

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

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

**FUNERAL SERVICES AWARD - STATE 2002**

Following the Declaration of the General Ruling in the 2010 State Wage Case (matter numbers B/2010/20 and B/2010/21), the Funeral Services Award - State 2002 is hereby reprinted, pursuant to s. 698 of the *Industrial Relations Act 1999*.

I hereby certify that the Award contained herein is a true and correct copy of the Funeral Services Award - State 2002 as at 1 September 2010.

Dated 1 November 2010.

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

**FUNERAL SERVICES AWARD - STATE 2002**

**PART 1 - APPLICATION AND OPERATION**

**1.1 Title**

This Award is known as the Funeral Services Award - State 2002.

**1.2 Arrangement**

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### **1.3 Date of operation**

This Award takes effect from 20 January 2003.

### **1.4 Award coverage**

1.4.1 (a) Within the Local Authority Area of the City of Brisbane, this Award will apply to any person engaged in undertaking establishments as undertaker, embalmer, coffin maker, coffin trimmer, coffin polisher, bearer, drivers of motor vehicle, and assistants and labourers thereof and to the employer of such person.

(b) Outside the Local Authority Area of the City of Brisbane, this Award will apply to any person who, in any 7 day period, is wholly or substantially engaged by an employer in any of the classifications contained in clause 5.1, and to the employer of that person.

(c) This Award will also apply to any person who performs work on a casual basis in any of the classifications contained in clause 5.1, and to the employer of that person, with a minimum payment as prescribed in clause 4.3.

(d) This Award will not apply to members of an employer's family or families:

Provided that the members of the employers' family or families employed in any of the classifications contained in clause 5.1 are partners and do not exceed a total of 3 in number.

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 individual Orders listed in such Schedule.

#### 1.4.3 *Salaried employees - partial exemption*

The purpose of clause 1.4.3 is to allow for flexibility that provides appropriate terms and conditions for the employer and its employees through genuine negotiations. It is not intended to be used as an audit instrument unless due evidence of a disadvantage can be adequately demonstrated.

Unless specified otherwise, clause 5.1 (Classifications structure), clause 5.2 (Wage rates), clause 5.3 (Divisional and District allowances), clause 5.4 (Allowances), Part 6 and clause 7.6 (Public holidays) shall not apply to salaried employees who have negotiated with the employer a salaried remuneration package of 25% (excluding superannuation) or more above the base rate they would normally receive for the respective wage Level they would be classified at, under this Award.

A salaried employee may, at the end of each completed year of continuous service, request an audit of their individual circumstances where they can demonstrate that good reason exists. Where a salaried employee believes they are being disadvantaged by being on a salary, such employee may choose to:

- Renegotiate the salary package with the employer; or
- If they are unable to renegotiate the salary package, give the employer 4 weeks' notice of withdrawing from the package arrangement and reverting (or converting) to full coverage under this Award.

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.

For any agreement entered into under clause 1.4.3, in accordance with section 366(2) of the Act, there will be no requirement for the employer to keep particulars of the employees' starting and finishing times each day.

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 procedure). 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.

If an employee requests and is granted an alteration to their roster for personal reasons which may incur a disadvantage when compared to a base rate employee within the same Wage Level, the employee will not be entitled to any shortfall.

## 1.5 **Area of operation**

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

### 1.5.1 *Divisions*

Northern Division - That portion of the State along or north of a line commencing at the junction of the sea-coast with the 21st parallel of south latitude; from that latitude due west to 147 degrees of east longitude; from that longitude due south to 22 degrees 30 minutes of south latitude; from that latitude due west to the western border of the State.

Mackay Division - That portion of the State within the following boundaries: Commencing at the junction of the sea-coast with the 21st parallel of south latitude; from that latitude due west to 147 degrees of east longitude; from that longitude due south to 22 degrees of south latitude; from that latitude due east to the sea-coast; from the sea-coast northerly to the point of commencement.

Southern Division - That portion of the State not included in the Northern or Mackay Divisions.

### 1.5.2 Districts

#### (a) Northern Division:

Eastern District - That portion of the Northern Division along or east of 144 degrees 30 minutes of east longitude.

Western District - The remainder of the Northern Division.

#### (b) Southern Division:

Eastern District - That portion of the Southern Division along or east of a line commencing at the junction of the southern border of the State with 150 degrees of east longitude; from that longitude due north to 25 degrees of south latitude; from that latitude due west to 147 degrees of east longitude; from that longitude due north to the southern boundary of the Mackay Division.

Western District - The remainder of the Southern Division.

## 1.6 Definitions

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

1.6.2 "Commission" means the Queensland Industrial Relations Commission.

1.6.3 "Funeral Conductor" means an employee who is principally engaged in the supervision of the conduct of funerals and the delivery of coffins to cemeteries and/or crematoria and who may also be employed upon other duties.

1.6.4 "Resident Officer/s" means a full-time employee/s required to reside at and look after an undertaker's office and who may be employed in any aspect of a funeral director's operations.

1.6.5 "Union" means the Australian Liquor, Hospitality and Miscellaneous Workers' Union, Queensland Branch, Union of Employees.

## 1.7 Parties bound

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

## PART 2 - FLEXIBILITY

### 2.1 Enterprise flexibility

2.1.1 As part of a process of improvement in productivity and efficiency, discussion should take place at each enterprise to provide more flexible working arrangements, improvement in the quality of working life, enhancement of skills, training and job satisfaction and to encourage consultative mechanisms across the workplace.

2.1.2 The consultative processes established in an enterprise in accordance with clause 2.1 may provide an appropriate mechanism for consideration of matters relevant to clause 2.1.1. Union delegates at the place of work may be involved in such discussions.

2.1.3 Any proposed genuine agreement reached between an employer and employee/s in an enterprise is contingent upon the agreement being submitted to the Commission in accordance with Chapter 6 of the Act and is to have no force or effect until approval is given.

## PART 3 - COMMUNICATION, CONSULTATION AND DISPUTE RESOLUTION

### 3.1 Grievance and dispute settling procedure

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

3.1.1 In the event of an employee having a grievance or dispute the employee shall in the first instance attempt to

resolve the matter with the immediate supervisor, who shall respond to such request as soon as reasonably practicable under the circumstances. Where the dispute concerns alleged actions of the immediate supervisor the employee/s may bypass this level in the procedure.

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

## **3.2 Consultation**

- 3.2.1 The parties to this Award are committed to co-operating positively to increase the efficiency, productivity and competitiveness of the industry covered by this Award and to enhance the career opportunities and job security of employees in such industry.
- 3.2.2 At each enterprise, the employer, the employees and their Union commit themselves to establishing a consultative mechanism and procedures appropriate to the size, structure and needs of that enterprise. Measures raised by the employer, employees or Union for consideration consistent with the objectives of clause 3.2.1 will be processed through that consultative mechanism and procedures.

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

### **4.1 Employment categories**

- 4.1.1 Employees (other than casual employees) covered by this Award shall be advised in writing of their employment category upon appointment. Employment categories are:
  - (a) full-time;
  - (b) part-time (as prescribed in clause 4.2); and
  - (c) casual (as prescribed in clause 4.3).

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

4.2.1 A part-time employee is an employee who:

- (a) is employed for a minimum of 7.6 hours per week and less than 38 ordinary hours per week;
- (b) is engaged to work on pre-determined days of the week for a regular number of hours; and
- (c) receives, on a proportionate basis, equivalent pay and conditions to those of full-time employees who do the same kind of work.

4.2.2 At the time of engagement, the employer and the employee are to agree in writing on the number of ordinary hours per week and the normal rostering arrangements.

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

4.2.4 Any amendment to the work pattern will be in accordance with methods of altering the ordinary hours of work for full-time employees as detailed in Part 6 of this Award, unless otherwise mutually agreed.

4.2.5 Part-time employees will be paid an hourly rate equal to 1/38th of the weekly rate prescribed in clauses 5.2 and 5.3 for the class of work performed.

4.2.6 The spread of hours of part-time employees will be the same as that applicable to a full-time weekly employee in the section of the establishment in which they are employed. The number of ordinary hours will not on any day exceed the number of ordinary hours of weekly employees in the section in which the employee is employed and will not in any week exceed the number of hours of weekly employees in the section without payment of overtime.

4.2.7 Where a part-time employee would have been rostered to work on a day of the week on which a public holiday occurs and the employee is not required to work on the holiday, then the employee will be paid for the ordinary hours such employee would have worked on that day had it not been a public holiday.

### **4.3 Casual employment**

4.3.1 A casual employee is an employee engaged as such who is employed for less than 32 hours in any 7 days under this Award.

4.3.2 The rate of payment of casual employees will be 1/38th of the appropriate weekly wage plus a 23% loading.

4.3.3 The minimum period of engagement of a casual employee will be 2 hours on Monday to Saturday inclusive, and 4 hours on Sunday.

### **4.4 Incidental and peripheral tasks**

4.4.1 An employer may direct an employee to carry out such duties as are reasonably within the limits of the employee's skill, competence and training.

4.4.2 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.

4.4.3 Any direction issued by an employer pursuant to clause 4.4 will be consistent with the employer's responsibilities to provide a safe and healthy working environment.

### **4.5 Trainees**

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

### **4.6 Anti-discrimination**

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

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

(b) sexual harassment; and

(c) racial and religious vilification.

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

4.6.3 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.

4.6.4 Nothing in clause 4.6 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.

## **4.7 Termination of employment**

### *4.7.1 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.

### *4.7.2 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.

### *4.7.3 Notice of termination by employee*

The notice of termination required to be given by an employee shall be 7 day's.

If an employee fails to give notice, the employer shall have the right to withhold monies due to the employee with a maximum amount equal to one week.

4.7.4 Annual leave will not be used to provide the notice prescribed in clauses 4.7.2 and 4.7.3.

#### 4.7.5 *Time off during notice period*

During the period of notice of termination given by the employer, an employee shall be allowed up to one day's time off without loss of pay for the purpose of seeking other employment. This time off shall be taken at times that are convenient to the employee after consultation with the employer.

### **4.8 Introduction of changes**

#### 4.8.1 *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.

#### 4.8.2 *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 4.8.1.
- (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.

### **4.9 Redundancy**

#### 4.9.1 *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 4.9.1(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.

#### 4.9.2 *Transfer to lower paid duties*



- (a) Where an employee is transferred to lower paid duties for reasons set out clause 4.9.1 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 4.7.
- (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.

#### 4.9.3 *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 4.9.3, '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.

#### 4.9.4 *Time off during notice period*

- (a) Where a decision has been made to terminate an employee in the circumstances outlined in clause 4.9.1, 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.

#### 4.9.5 *Notice to Centrelink*

Where a decision has been made to terminate employees in the circumstances outlined in clause 4.9.1, 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.

#### 4.9.6 *Severance pay*

- (a) In addition to the period of notice prescribed for ordinary termination in clause 4.7.2(a), and subject to further order of the Commission, an employee whose employment is terminated for reasons set out in clause 4.9.1(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.

#### 4.9.7 *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.

#### 4.9.8 *Employee leaving during notice*

An employee whose employment is terminated for reasons set out in clause 4.9.1(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.

#### 4.9.9 *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.

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

Clause 4.9 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.

#### 4.9.11 *Employees exempted*

Clause 4.9 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.

#### 4.9.12 *Employers exempted*

- (a) Subject to an order of the Commission, in a particular redundancy case, clause 4.9 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.

#### 4.9.13 *Exemption where transmission of business*

- (a) The provisions of clause 4.9.6 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 4.9.13(a)(ii) if it is satisfied that it would operate unfairly in a particular case, or in the instance of contrived arrangements.

#### 4.9.14 *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.

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

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

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

#### **5.1 Classification structure**

##### *5.1.1 Career path progression*

Implicit in career path progression is the existence of a suitable vacancy within the establishment to which the employee can be appointed or successfully apply for promotion and that progression is based on work performance rather than tenure.

To progress to a higher classification level, an employee must also have demonstrated a competent level of work performance as highlighted through the employer's performance management processes.

As a matter of principle, the employer is committed to promotion on the basis of merit that is consistent with equal employment opportunity and affirmative action requirements.

Professional development is not compulsory and may be undertaken in either the employee's or employer's time depending on the circumstances. This is to promote a culture of learning in line with the employer's commitment to training. Specific on-site training programmes that are compulsory, for example, induction training, training for Supervisors would be undertaken in the employer's time.

##### *5.1.2 Classification criteria*

- (a) An employer shall determine the classification of a position through the following process:
  - (i) An analysis is to be undertaken to establish the requisite skills and responsibilities for each identified position;
  - (ii) Each position is classified by reference to the classification criteria set out below; and
  - (iii) Employees are notified in writing of their appointment to a position consistent with the requirements outlined in clause 4.1 to this Award.
- (b) Classification criteria are guidelines to determine the appropriate classification level and consist of:
  - (i) Relativities for each Grade;

- (ii) Indicative duties that represent where the majority of the employee's duties are located (i.e. it is not mandatory that an employee performs every duty in a Grade and where it is acknowledged that some duties are only relevant for certain sectors of the industry);
  - (iii) Indicative experience and/or qualifications;
  - (iv) Indicative levels of responsibility.
- (c) The characteristics nominated above are the principal guide to classification as they are designed to indicate the level of basic knowledge, comprehension of issues, problem solving and procedures required, the level of autonomy, accountability supervision/training involved with the position.
  - (d) The characteristics of a Grade must be read as a whole to gain an understanding of the position and the performance requirements. Isolated characteristics should not be used to justify the classification of a position. The key issue to be analysed in properly classifying an employee is the level of initiative, responsibility/accountability, competency and skill that an employee is required to exercise in performing the employee's work within the parameters of the characteristics of the position.
  - (e) The attributes and skills for each Grade are indicative of those required for each Grade. They are by no means an exhaustive list of the skills, attributes or tasks included in each position within each Grade and employees may be expected to carry out additional tasks as requested, which require skills that are not listed.
  - (f) It should be noted that some typical duties/skills appear at one Grade only while others appear at more than one Grade (e.g. the role of Funeral Director and/or Resident Officer). Because of this, the classification or re-classification of a position needs to be done by reference to the specific characteristics of the Grade. As an example, because an employee may be utilising the majority of skills comprehended at a higher Grade than that which the employee has been appointed, the employee may assume the level of qualification, initiative, accountability and competence envisaged by the characteristics of the higher Grade irrespective of whether the employee holds formal qualifications for that higher Grade.
  - (g) Payment for skills required in a particular position and used on a regular basis and not skills/qualifications possessed is an acknowledgement that some employees are over-qualified for the position they will be engaged in.

The overall terms and conditions associated with the introduction of clause 5.1 must not be less favourable as a whole and the employee shall not be disadvantaged.

### 5.1.3 Classification structure

Wage rates for all employees shall be as follows:

- (a) Funeral services employee - Grade 1 - Introductory - (relativity to trade equivalent 87.5%)
  - (i) Indicative duties
    - general duties as directed associated with induction and an introduction to the industry;
    - under supervision, any of the duties described under Grade 2 for the purpose of developing competencies and skills necessary for performance at Grade 2;
    - labouring duties; and
    - cleaning.
  - (ii) Indicative experience and/or qualifications
 

The Grade 1 - Introductory Level rate shall apply to a new employee who enters the industry without qualifications or experience relevant to the industry and who has not demonstrated the competency requirements of Grade 2 below.

An employee at this Grade will commence at the 87.5% relativity for up to 3 months and progress to the 92.5% relativity thereafter. Alternatively, progression to Grade 2 can occur at any time should the employee meet the entry criteria for Grade 2.
  - (iii) Indicative level of responsibility
 

An employee at this Grade would require very regular supervision as they are a new entrant and who:

    - work under very close direction using established routines, methods and procedures with little

- scope for deviating from these;
- are not required to provide more than basic judgement and application of basic problem solving skills; and
- usually operate within a Work Team with very limited authority.

(b) Funeral services employee - Grade 2 - (relativity to trade equivalent 92.5%)

(i) Indicative duties

A Grade 2 employee shall have a minimum of three months' industry experience and a basic understanding and possesses some or all of the following skills or proficiencies associated with:

- funeral protocols and procedures;
- hygiene requirements of the industry including infectious control requirements;
- funeral duties, body-collection, basic body preparation and other mortuary work, manual handling and the health and safety considerations associated therewith under the direction or supervision of a higher grade employee;
- the requirements of transfer forms;
- cleaning and upkeeping the appearance of vehicles and assisting with parking guests vehicles;
- cleaning mortuaries;
- trimming coffins;
- assistance in induction of employees at lower levels;
- general cleaning duties and rubbish removal;
- basic maintenance duties; and
- performance of any duties at a lower Grade, as required.

(ii) Indicative level of responsibility

An employee at this Grade would require regular supervision as they have limited experience and who:

- work under routine supervision using established routines, methods and procedures with little scope for deviating from these;
- are not required to provide more than basic judgement and application of basic problem solving skills; and
- usually operate within a Work Team with very limited authority.

(c) Funeral services employee - Grade 3 - (relativity to trade equivalent 97.5%)

(i) Indicative duties

A Grade 3 employee shall have an understanding and possesses some or all of the following skills or proficiencies associated with:

- arranging and/or conducting single-service and/or multi-service funerals under supervision as part of the training process towards being able to arrange and/or conduct funerals;
- practical application of funeral protocol and documentation;
- driving vehicles including the maintenance of vehicles and equipment;
- first aid procedures;
- cleaning and sterilizing mortuary technician items and equipment under supervision;
- body preparation including suturing under general supervision;
- collection of bodies, transfers and removals;
- where appropriate assistance in construction, trimming and/or polishing of coffins under supervision;
- assistance in training of employees at lower levels;
- clerical duties as required; and
- performance of any duties at a lower Grade, as required.

(ii) Indicative level of responsibility

An employee at this Grade would require general supervision and who:

- receives general instructions usually covering the broader technical aspects of the work; and
- are subject to progress checks, but such checks are usually confined to ensuring in broad terms, satisfactory progress is being made; and
- has their assignments and work reviewed on completion;

- although technically competent and well experienced, there may be occasions on which the employee will receive more detailed instructions; and
- usually operates in a Work Team but may have specified area of autonomy to perform a range of allocated activities and functions.

(d) Funeral services employee - Grade 4 - (relativity to trade equivalent 100%)

(i) Indicative duties

A Grade 4 employee shall have an understanding and possesses some or all of the following skills or proficiencies associated with:

- arranging and/or conducting single-service and multi-service funerals including interviewing of the bereaved;
- mortuary technician duties including body preparation, post-autopsy procedure and invasive techniques;
- clerical duties including receipt of monies;
- where appropriate, work under supervision in a control room;
- storing and handling hazardous and dangerous substances;
- assistance in the training of employees at lower levels; and
- performance of any duties at a lower Grade, as required.

(ii) Indicative level of responsibility

An employee at this Grade would require general supervision and who:

- receive general instructions usually covering the broader technical aspects of the work; and
- are subject to progress checks, but such checks are usually confined to ensuring in broad terms, satisfactory progress is being made; and
- has their assignments and work reviewed on completion;
- although technically competent and well experienced, there may be occasions on which the employee will receive more detailed instructions; and
- usually operates in a Work Team but may have specified area of autonomy to perform a range of allocated activities and functions.

(e) Funeral services employee - Grade 5 - (relativity to trade equivalent 105%)

(i) Indicative duties

A Grade 5 employee shall have an understanding and possesses some or all of the following skills or proficiencies associated with:

- where appropriate, the supervision and operation of a control room;
- where appropriate, the supervision or operation of a branch office;
- reconstructive artistry where applicable;
- all aspects of coffin construction;
- implementation of the policies and practices of the employer's funeral business;
- assistance in the training and supervision of employees at lower levels; and
- performance of any duties at a lower Grade, as required.

(ii) Indicative level of responsibility

An employee at this Grade would require limited supervision and who:

- receives only limited instructions normally confined to a clear statement of objectives;
- has their work measured in terms of the achievement of stated objectives;
- is fully competent and very experienced in a technical sense and requires little guidance in the performance of work;
- operates with autonomy either individually or within a Work Team.

(f) Funeral services employee - Grade 6 - (relativity to trade equivalent 115%)

(i) Indicative duties

A Grade 6 employee shall have all of the following skills or proficiencies associated with:

- the embalming of bodies for funerals and/or overseas shipment;

- reconstructive artistry where applicable;
- training and supervision of employees at lower levels; and
- performance of any duties at a lower Grade, as required.

(ii) Indicative level of responsibility

An employee at this Grade would require limited supervision and who:

- receives only limited instructions normally confined to a clear statement of objectives;
- has their work measured in terms of the achievement of stated objectives;
- is fully competent and very experienced in a technical sense and requires little guidance in the performance of work;
- operates with autonomy either individually or within a Work Team.

## 5.2 Wage rates

5.2.1 Subject to clauses 5.3 and 6.6.2 the minimum rates of wages payable to adult employees shall be as follows:

Classification	Per week \$
Funeral services employee Grade 1	627.90
Funeral services employee Grade 2	648.80
Funeral services employee Grade 3	669.60
Funeral services employee Grade 4	682.00
Funeral services employee Grade 5	710.10
Funeral services employee Grade 6	742.60

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

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

### 5.2.2 *Industry allowance*

In addition to the rates prescribed in clause 5.2, all employees will be paid an industry allowance at the rate of \$11.40 per week. This allowance will form part of the ordinary weekly wage for all purposes of the Award (e.g. overtime, sick pay, annual leave, public holidays, long service leave, etc.).

### 5.2.3 *Leading hands*

Any employee (other than an employee engaged at Grade 5 or Grade 6) who is appointed to be a leading hand in of other employees will be paid at the rate of \$24.70 per week in addition to the rates prescribed in clause 5.2. This allowance is payable for all purposes of the Award.

### 5.2.4 *Junior employees*

The minimum weekly wage rates payable to juniors engaged at Grade 1 or Grade 2 will be calculated as follows:

Age	Percentage of minimum adult rate for the Classification concerned %
15 and under 16 years	65
16 and under 17 years	75
17 and under 18 years	85

And after 18 years of age the appropriate rate prescribed in clause 5.2 for the classification of work being performed.

Calculation of rates - The rates of pay applying to junior employees will be calculated in multiples of 10 cents, with any result of 5 cents or more being adjusted to the next highest 10 cent multiple.

### **5.3 Divisional and District allowances**

Employees employed outside the Eastern District of the Southern Division shall be paid the following amounts in addition to the wage rates prescribed by clause 5.2 for the Division or District in which they are located:

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

### **5.4 Allowances**

#### *5.4.1 Exhumations*

Any employee who is required to assist in an exhumation of a body will be paid an allowance of \$42.89 for each body so exhumed.

#### *5.4.2 Resident Officer*

(a) Where a Resident Officer is assisted by another person in any of their duties, the Resident Officer will be paid an allowance of \$19.81 per week for the purposes of remunerating that other person. For the purpose of clause 5.4.3, the spouse of the Resident Officer will be deemed to be another person assisting a Resident Officer.

(b) Resident Officers will be provided with quarters free of charge and fuel and light to the value of \$98.45 per quarters, subject to the following conditions:

- where fuel and light is used by the Resident Officer for the employee's domestic requirements in excess of such \$98.45 per quarter, the employer may charge such excess to the Resident Officer;
- where any special appliances and/or installations are required because of the nature of the residence provided or because of any specific requirements of the employer, the employer will allow such extra amount per quarter as may be agreed upon between the parties as being adequate to cover the cost of power;
- all relevant accounts pertaining to the cost of fuel and light will be made available to the Resident Officer for the employee's inspection.

#### *5.4.3 Stand-by duty*

Employees on stand by duty will receive an allowance as prescribed by clause 6.5.

### **5.5 Payment of wages**

5.5.1 Wages will be paid weekly and will be paid by cash, cheque or electronic funds transfer as agreed between the employer and the majority of employees. Nothing will prevent an employer and employee from reaching an individual agreement about the method of payment.

5.5.2 Wages and overtime will be paid at least once a fortnight. Such payment will be made on the same day of each week.

5.5.3 Payment to casual employees will be on the basis of actual hours worked in each week.

5.5.4 Nothing in clause 5.5 will be taken to prevent payment to weekly and part-time employees relating to the average number of ordinary hours in accordance with a roster system.

5.5.5 No employer will hold more than 2 days' wages in hand at the end of each pay week.

### **5.6 Occupational superannuation**

#### *5.6.1 Application*



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

#### 5.6.2 Contributions

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

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

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

#### 5.6.3 Definitions

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

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

- (a) Sunsuper.
- (b) Any named fund as is agreed to between the relevant employer/Union party to this Award and as recorded in an approved industrial agreement.

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

#### 5.6.5 *Challenge of a fund*

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

#### 5.6.6 *Fund selection*

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

#### 5.6.7 *Enrolment*

- (a) Each employer to whom clause 5.6 applies shall as soon as practicable as to both current and future eligible employees:
- (i) notify each employee of the employee's entitlement to occupational superannuation;
  - (ii) consult as may be necessary to facilitate the selection by employees of an appropriate fund within the meaning of clause 5.6.4;
  - (iii) take all reasonable steps to ensure that upon the determination of an appropriate fund, each eligible employee receives, completes, signs and returns the necessary application form/s provided by the employer, to enable that employee to become a member of the fund; and
  - (iv) submit completed application form/s and any other relevant material to the trustees of the fund.
- (b) Each employee upon becoming eligible to become a member of a fund determined in accordance with clause 5.6 shall:
- (i) complete and sign the necessary application form/s to enable that employee to become a member of that fund; and
  - (ii) return such form/s to the employer within 28 days of receipt of the application form/s in order to be entitled to the benefit of the contributions prescribed in clause 5.6.2.
- (c) Where an employer has complied with the requirements of clause 5.6.7(a) and an eligible employee fails to complete, sign and return the application form/s within 28 days of the receipt by the employee of that form/s, then that employer shall:
- (i) advise the eligible employee in writing of the non-receipt of the application form/s and further advise the eligible employee that continuing failure to complete, sign and return such form/s within 14 days could jeopardise the employee's entitlement to the occupational superannuation benefit prescribed by clause 5.6;
  - (ii) in the event that the eligible employee fails to complete, sign and return such application form/s within the specified period of 14 days be under no obligation to make any occupational superannuation contributions in respect of such eligible employee excepting as from any subsequent date from which the completed and signed application form/s is received by the employer;
  - (iii) in the event that the eligible employee fails to return a completed and signed application form/s within a period of 6 months from the date of the original request by the employer, again advise that eligible employee in writing of the entitlement and that the receipt by the employer of a completed and signed application form/s is a pre-requisite to the payment of any occupational superannuation contributions;
  - (iv) at the same time as advising the eligible employee pursuant to clause 5.6.7(c)(iii) submit both to the Chief Industrial Inspector, Brisbane and to the Union a copy of each letter forwarded by the employer to the eligible employee pursuant to clauses 5.6.7(c)(i) and 5.6.7(c)(iii).
- (d) Where an employer fails to provide an eligible employee with an application form/s in accordance with clause 5.6.7(a)(iii) the employer shall be obliged to make contributions as from the date the employee became an eligible employee:

Provided that the eligible employee completes, signs and returns to the employer an application form/s within 28 days of being provided with the application form/s by the employer. Where the eligible employee fails to complete, sign and return an application form/s within such period of 28 days the provisions of clause 5.6.7(c) shall apply.

#### 5.6.8 *Unpaid contributions*

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

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

### 5.6.9 Exemptions

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

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

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

### **6.1 Hours**

6.1.1 The ordinary working hours will not exceed an average of 38 hours per week. Such ordinary hours will be worked in accordance with a predetermined and agreed roster in one of the following bases:

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

6.1.2 The ordinary hours of work prescribed by clause 6.1.1 will be worked on not more than 5 days of the week, Monday to Sunday inclusive. All ordinary hours worked on a Saturday or Sunday will be paid at normal overtime rates. Where there is agreement between the employer and the majority of employees affected, starting and ceasing times of various groups of employees, or of individual employees, may be staggered.

6.1.3 The ordinary working hours will be worked between the hours of 6.30 am and 6.30 p.m. and will be worked continuously, excluding meal breaks.

The spread of hours may be extended up to 2 hours at each end by agreement between the employer and the majority of employees affected:

Provided further that any dispute arising over this clause may be managed by reference to clause 3.1.

6.1.4 The ordinary working hours will not exceed 8 on any one day:

Provided that rosters including up to 10 ordinary hours per day may be worked with the agreement of employees, or any employee, affected.

6.1.5 *Working of a 38 hour week*

(a) The 38 hour week will be worked in one of the following ways, most suitable to the particular enterprise, 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 rostered 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) The employer and the majority of employees concerned may agree to accrue up to a maximum of 12 rostered days off.

Provided that consent to accrue rostered days off will not be unreasonably withheld by either party. Where such agreement has been reached each accrued rostered day will be taken within 12 calendar months of the date on which that rostered day off was accrued. In all cases rostered days off will be taken at times to suit the employer's work requirements.

6.1.6 Subject to the provisions of clause 6.1.4, employees may agree that the ordinary hours of work are to exceed 8 on any day or shift, thus enabling more than one work day to be taken off during a particular work cycle.

6.1.7 Different methods of implementation of the 38 hour week may apply to individual employees, groups or sections

of employees in the enterprise concerned.

#### 6.1.8 *Procedures for enterprise level discussions*

- (a) The employer and all employees concerned in each enterprise will consult over the most appropriate means of working a 38 hour week.
- (b) The objective of such consultation is to reach agreement on the method of working the 38 hour week in accordance with clause 6.1.
- (c) The outcome of such consultation must 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 Union or employer organisation.
- (e) Notwithstanding the consultative procedures outlined above, and notwithstanding any lack of agreement by employees, the employer has the right to make the final determination as to the method by which the 38 hour week is to be worked from time to time.
- (f) Upon giving 7 days' notice or such shorter period as may be mutually agreed upon, the method of working the 38 hour week may be altered, from time to time, following negotiations between the employer and employees concerned, utilising the provisions of clause 6.1.

## 6.2 **Overtime**

6.2.1 Subject to clauses 6.2.4 and 6.2.6, all work done before the fixed starting time or after the fixed finishing time or in excess of 8 hours on any one day or in excess of 38 hours in any 7 days will be deemed overtime and will be paid for at the rate of time and a-half:

Provided that employees required to work for more than 3 hours' overtime after the ordinary ceasing time on any one day will be paid at the rate of double time for all such overtime exceeding 3 hours.

6.2.2 Where an employee is called upon to continue to work for more than 2 hours after the ordinary ceasing time, such employee will be supplied with a meal by the employer or will be paid \$9.60 in lieu thereof.

Where an employee has provided a meal because of receipt of notice to work overtime, the employee will be paid an allowance of \$9.60 for each meal so provided, in the event of the overtime not being performed or ceasing before the planned meal time/s.

6.2.3 After the expiration of 4 hours' continuous overtime, all employees will be allowed 30 minutes for a meal in the employer's time and a further 30 minutes meal break after the completion of every additional 4 hours worked:

Provided that on Saturdays, Sundays or public holidays customary midday meal breaks will be allowed in the employee's time.

6.2.4 Overtime worked on a Saturday will be paid for at the rate of time and a-half for the first 3 hours and double time thereafter, with a minimum payment as for 2 hours' work per day.

6.2.5 Resident Officers will be paid overtime rates for working outside their ordinary working hours where such work is performed outside the branch or head office at which they reside:

Provided that where a Resident Officer is called upon to work overtime they will be paid at the appropriate overtime rate as for a minimum of 2 hours' overtime for each such call:

Provided further that where it is necessary to perform more than one call within a specified minimum period of payment, such subsequent call will not be subject to a separate or additional minimum payment.

6.2.6 All time worked on a Sunday, except where otherwise provided, will be paid for at the rate of double time with a minimum payment as for 2 hours' work.

6.2.7 Where an employee, who is not on stand-by-duty, after having left the employer's premises, is recalled to work overtime because of an emergency, such employee will be paid at the rate of double time for all time so worked from the time they leave home until the time they return home, with a minimum payment as for 2 hours' work.

#### 6.2.8 *Time off in lieu of overtime*

By agreement between the employer and employee time off in lieu of overtime on a time for time basis may be granted:

Provided that the substituted time taken off in lieu will be taken at such time as agreed between the employer and employee.

### **6.3 Meal breaks**

All employees who work for a minimum of 6 hours will be entitled to a meal break of not less than 30 minutes or more than 60 minutes and will be commenced between the completion of the 3rd and before the completion of the 6th hour at a time which does not interfere with the continuity of work, where continuity is necessary.

If the meal period or any part thereof is worked, it will be deemed to be overtime and paid for at the rate of double time. Where an employee does not receive a lunch break of at least 20 minutes, the employee will be entitled to a crib break of 20 minutes as soon as is possible after the broken meal break.

### **6.4 Rest pauses**

#### *6.4.1 Full-time employees*

Full-time employees will receive a paid rest pause of 10 minutes duration in the first half and the second half of each day worked:

Provided that by agreement between the employer and the majority of employees the rest pauses may be combined into one 20 minute break.

Where rest pauses are combined the working day will be divided into 3 approximately equal periods of work.

#### *6.4.2 Casual and part-time employees*

Casual and part-time employees who work a minimum of 4 consecutive ordinary hours but less than 8 consecutive ordinary hours on any one day will receive a paid rest pause of 10 minutes' duration. Employees who work a minimum of 8 consecutive ordinary hours (excluding the meal break) on any one day will receive a rest pause of 10 minutes' duration in the first half and the second half of the period worked.

6.4.3 Rest pauses will be taken in the employer's time.

6.4.4 Rest pauses will be taken at times to suit the convenience of the employer and so as not to interfere with the continuity of work where continuity is necessary.

### **6.5 Stand-by duty**

6.5.1 The provisions of clause 6.5 will not apply to Resident Officers.

6.5.2 Where an employer requires an employee to stand-by outside of their ordinary working hours on Mondays to Fridays inclusive, or between 5.00 p.m. on a Saturday and 8.00 a.m. the following day, or between 5.00 p.m. on a Sunday and 8.00 a.m. the following day, such employee will be paid \$16.36 per night whilst actually on stand-by duty in addition to all other amounts due to the employee.

6.5.3 Any employee who is called out whilst on stand-by duty will be paid a minimum of 2 hours' pay at the appropriate overtime rate prescribed in clause 6.2. An employee on call out will be paid from the time such employee leaves home to the time the employee returns home.

6.5.4 Except in emergency circumstances, an employee on stand-by duty will not be called out within one hour of ceasing their ordinary working hours, and such hour will be regarded as the employee's evening meal break.

6.5.5 An employee called-out up to 2 hours prior to their scheduled starting time, provided that this is no later than 9.00 am, will be allowed a 20 minute crib break in the employer's time before commencing their normal hours of duty.

6.5.6 If an employer requires an employee to communicate with the employer by telephone or other means on a Sunday or public holiday mentioned in clause 7.6 for directions as to whether such employee is required to work and such employee is not required to work on that day, the employer will pay such employee as for 2 hours at ordinary rates for each such holiday or Sunday not worked in addition to the employee's ordinary wages.

6.5.7 An employee required to stand-by on a Saturday, Sunday, or on a holiday mentioned in clause 7.6, at an undertaker's establishment attending the telephone and arranging funerals will be paid at the appropriate overtime or public holiday rate as prescribed in clauses 6.2 and/or 7.6 for the time such employee is required to stand-by with a minimum of 2 hours.

- 6.5.8 When required to stand-by at home between 8.00 a.m. and 5.00 p.m. on a Saturday, Sunday, or on a public holiday mentioned in clause 7.6, an employee will be paid \$49.13 per day whilst actually on stand-by duty in addition to all other amounts due.
- 6.5.9 An employee who has a telephone installed for the purposes of stand-by work, or an employee who is required by the employer to have a telephone installed in the employee's residence, will have half the rental cost of such telephone paid by the employer.

The employer will also reimburse such employee the cost of any business calls which the employee may be required to make in connection with their employer's business. Such reimbursement will be subject to negotiation between the employer and the employee.

- 6.5.10 When an employee is called out such employee will be reimbursed the fares involved if public transport is available or public transport is not available, the taxi fares involved:

Provided that if such employee uses their own vehicle the employee will be reimbursed in accordance with a mutual agreement between the employer and the employee.

- 6.5.11 Any employee who is called out without prior notice to work subsequent to midnight will be entitled to a break of at least 8 hours between working periods. Such break will be deemed to be working time where it intrudes into the employee's ordinary working day:

Provided that where it is impracticable to allow such employee 8 hours' break all time worked between midnight and the normal starting time the following morning will be paid for at the rate of double time.

## **6.6 Resident Officers**

- 6.6.1 Resident Officers will be relieved of their duties throughout every second weekend and on 5 consecutive nights on alternate weeks:

Provided that the employer and the Resident Officer concerned may agree upon such other arrangements as to relief from duty as are mutually satisfactory.

- 6.6.2 An employee (other than clerks) engaged at head office arranging funerals and attending to funeral business will be employed under the same conditions as a Resident Officer, and will receive the same remuneration, without quarters.

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

### **7.1 Annual leave**

- 7.1.1 Every employee (other than a casual employee) shall at the end of each year of their employment be entitled to not less than 4 weeks' annual leave on full pay.

- 7.1.2 Such annual leave shall be exclusive of any public holiday which may occur during the period of that annual leave and (subject to clause 7.1.6) shall be paid for by the employer in advance:

(a) in the case of any and every employee in receipt immediately prior to that leave of ordinary wages at a rate in excess of the ordinary rate payable, at that excess rate; and

(b) in every other case, at the ordinary time rate of pay payable under clause 5.2 to the employee concerned immediately prior to that leave.

- 7.1.3 If the employment of any employee is terminated at the expiration of a full year of employment, the employer shall be deemed to have given the leave to the employee from the date of the termination of the employment and shall immediately pay to the employee, in addition to all other amounts due to them, their pay, calculated in accordance with clause 7.1.6, for 4 weeks and also their ordinary time rate of pay for any public holiday occurring during such period of 4 weeks.

- 7.1.4 If the employment of any employee is terminated before the expiration of a full year of employment, such employee shall be paid, in addition to all other amounts due, an amount equal to 1/12th of their pay for the period of their employment, calculated in accordance with clause 7.1.6.

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

- 7.1.6 *Calculation of annual leave pay*

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

- (a) Subject to the provisions of clause 7.1.6(b), in no case shall the payment by an employer to an employee be less than the sum of the following amounts:
  - (i) the employee's ordinary wage rate as prescribed in clause 5.2 for the period of the annual leave (including leading hand allowances but excluding weekend penalty rates); and
  - (ii) a further amount calculated at the rate of 17 1/2% of the amount referred to in clause 7.1.6(a)(i).
- (b) Clause 7.1.6(a) does not apply to:
  - (i) any period or periods of annual leave exceeding 4 weeks; and
  - (ii) employers who are already paying an annual leave bonus, loading or other annual leave payment which is not less favourable to employees.

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

## **7.2 Sick leave**

### *7.2.1 Entitlement*

- (a) Every employee, (except casuals, and school-based apprentices and trainees) is entitled to 60.8 hours' sick leave for each completed year of their employment with their employer:

Provided that part-time employees accrue such leave on a proportional basis.
- (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 ordinary number of hours that would have been worked by the employee if they were not absent on sick leave.
- (d) Sick leave may be taken for part of a day.
- (e) Sick leave will be cumulative, but unless the employer and employee otherwise agree, no employee will be entitled to receive, and no employer will be bound to make, payment for more than thirteen weeks' absence from work through illness in any one year.

### *7.2.2 Employee must give notice*

The payment of sick leave is subject to the employee promptly advising their employer of their 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 their 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*

Employee's accumulated sick leave entitlements are preserved when:

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

The employees accumulate sick leave entitlements whilst absent from work on paid leave granted by the employer.

### *7.2.5 Workers' compensation*



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

### **7.3 Bereavement leave**

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

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

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

(a) A long-term casual employee is entitled to at least 2 days unpaid bereavement leave on the death of a member of the person's immediate family or household in Australia.

(b) A "long-term casual employee" is a casual employee engaged by a particular employer, on a regular and systematic basis, for several periods of employment during a period of at least one year immediately before the employee seeks to access an entitlement under clause 7.3.2.

#### *7.3.3 "Immediate family" includes:*

(a) a spouse (including a former spouse, a *de facto* spouse and a former *de facto* spouse, spouse of the same sex) of the employee; and

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

#### *7.3.4 Unpaid leave*

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

### **7.4 Long service leave**

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

### **7.5 Family leave**

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

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

(a) part-time work can be performed by agreement in the circumstances specified in the Family Leave Award;

(b) a copy of the Family Leave Award is required to be displayed in accordance with section 697 of the Act.

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

(a) maternity leave

(b) parental leave

(c) adoption leave

(d) special responsibility leave for the care and support of the employee's immediate family or household.

### **7.6 Public holidays**

#### *7.6.1 Subject to clause 7.6.6 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 will 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 will be paid a full day's wage for that day and in addition a payment for the time actually worked by the employee at one and a-half times the ordinary 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 *Industrial Gazette* on the day appointed under the *Holidays Act 1983*, to be kept as a holiday in relation to the annual agricultural, horticultural or industrial show held at the principal city or town, as specified in such notification, of such district will be paid for at the rate of double time and a-half with a minimum of 4 hours.

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

#### 7.6.4 *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" will mean one and one-half day's wages in addition to the employee's ordinary time rate of pay, or *pro rata* if there is more or less than a day.

7.6.5 Where a Resident Officer is normally rostered off duty on a public holiday falling on Monday to Friday, such employee will be entitled to one additional day's annual leave, or one day's pay in lieu thereof.

#### 7.6.6 *Substitution*

By agreement between the employer and employee, a public holiday may be substituted for another day:

Provided that that should the employee be required to work on the substituted day, the employee will be paid at the rate of double time and one-half.

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

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

- (c) Where a public holiday would have fallen on a Saturday or a Sunday but is substituted for another day all employees who would ordinarily have worked on such Saturday or Sunday but who are not rostered to work on such day 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 7.6.7 confers a right to any employee to payment for a public holiday as well as a substituted day in lieu

#### 7.6.8 *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, will be entitled to payment at the ordinary rate payable to that employee when they were dismissed or stood down, for any one or more of the following holidays, namely, Christmas Day, Boxing Day and New Year's Day.

## **7.7 Jury service**

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

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

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

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

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

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

NOTE: No provisions inserted in this Award relevant to this Part.

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

### **9.1 Training and retraining**

9.1.1 The parties to this Award recognise that in order to increase the efficiency, productivity and competitiveness of the industry, a commitment to training and skills 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 required by the employer.
- (c) removing barriers to the utilisation of skills required.

9.1.2 Where an employee undertakes a course of training/retraining at the request of the employer, such training may be undertaken either on or off the job, and will wherever possible, be conducted in the employer's time.

9.1.3 The employee will not suffer any loss of ordinary pay or stand-by payment as a result of such training, and in addition, the employer will pay for (or reimburse the employee for) the following costs associated with such training:

- (a) prescribed course fees;
- (b) prescribed text book/materials;
- (c) additional travel costs incurred by the employee in undertaking such a course which exceed those normally incurred by the employee in travelling to and from work.

9.1.4 Any dispute arising as a result of clause 9.1.3 will be dealt with under clause 3.1 (Grievance and dispute settling procedure).

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

## **AMENITIES**

### **10.1 First aid**

A first aid cabinet will be available for employees in cases of accident. Such first aid cabinet will be kept and maintained in accordance with the provisions of the relevant legislation, relating to such first aid cabinets.

### **10.2 Uniforms, clothing etc**

10.2.1 Subject to clause 10.2.2, all uniforms, distinctive types of clothing (with exception of shirts as provided for in clause 10.2.2), hats, coats and waterproof coats required to be worn by an employee will be supplied, maintained, laundered by and remain the property of the employer.

10.2.2 Employees engaged in funeral duties, as defined by the employer, will be issued with 5 shirts after a period of 60 continuous working days. All shirts so issued will be replaced by the employer when necessary:

Provided that, following the initial issue of 5 shirts, no employee will be issued with more than 3 shirts in any one year:

All shirts issued in accordance with clause 10.2.2 will remain the property of the employer and the employee will be responsible for the laundering and maintenance of such shirts.

### **10.3 Tools**

All tools required in connection with coffin-making will be supplied by the employer.

### **10.4 Staffing for carrying coffins and stretchers**

#### *10.4.1 Staffing for carrying coffins*

Wherever an employee is required to carry or assist in carrying a coffin or casket containing a body in the course of a funeral or delivery, the following minimum manning will apply:

- (a) not less than 2 employees or persons for a coffin or casket containing the body of a person over 5 years of age and under 12 years of age.
- (b) not less than 3 employees or persons for a coffin or casket containing the body of a person of 12 years of age and over:

Provided that not less than 4 employees or persons will be required for a rectangular "American" type coffin where the inside dimensions of the coffin exceed 1900 mm x 500 mm and where any coffin or casket is so heavy as to reasonably require such additional employee or person:

Provided further that all such employees or persons carrying a coffin or casket will be physically capable of performing such task and that arrangements are made prior to the funeral or delivery for the minimum manning as prescribed to be available.

#### *10.4.2 Staffing for carrying stretchers*

Where an employee is required to effect a removal by stretcher such employee will, at all times when lifting and/or carrying such stretcher, unless otherwise agreed with the Union, be assisted by one other employee or person, physically capable of performing such task.

### **10.5 Work in rain**

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

Provided that clause 10.5 will not apply where the employee has been supplied with adequate rainproof clothing.

## **PART 11 - AWARD COMPLIANCE AND UNION RELATED MATTERS**

### **Preamble**

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

## **11.1 Right of entry**

### *11.1.1 Authorised industrial officer*

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

### *11.1.2 Entry procedure*

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

### *11.1.3 Inspection of records*

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

### *11.1.4 Discussions with employees*

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

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

### *11.1.5 Conduct*

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

## **11.2 Time and wages record**

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

- (a) the employee's Award classification;

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

11.2.2 The time and wages record must also contain:

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

11.2.3 The employer must keep the record for 6 years.

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

### **11.3 Union encouragement**

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

#### *11.3.1 Documentation to be provided by employer*

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

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

#### *11.3.2 Union delegates*

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

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

#### *11.3.3 Deduction of Union fees*

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

#### 11.4 Availability of Award

The employer will ensure that a copy of this Award, together with notices of the commencing and ceasing times of the employees, is readily available for perusal by such employees.

#### 11.5 Trade union training leave

11.5.1 A Union delegate or duly elected or appointed Union representative shall, upon written application by the Union to the employer, such application being endorsed by the Union and given to the employer at least 2 months in advance (or such lesser period as mutually agreed between the union and employer/s), be granted up to 5 working days' leave (non-cumulative) on ordinary pay each calendar year to attend courses or seminars conducted or approved 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.

Other courses mutually agreed between a Union party to this Award and an employer, or employers, may be included under clause 11.5.

11.5.2 Any written application by the Union seeking release of a delegate or representative to attend a course will include details of the type and content of the course to be attended as well as the dates upon which the course is proposed to be conducted.

11.5.3 For the purposes of clause 11.5 "ordinary pay" will mean the ordinary time rate of pay to the employee exclusive of any allowance for travelling time and fares.

11.5.4 The granting of leave will 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 and be the elected Union delegate/representative.

(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 attendee
Where the employer employs between 51 - 100 employees	2 attendees
Where the employer employs over 100 employees	4 attendees

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

11.5.5 Where an employer approaches the Union and demonstrates genuine difficulties with respect to the release of a particular Union delegate or representative at a particular time (including where the employer might have previously advised of its ability to release such Union delegate or representative) the Union will not unreasonably press its request for the release of that delegate/representative at that time. If the matter is not amicably resolved, it will be processed in accordance with the grievance and dispute settling procedure contained in clause 3.1.

11.5.6 In granting 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.

11.5.7 Leave granted to attend training courses will not incur any additional payment or alternate time off if such course coincides with an employee's day off in a 19 day month working arrangement, or with any other concessional leave.

11.5.8 Such paid leave will not affect other leave granted to employees under this Award.

11.5.9 On completion of the course the employee will, upon request, provide to the employer proof of their attendance at the course. Except in the case of sick leave or other authorised leave, non-attendance at a training course will result in the employee not being paid for such time.

#### SCHEDULE 1 - Second tier Orders

EMPLOYER	CASE NO.	DATE OF ORDER
ALEX GOW PTY. LD.	B645/89	15/8/89

Dated 20 November 2002.

By the Commission,

[L.S.] E. EWALD,  
Industrial Registrar.

Operative Date: 20 January 2003