

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

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

**FOOD AND DRUG STORE EMPLOYEES' AWARD - SOUTHERN DIVISION (EASTERN DISTRICT) 2003**

Following the Declaration of the General Ruling for Overtime Meal Allowance (matter numbers B/2010/34 and B/2010/38), the Food and Drug Store Employees' Award - Southern Division (Eastern District) 2003 is hereby reprinted, pursuant to s. 698 of the *Industrial Relations Act 1999*.

I hereby certify that the Award contained herein is a true and correct copy of the Food and Drug Store Employees' Award - Southern Division (Eastern District) 2003 as at 1 January 2011.

Dated 1 March 2011.

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

**FOOD AND DRUG STORE EMPLOYEES' AWARD - SOUTHERN DIVISION (EASTERN DISTRICT) 2003**

**PART 1 - APPLICATION AND OPERATION**

**1.1 Title**

This Award is known as the Food and Drug Store Employees' Award - Southern Division (Eastern District) 2003.

**1.2 Arrangement**

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### **1.3 Operation**

This Award takes effect from 6 October 2003.

### **1.4 Coverage**

1.4.1 Subject to clause 1.4.3, this award shall apply to all employees in factories where employees are employed in preparing, working at, manufacturing, handling, blending, bottling, labeling or packing into tins, jars, cartons, or other containers, any such articles as drugs, medicines, chemicals or chemical compounds (such as dyes, rust-proofing compounds, &c.), polishing material (such as boot polish, floor polish, &c.), tar and bitumen, dry ice, fruit juice and fruit pulp, smoke coils, starch, rice, self-raising flour, maize meal, oatmeal, breakfast meals,

macaroni, spaghetti, vermicelli and allied products, farinaceous foods, chicory, tea, coffee, cocoa, condiments, vinegar, sauce, pickles, disinfectants, turpentine, ammonia, methylated spirits, benzine, petrol, honey, lemon squash, lime, juice, fruit cordials, jelly crystals, custard powders, dried fruits, vegetables, lard, butter, cheese or other dairy products, grain sorghum, ham pate, veal and tongue, camp pie, or any other articles or produce of a like nature in the whole of the Eastern District of the Southern Division of Queensland.

Persons engaged in bottle washing in connection with any of the callings mentioned in clause 1.4.1 shall be deemed to be employees under this award.

1.4.2 As to the employers named in the Schedule to this Award, the provisions of the Award are modified in accordance with the requirements of the Order listed in such Schedule.

1.4.3 *Exemptions from coverage*

(a) As an alternative to being subject to all Award provisions, a full time employee remunerated in excess of 33 1/3% of the highest award level prescribed in this Award, may mutually agree in writing with the employer not to be bound by the conditions of this Award, except for:

- Annual leave
- Long service leave
- Sick leave
- Family leave
- Superannuation
- Union encouragement
- Grievance and disputes settling procedure
- Termination change and redundancy

(b) A copy of the terms of the agreement will be supplied to the employee.

(c) There will be taken to be mutual agreement for the purposes of clause 1.4.3 if an employer employed a person to perform work within the classification structure of this award and remunerated that employee at a level in excess of the highest award rate prescribed in this Award prior to the date of operation of this Award.

(d) The overall terms and conditions of employment agreed under clause 1.4.3 must be not less favourable than the provisions of this Award as a whole and the employee shall not be disadvantaged by the agreement, taking into consideration the Award rate the employee would otherwise have been paid had the employee not entered into such agreement.

(e) For any agreement entered into under clause 1.4.3 and, in accordance with section 366(3) of the Act, there will be no requirement for the employer to keep particulars of the employee's starting and finishing times each day.

(f) If an employee considers that the employee has been disadvantaged by the agreement, this issue must be addressed between the employer and employee in the manner prescribed in clause 3.1 (Grievance and dispute settling procedures). No claim for unpaid wages resulting from clause 1.4.3 may be made under the Act until the grievance and dispute settling procedure under this Award has been concluded.

## 1.5 Definitions

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

1.5.2 "Casual Hand" means an employee appointed as such who in any one week, works less than the ordinary working hour employees.

1.5.3 "Commission" means the Queensland Industrial Relations Commission.

1.5.4 "Junior" means any employee under 21 years of age who is not in receipt of the minimum wage prescribed in this award for Seniors.

1.5.5 "Senior" means employees 21 years of age or over or any employee receiving not less than the minimum wage prescribed in this award for Seniors.

1.5.6 "Storeworker and Packer" means any employee engaged in assembling or packing goods for distribution. The term shall not apply to employees engaged in preparing goods by packing them from bulk into tins, bottles, boxes, jars, cartons, bags or any trade containers, or in assembling or packing such prepared goods in cases, provided that such cases are not handled by such employees after they have been filled.

1.5.7 "Union" means the National Union of Workers Industrial Union of Employees Queensland.

## **1.6 Area of operation**

1.6.1 *Southern Division - Eastern District* - comprises that portion of the State along or east of a line commencing at the junction of the southern border of the State with 150 degrees of east longitude; then by that meridian of longitude due north to 25 degrees of south latitude; then by that parallel of latitude due west to 147 degrees of east longitude; then by that meridian of longitude due north to 22 degrees south latitude and then by the parallel of latitude due east to the sea-coast.

## **1.7 Parties bound**

This Award is legally binding upon the employees as prescribed by clause 1.4 and their employers, and the National Union of Workers Industrial Union of Employees Queensland 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 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 procedures**

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. Such procedures shall apply to a single employee or to any number of employees.

3.1.1 In the event of an employee having a grievance or dispute the employee shall in the first instance attempt to resolve the matter with the immediate supervisor, who shall respond to such request as soon as reasonably practicable under the circumstances. Where the dispute concerns alleged actions of the immediate supervisor the employee/s may bypass this level in the procedure.

3.1.2 If the grievance or dispute is not resolved under clause 3.1.1, the employee or the employee's representative may refer the matter to the next higher level of management for discussion. Such discussion should, if possible, take place within 24 hours after the request by the employee or the employee's representative.

3.1.3 If the grievance involves allegations of unlawful discrimination by a supervisor the employee may commence the grievance resolution process by reporting the allegations to the next level of management beyond that of the supervisor concerned. If there is no level of management beyond that involved in the allegation the employee may proceed directly to the process outlined at clause 3.1.5.

3.1.4 If the grievance or dispute is still unresolved after discussions mentioned in clause 3.1.2, the matter shall, in the case of a member of the Union, be reported to the relevant officer of that Union and the Senior management of the employer or the employer's nominated industrial representative. An employee who is not a member of the Union may report the grievance or dispute to Senior management or the nominated industrial representative. This should occur as soon as it is evident that discussions under clause 3.1.2 will not result in resolution of the dispute.

3.1.5 If, after discussion between the parties, or their nominees mentioned in clause 3.1.4, the dispute remains unresolved after the parties have genuinely attempted to achieve a settlement, 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 Contract of employment**

- 4.1.1 To become entitled to payment of a weekly wage, an employee must perform such work as the employer shall from time to time require on the days and during the hours usually worked by the class of employee affected and in accordance with the terms of this Award.
- 4.1.2 An employer may direct an employee to carry out such duties as are within the limits of the employee's skill, competence and training consistent with the classification structure of this Award, provided that such duties are not designed to promote deskilling.
- 4.1.3 An employer may direct an employee to carry out such duties and use such tools and equipment as may be required provided that the employee has been properly trained in the use of such tools and equipment.
- 4.1.4 Any direction issued by an employer pursuant to clause 4.1.4 shall be consistent with the employer's responsibilities to provide a safe and healthy working environment.

### **4.2 Two or more classes of work**

When any employee on any one day performs 2 or more classes of work to which a differential rate fixed by this Award is applicable, such employee, if employed for more than 4 hours on the class or classes of work carrying a higher rate, shall be paid in respect of the whole time during which the employee works on that day at the same rate, which shall be at the highest rate fixed by this Award in respect of any such classes of work, and if employed for 4 hours or less on the class or classes of work carrying a higher rate, the employee shall be paid at such higher rate for 4 hours.

### **4.3 Employment categories**

- 4.3.1 Employees covered by this Award shall be advised in writing of their employment category upon appointment.
- 4.3.2 Employment categories are:
- (a) full-time;
  - (b) part-time (as prescribed in clause 4.4); or
  - (c) casual (as prescribed in clause 4.6).

### **4.4 Part-time employment**

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

- 4.4.1 A part-time employee is an employee who:
- (a) is employed for less than 38 hours but not less than 15 hours per week on a regular and continuous basis; and
  - (b) is rostered to work regular hours on regular days in accordance with the Award provisions for permanent employees.
- 4.4.2 At the time of engagement the employer and the part-time employee will agree in writing the number of ordinary hours to be worked each week. For the purpose of determining the regularity or otherwise of the hours, the parties may agree to averaging ordinary hours over a period of 4 weeks.

- 4.4.3 Any agreed variation to the number of ordinary weekly hours worked will be recorded in writing.
- 4.4.4 Rosters for part-time employees shall be determined in accordance with clause 6.1 (Hours of work).
- 4.4.5 Such roster shall show the starting and ceasing times and the days upon which an employee is engaged to work as well as the number of hours to be worked each week to suit the exigencies of the establishment:
- Provided that:
- (a) Part-time employees will be entitled to predictability and regularity of hours in their employment.
- (b) Wherever practical and possible rosters shall not be changed from week to week, or fortnight to fortnight.
- 4.4.6 All time worked outside of the ordinary daily and weekly hours specified in the employee's roster will be overtime and paid for at the rates prescribed in clause 6.4 (Overtime).
- 4.4.7 A part-time employee employed under the provisions of clause 4.4 must be paid for ordinary hours worked at the rate of 1/38th of the weekly rate prescribed for the class of work performed.
- 4.4.8 A part-time employee will receive, on a *pro rata* basis, equivalent pay and conditions to those of full-time employees.
- 4.4.9 Where a public holiday falls on a day upon which a part-time employee is normally employed, that employee shall be paid the appropriate rate for the number of hours normally worked on that day. An employee's roster will not be altered to avoid this obligation.
- 4.4.10 Where an employee and the employer agree in writing, part-time employment may be converted to full-time, and vice-versa. If such an employee transfers from full-time to part-time (or vice-versa), all accrued award and legislative entitlements shall be maintained. Following transfer to part-time employment accrual will occur in accordance with the provisions relevant to part-time employment.
- 4.4.11 Subject to the provisions contained in clause 4.4, all other provisions of the Award relevant to weekly employees shall apply to part time employees.

#### 4.4.12 *Rest pauses*

Part-time employees working at least 7.6 ordinary hours on any one day shall be entitled to a rest pause of 10 minutes' duration in the employer's time during the first and second half of their working day. Employees who work a minimum of 4 consecutive ordinary hours on any day (but less than 7.6 ordinary hours) shall be entitled to one rest pause of 10 minutes' duration in the employer's time.

### **4.5 Task or piece work**

Before any employer adopts a task or piece-work system, it shall be mutually agreed to by the representatives of the Union and the employer concerned.

### **4.6 Casual employment**

- 4.6.1 Casual employees shall be paid 23% in addition to the rates prescribed by clause 5.2.
- 4.6.2 Unless the employer notifies a casual employee before ordinary ceasing time on any one day that the employee's services will not be required on the following day, or specifies the period for which the casual employee's services will be required, such casual employee shall be provided with 4 hours' work, or payment in lieu.

### **4.7 Trainees**

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

### **4.8 Incidental or peripheral tasks**

Employees within each classification are to perform a wider range of duties including work which is incidental or peripheral to their main tasks or functions.

### **4.9 Anti-discrimination**

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

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

4.9.2 Accordingly, in fulfilling their obligations under the grievance and disputes settling procedure in clause 3.1, the parties to this Award must take reasonable steps to ensure that neither the Award provisions nor their operation are directly or indirectly discriminatory in their effects.

4.9.3 Under the *Anti-Discrimination Act 1991*, it is unlawful to victimise an employee because the employee has made or may make or has been involved in a complaint of unlawful discrimination or harassment.

4.9.4 Nothing in clause 4.9 is to be taken to affect:

- (a) any different treatment (or treatment having different outcomes) which is specifically exempted under the *Anti-Discrimination Act 1991*;
- (b) an employee, employer or registered organisation, pursuing matters of discrimination, including by application to the Human Rights and Equal Opportunity Commission/Anti-Discrimination Commission Queensland.

#### **4.10 Termination of employment**

##### *4.10.1 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.

##### *4.10.2 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.

##### *4.10.3 Notice of termination by employee*

The notice of termination required to be given by an employee shall be one week. If an employee fails to give notice

the employer shall have the right to withhold monies due to the employee with a maximum amount equal to the ordinary time rate for the period of the notice.

#### 4.10.4 *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.

### **4.11 Introduction of changes**

#### 4.11.1 *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.

#### 4.11.2 *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 4.11.1.
- (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.

### **4.12 Redundancy**

#### 4.12.1 *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 4.12.1(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.

#### 4.12.2 *Transfer to lower paid duties*

- (a) Where an employee is transferred to lower paid duties for reasons set out clause 4.12.1 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 4.10.

- (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.

#### 4.12.3 *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 4.12.3, '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.

#### 4.12.4 *Time off during notice period*

- (a) Where a decision has been made to terminate an employee in the circumstances outlined in clause 4.12.1, 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.

#### 4.12.5 *Notice to Centrelink*

Where a decision has been made to terminate employees in the circumstances outlined in clause 4.12.1, 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.

#### 4.12.6 *Severance pay*

- (a) In addition to the period of notice prescribed for ordinary termination in clause 4.10.2(a), and subject to further order of the Commission, an employee whose employment is terminated for reasons set out in clause 4.12.1(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.

#### 4.12.7 *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.

#### 4.12.8 *Employee leaving during notice*

An employee whose employment is terminated for reasons set out in clause 4.12.1(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.

#### 4.12.9 *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.

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

Clause 4.12 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.

#### 4.12.11 *Employees exempted*

Clause 4.12 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.

#### 4.12.12 *Employers exempted*

(a) Subject to an order of the Commission, in a particular redundancy case, clause 4.12 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.

#### 4.12.13 *Exemption where transmission of business*

(a) The provisions of clause 4.12.6 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 4.12.13(a)(ii) if it is satisfied that it would operate unfairly in a particular case, or in the instance of contrived arrangements.

#### 4.12.14 *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.

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

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

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

### **5.1 Definition of classifications**

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

#### 5.1.1 *Manufacturing production worker level 1*

An employee at this level undertakes induction training which may include information on the enterprise, conditions of employment, introduction to supervisors and fellow workers, training and career path opportunities, plant layout, work and documentation procedures, occupational health and safety, equal employment opportunity and quality control/assurance.

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

*Skills/Duties* - A manufacturing/production worker level 1:

- (a) Performs routine duties associated with the relevant manufacturing process including labouring and cleaning duties.
- (b) Exercises minimal judgement.
- (c) Works under direct supervision in the following functions:
  - performs house keeping duties;
  - assists machine operators;
  - performs basic test functions;
  - operates hand operated transport and lifting devices;
  - operates granulating or reclaiming or crumming or shredding or other similar machinery;
  - trims/cuts/glues/seals/assembles or wraps finished products;
  - uses selected hand tools; or
  - maintains simple records.

#### 5.1.2 *Manufacturing production worker level 2*

An employee at this level is one who has completed up to 3 months structured training so as to enable the employee to perform work within the scope of this level.

An employee at this level performs above and beyond the skills of an employee at MP 1 level or has completed an

Australian Traineeship System Traineeship.

*Skills/Duties* - A manufacturing/production worker level 2:

- (a) Works under direct supervision either individually or in a team environment.
- (b) Understands and undertakes basic quality control/assurance procedures including the ability to recognise basic quality deviation/faults.

Indicative of the tasks which an employee at this level may perform are the following:

- performs repetitive work on automatic, semi-automatic or single purpose machines or equipment;
- assembles components using basic written, spoken and/or diagrammatic instructions in an assembly environment;
- measures accurately using gauges and records;
- maintains records;
- operates machinery that requires basic set up skills.

#### 5.1.3 *Manufacturing production worker level 3*

An employee at this level performs work above and beyond the skills of an employee at MP 2 and to the level of their training for this level including appropriate certification.

*Skills/Duties* - A manufacturing/production worker level 3:

- (a) Is responsible for the quality of own work subject to detailed direction;
- (b) Works in a team environment and/or under routine supervision;
- (c) Undertakes duties in a safe and responsible manner;
- (d) Exercises discretion within the employee's level of skills and training;
- (e) Possesses basic interpersonal and communication skills.

Indicative of the tasks which an employee at this level may perform are the following:

- operates with flexibility between assembly/process stations;
- operates machinery and equipment requiring the exercise of skill knowledge and discretion beyond that of an employee at level MP 2;
- basic tracing and sketching skills;
- receives, despatches, distributes, sorts, checks, packs (other than repetitive packing in a standard container or containers in which such are ordinarily sold), documents and records details relating to goods, materials and components;
- basic inventory control in the context of a production process;
- basic keyboard skills;
- measures accurately using gauges and meters;
- maintains records;
- operates mixing and milling machines or similar machinery requiring set-up skills.

#### 5.1.4 *Manufacturing production worker level 4*

An employee at this level performs work above and beyond the skills of an employee at MP 3 level and to the level of their training for this level including appropriate certification.

*Skills/Duties* - A manufacturing/production worker level 4:

- (a) Is able to understand detailed instructions and work from procedures.
- (b) Is able to co-ordinate work in a team environment under limited supervision.
- (c) Is responsible for quality of own work.
- (d) Possesses sound interpersonal and communication skills.
- (e) Operates mobile equipment including forklifts, hand trolleys, pallet trucks and overhead cranes.

#### 5.1.5 *Manufacturing production worker level 5*

An employee at this level performs work above and beyond the skills of an employee at MP 4 level and to their training for this level including appropriate certification.

*Skills/Duties* - A manufacturing/production worker level 5:

- (a) Understands and is responsible of quality control standards.
- (b) Possesses an advanced level of interpersonal and communication skills.
- (c) Possesses competent keyboard skills.

#### 5.1.6 *Manufacturing production worker level 6*

A manufacturing/production worker level 6 works above and beyond an employee at MP 5 level and to the level of their training, applies the skills acquired through the successful completion of a qualification in the production, distribution, or stores functions according to the needs of the enterprises.

*Skills/Duties* - A manufacturing/production worker level 6:

- (a) Implements quality control techniques and procedures.
- (b) Understands and is responsible for a production area or a large section of a production area.
- (c) Possesses highly developed level of interpersonal and communication.
- (d) Possesses the ability to supervise and provide direction and guidance to other employees including the ability to assist in the provision of on-the-job training and induction.
- (e) Exercises discretion within the scope of this grade.
- (f) Exercises skills attained through the successful completion of an appropriate certification.
- (g) Possesses a sound knowledge of the employer's operations.

## 5.2 **Wage rates**

The minimum rates of wages payable to the following classes of employees shall be:

### 5.2.1 *Seniors*

Classification	Relativity	Award rate per week
	%	\$
Manf/Prod 1	78	615.60
Manf/Prod 2	82	621.20
Manf/Prod 3	87.4	627.40
Manf/Prod 4	92.4	648.30
Manf/Prod 5	96	663.30
Manf/Prod 6	100	682.00

Man/Prod 1 and Manf/Prod2 include excess payments of \$27.40 and \$16.30 respectively. These "excess payments" are not subject to absorption of the safety net adjustments. Such "excess payment" shall not have any subsequent percentage based wage increase applied to it. Such "excess payment" shall be paid to all existing and future employees and is to be paid for all purposes of the Award.

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

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

NOTE: The percentage relativities column relates to percentages applying before the application of the \$8.00 arbitrated

safety net adjustment made in accordance with the February 1994 Review of Wage Fixing Principles. The percentage relativities are based on a base rate and supplementary payment totalling \$417.20 per week. The percentage relativities column should also be applied by excluding amounts shown in the 'excess payment' column in any calculations of relativities.

### 5.2.2 Juniors

	Percentage of minimum Senior rate %
15 and under 16 years of age	45
16 and under 17 years of age	50
17 and under 18 years of age	55
18 and under 19 years of age	65
19 and under 20 years of age	75
20 and under 21 years of age	85

And thereafter the minimum rates prescribed in clause 5.2.1.

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.

### 5.3 Payment of wages

5.3.1 All wages, including overtime, shall be paid on a Friday in each week, unless mutually agreed otherwise and shall be paid in the employer's time except in the case of casual employees, who shall be paid within 30 minutes of their services being dispensed with. Not more than 2 days' pay shall be kept in hand.

5.3.2 Where mutually agreed between an employer and a majority of employees, wages may be paid weekly or fortnightly by electronic funds transfer directly into the employee's nominated financial institution account. However, employers covered by existing 2nd Tier/Restructuring and Efficiency Orders shall remain unaffected by clause 5.3.2.

5.3.3 When an employee is discharged the employee shall be paid their wages as soon as practicable and in any case within 24 hours after making application for them except when a bank holiday or Sunday intervenes. If the employee is not so paid the employee shall, for such time as shall elapse between the employee's discharge and payment, be paid at their ordinary rate of wages.

### 5.4 Allowances

5.4.1 An employee who in any week operates an oyster-shell or myrab nut-grinding or crushing machine shall be regarded as a Senior Storeworker and Packer for the whole of that week, and shall be paid 16.95 cents per hour in addition to the rate prescribed for a Storeworker and Packer while actually operating any such machine.

5.4.2 Any employee required to work in a cold storage area where the temperature is artificially reduced to 5 degrees Celsius or below shall be paid 32.5c per hour in addition to the weekly rates prescribed whilst so employed with a minimum of 4 hours payment.

5.4.3 Employees operating closing machines shall be paid \$1.60 per week more than the rates in clause 5.2.

5.4.4 *Employees packing disagreeable items* - Employees engaged in packing pepper, arsenic, cyanide, caustic soda, diluting or handling sulphuric acid, handling fibre glass materials, packing or handling exposed dangerous drugs shall be paid 34.25 cents per hour in addition to the rates of wages being paid whilst so engaged.

5.4.5 *Employees soldering* - Employees engaged in soldering shall be paid 16.95 cents per hour extra whilst actually so engaged.

5.4.6 *First aid* - Where an employer appoints an employee who holds the appropriate first-aid certificate as a first-aid attendant an additional \$13.70 per week when an employee works 3 days or more shall be paid to such employee.

5.4.7 *Meals or meal allowances during overtime*: An employee who is required to continue work after the usual ceasing time shall be supplied with a reasonable meal at the employer's expense or be paid \$12.10 in lieu, after more than 2 hours, or after more than one hour if overtime continues beyond 6.00 p.m., in addition to overtime payment for the time worked. Where notice of overtime has been given and arrangements have been made for a meal and such overtime is not worked, meal allowance shall be paid.

5.4.8 When an employee is required by instruction of the employer to work at a location which necessitates remaining away from home, the employee shall be entitled to an allowance of \$12.10 for the provision of each meal required during the course of such absence.

## 5.5 Superannuation

5.5.1 *Application* - In addition to the rates of pay prescribed by this award, eligible employees, as defined, shall be entitled to occupational superannuation benefits, subject to the provisions of clause 5.5.

### 5.5.2 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 - 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 5.5 shall preclude an employee from making contributions to a fund in accordance with the provisions of clause 5.5.

(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.

### 5.5.3 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" shall mean 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 5.5.2 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" shall mean the actual ordinary rate of pay the employee receives for ordinary hours of work including shift loading, skill allowances and 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.

5.5.4 *For the purposes of this Award, an approved fund shall be:*

- (a) (i) The Labour Union Co-Operative Retirement Fund - L.U.C.R.F.
- (ii) Sunsuper
- (b) Any named Fund as is agreed to between the relevant employer/Union(s) 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 and 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 this 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 5.5.2 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 (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 settlement procedure" in this Award.

#### 5.5.5 *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 clause 5.5.
- (b) Notwithstanding that the Commission determines that a particular fund does not meet the requirements of clause 5.5, 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 5.5.2 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 5.5, the onus of proof shall rest upon the employer.

#### 5.5.6 *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 provisions (d), (e), (f) and (g) of clause 5.5.4, shall be determined by a majority decision of employees.
- (b) Employees to whom these provisions apply who are members of an established fund covered by clause 5.5.4(f) shall have the right by majority decision to choose to have the contributions specified in clause 5.5.2 paid into a fund as provided for elsewhere in clause 5.5.4 in lieu of the established fund to which clause 5.5.4(f) has application.
- (c) The initial selection of a fund recognised in clause 5.5.4 shall not preclude a subsequent decision by the majority of employees in favour of another Fund recognised under clause 5.5.4 where the long term performance of the fund is clearly disappointing.



- (d) Where clause 5.5.6 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 of clause 5.5.6.

#### 5.5.7 *Enrolment*

- (a) Each employer to whom clause 5.5 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 5.5.4.
  - (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 5.5.7 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 5.5.2.
- (c) Where an employer has complied with the requirements of clause 5.5.7(a) and an eligible employee fails to complete, sign and return the application form within 28 days of the receipt by the employee 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 5.5.
  - (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 5.5.7(c)(iii) submit both to the Chief Industrial Inspector, Brisbane and to the secretary of the Union a copy of each letter forwarded by the employer to the eligible employee pursuant to clauses 5.5.7(c)(i) and 5.5.7(c)(iii).
- (d) Where an employer fails to provide an eligible employee with an application form in accordance with clause 5.5.7(a)(iii) the employer shall be obliged to make contributions as from the date of operation of clause 5.5 or from the date an employee became an "eligible employee" if that occurs thereafter provided that an eligible employee completes, signs and returns to the employer an application form within 28 days of being provided with the application form by the employer. Where an eligible employee fails to complete, sign and return an application form within such period of 28 days the provisions of clause 5.5.7(c) shall apply.

#### 5.5.8 *Unpaid contributions*

Subject to section 393 of the Act and to clause 5.5.5, 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 5.5.2 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 5.5.4, had they been paid on the due dates.

The making of such contributions satisfies the requirements of clause 5.5.8 excepting that resort to clause 5.5.8 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.

#### 5.5.9 Exemptions

- (a) An employer may apply to the Commission for exemption from all or any of the provisions of clause 5.5 in the following circumstances:
  - (i) Incapacity to pay the costs associated with its implementation; or
  - (ii) Any special or compelling circumstances peculiar to the business of the employer.
- (b) Clause 5.5 shall not apply to Crown employees where the Queensland Government superannuation scheme (QSuper) is mandatory for eligible employees of the Crown and other instrumentalities in accordance with the *Superannuation (Government and other employees) Act 1988*.

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

### **6.1 Hours of work**

- 6.1.1 (a) Subject to clause 6.1.2 (Implementation of 38 Hour Week), and subject to the exceptions provided in clause 6.1, the ordinary hours of work shall be an average of 38 per week, to be worked on one of the following bases:
- (i) 38 hours within a work cycle not exceeding 7 consecutive days; or
  - (ii) 76 hours within a work cycle not exceeding 14 consecutive days; or
  - (iii) 114 hours within a work cycle not exceeding 21 consecutive days; or
  - (iv) 152 hours within a work cycle not exceeding 28 consecutive days.
- (b) The ordinary hours of work prescribed may be worked on any 5 consecutive days in the week, Monday to Saturday inclusive, subject to the following:
- (i) ordinary hours worked on a Saturday shall be paid at the appropriate weekend overtime rate specified in clause 6.4 (Overtime).
  - (ii) any arrangement of hours which includes a Saturday as ordinary hours shall be subject to agreement between the employer and the majority of employees concerned.
- (c) The ordinary hours of work shall be worked continuously, except for meal breaks and rest pauses, between 6.00 a.m. and 6.00 p.m. The spread of hours may be altered as to all or a section of employees provided there is agreement between the employer and the majority of employees concerned. Work done outside the hours of 6.00 a.m. to 6.00 p.m. shall be paid at overtime rates and will be deemed to be part of the ordinary hours of work for the purposes of clause 6.1.1.
- (d) The ordinary starting and finishing times of various groups of employees or individual employees, may be staggered, provided that there is agreement between the employer and the majority of employees concerned.
- (e) The ordinary hours of work except for meal breaks and rest pauses shall not exceed 10 hours on any day. Where the ordinary working hours are to exceed 8 on any one day, the arrangement of hours shall be subject to the agreement of the employer and the majority of employees concerned.
- (f) Employees are required to observe the nominated starting and finishing times for the work days, including designated breaks to maximise available working time. Preparation for work and cleaning up of the employee's person shall be in the employee's time.
- (g) A roster for all employees showing normal starting and finishing times and the surname and initial of each employee shall be prepared by the employer and shall be posted 7 days in advance in a place accessible to the employee concerned. The roster shall be alterable by mutual consent at any time or by amendment with seven days notice.

#### 6.1.2 Implementation of 38 hour week

- (a) The 38 hour week shall be implemented on one of the following bases, most suitable to the particular business, after consultation with, and giving reasonable consideration to the wishes of the employees

concerned:

- (i) by employees working less than 8 ordinary hours each day; or
  - (ii) by employees working less than 8 ordinary hours on one or more days each work cycle; or
  - (iii) by fixing one or more work days on which all employees will be off during a particular work cycle; or
  - (iv) 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) Subject to 6.1.1(e), employees may agree that the ordinary hours of work are to exceed 8 on any day, thus enabling more than one work day to be taken off during a particular work cycle.
- (c) Notwithstanding any other provision in clause 6.1, where the arrangement of ordinary hours of work provides for a rostered day off, the employer and the majority of employees concerned, may agree to accrue up to a maximum of 5 rostered days off. Where such agreement has been reached, the accrued rostered days off shall be taken within 12 calendar months of the date on which the first rostered day off was accrued. Consent to accrue rostered days off shall not be unreasonably withheld by either party.
- (d) Different methods of implementation of the 38 hour week may apply to individual employees, groups or sections of employees in the business concerned.

#### 6.1.3 *38 hour week - procedures for enterprise level discussions*

- (a) The employer and all employees concerned in each establishment shall consult over the most appropriate means of implementing and working a 38 hour week.
- (b) The objective of such consultation shall be to reach agreement on the method of implementing and working the 38 hour week in accordance with clause 6.1.2 (Implementation of 38 hour week).
- (c) The outcome of such consultation shall be recorded in writing.
- (d) In cases where agreement cannot be reached as a result of consultation between the parties, either party may request the assistance or advice of their relevant employee or employer organization.
- (e) Notwithstanding the consultative procedures outlined above, and notwithstanding any lack of agreement by employees, the employer shall have the right to make the final determination as to the method by which the 38 hour week is implemented or worked from time to time.
- (f) After implementation of the 38 hour week, upon giving seven days notice or such shorter period as may be mutually agreed upon, the method of working the 38 hour week may be altered, from time to time, following negotiations between the employer and employees concerned, utilising the foregoing provisions of clause 6.1, including clause 6.1.3(e).

#### 6.1.4 *38 hour week - preservation of pre-existing arrangements*

- (a) Employers as listed in Schedule 2 to this Award and the employees of such employers, shall be exempt from the provisions of the 38 hour week in clause 6.1.
- (b) Employers and employees exempted pursuant to 6.1.4(a) shall until otherwise ordered by the Commission be bound by the provisions of clauses 5, 6, 7(4) and (6), 13 and 15(1) of Schedule 2 as existed in the Food and Drug Stores Employees' Award - Southern Division (Eastern District) (the repealed Award) prior to 10 August 1992.
- (c) Without limiting in any way the power of the Commission to make such orders it may see fit to make from time to time in relation to the exemption outlined in clause 6.1.4(a), an employer may agree in writing to the removal of such employer from Schedule 2 and may submit such agreement to the Commission in support of an application to remove the exemption in question from such date as ordered by the Commission.

## **6.2 Meal breaks**

- 6.2.1 Not less than 30 minutes and not more than one hour shall be allowed for the midday meal on each day from Monday to Friday and such meal break shall be between the 4th and the 6th hour after commencement of work as may be arranged between the employer and the majority of employees concerned.
- 6.2.2 All work done during the recognised meal period shall be paid for at the rate of double time, such payment to continue until a meal break period has commenced.

- 6.2.3 Except in cases of emergency, no employee shall be required to work more than 6 hours without a break for a meal. Such meal period to be of the prescribed duration.
- 6.2.4 Except in case of emergency or with the agreement of the majority of employees concerned one week's notice must be given by the employer to the employee of the intention to alter the meal hour.

### **6.3 Rest pauses**

- 6.3.1 Every employee covered by this award shall be entitled to a rest pause of 10 minutes' duration in the employers time in the first and second half of the working day. Such rest pauses shall be taken at such times as will not interfere with the continuity of work where continuity is necessary.
- 6.3.2 Where there is agreement between the employer and the majority of employees concerned the rest pauses may be combined into one 20 minute rest pause and the meal break arranged in such a way that the ordinary working day is broken up into three approximately equal working periods. Consent to combine the rest pauses shall not be unreasonably withheld by either party.

### **6.4 Overtime**

- 6.4.1 All time worked outside or in excess of the hours prescribed by clause 6.1 of this Award shall be deemed overtime and shall be paid for at the rate of time and a-half for the first 3 hours on any one day and thereafter at the rate of double time.
- 6.4.2 All overtime worked between midnight and the ordinary starting time shall be paid for at the rate of double time. Clause 6.4.2 shall not apply where overtime commences within 1 1/2 hours of the ordinary starting time.
- 6.4.3 All overtime worked by shift workers shall be paid for at the rate of double time.
- 6.4.4 Employees called upon to perform overtime work on Saturdays/Sundays under the provisions of this Award shall be paid the prescribed overtime rates with a minimum of 2 hours for each time they are so called in to work.
- 6.4.5 Employees who are required to continue work after their usual ceasing time shall be entitled to a 30 minute crib break after more than 2 hours, or after more than one hour if overtime continues beyond 6.00 p.m.
- 6.4.6 When an employee is required to work overtime exceeding one hour after the usual ceasing time and works through the meal break the employee shall be paid double the appropriate rate for such meal break and such rate shall continue until such meal break is allowed.
- 6.4.7 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 at least 10 consecutive hours off duty between those times shall, subject to clause 6.4.7, 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.
- (a) If on the instructions of the employer, the 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. 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.
- (b) Where an employee is recalled to work after ordinary ceasing time, overtime worked in such circumstances shall not be regarded as overtime for the purposes of clause 6.4.7 where the actual time worked is less than 3 hours on such recall or on each of such recalls.
- (c) The provisions of clause 6.4.7 shall apply in the case of shift workers who rotate from one shift to another as if 8 hours were substituted for 10 hours when overtime is worked:
- (i) For the purpose of changing shift rosters; or
- (ii) Where a shift worker does not report for duty; or
- (iii) Where a shift is worked by arrangement between the employees themselves.

### **6.5 Saturday and Sunday work**

All time worked on Sundays or in excess of 3 hours on Saturdays shall be paid for at the rate of double time.

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

## **7.1 Annual leave**

- 7.1.1 An employee (other than a casual employee) covered by this Award shall, at the end of each year of employment, be entitled to annual leave on full pay of 152 hours.
- 7.1.2 *Leave debits* - Leave will be paid and debited on the basis of hours actually taken.
- 7.1.3 *Rostered day off arising from the implementation of the 38 hour week*
- (a) An employee will not derive any additional benefit for rostered days off falling within a period of annual leave.
- 7.1.4 Such annual leave is exclusive of any public holiday which may occur during the period of that annual leave and 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 pay at a rate in excess of the ordinary rate payable under this Award 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 under this Award.
- 7.1.5 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 7.1.9 for the employee's annual leave entitlements and also the employee's ordinary time rate of pay for any public holiday occurring during such period of annual leave.
- 7.1.6 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 1/12<sup>th</sup> of the employee's pay for the period of the employee's employment.
- 7.1.7 The employer may arrange for the annual leave to be taken during the Christmas period.
- 7.1.8 All employees of the Crown shall have their annual leave entitlement debited by the number of ordinary hours they would have worked between Christmas Day and New Year's Day inclusive when there is a compulsory closure of Government establishments over the Christmas/New Year period.
- 7.1.9 *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) Leading hands, etc.

Subject to clause 7.1.9(b), leading hand allowances and amounts of a like nature otherwise payable for ordinary time worked shall be included in the wages to be paid to employees during annual leave.

- (b) All employees

Subject to clause 7.1.9(c), in no case shall the payment by an employer to an employee be less than the sum of the following amounts:

- (i) the employee's ordinary wage rate as prescribed by the Award for the period of the annual leave (excluding week-end penalty rates);
- (ii) Leading hand allowance or amounts of a like nature;
- (iii) a further amount calculated at the rate of 17.5% of the amounts referred to in clauses 7.1.9(b)(i) and (ii).

- (c) Clause 7.1.9(b) shall not apply to the following:

- (i) any period or periods of annual leave exceeding 152 hours in any other case;
- (ii) employers (and their employees) who are already paying (or receiving) an annual leave bonus, loading or other annual leave payment which is not less favourable to employees.

## **7.2 Sick leave**

### 7.2.1 Entitlement

- (a) Every employee, except casuals, pieceworkers and school-based apprentices and trainees, is entitled to 60.8 hours' sick leave for each completed year of their employment with their employer.
- (b) This entitlement will accrue at the rate of 7.6 hours sick leave after each 6 weeks of employment.
- (c) Payment for sick leave will be made based on the 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.
- (f) Part-time employees accrue sick leave on a proportional basis.

### 7.2.2 Employee must give notice

The payment of sick leave is subject to the employee promptly advising the employer of the employee's absence and 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 (a) 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 employees in 2 ordinary days of work. Proof of such death is to be furnished by the employees to the satisfaction of the employer.
- (b) Full-time and part-time employees on the death of a member of their immediate family or household outside Australia are entitled to paid bereavement leave without deduction of pay for a period not exceeding the number of hours worked by the employees in 2 ordinary days of work where the employees travel outside Australia to attend the funeral. 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(a).

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 7.6.6 all work done by any employee on:

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

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 shall be entitled to be paid a full day's wage for Labour Day (the first Monday in May or other day appointed under the *Holidays Act 1983*, to be kept in place of that holiday) irrespective of the fact that no work may be performed on such day, and if any employee concerned actually works on Labour Day, such employee shall 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 rate prescribed for such work with a minimum of 4 hours.

7.6.3 *Annual show*

All work done by employees in a district specified from time to time by the Minister by notification published in the Gazette on the day appointed under the *Holidays Act 1983*, to be kept as a holiday in relation to the annual agricultural, horticultural and/or industrial show held at the principal city or town, as specified in such notification of such district shall be paid for at the rate of double time and a-half with a minimum of 4 hours. No employee shall be entitled to receive more than one day per year as Show Day.

7.6.4 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.

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

For the purposes of clause 7.6, where the rate of wages is a weekly rate, "double time and a-half" shall mean one and one-half day's wages in addition to the prescribed weekly rate, or *pro rata* if there is more or less than a day.

#### 7.6.6 *Substitution*

Where there is agreement between the majority of employees concerned and the employer, and subject to statutory limitations, other ordinary working days may be substituted for the public holidays specified in clause 7.6. Where an employee is subsequently required to work on such substituted days, the employee shall be paid the rate applicable for the holidays that have been substituted.

#### 7.6.7 *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 the 1st January (New Year's Day).

#### 7.6.8 *Employees dismissed within 7 days of Good Friday*

Should any employee be dismissed other than on account of dishonesty, disobedience, or drunkenness within 7 days of Good Friday, such employee shall be paid for Good Friday, and Easter Monday at ordinary rates.

#### 7.6.9 *Extra payment for work outside certain hours on public holidays*

All time worked on any public holiday outside the ordinary starting and ceasing times prescribed by the award for the day of the week on which such holiday falls shall be paid for at double the rate prescribed by the Award for such time when worked outside the ordinary starting and ceasing times on an ordinary day.

#### 7.6.10 *Employees not to be discriminated against in certain circumstances*

Employees are not to be discriminated against on the basis of their contract of employment where public holidays fall on off duty periods of employment.

#### 7.6.11 *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. 25 December) is to be paid at the rate of double time.
- (e) Nothing in clause 7.6 confers a right to any employee to payment for a public holiday as well as a substituted day in lieu.

### **7.7 Trade Union training leave**



7.7.1 By written application by an employee to the employer, such application being endorsed by the Union and given to the employer at least one month in advance, an employee may be granted up to 5 working days' leave (non-cumulative) on ordinary pay each calendar year to attend courses or seminars conducted by the Union. The scope, content and level of such courses or seminars shall be such as to contribute to a better understanding of industrial relations within the employer's operations. Such training may include attendance at employer or Union initiated courses conducted by any other organisation as agreed upon by the Union and employers.

7.7.2 For the purposes of clause 7.7 "ordinary pay" shall mean at the ordinary weekly rate paid to the employee exclusive of penalty rates or any allowance for travelling time and fares.

7.7.3 The granting of such leave shall be subject to the following conditions:

(a) The employee must have at least 12 months continuous service with the employer prior to such leave being granted or be the elected Union delegate.

(b) Unless otherwise agreed the maximum number of employees of one and the same employer attending a training course or seminar each year will be as follows:

Where the employer employs between 10-50 employees: 1

Where the employer employs between 51-100 employees: 2

Where the employer employs over 100 employees: 4

(c) Clause 7.7 shall not apply to a workplace with less than 10 full-time employees under this Award.

(d) The granting of such leave shall be subject to the convenience of the employer so that the operations of the enterprise will not be adversely affected.

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

(f) Leave granted to attend such training courses will not incur any additional payment or alternate time off if such course coincides with the employee's day off in the 19 day month working arrangements or with any other concessional leave.

(g) Such paid leave will not affect other leave granted to employees under this Award.

(h) On completion of the course the employee shall, upon request, provide to the employer proof of their attendance at the course. Non-attendance at a training course will result in the employee not being paid for such time.

## **7.8 Jury service**

An employee, other than a casual employee, required to attend for jury service during their ordinary working hours shall be reimbursed by the employer an amount equal to the difference between the amount paid in respect of their attendance for such jury service and the ordinary pay the employee would have been paid if the employee was not absent on jury service.

Alternatively, by agreement, fees (other than meal allowance) received by the employee to attend jury service will be paid to the employer and the employer will continue to pay the employee their ordinary pay for the time the employee was absent on jury service.

Employees shall notify their employer as soon as practicable of the date upon which they are required to attend for jury service and shall provide their employer with proof of such attendance, the duration of such attendance and the amount received in respect thereof.

If the employee is not required to serve on a jury for a day or part of a day after attending for jury service and the employee would ordinarily be working for all or part of the remaining day, the employee must, if practicable, present for work at the earliest reasonable opportunity.

"Ordinary pay" means the rate of pay that an employee would normally expect to receive for working ordinary hours on an ordinary day of the week, including any over-award payment. "Ordinary pay" excludes overtime, penalty rates of all types - including those attaching to working ordinary hours (for example) on a Saturday, disability allowances, shift allowances, special rates, fares and travelling time allowances, bonuses and other ancillary payments of a like nature.

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

### **8.1 Travelling, transport and fares**

- 8.1.1 An employee required to work at a job away from the employee's workshop or store shall, at the direction of the employer, present for work at such job at the usual time of starting work. When an employee is required to work away from the employee's workshop or store, all time reasonably spent in excess of time usually spent in travelling to or from home to the workshop or depot shall be paid for at the employee's ordinary rate up to a maximum of 8 hours out of every 24.
- 8.1.2 When an employee is required to travel from store to store in the employer's time, transport shall be arranged by and at the employer's expense, otherwise employees shall be reimbursed the full amounts so incurred by the employee whilst so travelling from store to store.
- 8.1.3 An employee engaged in a capital city to work in the country or another State, or sent from one State to work in another State, or sent from one country centre to work in another country centre, shall be entitled to travelling time, and, for a period not exceeding 3 months, to expenses.
- 8.1.4 When an employee is required by instruction of the employer to work at a location which necessitates remaining away from home, the employee shall be entitled to be paid all fares and reasonable travelling expenses, including reasonable expenses for the provision of meals together with the full cost of suitable standard board and lodgings.
- 8.1.5 The fares allowed shall be:
- On coastal and interstate ships - first class.
  - On other interstate ships - second class.
  - On trains where night travelling is involved - first class with sleeping berths if available.
  - On other trains - second class.
  - On all passenger aircraft - economy class.

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

### **9.1 Commitment to training and careers**

The parties commit themselves to the development and implementation of training courses as it is regarded by them as appropriate and improving the training in cases where this is required. It is agreed that the parties will co-operate in ensuring that appropriate training is available for all employees in the industry and the parties agree to co-operate in encouraging both employers and employees to avail themselves of the benefits to both from such training.

### **9.2 Training**

#### *9.2.1 Training program*

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

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

#### *9.2.2 Development of a training program*

Following proper consultation in accordance with clause 9.1 or through the establishment of a training committee, an employer shall develop a training program consistent with:

- (i) the current and future skills needs of the enterprise;
- (ii) the size, structure and nature of the operations of the enterprise;
- (iii) the need to develop vocational skills relevant to the enterprise, through courses conducted by accredited educational institutions and providers.

#### *9.2.3 Establishment of a training committee and its role*

Where it is agreed a training committee be established that training committee should be constituted by equal numbers of employer and employee representatives and have a charter which clearly states its role and responsibilities, for example:

- (i) formulation of a training programme and availability of training courses and career opportunities to employees;
- (ii) dissemination of information on the training programme and availability of training courses;
- (iii) the recommending of individual employees for training and reclassification;
- (iv) monitoring and advising management and employees on the on-going effectiveness of the training.

#### 9.2.4 *Payment for training during working hours and reimbursement of costs*

- (a) Where it is agreed that additional training in accordance with the programme developed pursuant to clause 9.2 should be undertaken by an employee, that training may be undertaken either on or off the job. If the training is undertaken during ordinary working hours the employee concerned shall not suffer any loss of pay. The employer shall not unreasonably withhold such paid training leave.
- (b) Any costs associated with standard fees for prescribed courses and prescribed textbooks (including those textbooks which are available in the employer's technical library), legitimately incurred in connection with the undertaking of training shall be reimbursed by the employer upon production of evidence of such expenditure. Reimbursement shall also be on an annual basis subject to the presentation of reports of satisfactory progress.
- (c) Legitimate travel costs incurred by an employee undertaking training in accordance with clause 9.2 which exceed those normally incurred in travelling to and from work shall be reimbursed by the employer.

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

### **10.1 Amenities**

Employees shall be provided with accommodation covering dressing and dining room facilities in line with the requirements of the Workplace Health and Safety (Miscellaneous) Regulation 1995 as amended from time to time including hot water for meal times.

### **10.2 Uniforms**

In any establishment where employees are ordered to wear uniforms, head gear, special footwear and/or aprons, such articles shall be supplied free of charge by the employer, and shall remain the property of the employer.

### **10.3 Maximum carrying weight**

10.3.1 Employees shall not be permitted or allowed to lift, carry or move by hand any object so heavy as to be likely to cause risk of injury.

10.3.2 The maximum weight in kilograms which an employee may be permitted or allowed to lift, carry or move by hand shall be 16 kg.

## **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 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 the 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 records**

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 Posting of Award

A copy of this Award shall be displayed by the employer in each establishment in a prominent position so as to be easily read without let or hindrance by the employees.

## SCHEDULE 1

*List of employers with Second Tier Orders which to varying degrees modify the provisions of this Award*

<b>Name</b>	<b>Case No.</b>	<b>Date of Order</b>
Arnott-Harper Pty. Ltd.	B529/87	11.12.87
Queensland Druggists Limited	B68/88	22. 2.88
Harlos Chemicals Ltd.	B260/88	22. 4.88
Mildura Fruit Juices Pty. Ltd.	B250/88	21. 4.88
Kraft Foods Limited - Northgate Plant	B374/88	27. 6.88
Defiance Milling Co. Pty. Ltd.	B565/88	16. 9.88
Nicholas Kiwi (Queensland) Limited	B850/88	10.11.88
Weis Investments Pty. Ltd.	B314/89	28. 6.89
Butter Marketing Board	B718/89	12. 9.89
Food Spectrum Pty. Ltd.	B705/89	6.10.89

## SCHEDULE 2

*List of employers exempt from the provisions of the 38 hour week*

N.B. Love Adhesives  
 Butter Producers' Co-operative Federation Limited  
 Friskies Pet Care  
 Honey Corporation of Australia  
 Kraft Foods  
 Nanda Pasta Products Pty. Ltd.  
 Rhone - Poulenc Rural Australia Pty. Ltd.  
 Berrivale Orchards  
 Uncle Tobys Pty. Ltd.  
 Mauri Yeast Australia Pty. Ltd.

In lieu of the parent clauses in this Award the provisions of the following clauses shall apply to the abovementioned employers and employees:

## **S2.1 Hours of work**

S2.1.1 The ordinary weekly working hours shall not exceed 40 in any one week to be worked in the case of day workers between the hours of 7.00 a.m. and 5.00 p.m. on Mondays, Tuesdays, Wednesdays, Thursdays and Fridays.

S2.1.2 In all cases the meal break will be taken between the 4th and 6th hour after the commencement of work and be not less than 30 minutes and not more than 60 minutes in duration.

S2.1.3 When an employee is required to continue working through the employee's normal meal break, the employee shall be paid at double the ordinary rate, and such rate shall continue until a meal break is allowed.

S2.1.4 Unless otherwise mutually agreed between the employer and an employee and except in the case of emergency, one week's notice must be given by the employer to the employee to alter the meal break.

## **S2.2 Rest pauses**

S2.2.1 Every employee covered by this Award shall be entitled to a rest pause of 10 minutes' duration in the employer's time in the first and second half of the employee's daily work. Such rest pauses shall be taken at such times as will not interfere with the continuity of work where continuity is necessary:

Provided that where there is agreement between the majority of employees, the employer and the Union, rest pauses may be combined into one 20 minute rest pause to be taken in the first part of the ordinary working day, with the combined rest pause and the meal break arranged in such a way that the ordinary working day is broken up into 3 approximately equal periods:

Provided further that the parties agree that Union involvement would only be necessary where Union members are employed.

## **S2.3 Overtime**

S2.3.1 Employees called upon to perform overtime work on Saturdays/Sundays under the provisions of this Award shall be paid the prescribed overtime rates with a minimum of 2 hours for each time they are so called in to work.

S2.3.2 Except where mutually agreed otherwise, when overtime is worked for more than one hour after the usual ceasing time, not less than one half-hour shall be allowed for a meal and this shall be the first half-hour after the usual ceasing time.

## **S2.4 Annual leave**

S2.4.1 Every employee (other than a casual employee) covered by this Award shall at the end of each year of their employment be entitled to annual leave on full pay of 4 weeks. For the purposes of clause S2.4 "year of employment" shall mean and include any year of employment completed on or after 3rd December 1973.

S2.4.2 Such annual leave shall be exclusive of any public holiday which may occur during the period of that annual leave and (subject to clause S2.4.9) shall be paid for by the employer in advance.

S2.4.3 In the case of any and every employee in receipt immediately prior to that leave of ordinary pay at a rate in excess of the ordinary rate payable under this Award at that excess rate; and

S2.4.4 In every other case, at the ordinary rate payable to the employee concerned immediately prior to that leave under this Award.

S2.4.5 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 forthwith pay to the employee in addition to all other amounts due to the employee, the employee's pay, calculated in accordance with clause S2.4.9, for 4 weeks and also the employee's ordinary time rate of pay for any public holiday occurring during such period of 4 weeks.

S2.4.6 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 S2.4.9.

S2.4.7 Reasonable notice of at least 14 days' notice of the commencement of annual leaves shall be given to the employee.

S2.4.8 Except as provided in clause S2.4 it shall not be lawful for that employer to give or for an employee to receive payment in lieu of annual leave.

S2.4.9 *Calculation of annual leave pay* - In respect to annual leave entitlements to which clause S2.4 applies, annual leave pay (including any proportionate payments) shall be calculated as follows:

- (a) Shift workers - Subject to clause S2.4.9(c) the rate of wage to be paid to a shift worker shall be the rate payable for work in ordinary time according to the employee's roster or projected roster, including Saturday, Sunday or holiday shifts.
- (b) Leading hands, &c - Subject to clause S2.4.9(c), leading hand allowances and amounts of a like nature otherwise payable for ordinary time worked shall be included in the wages to be paid to employees during annual leave.
- (c) All employees - Subject to the provisions of clause S2.4.9(d), in no case shall the payment by an employer to an employee be less than the sum of the following amounts:
  - (i) The employee's ordinary wage rate as prescribed by the Award for the period of the annual leave (excluding shift premiums and week-end penalty rates);
  - (ii) Leading hand allowance or amounts of a like nature;
  - (iii) A further amount calculated at the rate of 17 1/2% of the amounts referred to in clauses S2.4.9(i) and (ii).
- (d) The provisions of clause S2.4.9(c) shall not apply to the following:
  - (i) Any period or periods of annual leave exceeding:
    - 5 weeks in the case of employees employed in a calling where three shifts per day are worked over a period of seven days per week; or
    - 4 weeks in any other case.
  - (ii) Employers (and their employees) who are already paying (or receiving) an annual leave bonus, loading or other annual leave payment which is not less favourable to employees.

## **S2.5 Sick leave**

S2.5.1 In respect to employment on and after 14th August, 1972, every employee shall become entitled to not less than 8 days' sick leave for each completed year of employment with an employer.

S2.5.2 Moreover, as respects any completed period of employment of less than one year with an employer after that date, an employee shall become entitled to one day's sick leave for each 6 weeks of such period:

Provided that any period of employment within the period of 6 weeks immediately preceding 14th August, 1972, in respect to which no sick leave entitlement accrued pursuant to the provisions of this Award as in force immediately prior to that date shall be taken into account in the calculation of sick leave under clause S2.52.

Dated 5 August 2003.

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

Operative Date: 6 October 2003