

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

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

FAST FOOD INDUSTRY AWARD - SOUTH EASTERN DIVISION 2003

Pursuant to s. 698 of the *Industrial Relations Act 1999* the Fast Food Industry Award - South Eastern Division 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 Fast Food Industry Award - South Eastern Division 2003 as at 10 December 2009.

Dated 10 December 2009.

G.D. Savill
Industrial Registrar

FAST FOOD INDUSTRY AWARD - SOUTH EASTERN DIVISION 2003

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This Award is known as the Fast Food Industry Award - South Eastern Division 2003.

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1.3 Date of operation

This Award takes effect from 13 October 2003.

1.4 Coverage

This Award applies to all employees as defined in clause 1.6, engaged in, or in connection with, Fast Food Operations (as defined) throughout the South-Eastern Division of the State of Queensland, employed by; Toocom Pty Ltd trading as Hungry Jacks Qld, and franchises thereto; Amalgamated Food & Poultry Pty Ltd (Inc.) W.A. trading as Red Rooster and Big Rooster, franchises thereto; Chicken World; Dominos Pizza Australia Pty Ltd and franchises thereto; Eagle Boys Dial-a-Pizza Australia Pty Ltd, and franchises thereto; Uncle Tony's Kebabs Pty Ltd trading as Uncle Tony's Kebabs and franchises thereto; Brodies Enterprises Pty Ltd and Brodies Franchises Pty Ltd trading as Brodies Meal Makers and franchises thereto; and the Trustees for the Universal Unit Trust and franchises thereto; and to their employers:

Provided that this Award shall not apply to employees covered by any other Award or Industrial Agreement, nor to any establishment which has a licence to sell alcohol.

This Award shall also apply to all employees as defined herein, engaged in, or in connection with, Fast Food Operations (as defined) throughout the South-Eastern Division of the State of Queensland, employed by Subway Systems Australia Pty Ltd and franchises thereto, and to their employers, provided that to accommodate the transition to this Award, employees engaged prior to 28 July 2004 will be exempt from clauses 6.5.1, 6.5.2 and 6.5.3 of this Award and will instead be subject to clauses 6.5.1 and 6.5.2 of the Retail Take-Away Food Award - South Eastern Division 2003. No other terms and conditions of the Retail Take-Away Food Award - South Eastern Division 2003 shall apply.

1.5 Area of operation

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

Commencing at Point Danger and bounded then by the southern boundary of the State westerly to 151 degrees of east longitude; then by that degree of longitude bearing true north to 24 degrees 30 minutes of south latitude; then by that parallel of latitude bearing true east to the sea-coast; and then by the sea-coast southerly to the point of commencement; and all islands comprised in any State or Federal electorate in the South-Eastern Division of Queensland.

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 "Commission" means the Queensland Industrial Relations Commission.

1.6.3 "Fast Foods" means and include specialty take-away foods and proprietary items packaged, sold and served in such a manner as to facilitate their being taken from the point of distribution to be consumed elsewhere; provided that this definition shall not be construed so as to include the re-heating of pre-cooked foods which are sold in sandwich bars, milk bars, grocery shops and shops trading as delicatessens or roadhouses attached to service stations.

1.6.4 "Fast Food Operations" means the preparation and serving of Fast Foods in Fast Foods Outlets.

1.6.5 "Fast Foods Outlet" means an establishment or section thereof which is exclusively engaged in the preparation and/or serving of Fast Foods as defined in clause 1.6.3 and shall include any company premises, whether within such establishment or otherwise, where Fast Foods are prepared or partially prepared, which by custom and practice is open for 7 days of the week.

1.6.6 "Fast Food Worker Level 1" means an employee undergoing training in a fast food establishment who is in the first 15 weeks of service and who performs basic tasks under supervision. For the purpose of this definition, 'service' shall mean any work performed for any employer involving the preparation and/or sale of prepared food.

1.6.7 "Fast Food Worker Level 2" means an employee with at least 15 weeks service who can competently perform designated operations functions.

1.6.8 "Fast Food Worker Level 3" means a senior employee who is proficient in all operations functions and who is appointed by the employer to assist and supervise employees at Levels 1 and 2. Such level does not apply to employees engaged in one on one training.

1.6.9 "Union" means the Shop, Distributive and Allied Employees Association (Queensland Branch) Union of Employees.

1.7 Parties bound

This Award is legally binding upon the employers and employees as prescribed by clause 1.4, and upon 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 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 Engagement

- 4.1.1 Every employee other than a casual employee shall be engaged on a permanent basis.
- 4.1.2 Every employee shall be advised in writing at the time of engagement whether they are full-time, part-time (as defined in clause 4.6.2) or casual (as defined in clause 4.7.1).

4.2 Termination of employment

- 4.2.1 *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.

4.2.2 *Termination by employer*

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

Period of Continuous Service	Period of Notice
Not more than 1 year	1 week
More than 1 year but not more than 3 years	2 weeks
More than 3 years but not more than 5 years	3 weeks
More than 5 years	4 weeks

- (b) In addition to the notice in (a) above, employees 45 years old or over and who have completed at least 2 years' continuous service with the employer shall be entitled to an additional week's notice.

- (c) Payment in lieu of notice shall be made if the appropriate notice is not given:

Provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof.

- (d) In calculating any payment in lieu of notice the minimum compensation payable to an employee will be at least the total of the amounts the employer would have been liable to pay the employee if the employee's employment had continued until the end of the required notice period. The total must be worked out on the basis of:

- (i) the ordinary working hours to be worked by the employee; and
- (ii) the amounts payable to the employee for the hours including for example allowances, loadings and penalties; and
- (iii) any other amounts payable under the employee's employment contract.

- (e) The period of notice in this clause shall not apply in the case of dismissal for misconduct or other grounds that justify instant dismissal, or in the case of a casual employee, or an employee engaged by the hour or day, or an employee engaged for a specific period or tasks.

4.2.3 *Notice of termination by employee*

The notice of termination required to be given by an employee shall be the same as that required of an employer, save and except that there shall be no additional notice based on the age of the employee concerned. If an employee fails to give notice, the employer shall have the right to withhold monies due to the employee with a maximum amount equal to the amount the employee would have received under clause 4.2.2.

4.2.4 *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.

4.3 Introduction of changes

4.3.1 *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.

4.3.2 *Employer's duty to consult over change*

- (a) The employer shall consult the employees affected and, where relevant, their Union or Unions about the introduction of the changes, the effects the changes are likely to have on employees (including the number and categories of employees likely to be dismissed, and the time when, or the period over which, the employer intends to carry out the dismissals), and the ways to avoid or minimise the effects of the changes (e.g. by finding alternative employment).
- (b) The consultation must occur as soon as practicable after making the decision referred to in clause 4.3.1.
- (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.

4.4 Redundancy

4.4.1 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 4.4.1(a) and shall cover the reasons for the proposed terminations, measures to avoid or minimise the terminations and/or their adverse effects on the employees concerned.
- (c) For the purpose of the consultation the employer shall, as soon as practicable, provide in writing to the employees concerned and, where relevant, their Union or Unions, all relevant information about the proposed terminations including the reasons for the proposed terminations, the number and categories of employees likely to be affected, the number of workers normally employed and the period over which the terminations are likely to be carried out:

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

4.4.2 Transfer to lower paid duties

- (a) Where an employee is transferred to lower paid duties for reasons set out clause 4.4.1 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 4.2.
- (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.

4.4.3 Transmission of business

- (a) Where a business is, whether before or after the date of insertion of this clause in the Award transmitted from an employer (transmittor) to another employer (transmittee), and an employee who at the time of such transmission was an employee of the transmittor of the business, becomes an employee of the transmittee:
 - (i) the continuity of the employment of the employee shall be deemed not to have been broken by reason of such transmission; and
 - (ii) the period of employment which the employee has had with the transmittor or any prior transmittor shall be deemed to be service of the employee with the transmittee.

- (b) In clause 4.4.3, '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.

4.4.4 *Time off during notice period*

- (a) Where a decision has been made to terminate an employee in the circumstances outlined in clause 4.4.1, 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.

4.4.5 *Notice to Centrelink*

Where a decision has been made to terminate employees in the circumstances outlined in clause 4.4.1, 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.

4.4.6 *Severance pay*

- (a) In addition to the period of notice prescribed for ordinary termination in clause 4.2.2(a), and subject to further order of the Commission, an employee whose employment is terminated for reasons set out in clause 4.4.1(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.

4.4.7 *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.

4.4.8 *Employee leaving during notice*

An employee whose employment is terminated for reasons set out in clause 4.4.1(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.

4.4.9 *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.

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

Clause 4.4 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.

4.4.11 *Employees exempted*

Clause 4.4 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.

4.4.12 *Employers exempted*

- (a) Subject to an order of the Commission, in a particular redundancy case, clause 4.4 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.

4.4.13 *Exemption where transmission of business*

- (a) The provisions of clause 4.4.6 are not applicable where a business is before or after the date of the insertion of this clause into the Award, transmitted from an employer (transmittor) to another employer (transmittee), in any of the following circumstances:
 - (i) where the employee accepts employment with the transmittee which recognises the period of continuous service which the employee had with the transmittor, and any prior transmittor, to be continuous service of the employee with the transmittee; or
 - (ii) where the employee rejects an offer of employment with the transmittee:
 - (A) in which the terms and conditions are substantially similar and no less favourable, considered on an overall basis, than the terms and conditions applicable to the employee at the time of ceasing employment with the transmittor; and
 - (B) which recognises the period of continuous service which the employee had with the transmittor and any prior transmittor to be continuous service of the employee with the transmittee.
- (b) The Commission may amend clause 4.4.13(a)(ii) if it is satisfied that it would operate unfairly in a particular case, or in the instance of contrived arrangements.

4.4.14 *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.

4.5 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 3.2, the parties to this Award must take reasonable steps to ensure that neither the Award provisions nor their operation are directly or indirectly discriminatory in their effects.
- 4.5.3 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 4.11 is to be taken to affect:
- (a) any different treatment (or treatment having different outcomes) which is specifically exempted under the *Anti-Discrimination Act 1991*; or
 - (b) an employee, employer or registered organisation, pursuing matters of discrimination, including by application to the Human Rights and Equal Opportunity Commission/Anti-Discrimination Commission Queensland.

4.6 Mixed functions

- 4.6.1 Where any employee on any one day performs 2 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 they work on that day at the same rate, which shall be at the highest rate fixed by such Award in respect of any of such classes of work, and if employed for 4 hours or less on the class or classes of work carrying a higher rate shall be paid at such highest rate for 4 hours.

4.7 Part-time employees

- 4.7.1 An employer may employ part-time employees as auxiliary to full-time employees in any classification in this Award.
- 4.7.2 A part-time employee is one who works not less than 10 hours per week and not more than 32 hours over not more than 5 days per week, provided that the foregoing may be amended so that part-time employees may be rostered for up to a maximum of 37 hours per week or 148 hours per 4 week cycle, to meet seasonal demands during December, January and over the Easter School holidays, or other periods agreed in writing with the Union.
- 4.7.3 At the time of first being employed, the employer will advise the part-time employee of the anticipated pattern of work specifying at least:
- (a) the hours worked each day, to a maximum of 10 hours;
 - (b) amendment must be in writing, subject to clause 6.2;
 - (c) minimum daily payment is 2 hours;
 - (d) all time worked in excess of the agreed hours is paid at the overtime rate, except when the maximum hours are amended as described in clause 4.7.2; and
 - (e) the times of taking and the duration of meal breaks, subject to clause 6.3.
- 4.7.4 An employer is required to roster a part-time employee for consecutive hours on each shift.
- 4.7.5 An employee who does not meet the definition of a part-time employee and who is not a full-time employee will be paid as a casual employee in accordance with clause 4.8.
- 4.7.6 A part-time employee employed under the provisions of clause 4.7 must be paid for ordinary hours worked at the rate of 1/38th of the weekly rate prescribed for the class of work performed.
- 4.7.7 A part-time employee shall be entitled to payments in respect of annual leave, sick leave, long service leave, bereavement leave and public holidays as mentioned in Part 7 of this Award on a *pro-rata* basis.

4.7.8 No full-time or casual employee shall be transferred by an employer to part-time employment without the written consent of the employee:

Provided that where such transfer occurs, all leave entitlements accrued shall be deemed to be continuous. A full-time employee who requests part-time work and is given such work may revert to full-time employment on a specified future date by agreement with the employer, recorded in writing.

4.8 Casual employees

4.8.1 A casual employee shall mean an employee who is engaged by the hour.

4.8.2 The rate of pay for casual employees shall be 1/38th of the appropriate full-time rate prescribed in clause 5.2 per hour, with the addition of the appropriate loading, as prescribed by clause 4.8.3.

4.8.3 These loadings are payable separately and are not to be compounded:

- (a) 23% for all ordinary hours worked
- (b) 73% where the rate of pay is prescribed as time and a-half
- (c) 123% where the rate of pay is prescribed as double time
- (d) 173% where the rate of pay is prescribed as double time and a-half

4.8.4 The minimum period of engagement of a casual employee shall be 2 hours.

4.9 Trainees

The provisions of the Training Wage Award - State 2003 apply to and are deemed to form part of this Award.

4.10 Incidental and peripheral tasks

4.10.1 Employees are to be available to perform a wider range of duties, including work which is incidental or peripheral to their main tasks or functions.

4.10.2 The assignment of incidental or peripheral tasks to an employee or a class of employees shall:

- (a) be consistent with the efficient performance of the employee's main tasks or functions;
- (b) be subject to the employee having the skills or competence to perform the initial tasks.

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 Queensland minimum wage

5.1.1 Except for an employee classified as a Fast Food Worker Level 1 no adult employee shall be paid less than the Queensland Minimum Wage.

5.1.2 Amount of Queensland Minimum Wage

- (a) The Queensland minimum wage for full-time adult employees not covered by clause 5.1.4 [special categories clause], is \$431.40 per week.
- (b) Adults employed under the Supported Wage Award - State 2002 shall continue to be entitled to receive the wage rate determined under that Award:

Provided that such employees shall not be paid less than the amount determined by applying the percentage in the Supported Wage Award - State applicable to the employee concerned to the amount of the minimum wage specified in clause 5.1.2(a).

- (c) Adults employed as part-time or casual employees shall continue to be entitled to receive the wage rate determined under the casual and part-time clauses of the Award.

5.1.3 How the Queensland Minimum Wage Applies to Juniors - The wage rates payable to juniors covered by this Award shall be as shown in clause 5.2.2.

5.1.4 *Application of Queensland Minimum Wage to special categories of employees*

Clause 5.1 has no application to a trainee or apprentice under the *Training and Employment Act 2000*.

5.1.5 *Application of Queensland Minimum Wage to Award rates calculation - The Queensland Minimum Wage:*

(a) applies to all work in ordinary hours;

(b) applies to the calculation of overtime and all other penalty rates, superannuation, payments during sick leave, long service leave and annual leave, and for all other purposes of this Award.

5.2 **Wages**

5.2.1 The minimum weekly rate of wages for adult employees shall be as follows:

Classification and Relativity to Trade	Wages per week \$
Fast Food Worker Level 1 (73.0%)	568.20
Fast Food Worker Level 2 (82.0%)	583.60
Fast Food Worker Level 3 (87.4%)	603.40

(These rates will be subject to any further Orders from the Queensland Industrial Relations Commission, such as Safety Net Adjustments).

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 *Juniors* - The minimum rates of wages payable to junior employees will be calculated using the following percentages:

Years of Age	Percentage of the Applicable Adult rate for Level 1, 2 or 3 As appropriate %
Under 17 years of age	55
17 years and under 18 years	65
18 years and under 19 years	75
19 years and under 20 years	85

And thereafter at the appropriate rate prescribed for adults for the class of work being performed at level 1, level 2 or level 3 as the case may be.

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

5.2.4 No employees who, prior to the coming into force of this Award, were in receipt of wages and/or enjoyed conditions superior in any respect to the wages and/or conditions prescribed by this Award shall have their wages and/or conditions reduced merely through the coming into force of this Award.

5.3 **Payment of wages**

5.3.1 All employees covered by this Award shall be paid on the same day every week, within 3 days of the completion of the week's work. Where an engagement is terminated in accordance with clause 4.2.2, all wages and overtime shall be paid to the employee within half an hour of such termination:

Provided that where an employee terminates their services without giving the period of notice required by clause 4.2.3, or where an employee is summarily dismissed on a weekend or public holiday, such employee's wages shall be made available not later than one hour after opening time on the next bank trading day.

- 5.3.2 Except where the employer and the employee otherwise agree in writing, wages shall be paid in the employer's time and any employee who is not paid within 15 minutes from the time specified shall be paid ordinary time during the time that such employee is kept waiting.
- 5.3.3 Wages shall be paid in full, in cash, provided that by agreement in writing the employee may be paid by cheque or personal deposit into an account nominated by the employee.
- 5.3.4 Notwithstanding clauses 5.3.1, 5.3.2 and 5.3.3, the provisions of clause 5.3 may be amended by agreement in writing between the employer, the employee and the Union.

5.4 Superannuation

5.4.1 Application -

In addition to the rates of pay prescribed by this Award, eligible employees, as defined in clause 5.4.3(b), shall be entitled to Occupational Superannuation Benefits, subject to the provisions of clause 5.4.

5.4.2 Contributions -

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

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

- (b) Regular payment - The employer shall pay such contributions to the credit of each such employee at least once each calendar month or in accordance with the requirements of the approved fund trust deed.
- (c) Minimum level of earnings - No employer shall be required to make contributions on behalf of any employee for any period in which such employee does not fulfil the definition of "Eligible employee" in clause 5.4.3(b).
- (d) Absences from work - Contributions shall continue to be paid on behalf of an eligible employee during any absence on paid leave such as annual leave, long service leave, public holidays, sick leave and bereavement leave, but no employer shall be required to pay superannuation contributions on behalf of any eligible employee during any unpaid absences except in the case of absence on workers' compensation.
- (e) Other contributions - Nothing in clause 5.4 shall preclude an employee from making contributions to a fund in accordance with the provisions thereof.
- (f) Cessation of contributions - An employer shall not be required to make any further contributions on behalf of an eligible employee for any period after the end of the ordinary working day upon which the contract of employment ceases to exist.
- (g) No other deductions - No additional amounts shall be paid by the employer for the establishment, administration, management or any other charges in connection with the fund other than the remission of contributions as prescribed herein.

5.4.3 Definitions -

- (a) "Approved fund" means a fund approved for the purposes of this Award by the Commission as one to which occupational superannuation contributions may be made by an employer on behalf of an employee, as required by this Award. 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 earns \$450.00 or more in any month. Such employee shall only be deemed to be an eligible employee in those months where the minimum earning requirement is met:

Provided that a part-time or casual employee under the age of 18 years shall not be deemed to be an eligible employee in any week in which the employee works less than 30 hours.

- (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 legislation and complying with the operating standards as prescribed by Regulations made under the relevant legislation. 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" means the actual ordinary rate of pay the employee receives for ordinary hours of work including shift loading and leading hand, in-charge or supervisory allowances where applicable. The term includes any 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.

5.4.4 *Approved funds -*

For the purposes of this Award an Approved Fund shall be:

- (i) Retail Employees Superannuation Trust
- (ii) Sunsuper
- (iii) Westpac Master Plan
- (iv) Any named fund as is agreed to between the relevant employer/Union parties to this Award and as recorded in an approved industrial agreement.
- (v) 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 of, or an Agreement approved by, an industrial tribunal, whether State or Federal jurisdiction, and already has practical application to the majority of Award employees of that employer.
- (vi) 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.
- (vii) 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.
- (viii) In relation to any particular employer, any other established fund to which that employer was already actually making regular and genuine contributions in accordance with clause 5.4.2 on behalf of at least a significant number of that employer's employees covered by this Award as at 29 September 1989 and continues to make such contributions:

Provided that the making of a deposit, an initial or other contributions subsequent to 29 September 1989, but on a retrospective basis, in respect of any period up to and including 29 September 1989, shall not under any circumstances bring a fund within the meaning of this provision. The mere signing and submission of any nomination for membership documents to trustees of a fund prior to 29 September 1989 does not bring a fund within the meaning of clause 5.4.4.

5.4.5 *Challenge of a fund*

- (a) An eligible employee being a member or a potential member of a fund, as well as the Union, may by notification of a dispute challenge a fund on the grounds that it does not meet the requirements of this clause.
- (b) Notwithstanding that the Commission determines that a particular fund does not meet the requirements of clause 5.4, the Commission may in its discretion and subject to any recommendation, direction or order it may make, recognise any or all of the contributions previously made to that fund as having met the requirements or part thereof of clause 5.4.2 up to and including the date of that determination.
- (c) In the event of any dispute over whether any fund complies with the requirements of clause 5.4, the onus of proof shall rest upon the employer.

5.4.6 *Fund Selection -*

- (i) No employer shall be required to make or be prevented from making, at any one time, contributions into

more than one approved fund. Such fund, other than a fund referred to in clause 5.4.4 (v), (vi), (vii) and (viii), shall be determined by a majority decision of employees.

- (ii) Employees who are members of an established fund covered by clause 5.4.4 (viii) shall have the right by majority decision to choose to have the contributions specified in clause 5.4.2 paid into a fund as provided for elsewhere in clause 5.4.4 in lieu of the established fund to which clause 5.4.4 (viii) has application.
- (iii) The initial selection of a fund recognised in clause 5.4.4 shall not preclude a subsequent decision by the majority of employees in favour of another fund recognised under that subclause where the long term performance of the fund is clearly disappointing.
- (iv) Where clause 5.4.6 has been utilised and as a result another approved fund is determined, access to a further re-appraisal of the fund for the purpose of favouring yet another fund shall not be available until a period of 3 years has elapsed after that utilisation.

5.4.7 *Enrolment*

- (a) Each employer to whom clause 5.4 applies shall as soon as practicable as to both current and future eligible employees
 - (i) notify each employee of their entitlement to occupational superannuation;
 - (ii) consult as may be necessary to facilitate the selection by employees of an appropriate fund within the meaning of clause 5.4.4;
 - (iii) take all reasonable steps to ensure that upon the determination of an appropriate fund each eligible employee, receives, completes, signs and returns the necessary application forms provided by the employer to enable that employee to become a member of the fund; and
 - (iv) submit all completed application forms and any other relevant material to the trustees of the fund.
- (b) Each employee upon becoming eligible to become a member of a fund determined in accordance with clause 5.4 shall:
 - (i) complete and sign the necessary application forms to enable that employee to become a member of that fund; and
 - (ii) return such forms to the employer within 28 days of receipt in order to be entitled to the benefit of the contributions prescribed in clause 5.4.2.
- (c) Where an employer has complied with the requirements of clause 5.4.7(a) and an eligible employee fails to complete, sign and return the application form within 28 days of the receipt of that form, then that employer shall:
 - (i) Advise an eligible employee in writing of the non-receipt of the application form and further advise the eligible employee that continuing failure to complete, sign and return such form within 14 days could jeopardise the employee's entitlement to the occupational superannuation benefit prescribed by clause 5.4.
 - (ii) In the event that an eligible employee fails to complete, sign and return such application form within the specified period of 14 days be under no obligation to make any occupational superannuation contributions in respect of such eligible employee excepting as from any subsequent date from which completed and signed application form is received by the employer.
 - (iii) In the event that an eligible employee fails to return a completed and signed application form within a period of 6 months from the date of the original request by the employer, again advise that eligible employee in writing of the entitlement and that the receipt by the employer of a completed and signed application form is a pre-requisite to the payment of any occupational superannuation contributions.
 - (iv) At the same time as advising the eligible employee pursuant to clause 5.4.7(c)(iii), submit both to the Chief Industrial Inspector, Brisbane and to the Union a copy of each letter forwarded by the employer to the eligible employee pursuant to clauses 5.4.7(c)(i) and 5.4.7(c)(iii).
- (d) Where an employer fails to provide an eligible employee with an application form in accordance with clause 5.4.7(a)(iii) the employer shall be obliged to make contributions as from the date 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 5.4.7 (c) shall apply.

5.4.8 *Unpaid contributions*

Subject to Chapter 11, Part 2, Division 5 of the Act and to clause 5.4.5, where the discretion of the Commission has been exercised, should it be established that the employer has failed to comply with the requirements of clause 5.4.2 in respect of any eligible employee such employer shall be liable to make the appropriate contributions retrospectively to the date of eligibility of the employee, plus an amount equivalent to the rate of return those contributions would have attracted in the relevant approved fund, or as necessary a fund to be determined by the Commission under clause 5.4.4, had they been paid on the due dates.

The making of such contributions satisfies the requirements of clause 5.4 excepting that resort to clause 5.4.8 shall not limit any common law action which may be available in relation to death, disablement or any similar cover existing within the terms of a relevant fund.

5.4.9 *Exemptions*

An employer may apply to the Commission for exemption from all or any of the provisions of clause 5.4 in the following circumstances:

- (a) Incapacity to pay the costs associated with its implementation, or
- (b) Any special or compelling circumstances peculiar to the business of the employer.

5.5 Laundry allowance

5.5.1 Where an employer does not launder a uniform or clothing which is provided, then the employer shall pay in lieu thereof an allowance of \$2.25 per week, in the case of full-time employees, and 45 cents per day in the case of casual or part-time employees.

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

6.1 Hours of work

6.1.1 The ordinary hours of work excluding meal breaks shall be an average of 38 hours per week to be worked as follows:

- (a) 38 hours within a work cycle not exceeding 7 consecutive days; or
- (b) 76 hours within a work cycle not exceeding 14 consecutive days; or
- (c) 152 hours within a work cycle not exceeding 28 consecutive days; or
- (d) a combination of any of the above in any one establishment.

6.1.2 (a) The 38 hour weeks shall be implemented on one of the following bases:

- (i) by employees working less than 8 ordinary hours each day; or
 - (ii) by employees working 8 ordinary hours on one or more days each work cycle and by fixing one or more work days on which all employees will be off during a particular work cycle; or
 - (iii) by rostering employees off on various days of the week during a particular work cycle, so that each employee has one work day off during that cycle.
- (b) The method of rostering the 38 hour week shall be agreed between the employer and the employees concerned subject to the particular needs of the establishment.
- (c) Ordinary hours are to be worked within a minimum of 4 hours and a maximum of 10 hours per day and shall be exclusive of meal breaks subject to clause 6.3.
- (d) An employee shall not be rostered for work on more than four consecutive days of 10 hours without a break of at least 48 hours.
- (e) No employee shall be rostered to work for more than 10 successive days without a day off.

- 6.1.3 *Banking of rostered days off* - Where an employee's hours are worked in accordance with clause 6.1.2(a)(iii), any banked rostered days off shall be taken within 12 calendar months from the date on which the first rostered day off was accrued.
- 6.1.4 No employee under the age of 18 years shall work, or be permitted to work, later than 8.00 p.m. without the consent of the employee's parents or legal guardians.
- 6.1.5 Where an employee, who is dependent upon public transport, ceases work after such public transport services have ceased to operate, the employer shall provide transport home at the employer's expense for such employee either by taxi-cab or such other form of transport acceptable to the employee.

6.2 Rosters

- 6.2.1 The ordinary working hours of all employees shall be worked in accordance with a weekly roster prescribing the starting and ceasing times which shall not be changed except upon 7 days notice.
- 6.2.2 Rosters may be altered in cases of sickness, absenteeism, or where the employer and the employees concerned mutually agree.
- 6.2.3 A copy of the roster shall be posted in a conspicuous place on the employer's premises.

6.3 Meals and meal breaks

- 6.3.1 No employee shall be required or permitted to work for more than 5.5 hours continuously (excluding rest pauses) without an unpaid meal break of not less than 30 minutes nor more than one hour:

Provided that such meal break shall be given and taken not earlier than after the completion of 2 hours work and before the commencement of the 7th hour of work.

- 6.3.2 Where an employee is required to work through their usual meal break, that employee shall be paid for all time so worked at double time and such double time shall continue to be paid until the employee ceases work for the day or is allowed an unpaid meal break of at least 30 minutes duration.
- 6.3.3 Any employee who is required to work overtime for more than one hour beyond their rostered ceasing time shall be provided with an adequate meal by the employer, or, in the event of the employer being unable to provide such meal, be paid an allowance of \$9.60 in lieu thereof.

6.4 Rest pauses

- 6.4.1 *Full-time employees* - Full-time employees shall receive a rest pause of 10 minutes' duration in the first half and the second half of each day worked.
- 6.4.2 *Part-time and casual employees* - Part-time and casual employees who work a minimum of 4 consecutive ordinary hours, but less than 7.6 consecutive ordinary hours on any one day shall receive a rest pause of 10 minutes' duration. Employees who work a minimum of 7.6 consecutive ordinary hours (excluding the meal break) on any one day shall receive a rest pause of 10 minutes' duration in the first half and the second half of the period worked.
- 6.4.3 Rest pauses shall be taken in the employer's time.
- 6.4.4 Rest pauses shall be taken at such times and in such a manner to suit the convenience of the employer and so as not to interfere with the continuity of work where continuity is necessary.
- 6.4.5 Notwithstanding the provisions of clause 6.4.1, where the employer and employees agree, the rest pauses may be combined so that employees have one rest pause of 20 minutes' duration.

6.5 Penalty rates

- 6.5.1 *Weekend penalty* - All ordinary time worked by full-time employees on a Saturday or Sunday shall be paid for at the rate of time and a-quarter:
- 6.5.2 *Late work penalty* - For all ordinary time worked by full-time and part-time employees on Monday to Friday inclusive between 11.00 p.m. and 12.30 a.m., employees shall be paid an additional \$1.47 per hour.
- 6.5.3 All ordinary time worked by an employee between 12.30 a.m. and 5.00 a.m. Monday to Friday inclusive shall attract an additional payment at the rate of \$2.21 per hour for any hour or part thereof for any time worked within the said hours.

6.6 Overtime

6.6.1 Except as hereinafter provided, all time worked outside or in excess of the ordinary hours prescribed in clause 6.1 or outside the usual commencing and ceasing times shall be deemed to be overtime and shall be paid for at the rate of time and a-half:

Provided that employees shall be paid at the rate of double time for all overtime worked in excess of 3 hours in any one day.

6.6.2 All time worked on an employee's rostered day(s) off shall be paid for as prescribed in clause 6.6.1 with a minimum payment of 2 hours work per occasion.

6.6.3 An employee who works so much overtime between the termination of ordinary work on one day and the commencement of ordinary work on the next day that the employee has not had at least 10 consecutive hours off duty between those times shall, subject to clause 6.6.3, be released after completion of such overtime until the employee has had 10 consecutive hours off duty without loss of pay for ordinary working time occurring during such absence. If, on the instructions of the employer, such an employee resumes or continues work without having had such 10 consecutive hours off duty, the employee shall be paid double rates until released from duty for such period and the employee shall then be entitled to be absent until the employee has had 10 consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

6.6.4 The provisions of clause 6.6.3 shall apply in the case of employees who rotate from one shift to another as if 8 hours were substituted for 10 hours when overtime is worked:

(a) for the purpose of changing rosters; or

(b) where an employee does not report for duty; or

(c) where a roster is worked by arrangement between the employees themselves.

PART 7 - LEAVE OF ABSENCE AND PUBLIC HOLIDAYS

7.1 Annual leave

7.1.1 Every employee (other than a casual employee) covered by the Award shall at the end of each year of employment be entitled to not less than 152 hours (4 weeks) annual leave on full pay.

7.1.2 Leave debits will be equivalent to the ordinary hours employees would have worked had they not been on paid leave. Such leave will therefore be paid and debited on the basis of the hours actually taken.

7.1.3 Such annual leave shall be exclusive of any public holiday which may occur during the period of that annual leave and (subject to clause 7.1.7) 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 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.

7.1.4 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 to the employee, the employee's pay, calculated in accordance with clause 7.1.7 for 152 hours and also the employee's ordinary time rate of pay for any public holidays occurring during such period of 152 hours.

7.1.5 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 to the employee, an amount equal to 1/12th of the employee's pay for the period of employment calculated in accordance with clause 7.1.7.

7.1.6 Part-time employees shall be entitled to *pro rata* annual leave based upon the average number of hours worked per week in the preceding year of employment.

7.1.7 *Calculation of annual leave pay* - Annual leave pay (including any proportionate payments) shall be calculated as follows:

(a) Subject to the provisions of paragraph 7.1.7(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 by clause 5.2 for the period of the annual leave (excluding weekend penalty rates);

(ii) A further amount calculated at the rate of 17.5% of the amount referred to in clause 7.1.7(a)(i).

(b) Clause 7.1.7(a) shall not apply to:

(i) any period or periods of annual leave exceeding 152 hours; or

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

7.2 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 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 Long service leave

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

7.4 Bereavement leave

7.4.1 Full-time and part-time employees

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

7.4.2 *Long-term casual employees*

- (a) A long-term casual employee is entitled to at least 2 days unpaid bereavement leave on the death of a member of the person's immediate family or household in Australia.
- (b) A "long-term casual employee" is a casual employee engaged by a particular employer, on a regular and systematic basis, for several periods of employment during a period of at least 1 year immediately before the employee seeks to access an entitlement under clause 7.4.2.

7.4.3 "Immediate family" includes:

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

7.4.4 *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 in clause 7.4 is insufficient.

7.4.5 *Entitlement where death of certain family members occurs outside Australia*

An employee shall be entitled to a maximum of 2 days' leave without loss of pay on each occasion and on the production of satisfactory evidence of the death outside Australia of an employee's spouse, father or mother, and where such employee travels outside of Australia to attend the funeral.

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 The following days are public holidays under this Award:

- (a) the 1st January;
the 26th January;
Good Friday;
Easter Saturday (the day after Good Friday);
Easter Monday;
the 25th April (Anzac Day);
Labour 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 and any day declared by the Minister in accordance with the *Holidays Act 1983* to be a special holiday, either throughout the State or within a specified District.

(b) *Annual show*

Any day appointed under the *Holidays Act 1983* from time to time by the Minister by notification published in the *Industrial Gazette* as the day to be kept as a holiday in a particular district in relation to the annual agricultural, horticultural or industrial show held at the principal city or town, as specified in such notification for such district:

Provided that 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.

7.6.2 *Payment in certain circumstances for public holidays not worked*

An employee, other than a casual, who would ordinarily be required to work on a day on which a public holiday falls is entitled to full pay for the time the employee would ordinarily have been required to perform work on that day irrespective of the fact that the employee may not be required to work on such day.

7.6.3 *Payment for time worked on public holidays or substituted holidays*

All work done by any employee on any of the holidays or substituted holidays mentioned in clause 7.6.1 shall be paid for at the rate of double time and a-half with a minimum of 3 hours but so that the employee is not entitled to be paid at public holiday rates for both the holiday and the substituted day.

7.6.4 *Double time and a-half*

For the purposes of clause 7.6.3, "double time and a-half" means 2.5 times the hourly rate.

7.6.5 *Payment for casual employees working on public holiday*

Casual employees shall be paid for work done on the day observed as the public holiday at the rate of 273% of the relevant ordinary hourly rate with a minimum of three hours.

7.6.6 *Substitution*

Notwithstanding the provisions of clause 7.6, the employer and the majority of employees concerned, may agree to substitute the public holidays in clause 7.6.1 with another day and all work performed on the substituted day shall be deemed to be work performed on the public holiday and paid in accordance with clause 7.6.3 but so that an employee is not entitled to receive public holiday benefits for both days.

7.6.7 *Payment when a day is substituted for a public holiday falling on Saturday or Sunday*

When a public holiday which would otherwise have fallen on a Saturday or a Sunday is substituted for a day appointed to be kept in its place, employees other than casuals required to work on the Saturday or the Sunday shall be paid at the ordinary Saturday or Sunday rate, except that when 25 December falls on a Saturday or a Sunday such employees shall receive in addition a loading of one half of an ordinary day's wages.

7.6.8 *Stand down*

Any and every employee who, having been dismissed or stood down by the employee's employer during the month of December in any year, and re-employed by that employer at any time before the end of the month of January in the next succeeding year shall, if that employee shall have been employed by that employer for a continuous period of 2 weeks or longer immediately prior to being so dismissed or stood down, be entitled to be paid and shall be paid by the employee's employer (at the ordinary rate payable to that employee when so dismissed or stood down) for any one or more of the following holidays, namely Christmas Day, Boxing Day and the 1st day of January occurring during the period on and from the date of the employee's dismissal or standing down to and including the date of the employee's re-employment as aforesaid.

7.6.9 *Employees, other than casuals, who are not Monday to Friday workers*

In the case of employees who do not ordinarily work Monday to Friday of each week, they shall be entitled to public holidays as follows:

- (a) A full-time employee shall be entitled to either payment for each of the abovementioned public holidays or a

substituted day's leave.

- (b) A part-time employee shall be entitled to either payment for each of the public holidays 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 shall be entitled to payment for the public holiday or a substituted day's leave.
- (d) A part-time employee who works an average five days per week, but whose roster is not a regular Monday to Friday roster, will not be disadvantaged by the fact that a prescribed holiday falls upon a day when the employee would not be working. The appropriate compensation is:
 - An alternative day off; or
 - An addition of one day to annual leave; or
 - An additional day's wages.

For the purposes of clause 7.6.9, "day off" shall mean the average number of hours rostered per day in the four week cycle prior to the public holiday.

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 and careers

- 9.1.1 The parties acknowledge that various degrees of training are provided to employees in the industry, both by internal on the job training and through external training providers.
- 9.1.2 The parties commit themselves to continuing such training as is regarded by them as appropriate and improving training in such cases where this is required.
- 9.1.3 It is agreed that the parties will co-operate in ensuring that appropriate training is available for all employees in this industry and the parties agree to co-operate in encouraging both employers and employees to avail themselves of the benefits from such training.
- 9.1.4 The parties agree to continue discussions on issues raised in relation to training.
- 9.1.5 The parties are committed to encouraging young people to view this industry as one which has the capacity to provide them with an interesting career.

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

10.1 Uniforms

10.1.1 Where employees are required to wear a uniform or any other distinctive type of clothing, such uniform or clothing shall be supplied, maintained and laundered at the employer's expense and shall be the property of such employer and shall be returned to the employer upon termination of employment in good order or condition, subject to fair wear and tear.

10.1.2 Upon commencement of an employee the employer may withhold \$20.00 per uniform from any money owing to that employee:

Provided that in circumstances where such a deposit would impose undue hardship on the employee, alternative arrangements may be made by agreement between the employer and the employee. Such amount will be refunded to the employee on termination and the return of uniforms.

10.1.3 Full-time employees shall be issued with a minimum of 3 uniforms and casual and part-time employees shall be issued with one uniform. Such uniforms shall be replaced on a fair wear and tear basis:

Provided that casual and part-time employees shall be provided with further uniforms as required, dependent upon the regularity of shifts worked.

10.2 Dressing and meal rooms

The employers shall provide dressing and dining rooms in accordance with the provisions of the *Workplace Health and Safety Act 1995*.

10.3 First aid

In all establishments, a first aid cabinet shall be available. Such first aid cabinet shall be kept and maintained in accordance with the provisions of the *Workplace Health and Safety Act 1995* relating to such first aid cabinets.

PART 11 - AWARD COMPLIANCE AND UNION RELATED MATTERS

Preamble

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

11.1 Right of entry

11.1.1 Authorised industrial officer

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

11.1.2 Entry procedure

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

11.1.3 *Inspection of records*

- (a) An authorised industrial officer is entitled to inspect the time and wages record required to be kept under section 366 of the Act.
- (b) An authorised industrial officer is entitled to inspect such time and wages records of any former or current employee except if the employee:
 - (i) is ineligible to become a member of the Union; or
 - (ii) is a party to a QWA or ancillary document, unless the employee has given written consent for the records to be inspected; or
 - (iii) has made a written request to the employer that the employee does not want that employee's record inspected.
- (c) The authorised industrial officer may make a copy of the record, but cannot require any help from the employer.
- (d) A person must not coerce an employee or prospective employee into consenting, or refusing to consent, to the inspection of their records by an authorised industrial officer.

11.1.4 *Discussions with employees*

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

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

11.1.5 *Conduct*

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

11.2 Time and wages record

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

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

11.2.2 The time and wages record must also contain:

- (a) the employee's full name and address;
- (b) the employee's date of birth;
- (c) details of sick leave credited or approved, and sick leave payments to the employee;

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

11.2.3 The employer must keep the record for 6 years.

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

11.3 Union encouragement

Clause 11.3 gives effect to section 110 of the Act in its entirety. Consistent with section 110 a Full Bench of the Commission has issued a Statement of Policy on Union Encouragement (reported 165 QGIG 221) that encourages an employee to join and maintain financial membership of the Union.

11.3.1 Documentation to be provided by employer

At the point of engagement, an employer to whom this Award applies shall provide employees with a document indicating that a Statement of Policy on Union Encouragement has been issued by the Commission, a copy of which is to be kept on the premises of the employer in a place readily accessible by each employee.

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

11.3.2 Union delegates

Union delegates and job representatives have a role to play within a workplace. The existence of accredited Union delegates and/or job representatives is encouraged.

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

11.3.3 Deduction of union fees

Where arrangements can be entered into, employers are encouraged to provide facilities for the deduction and remittance of Union fees for employees who signify in writing to their employer, their desire to have such membership fees deducted from their wages.

11.4 Summary of Award

Every employer shall cause either a copy of this Award or an accurate summary of the Award provisions to be posted in a conspicuous place on the employer's premises. Where a summary of the Award provision is posted, a copy of the Award shall be available on the employer's premises.

Dated 12 August 2003.

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

Operative Date: 13 October 2003