b) Facilitative provisions can only be implemented by agreement.
- (c) Facilitative provisions cannot be imposed by employers onto employees or *vice versa*.
- (d) Agreement is defined as obtaining consent of greater than 50% of employees directly affected.
- (e) All employees directly affected must be consulted as a group regarding the proposal, before any agreement can be reached.
- (f) Any agreement reached must be documented and must incorporate a review period. A copy of the agreement must be forwarded to the Union delegate/s and State official/s.

## **6.2 Implementation of 38 hour week**

- 6.2.1 The 38 hour week shall be implemented on one of the following bases, most suitable to the particular business, after consultation with, and giving reasonable consideration to the wishes of the employees concerned:
  - (a) by employees working less than 8 ordinary hours each day; or
  - (b) by employees working less than 8 ordinary hours on one or more days each work cycle; or
  - (c) by fixing one or more work days on which all employees will be off during a particular work cycle; or
  - (d) by rostering employees off on various days of the week during a particular work cycle, so that each employee has one work day off during that cycle.
- 6.2.2 Subject to the provisions of clause 6.1.5 employees may agree that the ordinary hours of work are to exceed 8 on any day, thus enabling more than one work day to be taken off during a particular work cycle.
- 6.2.3 Notwithstanding any other provision in clause 6.2, where the arrangement of ordinary hours of work provides for a rostered day off, the employer and the majority of employees concerned may agree to accrue up to a maximum of 6 rostered days off. Where such agreement has been reached, the accrued rostered days off shall be taken within 12 calendar months of the date on which the first rostered day off was accrued. Consent to accrue rostered days off shall not be unreasonably withheld by either party.
- 6.2.4 Different methods of implementation of the 38 hour week may apply to individual employees, groups or sections of employees in the business concerned.

## **6.3 38 hour week - procedures for enterprise level discussions**

- 6.3.1 The employer and all employees concerned in each establishment shall consult over the most appropriate means of implementing and working a 38 hour week.
- 6.3.2 The objective of such consultation shall be to reach agreement on the method of implementing and working the 38 hour week in accordance with clause 6.2.
- 6.3.3 The outcome of such consultation shall be recorded in writing.
- 6.3.4 In cases where agreement cannot be reached as a result of consultation between the parties, either party may request the assistance or advice of their relevant employee or employer organisation.
- 6.3.5 Notwithstanding the consultative procedures outlined above, and notwithstanding any lack of agreement by employees, the employer shall have the right to make the final determination as to the method by which the 38 hour week is implemented or worked from time to time.
- 6.3.6 After implementation of the 38 hour week, upon giving 7 days' notice or such shorter period as may be mutually agreed upon, the method of working the 38 hour week may be altered from time to time following negotiation between the employer and employees concerned, utilising the foregoing provisions of clause 6.3, including clause 6.3.5.

## **6.4 Meal time and smoko**

- 6.4.1 Every employee covered by this Award shall be allowed one hour for meals except as otherwise provided herein which shall be commenced not less than 3 hours after the ordinary commencing time and no later than 6 hours after the ordinary commencing time.
- 6.4.2 Were it is mutually agreed between the employer and the Union, and notwithstanding anything contained in clause

6.1 of this Award, time allowed for meals for employees of the company may be less than one hour but not less than 30 minutes.

- 6.4.3 It shall not be a breach of this Award for an employee to change the meal hour on any day or days, Monday to Friday inclusive for the purpose of repairing or cleaning machinery.
- 6.4.4 Any employee who is required to commence work more than 2 hours before the ordinary commencing time, shall be allowed one-half hour for breakfast in the employer's time.
- 6.4.5 When any employee is obliged to work more than 2 hours overtime in addition to a days work, the employee shall be allowed at least 30 minutes for a meal break.
- 6.4.6 *Rest pauses* - A rest pause of 10 minutes' duration shall be allowed in the first and second half of each shift in the employer's time to each employee covered by this Award:

Provided that such rest pauses shall be taken at as such times as will suit the convenience of the employer and will not interfere with continuity of work where continuity is necessary.

- 6.4.7 If an employee is called upon to work overtime for not less than one hour after the ordinary ceasing time without having received notice of such overtime on the previous shift, the employee shall be supplied with a hot meal at the expense of the employer or be paid the sum of \$9.60 in lieu thereof:

Provided that, in the Eastern District of the Southern Division, during the intake season, 5 hours' notice only of intention to work overtime may be given.

- 6.4.8 When an employee has provided the customary meals because of receipt of notice of intention to work overtime, the employee shall be entitled to an allowance of \$9.60 for each meal so provided in the event of the work not being performed or ceasing before the respective meal times.

## **6.5 Overtime**

- 6.5.1 All time worked in excess of 8 hours in any one day or in excess of 38 hours in any one week, or before the ordinary commencing or after the ordinary ceasing time or outside the ordinary working hours shall be deemed overtime, and, except as to shift workers, shall be paid for at the rate of time and a-half for the first 3 hours and at the rate of double time thereafter:

Provided that employees required to work overtime on Saturdays shall receive a minimum of 2 hours' work or payment therefor.

- 6.5.2 All time worked on Sundays shall be paid for at the rate of double time, with a minimum of 2 hours' work or payment therefor.
- 6.5.3 In the case of shift workers, overtime shall be paid for at the rate of double time.
- 6.5.4 When an employee is required to do any work during a meal time, the employee shall be paid for such work at the rate of double time, excepting as provided in clause 6.4.
- 6.5.5 No person shall work overtime without the permission of the employer, and payment for any overtime worked shall be claimed, adjusted, and made at the next ensuing date of payment of such employee.

## **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 5 weeks if employed on shift work where 3 shifts per day are worked over a period of 7 days per week; and
  - (b) not less than 4 weeks in any other case.
- 7.1.2 Such annual leave 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 5.2, 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 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) Leading hands etc. - Subject to clause 7.1.5(c), leading hand allowances otherwise payable for ordinary time worked shall be included in the wages to be paid to employees during annual leave.

(c) All employees - Subject to the provisions of clause 7.1.5(d), in no case shall the payment by an employer to an employee be less than the sum of the following amounts:

(i) the employee's ordinary wage rate as prescribed in clause 5.2 for the period of the annual leave (excluding shift premiums and weekend penalty rates);

(ii) leading hand allowance prescribed in clause 5.2;

(iii) a further amount calculated at the rate of 17 1/2% of the amounts referred to in clauses 7.1.5(c)(i) and 7.1.5(c)(ii).

(d) Clause 7.1.5(c) does not apply to the following:

(i) any period or periods of 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.

(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 Such annual leave will be exclusive of any rostered day off which would have occurred had the employee not been on annual leave.

7.1.9 Annual shut down - An employer may close down an enterprise 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, an employer may close down an enterprise for a period of at least 14 consecutive days including non-working days and grant the balance of annual leave due to the employee(s) by mutual arrangement.

## **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:

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

- (b) This entitlement will accrue at the rate of 7.6 hours' sick leave for each 6 weeks of employment.
- (c) Payment for sick leave will be made based on the number of hours which would have been worked by the employee if the employee were not absent on sick leave.
- (d) Sick leave may be taken for part of a day.
- (e) Sick leave shall be cumulative, but unless the employer and employee otherwise agree, no employee shall be entitled to receive, and no employer shall be bound to make, payment for more than 13 weeks' absence from work through illness in any one year.

#### 7.2.2 *Employee must give notice*

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

#### 7.2.3 *Evidence supporting a claim*

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

#### 7.2.4 *Accumulated sick leave*

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

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

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

#### 7.2.5 *Workers' compensation*

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

### **7.3 Bereavement leave**

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

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

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

- (a) A long-term casual employee is entitled to at least 2 days unpaid bereavement leave on the death of a member of the person's immediate family or household in Australia.
- (b) A "long-term casual employee" is a casual employee engaged by a particular employer, on a regular and systematic basis, for several periods of employment during a period of at least 1 year immediately before the employee seeks to access an entitlement under clause 7.3.2.

#### 7.3.3 "Immediate family" includes:

- (a) A spouse (including a former spouse, a *de facto* spouse and a former *de facto* spouse, spouse of the same sex)

of the employee; and

- (b) A child or an adult child (including an adopted child, a foster child, an ex-foster child, a stepchild or an ex-nuptial child), parent, grandparent, grandchild or sibling of the employee or spouse of the employee.

#### 7.3.4 *Unpaid leave*

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

### 7.4 **Long service leave**

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

### 7.5 **Family leave**

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

#### 7.5.1 It is to be noted that:

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

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

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

### 7.6 **Public holidays**

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

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

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

#### 7.6.2 *Labour Day*

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

#### 7.6.3 *Annual show*

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

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

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

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

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

Provided that the part-time employee would have been ordinarily rostered to work on that day had it not been a public holiday.

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

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

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

#### 7.6.6 *Stand down*

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

#### 7.6.7 *Substitution*

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

### 7.7 **Jury service**

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

Saturday, disability allowances, shift allowances, special rates, fares and travelling time allowances, bonuses and other ancillary payments of a like nature.

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

No provisions inserted in this Award relevant to this Part

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

### **9.1 Commitment to training**

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

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

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

### **10.1 First-aid kits**

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

### **10.2 Accident and sickness**

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

### **10.3 Accommodation**

10.3.1 Separate change rooms shall be supplied for the use of employees, to comply in all respects with the requirements of the *Workplace Health and Safety Act 1995*, and amendments thereof and with all Rules and Regulations made under the said Act.

10.3.2 Dining rooms shall be supplied for employees, to comply in all respects with the requirements of the *Workplace Health and Safety Act 1995*, and amendments thereof and with all Rules and Regulations made under the said Act.

10.3.3 Showers and sanitary accommodation shall be provided and kept clean by the employer, to comply in all respects with the requirements of the *Workplace Health and Safety Act 1995*, and amendments thereof and with all Rules and Regulations made under the said Act.

10.3.4 Where it is necessary for an employee to wear protective clothing and footwear, they shall be provided by the employer free of charge.

10.3.5 Employee's who are required to work in the rain shall be provided with waterproof boots and oilskin coats by the employer free of charge.

### **10.4 Flexibility of work**

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

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

10.4.2 Any direction issued by the employer pursuant to clause 10.4.1 shall be consistent with the employer's responsibility to provide a safe and healthy working environment.

## **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**

#### **Preamble**

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

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

#### *11.3.2 Union delegates*

- (a) Union delegates and job representatives have a role to play within a workplace. The existence of accredited Union delegates and/or job representatives is encouraged.
- (b) The employer shall not unnecessarily hinder accredited Union delegates and/or job representatives in the reasonable and responsible performance of their duties.

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

#### **Schedule 1 Stahmann Farms Inc.**

1. *Sanitary accommodation, etc.*

The Employer shall provide all necessary sanitary accommodation, change-rooms, lockers, dining rooms and a sufficient supply of boiling water at meal times and rest pauses.

2. *Work in the Rain*

When an employee is required to perform work in the rain and by doing so gets their clothes wet, the employee shall be paid double rates for all work so performed. Such payment shall continue until such time as the employee finishes work or is able to change into dry clothing.

3. *Mixed duties*

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

Dated 30 January 2003

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

Operative Date: 24 March 2003