

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

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

ENTERTAINERS AWARD - STATE 2002

Following the Declaration of the General Ruling for Overtime Meal Allowance (matter numbers B/2010/34 and B/2010/38), the Entertainers Award - State 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 Entertainers Award - State 2002 as at 1 January 2011.

Dated 1 March 2011.

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

ENTERTAINERS AWARD - STATE 2002

PART 1 - APPLICATION AND OPERATION

1.1 Title

This Award is known as the Entertainers Award - State 2002.

1.2 Arrangement

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1.3 Date of operation

This Award takes effect from 6 January 2003.

1.4 Award coverage

This Award shall apply to any employee engaged as an Entertainer for whom a rate of payment is prescribed in clause 5.1 and to that employee's employer:

Provided that a member of an instrumental ensemble and/or a solo player of a recognised musical instrument shall not be deemed to be covered by this Award unless the employee is a recognised Singer who accompanies their own voice or performs a "spot" as an Entertainer in a variety show or like presentation.

This Award shall not apply to persons usually employed as shop assistants who also act, from time to time, as compares and/or demonstrators in retail stores or other establishments covered by a shop assistants award.

1.5 Area of operation

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

1.5.1 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.

1.5.2 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.

1.6 Definitions

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

1.6.2 "Actor" means an employee who is engaged to take part in a Performance or rehearsal and who, in terms of that engagement, is required to speak more than 80 words.

1.6.3 "Aquatic Ensemble" means a group of at least 4 employees who are required to perform co-ordinated movements during an aquatic Performance in or upon a swimming pool or any other area of water and who only perform as members of such a group.

1.6.4 "Aquatic Speciality Artist" means an employee who takes part in an aquatic Performance in or upon or adjacent to a swimming pool or any other area of water and who is not a member of an Aquatic Ensemble.

1.6.5 "Ballet" or "Chorus" means a dancing and/or singing group of at least 4 members who take part in a Performance with other employees and includes such other employees who are engaged to take part in a Performance or rehearsal who, were it not for the minimum requirements of clause 1.6.18, would otherwise be defined as Singer.

1.6.6 "Call" means a call or direction by the employer to attend at a rehearsal at a particular time, or at a particular place and time, for the purpose of photography, wardrobe or other legitimate reason.

1.6.7 "Commission" means the Queensland Industrial Relations Commission.

1.6.8 "Disc Jockey" means an employee who is engaged to play recorded music and is required to announce the music played.

1.6.9 "Disc Jockey Providing Equipment" means a Disc Jockey who provides the following minimum standard of equipment:

(a) two portable turntables in console form, and/or cartridge deck;

(b) sound equipment which develops 100 watts of sound per side (i.e. 200 watt amps); and

(c) two columns of speakers capable of distortion free reproduction of 200 watts per column.

1.6.10 "Disc Jockey Providing Equipment and Lighting Effects" means a Disc Jockey Providing Equipment who also provides lighting equipment comprising more than 2 effects.

1.6.11 "Disc Jockey Providing Music" means a Disc Jockey who supplies recorded music.

1.6.12 "Entertainer" means and includes all employees engaged to provide services which are of a like nature to those performed by Entertainers in the entertainment industry and/or that require the exercise of similar skills such as, but without limiting the generality of the foregoing, trade promotional work, etc.

1.6.13 "Nude" means a person who is required to pose in the near-nude or semi-nude or completely nude condition.

1.6.14 "On Tour" means, in the context of an employee being away On Tour, being away from the centre where the employee was originally engaged.

1.6.15 "Other Entertainer" means an employee who is engaged to perform any entertainment speciality not elsewhere defined in clause 1.6 and shall also include, without limiting the generality of the words, a square dance caller, compare and/or master of ceremonies.

1.6.16 "Pantomime" means a production with an appeal primarily for children presented during the school holiday period and shall include (in addition to the nursery stories and fairy tales hitherto presented as Pantomime) such productions as "Peter Pan", "Alice in Wonderland", "The Wizard of Oz", "Snow White and the Seven Dwarfs", and the like.

1.6.17 "Performance" means a performance by an employee and/or employees (i.e. the act of performing).

1.6.18 "Singer" means an employee who is engaged to sing solo and/or in duo, trio, or quartette more than 40 bars of music.

1.6.19 "Speciality Artiste" means a Variety Artiste who, in addition to providing any required wardrobe, scripts and/or dialogue for their Performance, is also required to provide properties and gear necessary to the act, such as, but without limiting the generality of the term, musical instruments, juggling or acrobatic equipment, special lighting effects, rostrum, trapeze, trampoline, furniture, etc.

1.6.20 "Supernumerary" means an employee who appears only in a background, or who only comprises one of a crowd, or who participates in background speech or noise, or who does not speak or sing more than 2 lines of dialogue, or whose Performance is not individually directed.

1.6.21 "Time and a-quarter", "Time and a-half" and "Double Time" used in relation to pay respectively mean at the rate of one and a-quarter, one and a-half, and twice the actual pay of the employee in question, calculated *pro rata* for the time which the payment is to be made.

1.6.22 "Variety Artiste" means an employee not elsewhere defined who is engaged to perform in a production which is constituted of a preponderance (in playing time) of variety or vaudeville acts and which are not connected by a central theme or plot and shall include a master of ceremonies, or compare, of a variety or vaudeville production and a duo Singer or dancer:

Provided that such employee may also be required to perform as an Actor during the course of such Performance.

1.6.23 "Vocalist" means a Singer engaged for the purpose of singing solo:

Provided that a Vocalist may also be required to perform as an Actor during the course of a Performance.

1.6.24 "Union" means the Actors, Entertainers and Announcers Equity Association, Queensland, Union of Employees.

1.6.25 "Wages" means the rate of wage per week or per Performance or per hour paid to an employee and is exclusive of any overtime or additional payments such as (but not limited to) overtime, annual leave, additional Performances, travelling, understudy, Ballet or Chorus master or mistress rates and the appropriate On Tour or travelling allowance.

1.6.26 "Walking Understudy" means an understudy who is not engaged to otherwise appear in an actual Performance.

1.7 Parties bound

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

PART 2 - FLEXIBILITY

2.1 Enterprise flexibility

- 2.1.1 As part of a process of improvement in productivity and efficiency, discussion should take place at each enterprise to provide more flexible working arrangements, improvement in the quality of working life, enhancement of skills, training and job satisfaction and to encourage consultative mechanisms across the workplace.
- 2.1.2 The consultative processes established in an enterprise in accordance with clause 2.1 may provide an appropriate mechanism for consideration of matters relevant to clause 2.1.1. Union delegates at the place of work may be involved in such discussions.
- 2.1.3 Any proposed genuine agreement reached between an employer and employee/s in an enterprise is contingent upon the agreement being submitted to the Commission in accordance with Chapter 6 of the Act and is to have no force or effect until approval is given.

PART 3 - COMMUNICATION, CONSULTATION AND DISPUTE RESOLUTION

3.1 Grievance and dispute settling procedure

The matters to be dealt with in this procedure shall include all grievances or disputes between an employee and an employer in respect to any industrial matter and all other matters that the parties agree on and are specified herein. Such procedures shall apply to a single employee or to any number of employees.

- 3.1.1 In the event of an employee having a grievance or dispute the employee shall in the first instance attempt to resolve the matter with the immediate supervisor, who shall respond to such request as soon as reasonably practicable under the circumstances. Where the dispute concerns alleged actions of the immediate supervisor the employee/s may bypass this level in the procedure.
- 3.1.2 If the grievance or dispute is not resolved under clause 3.1.1, the employee or the employee's representative may refer the matter to the next higher level of management for discussion. Such discussion should, if possible, take place within 24 hours after the request by the employee or the employee's representative.
- 3.1.3 If the grievance involves allegations of unlawful discrimination by a supervisor the employee may commence the grievance resolution process by reporting the allegations to the next level of management beyond that of the supervisor concerned. If there is no level of management beyond that involved in the allegation the employee may proceed directly to the process outlined at clause 3.1.5.
- 3.1.4 If the grievance or dispute is still unresolved after discussions mentioned in clause 3.1.2, the matter shall, in the case of a member of the Union, be reported to the relevant officer of the Union and the senior management of the employer or the employer's nominated industrial representative. An employee who is not a member of the Union may report the grievance or dispute to senior management or the nominated industrial representative. This should occur as soon as it is evident that discussions under clause 3.1.2 will not result in resolution of the dispute.
- 3.1.5 If, after discussion between the parties, or their nominees mentioned in clause 3.1.4, the dispute remains unresolved after the parties have genuinely attempted to achieve a settlement thereof, then notification of the existence of the dispute is to be given to the Commission in accordance with the provisions of the Act.
- 3.1.6 Whilst all of the above procedure is being followed, normal work shall continue except in the case of a genuine safety issue.
- 3.1.7 The *status quo* existing before the emergence of the grievance or dispute is to continue whilst the above procedure is being followed.
- 3.1.8 All parties to the dispute shall give due consideration to matters raised or any suggestion or recommendation made by the Commission with a view to the prompt settlement of the dispute.
- 3.1.9 Any Order or Decision of the Commission (subject to the parties' right of appeal under the Act) will be final and binding on all parties to the dispute.
- 3.1.10 Discussions at any stage of the procedure shall not be unreasonably delayed by any party, subject to acceptance that some matters may be of such complexity or importance that it may take a reasonable period of time for the

appropriate response to be made. If genuine discussions are unreasonably delayed or hindered, it shall be open to any party to give notification of the dispute in accordance with the provisions of the Act.

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 prescribed in clause 4.2); and
- (c) casual (as prescribed in clause 4.3).

4.2 Part-time employment

4.2.1 A part-time employee is an employee who:

- (a) is employed by the week for not less than 8 hours per week and for not more than 32 ordinary hours per week; and
- (b) has reasonably predictable hours of work; and
- (c) receives, on a proportionate 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 part-time 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 work pattern will be in accordance with methods of altering the ordinary hours of work for full-time employees.

4.2.4 The agreed number of ordinary hours per week will not be varied without the consent of the part-time employee. 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 by a part-time employee outside of or in excess of the hours as mutually arranged in clause 4.2.2 or 4.2.4 will be overtime and paid for at the rates prescribed in clause 6.3 (Overtime).

4.2.7 A part-time employee must be paid for ordinary hours worked at the rate of 1/40th of the weekly rate prescribed for the class of work performed.

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

4.3 Casual employment

A casual employee is an employee engaged other than by the week. Casual employees are to be paid in accordance with clause 5.1.3.

4.4 Trainees

Trainees may be engaged under this Award in accordance with the *Order for Apprentices' and Trainees' Wages and Conditions (Excluding Certain Queensland Government Entities)*.

4.5 Contracts

In accordance with the provisions of section 135 of the Act this Award shall prevail over any contract of service or apprenticeship in force on the coming into operation of this Award, so far as there is any inconsistency between the Award and the contract, and the contract shall be construed and have effect as if it had been modified, so far as necessary, in order for it to conform to this Award:

Provided that no such contract shall be deemed to be inconsistent with this Award for the reason only that such contract provides for more favourable conditions of employment than those provided by this Award.

4.6 Performance of work

Employees shall perform such work usually associated with their duties as the employer may from time to time reasonably require. Employees not attending for or not performing their duty shall, except as otherwise provided by this Award, lose pay for the actual time of such non-attendance or non-performance.

4.7 Anti-discrimination

4.7.1 It is the intention of the parties to this Award to prevent and eliminate discrimination as defined by the *Anti-Discrimination Act 1991* and the *Industrial Relations Act 1999* as amended from time to time which includes:

- (a) discrimination on the basis of sex, marital status, family responsibilities, pregnancy, parental status, age, race, impairment, religion, political belief or activity, trade union activity, lawful sexual activity and association with, or relation to, a person identified on the basis of any of the above attributes;
- (b) sexual harassment; and
- (c) racial and religious vilification.

4.7.2 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.

4.7.3 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.

4.7.4 Nothing in clause 4.7 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.

4.8 Termination of employment

4.8.1 Statement of employment

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

4.8.2 Termination by employer

(a) In order to terminate the employment of an employee the employer shall give the following notice:

Period of Continuous Service	Period of Notice
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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 clause 4.8.2(a), employees over 45 years of age at the time of giving of notice and with not less than 2 years' continuous service, 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 ordinary time rate of pay for the employee concerned shall be used.

- (e) The period of notice in clause 4.8.2 shall not apply in the case of dismissal for misconduct or other grounds that justify instant dismissal, or in the case of casual employees, or employees engaged for a specific period of time or for a specific task or tasks.

4.8.3 *Notice of termination by employee*

To terminate the contract of employment a full-time or part-time employee must give at least one week's notice or forfeit a maximum of one week's pay in lieu thereof.

4.9 **Introduction of changes**

4.9.1 *Employer's duty to notify*

- (a) Where an employer has made a definite decision to introduce major 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 their Union.
- (b) "Significant effects" include 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 this Award makes provision for alteration of any of the matters referred to herein an alteration shall be deemed not to have significant effect.

4.9.2 *Employer's duty to discuss change*

- (a) The employer shall discuss with the employees affected and their Union, inter alia, the introduction of the changes referred to, the effects the changes are likely to have on employees and measures to avert or mitigate the adverse effects of such changes on employees.
- (b) The discussions shall commence as early as practicable after a definite decision has been made by the employer to make the changes referred to in clause 4.9.1.
- (c) For the purpose of such discussion, the employer shall provide in writing to the employees concerned and their Union, 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 an employer shall not be required to disclose confidential information, the disclosure of which would be inimical to the employer's interests.

4.10 **Redundancy**

4.10.1 *Discussions before terminations*

- (a) Where an employer has made a definite decision 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 hold discussions with the employees directly affected and, where relevant, their Union.
- (b) The discussions shall take place as soon as it is practicable after the employer has made a definite decision which will invoke clause 4.10.1, and shall cover *inter alia*, the reasons for the proposed terminations, measures to avoid or minimise the terminations and measures to avert or mitigate the adverse effects of any terminations of the employees concerned.
- (c) For the purpose of the discussion the employer shall, as soon as practicable, provide in writing to the employees concerned and their Union, 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 an employer shall not be required to disclose confidential information, the disclosure of which would be inimical to the employer's interests.

4.10.2 *Transfer to lower paid duties*

Where an employee is transferred to other duties for reasons set out in clause 4.10.1, the employee shall be entitled to the same period of notice of transfer as the employee would have been entitled to, pursuant to clause

4.8.2, if their employment had been terminated, and the employer may, at the employer's option, make payment in lieu thereof of an amount equal to the difference between the former ordinary time rate of pay and the new lower ordinary time rate of pay for the number of weeks of notice still owing.

4.10.3 *Transmission of business*

- (a) Where a business is, whether before or after the date of this Award, transmitted from an employer (the "transmittor") to another employer (the "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) "Business" includes trade, process, business or occupation and includes part 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.

4.10.4 *Time off during notice period*

- (a) Where a decision has been made to terminate an employee in the circumstances outlined in clause 4.10.1, 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.

4.10.5 *Notice to Centrelink*

Where a decision has been made to terminate employees in the circumstances outlined in clause 4.10.1 the employer shall notify Centrelink thereof as soon as possible giving relevant information including a written statement of the reasons for the terminations, the number and categories of the employees likely to be affected and the period over which the terminations are intended to be carried out.

4.10.6 *Severance pay*

In addition to the period of notice prescribed for ordinary termination in clause 4.8.2, and subject to further order of the Commission, an employee whose employment is terminated for reasons set out in clause 4.10.1 shall be entitled to the following amounts of severance pay:

Period of Continuous Service	Severance Pay
1 year or less	nil
1 year and up to the completion of 2 years	4 weeks' pay
2 years and up to the completion of 3 years	6 weeks' pay
3 years and up to the completion of 4 years	7 weeks' pay
4 years and over	8 weeks' pay

"Weeks' pay" means the ordinary time rate of pay for the employee concerned.

4.10.7 *Superannuation benefits*

Subject to further order of the Commission where an employee who is terminated receives a benefit from a superannuation scheme, such employee shall only receive under clause 4.10.6 the difference between the severance pay specified in that clause and the amount of the superannuation benefit such employee receives which is attributable to employer contributions only. If this superannuation benefit is greater than the amount due under clause 4.10.6 then the employee shall receive no payment under that clause.

4.10.8 *Employee leaving during notice*

An employee whose employment is terminated for reasons set out in clause 4.10.1 may terminate such employment during the period of notice specified in clause 4.8.2, and, if so, shall be entitled to the same benefits and payments under clause 4.10 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.

4.10.9 *Alternative employment*

An employer, in a particular case, may make application to the Commission to have the general severance pay prescription varied if the employer obtains acceptable alternative employment for an employee.

4.10.10 *Employees with less than one year's service*

Clause 4.10 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.

4.10.11 *Employees exempted*

Clause 4.10 shall not apply:

- (a) where employment is terminated as a consequence of misconduct on the part of the employee;
- (b) to employees engaged for a specific period of time or for a specific task or tasks; or
- (c) to casual employees.

4.10.12 *Employers exempted*

Subject to an order of the Commission, in a particular redundancy case, clause 4.10 shall not apply to employers who employ less than 15 people.

4.10.13 *Incapacity to pay*

An employer in a particular redundancy case may make application to the Commission to have the general severance pay prescription varied on the basis of the employer's incapacity to pay.

4.11 **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 **Rates of payment**

5.1.1 The following shall be the minimum rates of payment for persons employed in the designated classes of work:

- (a) Employees 16 years of age and over

	Per week \$
Actor	606.30
Aquatic Ensemble member:	
For first 3 months	588.20
Thereafter	588.20
Aquatic Speciality Artist	588.20
Ballet or Chorus member	592.30
Disc Jockey	614.40
Disc Jockey Providing Equipment	854.50
Disc Jockey Providing Equipment and Lighting Effects	945.70
Disc Jockey Providing Music	662.10
Other Entertainer	646.80
Skaters:	
Solo or duo	606.30
Member of ensemble	592.30
Speciality Artiste:	
Solo	670.20
Duo (each)	646.80
Trio (each)	634.60
Any act of more than 4 artistes (each)	622.10

Square dance team member	588.20
Supernumeraries and all others	588.20
Variety Artiste	646.80
Vocalist	634.70

(b) Juveniles

Years of age	Percentage of Ballet or Chorus member rate %
Under 15 years of age	45
15 and under 16 years of age	55

Provided that where a juvenile employee is On Tour the employee shall be paid at the appropriate rate prescribed in clause 5.1.1.

Juvenile rates shall be calculated in multiples of 10 cents with any results of 5 cents or more being taken to the next highest 10 cent multiple:

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

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

5.1.2 *Rehearsals*

Where a full-time employee is required to attend rehearsals prior to the date upon which a production opens, the employee shall be paid at the appropriate weekly rate prescribed by clause 5.1.1 continuously until such date of opening:

Provided that such rate shall not be payable where an employee is already continuously employed in any current production during such period by the same employer:

Provided further that where an employee is engaged in Brisbane and required to rehearse at another centre the employee shall also be paid the allowance prescribed in clause 5.1.4.

5.1.3 *Casual employees*

The following shall be the minimum rates of payment payable to casual employees:

- (a) Variety Artistes - A Variety Artiste, or an employee of 16 years of age and over engaged as an 'act' shall be paid at the rate of 1/5th of the rate prescribed for the class of Performance prescribed in clause 5.1.1 plus an additional 23% in respect of each Performance.
- (b) Supernumeraries, etc. - A Supernumerary and any other employee of 16 years of age and over who is not designated in clause 5.1.1 shall be paid at the rate of \$16.6265 per hour.
- (c) All others - All other employees of 16 years of age and over designated in clause 5.1.1 shall be paid at the rate of 1/6th of the rate prescribed for the class of Performance prescribed in clause 5.1.1 plus an additional 23% in respect of each Performance.
- (d) Rehearsals - All employees aged 16 years of age and over, except those otherwise provided for in clause 5.1.3(b), shall be paid at the rate of \$20.2965 for the first hour and \$9.9385 per half hour, or part thereof, thereafter for any Chorus at which they are required to attend rehearsals.
- (e) Employees under 16 - All juvenile employees under 16 years of age shall be paid the following percentages of the applicable rate/s in clause 5.1.3:

Percentage

	%
Under 15 years of age	45
15 years of age	55

Juvenile rates shall be calculated in multiples of .05 of a cent with any result of .025 of a cent or more being taken to the next highest .05 of a cent multiple.

- (f) Minimum payments for rehearsals - Except in the case of employees subject to clause 5.1.3(b), the minimum payment for a rehearsal shall be as for one hour worked, unless an employee chooses to be absent prior to the completion of one hour, in which case the employee shall be paid at the half hourly rate prescribed for each half hour, or part thereof, of attendance at such rehearsals.
- (g) Minimum Calls - Employees subject to clause 5.1.3(b) shall be engaged on a minimum Call for each Performance of 3 hours, and 2 hours for rehearsals.
- (h) Maximum Performance time - Except in the case of employees to whom clause 5.1.3(b) applies, the maximum duration of any Performance shall not exceed 3 hours, excluding making-up and/or taking-off time.
- (i) Maximum rehearsal time - No rehearsal shall continue for more than 3 hours.
- (j) Rehearsal paid as Performance - No rehearsals shall be held on a Sunday, Christmas Day or Good Friday:

Provided that in the event of emergent circumstances arising any rehearsal held on such days shall be paid for as a Performance.

- (k) Cancellations - Except as provided in clause 5.1.3(1), where a casual engagement is cancelled by the employer less than 10 days prior to the date of the Performance the employee so engaged shall receive payment in full.
- (l) Inclement weather - Where an open-air Performance is postponed or abandoned on account of inclement weather conditions, an employee casually engaged for such Performance shall receive the full payment that would have been due to such Performance:

Provided that where such employee is re-engaged for a postponed Performance of such presentation and such presentation occurs not later than 3 weeks from the date of postponement, the employee shall be paid 50% of the payment for such cancelled Performance in lieu thereof.

5.1.4 *On tour*

Except as provided in clauses 5.1.5, 5.1.6 and 5.1.7, all employees who are required to go On Tour with a production shall be paid the following allowances:

- (a) Capital cities - Where the production is staged in a capital city employees shall be paid an allowance of \$502.80 per week, or \$100.56 per day in respect of any part of the week, whilst the employee is On Tour in any such capital city;
- (b) Other places - Where the production is not staged in a capital city, employees shall be paid an allowance at the rate of 90% of the allowance/s prescribed in clause 5.1.4(a) whilst the employee is On Tour at any such place:

Provided that:

- (i) where the daily allowance is payable, no employee shall be entitled to receive more than the prescribed weekly allowance in respect of any 7 days;
- (ii) where all recognised meals and/or accommodation are provided by the employer, the allowances may be reduced by the following quanta:

- All meals	32%
- Accommodation	58%

Provided that such meals and/or accommodation shall be of a suitable and satisfactory standard.

5.1.5 *On tour - fixed term contract*

Where an employee is engaged on a fixed term contract to perform at one centre the employee shall be paid the On Tour allowances prescribed in clause 5.1.4 as follows:

(a) where the duration of the contract is for more than 26 weeks and less than 39 weeks:

Percentage of allowance
prescribed in clause 5.1.4

For the first 13 weeks	100%
For the next 13 weeks	75%
Thereafter	50%

(b) where the duration of contract is for 39 weeks or more and less than 52 weeks:

Percentage of allowance
prescribed in clause 5.1.4

For the first 10 weeks	100%
For the next 10 weeks	75%
Thereafter	50%

Provided that where an employee is required to tour away from the centre at which the employee was engaged on a fixed term contract to perform and/or rehearse at another centre, the employee shall be paid the full On Tour allowance for any such period.

5.1.6 *On tour - general*

Employees On Tour shall be paid the rates of payment prescribed in clause 5.1 as from the time that they leave the place of engagement until the time that they return to that place:

Provided that any broken weeks' work shall be paid for at *pro rata* rates and the departure and return days (including Sundays) shall count as one day worked.

5.1.7 *Supernumeraries etc. on tour*

Supernumeraries and all other employees not designated in clause 5.1.1 shall be paid the rate prescribed for Ballet and Chorus members whilst On Tour.

5.1.8 *Walking understudies, etc.*

A Walking Understudy, a Supernumerary understudy speaking no more than 80 words, and any employee speaking no more than 80 words in a theatrical production shall be paid at the rate of \$582.30 per week and \$596.30 per week whilst On Tour:

Provided that this rate of payment shall not apply to employees under 16 years of age.

5.1.9 *Divisional and district parities*

Employees employed outside the Eastern District of the Southern Division shall be paid the following amounts in addition to the wage rates prescribed by clause 5.1.1 for the Division or District in which they are located:

	Adults Per hour \$	Adults Per week \$	Juniors Per hour \$	Juniors Per week \$
Northern Division, Eastern District	0.0275	1.05	0.0140	0.53
Northern Division, Western District	0.0855	3.25	0.0430	1.63
Mackay Division	0.0235	0.90	0.0120	0.45
Southern Division, Western District	0.0275	1.05	0.0140	0.53

These amounts are payable for all purposes of this Award.

5.2 **Allowances**

5.2.1 A member of a Chorus, Ballet or skating ensemble, or a person speaking not less than 7 lines in the aggregate comprising no less than 30 words, or singing no less than 24 bars of music solo, shall be paid an additional \$2.69 per performance.

5.2.2 *Acting assistant stage manager*

An employee who, as part of the employee's duties is required to act as an assistant stage manager shall be paid an additional \$35.20 per week.

- 5.2.3 A member of a Ballet, Chorus or skating ensemble who acts as deputy Ballet, Chorus or skating ensemble director or who, under instruction and supervision of the producer, stage manager and/or employer, supervises the numbers of acts performed by such Ballet, Chorus or skating ensemble during a Performance or rehearsal shall be paid an additional \$35.20 per week.

Understudies

Except as provided in clause 5.1.8, any employee who is required to act as an understudy shall be paid an additional \$9.10 per week for each part so understudied:

Provided that where any such understudy part is one of the 4, or less, leading artistes in the company such employee shall be paid an additional \$39.60 per week in respect of such part.

- 5.2.5 *Nudes, etc.*

An employee who agrees to pose as a Nude or semi-nude shall be paid an additional \$20.56 per performance.

- 5.2.6 An employee who is required to perform driving duties, or be in charge whilst On Tour, shall be paid an additional \$48.00 per week.

- 5.2.7 *Animated character costumes*

Where an employee is required to wear a costume comprising a head and body, or a head and costume, of a character or animal, such employee shall be entitled to remove the headpiece for at least 5 minutes every Whalf-hour and shall be paid an additional allowance of \$10.29 per occasion:

Provided that for the purposes of clause 5.2.7 the term "character" or "animal" shall mean any fictional or non-fictional character or animal that is simulated with a headpiece or full headmask.

- 5.2.8 *Auditions*

Where a person is required to audition, the person shall be paid as for a Performance in the event of such audition being held in public.

5.3 Multi-media performances

- 5.3.1 *Broadcasting*

Where an employee is performing before an audience and such Performance is being simultaneously broadcast by a radio station or recorded for subsequent broadcasting by a radio station, such employee shall be paid an extra 50% of the appropriate casual rate in addition to payment for such live Performance.

- 5.3.2 *Telecasting*

Where an employee is performing before an audience and such Performance is being simultaneously telecast by a television channel, or videotaped for subsequent telecasting by a television channel, such employee shall be paid an extra 50% of the appropriate casual rate in addition to payment for such live Performance.

- 5.3.3 *Rates to be cumulative*

The extra rates provided in clauses 5.3.1 and 5.3.2 shall be cumulative.

- 5.3.4 *Recorded performances*

Any Performance recorded and/or videotaped shall not be broadcast and/or telecast upon more than one occasion in the area of the City of Brisbane.

5.4 Mixed functions

- 5.4.1 An employee who is required to perform work on any day for which a higher rate of pay is prescribed in clause 5.1 shall be paid as follows:

(a) if more than 4 hours on any day the higher rate for the whole of such day;

(b) if 4 hours or less then payment of the higher rate for 4 hours.

- 5.4.2 Any employee temporarily employed on the duties of a classification carrying a lower rate of pay than the employee's ordinary classification shall not have their rate reduced merely by reason of acting in such lower classification.

5.5 Payment of wages

5.5.1 Full-time and part-time employees

Wages shall be paid to full-time and part-time employees without any deduction (other than advances on account of Wages, tax or other deductions which the employer is bound by law to deduct) on the same day each week during the employees' ordinary working hours but not later than 10.00 p.m.:

Provided that the case of a broken week payment shall be made not later than the same hour on the night of the last Performance.

- 5.5.2 The payments prescribed in clause 5.1.1 shall be the weekly wage for the purpose of calculating hourly wage rates, overtime, annual leave, Sunday and public holiday rates, rehearsal rates, and any other rates of pay based on the weekly rate.

5.5.3 Casual employees

Wages shall be paid to a casual employee within 15 minutes of the conclusion of the employee's work.

5.5.4 Electronic funds transfer

Where required by the employer Wages may be paid by electronic funds transfer into an account nominated by the employee for that purpose. Where the financial institution charges a fee for the withdrawal of Wages, the employer shall add the sum of the withdrawal to the Wages electronically transferred.

5.6 Superannuation

5.6.1 Application

In addition to the rates of pay prescribed by this Award, eligible employees (as defined in clause 5.6.3(b)) shall be entitled to occupational superannuation benefits, subject to the provisions of clause 5.6.

5.6.2 Contributions

- (a) Amount - As from 1 January 2005 every employer shall contribute on behalf of each eligible employee an amount calculated at 9% of the employee's ordinary time earnings, into an approved fund, as defined in this clause. Each such payment of contributions shall be rounded off to the nearest ten (10) cents:

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

- (b) Regular payment - The employer shall pay such contributions to the credit of each eligible employee at least once each calendar month or in accordance with the requirements of the approved fund trust deed.
- (c) Minimum level of earnings - As from 1 January 2005 no employer shall be required to pay superannuation contributions on behalf of any eligible employee in respect of any month during which the employee's ordinary time earnings, as defined, is less than \$450.00..
- (d) Absences from work - Contributions shall continue to be paid on behalf of an eligible employee during any absence on paid leave such as annual leave, long service leave, public holidays, sick leave and bereavement leave, but no employer shall be required to pay superannuation contributions on behalf of any eligible employee during any unpaid absences except in the case of absence on workers' compensation.
- (e) Other contributions - Nothing in clause 5.6 shall preclude an employee from making contributions to a fund in accordance with the provisions of the trust deed of the fund.
- (f) Cessation of contributions - An employer shall not be required to make any further contributions on behalf of an eligible employee for any period after the end of the ordinary working day upon which the contract of employment ceases to exist.
- (g) No other deductions - No additional amounts shall be paid by the employer for the establishment, administration, management or any other charges in connection with the fund other than the remission of contributions as prescribed in clause 5.6.

5.6.3 Definitions

- (a) "Approved fund" means a fund (as defined in clause 5.6.3(c)) approved for the purposes of clause 5.6 by the Commission as one to which occupational superannuation contributions may be made by an employer on behalf of an employee, as required by clause 5.6. Such approved fund may be individually named or may be identified by naming a particular class or category.
- (b) "Eligible employee" means any employee who has been employed by the employer during 5 consecutive weeks and who has worked a minimum of 50 hours during that period. After completion of the above qualifying period, superannuation contributions shall then be made in accordance with clause 5.6.2 effective from the commencement of that qualifying period.
- (c) "Fund" means a superannuation fund satisfying the Commonwealth legislation for occupational superannuation funds and satisfying the superannuation fund conditions in relation to a year of income, as specified in the relevant Act and complying with the operating standards as prescribed by Regulations made under the relevant Act. In the case of a newly established fund, the term shall include a superannuation fund that has received a notice of preliminary listing from the Insurance and Superannuation Commissioner.
- (d) "Ordinary time earnings" for the purposes of clause 5.6 means the actual ordinary time rate of pay the employee receives for ordinary hours of work including shift loading, skill allowances and leading hand allowances, where applicable. The term includes any overaward payment as well as casual rates received for ordinary hours of work. Ordinary time earnings shall not include overtime, disability allowances, commission, bonuses, lump sum payments made as a consequence of the termination of employment, annual leave loading, penalty rates for public holiday work, fares and travelling time allowances or any other extraneous payments of a like nature.

5.6.4 For the purposes of this Award, an approved fund means:

- (a) Sunsuper or the Joint Entertainment Superannuation Trust.
- (b) Any named fund as is agreed to between the relevant employer/Union parties to this Award and as recorded in an approved Industrial Agreement.
- (c) In the case of a minority group of employees of a particular employer, any industry, multi-industry or other fund which has been approved in an award or an agreement approved by an Industrial Tribunal whether State or Federal jurisdiction which has already had practical application to the majority of award employees of that employer.
- (d) As to employees who belong to the religious fellowship known as the Brethren, who hold a Certificate issued pursuant to section 115 of the Act and are employed by an employer who also belongs to that fellowship, any fund nominated by the employer and approved by the Brethren.
- (e) Any fund agreed between an employer and an employee who holds a Certificate issued pursuant to section 115 of the Act where membership of a fund cited in an award would be in conflict with the conscientious beliefs of that employee in terms of section 115 of the Act.
- (f) In relation to any particular employer, any other established fund to which that employer was already actually making regular and genuine contributions in accordance with clause 5.6.2 on behalf of at least a significant number of that employer's employees covered by this Award as at 29 September 1989 and continues to make such contribution.
- (g) The employer and employee may agree to have the employee's superannuation contributions made to an approved superannuation fund, other than those specified in this Award.
 - (i) Any such agreement must be recorded in writing and signed by the employer and employee and kept on the employee's file.
 - (ii) A person must not coerce someone else to make an agreement.
 - (iii) Such agreement, where made, will continue until such time as the employer and employee agree otherwise, and shall be made available to relevant persons for the purposes of sections 371 and 373 (inspection of time and wage records) of the Act.
 - (iv) Any dispute arising out of this process will be handled in accordance with the grievance and dispute settling procedure as contained in clause 3.1.

5.6.5 Challenge of a fund

- (a) An eligible employee being a member or a potential member of a fund, as well as the relevant Union, may by notification of a dispute to the Commission challenge a fund on the grounds that it does not meet the requirements of clause 5.6.
- (b) Notwithstanding that the Commission determines that a particular fund does not meet the requirements of clause 5.6, the Commission may in its discretion and subject to any recommendation, direction or order it may make, recognise any or all of the contributions previously made to that fund as having met the requirements or part thereof of clause 5.6.2 up to and including the date of that determination.
- (c) In the event of any dispute over whether any fund complies with the requirements of clause 5.6, the onus of proof shall rest upon the employer.

5.6.6 *Fund selection*

- (a) No employer shall be required to make or be prevented from making, at any one time, contributions into more than one approved fund. Such fund, other than a fund referred to in clauses 5.6.4(c), (d), (e), (f) and (g) shall be determined by a majority decision of employees.
- (b) Employees who are members of an established fund covered by clause 5.6.4(f) shall have the right by majority decision to choose to have the contributions specified in clause 5.6.2 paid into a fund as provided for elsewhere in clause 5.6.4 in lieu of the established fund to which clause 5.6.4(f) has application.
- (c) The initial selection of a fund recognised in clause 5.6.4 shall not preclude a subsequent decision by the majority of employees in favour of another fund recognised under that clause where the long term Performance of the fund is clearly disappointing.
- (d) Where clause 5.6.6 has been utilised and as a result another approved fund is determined, access to a further re-appraisal of the fund for the purpose of favouring yet another fund shall not be available until a period of 3 years has elapsed after that utilisation.

5.6.7 *Enrolment*

- (a) Each employer to whom clause 5.6 applies shall as soon as practicable as to both current and future eligible employees:
 - (i) notify each employee of the employee's entitlement to occupational superannuation;
 - (ii) consult as may be necessary to facilitate the selection by employees of an appropriate fund within the meaning of clause 5.6.4;
 - (iii) take all reasonable steps to ensure that upon the determination of an appropriate fund, each eligible employee receives, completes, signs and returns the necessary application form/s provided by the employer, to enable that employee to become a member of the fund; and
 - (iv) submit completed application form/s and any other relevant material to the trustees of the fund.
- (b) Each employee upon becoming eligible to become a member of a fund determined in accordance with clause 5.6 shall:
 - (i) complete and sign the necessary application form/s to enable that employee to become a member of that fund; and
 - (ii) return such form/s to the employer within 28 days of receipt of the application form/s in order to be entitled to the benefit of the contributions prescribed in clause 5.6.2.
- (c) Where an employer has complied with the requirements of clause 5.6.7(a) and an eligible employee fails to complete, sign and return the application form/s within 28 days of the receipt by the employer of that form/s, then that employer shall:
 - (i) Advise the eligible employee in writing of the non-receipt of the application form/s and further advise the eligible employee that continuing failure to complete, sign and return such form/s within 14 days could jeopardise the employee's entitlement to the occupational superannuation benefit prescribed by clause 5.6.
 - (ii) In the event that the eligible employee fails to complete, sign and return such application form/s within the specified period of 14 days be under no obligation to make any occupational superannuation contributions in respect of such eligible employee excepting as from any subsequent date from which the completed and signed application form/s is received by the employer.

- (iii) In the event that the eligible employee fails to return a completed and signed application form/s within a period of 6 months from the date of the original request by the employer, again advise that eligible employee in writing of the entitlement and that the receipt by the employer of a completed and signed application form/s is a pre-requisite to the payment of any occupational superannuation contributions.
- (iv) At the same time as advising the eligible employee pursuant to clause 5.6.7(c)(iii) submit both to the Chief Industrial Inspector, Brisbane and to the relevant Union a copy of each letter forwarded by the employer to the eligible employee pursuant to clauses 5.6.7(c)(i) and 5.6.7(c)(iii).
- (d) Where an employer fails to provide an eligible employee with an application form/s in accordance with clause 5.6.7(a)(iii) the employer shall be obliged to make contributions as from the date the employee became an eligible employee provided that the eligible employee completes, signs and returns to the employer an application form/s within 28 days of being provided with the application form/s by the employer. Where the eligible employee fails to complete, sign and return an application form/s within such period of 28 days the provisions of clause 5.6.7(c) shall apply.

5.6.8 Unpaid contributions

Subject to Chapter 11, Part 2, Division 5 of the Act and to clause 5.6.5, where the discretion of the Commission has been exercised, should it be established that the employer has failed to comply with the requirements of clause 5.6.2 in respect of any eligible employee such employer shall be liable to make the appropriate contributions retrospectively to the date of eligibility of the employee, plus an amount equivalent to the rate of return those contributions would have attracted in the relevant approved fund, or as necessary a fund to be determined by the Commission under clause 5.6.5, had they been paid on the due dates.

The making of such contributions satisfies the requirements of clause 5.6 excepting that resort to clause 5.6.8 shall not limit any common law action which may be available in relation to death, disablement or any similar cover existing within the terms of a relevant fund.

5.6.9 Exemptions

An employer may apply to the Commission for exemption from all or any of the provisions of clause 5.6 in the following circumstances:

- (a) incapacity to pay the costs associated with its implementation; or
- (b) any special or compelling circumstances peculiar to the business of the employer.

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

6.1 Hours of work

The ordinary hours of work shall, when Performances have commenced, at the option of the employer, not exceed 40 hours in any 7 days to be worked on 6 days (excluding Sundays) per week:

Provided that not more than 8 hours may be worked on any one day, including both Performances and/or rehearsals.

6.2 Number of performances

6.2.1 In circumstances where employees give more than 8 Performances in any 7 days in substantially whole-time Performances they shall be paid 1/8th of their weekly wage extra for each additional Performance.

6.2.2 In the case of a Singer engaged as a Vocalist with a dance or restaurant orchestra the weekly appearances of such employee shall not exceed 7 Performances per week if such employee is not required to work after 11.30 p.m.:

Provided that the length of each such Performances shall not exceed 3 1/2 hours.

6.2.3 In the case of a Singer engaged as a Vocalist with a dance or restaurant orchestra the weekly appearances of such employee shall not exceed 7 Performances per week if such employee is not required to work after 11.30 p.m.:

Provided that one of such Performances shall be an afternoon (matinee) Performance. Such Performances shall not exceed 3 1/2 hours.

6.2.4 For the purposes of clause 6.2 a Performance by a dance band or restaurant orchestra with Vocalist shall be considered a production, and if a Vocalist who appears with the orchestra is also directed to perform in that employer's current floor show or in Performances presented by another employer on the same day, the employee shall be paid 1/8th of their weekly wage extra for each such Performance.

6.2.5 In case of "short shows" such as live artist presentations at cinemas, nightclubs, cabarets, ballrooms, restaurants etc., and where the Performance is not of a substantially whole-time nature, and which does not occupy more than one hour from beginning to end, the ordinary number of Performances shall be not more than 14 per week. In the event of an employee being required to give more than 14 such Performances in any 7 days, the employee shall receive a sum equalling 1/8th of the employees weekly wage for each such additional Performance over and above 14.

6.2.6 If an employee is engaged as a weekly employee to appear in 2 or more different contemporaneous productions for the same employer, each production shall be deemed to be a separate week's engagement for the purposes of this Award, and the number of Performances in each shall be counted separately for the purposes of clause 6.2:

Provided that clause 6.2.6 shall not apply when one of the productions is a Pantomime in a theatre during any Pantomime season.

6.2.7 In the case of an employee engaged for a tour, the employment shall continue until the employee is returned to the place of engagement, but may, in the absence of any agreement to the contrary, be then terminated without notice. Should the employee who has been engaged for a tour leave the employer's employ during the course of the tour such employee shall be responsible for their own return fare unless such leaving be justified by and directly attributable to a breach of the Award by the employer with respect to such employee during the employment, in which case the fare shall be payable by the employer. An employee may only be engaged for the tour or for the "run" of a production or presentation if such engagement is made in writing, signed by both employer and employee, and a copy of such agreement is lodged at the registered office of the Union prior to the commencement of the tour or the "run" as the case may be, otherwise the employment shall be considered to be from week to week.

6.2.8 If for the purpose of wardrobe, photography, or any other matter connected with an employer's business, the employer requires an employee to attend at the employer's place of business or at any other place before the commencement of that employee's period of employment, the employer shall pay the employee for the time of such attendance *pro rata* at the minimum rate prescribed for the employee by clause 5.1.1, with a minimum payment for 3 hours.

6.2.9 Notwithstanding any other provision of clause 6.2 an employer shall not for the purposes of photographic or other publicity direct or require an employee to attend at any place other than in the theatre or other place where the employee is engaged to appear for the employer. The time of any such attendance during the period of employment shall be counted as time worked.

6.2.10 An engagement shall not be deemed to have commenced until after a "try-out" if such "try-out" is desired. An employee shall not be entitled to any payment until the employee is definitely engaged except for any rehearsals as prescribed in clauses 5.1.2 and 5.1.3(d). No "try-out" may be made in public and any "try-out" not involving public appearance shall not be paid for unless the number thereof exceeds 3 in any calendar month, in which case the employee shall be paid for each "try-out" in excess of 3 at the appropriate casual rate. No "try-out" shall be held on a Sunday.

6.3 Overtime

6.3.1 *Employees engaged by the week*

- (a) All time worked by full-time employees in excess of 8 hours per day or 40 hours per week shall be overtime and payable at the rate of double the ordinary time rate of pay with a minimum payment as for one hour's work. Part-time employees shall be paid overtime in accordance with clause 4.2.6.
- (b) Subject to clause 6.1 any full-time or part-time employee detained by the employer or the employer's representative until after 11.45 p.m., shall be paid for the time detained after 11.45 p.m. at the rate of double the ordinary time rate of pay.

6.3.2 *Employees engaged as casuals*

- (a) If a Performance is longer than 3 hours or if a casual employee is detained by the employer during an engagement for more than 3 hours, the employee shall be paid at the rate of double the ordinary time rate of pay for each half hour or part thereof in excess of the said 3 hours that the employee is detained by the employer or the employer's representative.
- (b) A casual employee who is required to work beyond the hour of 11.45 p.m., or who is detained beyond the hour of 11.45 p.m. by the employer, shall be paid at the rate of 1/10th of the appropriate casual rate for such employee for each half hour or part thereof beyond 11.45 p.m. that the employee is required to work or is detained in addition to any other payments due to such employee.

- (c) If a casual employee is detained until after normal transport services have ceased to operate the employer shall provide for the employee's proper conveyance to the employee's home or pay to the employee the cost of such proper conveyance.

6.4 Sunday work

For work done on Sundays, the minimum rate of payment shall be as follows:

- (a) if the engagement is by the week, 1/3rd of the weekly wage received by the employee in addition to the employee's wage for the week as prescribed in clause 5.1;
- (b) if the engagement is not by the week, at least double the appropriate minimum rate per Performance as prescribed in clause 5.1;
- (c) if an employee is required by the employer to travel on a Sunday the employee shall, unless being paid pursuant to clause 6.4 for working on the said Sunday, be paid as follows:
 - (i) if engaged by the week - 1/5th of the weekly wage as prescribed in clause 5.1; or
 - (ii) if engaged as a casual - the appropriate minimum rate per Performance as prescribed in clause 5.1.3.

6.5 Meals

Where an employee is called upon to perform at any place where meals and/or light refreshments are served to the public and/or audience the employer shall provide the employee with a meal, free of charge, in the event of such employee being detained at work later than 11.00 p.m. or the spread of the hours of work exceeds 4 hours. Such meal shall be of the type and quality provided to the public and/or audience at such place:

Provided that where the employer does not provide a meal as aforesaid a meal allowance of \$12.10 will be paid in lieu thereof.

6.6 Meal breaks

No employee shall be required to continue working for more than 5 hours without a break for a meal of not less than 30 minutes and not more than 60 minutes duration:

Provided that if an employee is required to work during such meal break period, all such work shall be paid for at the rate of Double Time and such Double Time payment shall continue to be paid until such time as the employee finishes work or is allowed a 30 minute paid meal break.

6.7 Rest pauses

Employees who work a minimum of 4 consecutive ordinary hours on any one day shall be entitled to a paid rest pause of 10 minutes duration. Employees who work 8 consecutive ordinary hours (excluding meal breaks) on any one day shall be entitled to at least one and not more than 2 paid rest pauses, the total duration of which shall not exceed 20 minutes a day:

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

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 not less than 4 weeks' annual leave on full pay.
- 7.1.2 Such annual leave shall be exclusive of any public holiday which may occur during the period of that annual leave and (subject to clause 7.1.6) shall be paid for by the employer in advance:
 - (a) in the case of any and every employee in receipt immediately prior to that leave of ordinary Wages at a rate in excess of the ordinary time rate of pay payable, at that excess rate; and
 - (b) in every other case, at the ordinary time rate of pay payable under clause 5.1 to the employee concerned immediately prior to that leave.
- 7.1.3 If the employment of any employee is terminated at the expiration of a full year of employment, the employer shall be deemed to have given the leave to the employee from the date of the termination of the employment and

shall immediately pay to the employee, in addition to all other amounts due, the employee's pay, calculated in accordance with clause 7.1.6, for 4 weeks and also the employee's ordinary time rate of pay for any public holiday occurring during such period of 4 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 1/12th of the employee's pay for the period of employment, calculated in accordance with clause 7.1.6.

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

7.1.6 *Calculation of annual leave pay*

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

(a) All employees - Subject to the provisions of clause 7.1.6(b), in no case shall the payment by an employer to an employee be less than the sum of the following amounts:

(i) the employee's ordinary wage rate as prescribed in clause 5.1 for the period of the annual leave (excluding weekend penalty rates); and

(ii) a further amount calculated at the rate of 17 ½ % of the amount referred to in clause 7.1.6(a)(i).

(b) Clause 7.1.6(a) does not apply to:

(i) any period or periods of annual leave exceeding 4 weeks; and

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

7.1.7 *Notice of annual leave*

Reasonable notice of at least 14 days shall be given to each employee of such annual leave becoming due.

7.1.8 *Payment in lieu prohibited*

Except as provided in clauses 7.1.3 and 7.1.4 it shall not be lawful for the employer to give or for any employee to receive payment in lieu of annual leave.

7.2 **Sick leave**

7.2.1 *Entitlement*

(a) Every employee, except casuals and school-based apprentices and trainees, is entitled to 64 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 8 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.

7.6.8 *Working outside ordinary hours*

All time worked on any of the holidays prescribed in clauses 7.6.1, 7.6.2 and 7.6.3 outside the ordinary starting and ceasing times prescribed by clause 6.1 for the day of the week on which such holiday falls shall be paid for at double the rate prescribed by clause 6.3 for such time when worked outside the ordinary starting and ceasing times on an ordinary working day.

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

8.1 Travelling

- 8.1.1 An employee who lives in a particular city or town (either temporarily or permanently) and who is under casual engagement to perform any work at any place away from the city or town in which the employee resides, shall have first class rail or other transport provided by the employer, and if required to travel at night shall be provided with a sleeping compartment in the case of rail travel. Should the employer not provide such sleeping compartment the employer shall pay to the employee the difference between the cost of a sleeping compartment and the cost of the transport provided.
- 8.1.2 The employer shall either provide reasonable accommodation at a hotel or lodging house for any casual employee who is obliged to remain and lodge overnight at any place other than the employee's usual place of abode, or shall pay such employee the sum of \$82.00 for each night that the employee is obliged to remain overnight at any place other than the employee's usual place of abode. The employer shall also provide the employee with suitable meals or in lieu of such meals shall pay the employee the sum of \$40.16 per day.

- 8.1.3 Should the total time of a casual employee's absence from their usual place of abode, plus the time occupied in the outward and return journey travelling to and from employment, exceed 24 hours, such employee shall be paid in addition to the applicable rate prescribed in clause 5.1.1, a further payment of one and a-half of the applicable casual rate prescribed in clause 5.1.3 for each period of 12 hours or part thereof of such excess, in addition to the provision for lodging and meals.
- 8.1.4 A full-time or part-time employee when travelling on duty shall be provided by the employer with first-class accommodation when travelling by rail.
- 8.1.5 A full-time or part-time employee, when travelling on duty at night by train, shall be provided with a sleeping compartment in the case of rail travel. Should the employer not provide such sleeping compartment the employer shall pay to the employee the difference between the cost of a sleeping compartment and the cost of the transport provided.
- 8.1.6 Except as provided in clauses 5.1.4 and 5.1.5, where employees are required to travel by surface transport, other than by rail, the employer shall provide proper means of conveyance and such travelling shall cease by 8.00 p.m. each day. All board and accommodation incurred in such travelling shall be paid in accordance with clause 8.1.2.
- 8.1.7 Where, by agreement between the employer and the employee a casual employee supplies their own transport to and/or from an engagement, such employee shall be paid an allowance of 60 cents per kilometre for each kilometre so travelled between the employee's place of residence and the place of employment:
- Provided that such allowance shall not be payable for any journey undertaken wholly within the local authority area of the City of Brisbane.
- 8.1.8 In the case of an employee who supplies their own transport in accordance with clause 8.1.7, and who also carries other employee/s of the employer in the employee's vehicle, such employee shall receive an additional 25% of the overall allowance prescribed in clause 8.1.7.

8.2 Transport after performance

If an employee is detained until after normal transport services have ceased to operate the employer shall provide for the employee's proper conveyance to the employee's home or pay to the employee the cost of such proper conveyance.

PART 9 - TRAINING AND RELATED MATTERS

9.1 Training

The parties to this Award recognise that in order to increase the efficiency and productivity of each enterprise and also the national and international competitiveness of the industry covered by this Award, a greater commitment to training and skill development is required. Accordingly, the parties commit 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 Wardrobe and make-up

10.1.1 All employees shall provide their own make-up:

Provided that when the employer requires the employee to use special make-up, leg-tan, etc., the employer shall provide such make-up:

Provided further that the employer shall provide make-up for all juvenile employees.

10.1.2 The employer shall provide all accessories such as millinery, gloves, jewellery, handbags, and the like:

Provided that each employee shall provide their own normal wearing apparel.

10.1.3 All wearing apparel, accessories, etc., supplied by the employer for use by an employee shall be clean when supplied to the employee and shall be kept in a clean condition by the employer.

PART 11 - AWARD COMPLIANCE AND UNION RELATED MATTERS

Preamble

Clauses 11.1 and 11.2 replicate legislative provisions contained within the Act. In order to ensure the currency of existing legal requirements parties are advised to refer to sections 366, 372 and 373 of the Act as amended from time to time.

11.1 Right of entry

11.1.1 Authorised industrial officer

- (a) An "authorised industrial officer" is any Union official holding a current authority issued by the Industrial Registrar.
- (b) Right of entry is limited to workplaces where the work performed falls within the registered coverage of the Union.

11.1.2 Entry procedure

- (a) The authorised industrial officer is entitled to enter the workplace during normal business hours as long as:
 - (i) the authorised industrial officer alerts the employer or other person in charge of the workplace to their presence; and
 - (ii) shows their authorisation upon request.
- (b) Clause 11.1.2(a)(i) does not apply if the authorised industrial officer establishes that the employer or other person in charge is absent.
- (c) A person must not obstruct or hinder any authorised industrial officer exercising their right of entry.
- (d) If the authorised industrial officer intentionally disregards a condition of clause 11.1.2 the authorised industrial officer may be treated as a trespasser.

11.1.3 Inspection of records

- (a) An authorised industrial officer is entitled to inspect the time and Wages record required to be kept under section 366 of the Act.
- (b) An authorised industrial officer is entitled to inspect such time and Wages records of any former or current employee except if the employee:
 - (i) is ineligible to become a member of the Union; or
 - (ii) is a party to a QWA or ancillary document, unless the employee has given written consent for the records to be inspected; or
 - (iii) has made a written request to the employer that the employees does not want the 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 an organisation of employees that has the right to represent the industrial interests of the employees concerned.

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 Notices

The employer shall allow the Union, to display at the employer's premises Union announcements and notices.

Dated 6 November 2002.

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

Operative Date: 6 January 2003