

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

Industrial Relations Act 1999 - s. 130 - award review

**HEALTH AND FITNESS CENTRES, SWIM SCHOOLS AND INDOOR
SPORTS AWARD - STATE 2005**

(Matter A/2010/120)

DEPUTY PRESIDENT SWAN
DEPUTY PRESIDENT BLOOMFIELD
COMMISSIONER THOMPSON

23 May 2012

AWARD REVIEW

After reviewing the above Award as required by s. 130 of the *Industrial Relations Act 1999*, this Commission orders that the Award be repealed and the following Award be made as from 23 May 2012.

**HEALTH AND FITNESS CENTRES, SWIM SCHOOLS AND INDOOR
SPORTS AWARD - STATE 2012**

PART 1 - APPLICATION AND OPERATION

1.1 Title

This Award is known as the Health and Fitness Centres, Swim Schools and Indoor Sports Award - State 2012.

1.2 Arrangement

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1.3 Coverage

- 1.3.1 Except as hereinafter provided, this Award shall apply to all employees (who are classified herein) of health and fitness centres, swim schools and aqua facilities, whether the facilities are leased from municipal baths or not, indoor sports centres or similar facilities, and to their employers, throughout Queensland.
- 1.3.2 This Award shall not apply to bowling alleys or 10 pin bowling centres; indoor archery centres; indoor soccer stadiums; police citizen or similar centres; tennis stadiums; or indoor rifle ranges, nor to the Brisbane City Council.
- 1.3.3 This Award shall not apply to employees who would be covered by the Retail Industry Award - State 2004.

1.3.4 The Award is not to apply to persons who are appointed in writing as managers or assistant managers and such managers or assistant managers are to be engaged, for the major portion of their working time in activities associated with the control of the club's operations; staff control such as engagement and termination and observance of industrial laws.

1.3.5 This Award shall, however, apply to the exclusion of all other Awards.

1.4 Date of operation

This Award takes effect from 23 May 2012.

1.5 Parties bound

This Award is binding upon the employees as prescribed by clause 1.3 and their employers, and the United Voice, Industrial Union of Employees, Queensland and its members.

1.6 Definitions

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

1.6.2 "Aqua Facility" means any body of water used for the purpose of instruction of aqua aerobics, fitness training and learn to swim irrespective of where that body of water is located.

1.6.3 "Commission" means the Queensland Industrial Relations Commission.

1.6.4 "Qualification" means an employee who possesses an AQF qualification or where a qualification pre-dates the introduction of AQF or it is attained outside Australia, than a qualification that is recognised where appropriate by the Union and the following bodies:

- Fitness Queensland Association;
- Swim Australia; and
- the Indoor Cricket Association Queensland.

It is recognised that the accreditation and recognition process associated with qualifications and relevant industry experience will change over time and that many employees may possess overseas, interstate or superseded* qualifications. To assist the parties, it is agreed that the respondents to this Award will rely on the organisations nominated above and work in conjunction with each other. Additionally, the parties may refer issues to the Department of Employment and Training and/or the relevant Industry Skills Council recognised within the *Vocational Education, Training & Employment Act 2000* or its successor for assistance. Thereafter a simple exchange of letters between the major respondents to the Award shall form the base for classifying and recognising particular qualifications.

*Note: Those employees who have undertaken the Fitness Leaders Course core and electives only shall be required to undertake an assessment by Fitness Queensland Association against current National qualifications to establish their appropriate classification level.

1.6.5 "Union" means the United Voice, Industrial Union of Employees, Queensland.

1.7 Area of operation

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

1.7.1 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.

1.7.2 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.

1.8 Savings

Nothing contained in this Award shall be deemed or construed to withdraw any benefits, concessions or privileges, which are not inconsistent with this Award, at present being received by any employee from their employer by reason of mutual arrangement between them.

No existing employee will suffer a reduction in wages for ordinary hours of work in the course of the employee's normal duties as a result of the coming into operation of this Award.

1.9 Leave reserved

1.9.1 The parties reserve the right to review the wages structure including junior rates of pay and or proportions arrangements described in 5.2.6, in the event of the development of a qualification driven classification structure. Such a review shall not occur until at least 12 months after the making of the Award.

1.9.2 The parties reserve the right to review the casual employment arrangements described in clause 4.3, in the event of a State Award Test Case Standard giving casual employees the right to request conversion to part-time and, or, full-time positions.

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

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

4.1 Employment categories

- 4.1.1 Employees will be advised upon appointment in writing, of their employment category, classification, rate of pay, and working hours. Such written advice may be provided in a form similar to the letter contained in Schedule E.

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 is employed for not less than 16 hours per week and for not more than 32 ordinary hours per week.
- 4.2.2 At the time of engagement the employer and the part-time employee will agree in writing the number of ordinary hours to be worked each week.
- 4.2.3 Any agreed amendment to the number of ordinary hours worked will be recorded in writing.
- 4.2.4 Each part-time employee shall be advised of their rostered hours at least 7 days prior to the roster coming into effect. Such roster may be changed by either mutual agreement or by the giving of 7 days' notice.
- 4.2.5 All time worked by employees in excess of arranged daily hours, or, in the case of casuals or part-timers, in excess of 8 hours in any one day or 32, 64, 96, or 128 hours as provided for in clause 6.1 (Hours of work), shall be paid for at the rate of time and a-half for the first 3 hours and double time thereafter.

Provided that the additional hours so worked shall be taken into account in the *pro rata* calculation of all entitlements.

- 4.2.6 Part-time employees shall be paid an hourly rate equal to the appropriate weekly rate divided by 38.
- 4.2.7 A part-time employee will receive, on a proportionate basis, equivalent pay and conditions to those of full-time employees.
- 4.2.8 Where a public holiday falls on a day upon which an employee is normally employed, that employee will be paid the appropriate rate for the number of hours normally worked on that day.
- 4.2.9 All other provisions of the Award relevant to full-time employees will apply to part-time employees.

4.3 Casual employment

- 4.3.1 Except as agreed with the Union, a casual employee shall mean an employee who is employed on an irregular and uncertain basis with no continuing relationship with the employer, who is employed by the hour with a minimum engagement of 2 hours. In relation to group exercise instructors, aqua instructors, personal trainers and indoor sports umpires a minimum engagement of one hour shall apply.
- 4.3.2 A loading of 23% shall be paid on the appropriate hourly rate set out in clause 5.2 with a minimum of 2 hours per engagement, unless agreed otherwise with the Union. In relation to group exercise instructors, aqua instructors, personal trainers and indoor sports umpires a minimum engagement of one hour shall apply.

4.4 Trainees

- 4.4.1 Trainees may be engaged under this Award in accordance with the Order for Apprentices' and Trainees' Wages and Conditions - (Excluding Certain Queensland Government Entities) or the Apprentices' and Trainees' Wages and Conditions (Queensland Government Departments and Certain Government Entities).
- 4.4.2 For the purposes of establishing the fitness industry traineeship wage rates, a weekly rate equal to 80% of the rate of the fitness industry worker level for which the traineeship outcome will apply shall be used.

Provided further that no trainee over the age of 21 at the time of commencement of the traineeship shall receive less than the Queensland Minimum Wage.

4.5 Incidental and peripheral tasks

- 4.5.1 An employer may direct an employee to carry out such duties as are reasonable within the limits of the employee's skill, competence and training.
- 4.5.2 An employer may direct an employee to carry out such duties and use such equipment as may be required provided that the employee has been properly trained in the use of such equipment (where relevant).
- 4.5.3 Any direction issued by an employer pursuant to clauses 4.5.1 and 4.5.2 shall be consistent with the employer's responsibilities to provide a safe and healthy working environment.

4.6 Termination of employment

4.6.1 Statement of employment

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

4.6.2 Termination by employer

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

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

- (b) In addition to the notice in clause 4.6.2(a), employees over 45 years of age at the time of giving of notice and with not less than 2 years' continuous service, shall be entitled to an additional week's notice.

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

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

- (d) In calculating any payment in lieu of notice the ordinary time rate of pay for the employee concerned shall be used.
- (e) The period of notice in clause 4.6.2 shall not apply in the case of dismissal for misconduct or other grounds that justify instant dismissal, or in the case of casual employees, or employees engaged for a specific period of time or for a specific task or tasks.

4.6.3 *Notice of termination by employee*

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

4.7 **Introduction of changes**

4.7.1 *Employer's duty to notify*

- (a) Where an employer has made a definite decision to introduce major changes in production, program, organisation, structure or technology that are likely to have significant effects on employees, the employer shall notify the employees who may be affected by the proposed changes and their Union.
- (b) "Significant effects" include termination of employment, major changes in the composition, operation or size of the employer's workforce or in the skills required; the elimination or diminution of job opportunities or job tenure; the alteration of hours of work; the need for retraining or transfer of employees to other work or locations and the restructuring of jobs:

Provided that where this Award makes provision for alteration of any of the matters referred to herein an alteration shall be deemed not to have significant effect.

4.7.2 *Employer's duty to discuss change*

- (a) The employer shall discuss with the employees affected and their Union, *inter alia*, the introduction of the changes referred to, the effects the changes are likely to have on employees and measures to avert or mitigate the adverse effects of such changes on employees.
- (b) The discussions shall commence as early as practicable after a definite decision has been made by the employer to make the changes referred to in clause 4.7.1.
- (c) For the purpose of such discussion, the employer shall provide in writing to the employees concerned and their Union, all relevant information about the changes including the nature of the changes proposed, the expected effects of the changes on employees and any other matters likely to affect employees:

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

4.8 **Redundancy**

4.8.1 *Consultation before terminations*

- (a) Where an employer decides that the employer no longer wishes the job the employee has been doing to be done by anyone, and this is not due to the ordinary and customary turnover of labour, and that decision may lead to termination of employment, the employer shall consult the employee directly affected and where relevant, their Union or Unions.
- (b) The consultation shall take place as soon as it is practicable after the employer has made a decision, which will invoke the provisions of clause 4.8.1(a) and shall cover the reasons for the proposed terminations, measures to avoid or minimise the terminations and/or their adverse 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.

4.8.2 *Transfer to lower paid duties*

- (a) Where an employee is transferred to lower paid duties for reasons set out in clause 4.8.1 the employee shall be entitled to the same period of notice of transfer as the employee would have been entitled to if the employee's employment had been terminated under clause 4.6.
- (b) The employer may, at the employer's option, make payment in lieu thereof of an amount equal to the difference between the former amounts the employer would have been liable to pay and the new lower amount the employer is liable to pay the employee for the number of weeks of notice still owing.
- (c) The amounts must be worked out on the basis of:
 - (i) the ordinary working hours to be worked by the employee; and
 - (ii) the amounts payable to the employee for the hours including for example, allowances, loadings and penalties; and
 - (iii) any other amounts payable under the employee's employment contract.

4.8.3 *Transmission of business*

- (a) Where a business is, whether before or after the date of insertion of clause 4.8.3 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 4.8.3, "business" includes trade, process, business or occupation and includes a part or subsidiary (which means a corporation that would be taken to be a subsidiary under the Corporations Law, whether or not the Corporations Law applies in the particular case) of any such business and "transmission" includes transfer, conveyance, assignment or succession whether by agreement or by operation of law and "transmitted" has a corresponding meaning.

4.8.4 *Time off during notice period*

- (a) Where a decision has been made to terminate an employee in the circumstances outlined in clause 4.8.1, the employee shall be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment.
- (b) If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee shall, at the request of the employer, be required to produce proof of attendance at an interview or the employee shall not receive payment for the time absent. For this purpose a statutory declaration will be sufficient.

4.8.5 *Notice to Centrelink*

Where a decision has been made to terminate employees in the circumstances outlined in clause 4.8.1, the employer shall notify Centrelink as soon as possible giving all relevant information about the proposed terminations, including a written statement of the reasons for the terminations, the number and categories of the employees likely to be affected, the number of workers normally employed, and the period over which the terminations are intended to be carried out.

4.8.6 *Severance pay*

- (a) In addition to the period of notice prescribed for ordinary termination in clause 4.6.2(a), and subject to further order of the Commission, an employee whose employment is terminated for reasons set out in clause 4.8.1(a), shall be entitled to the following amounts of severance pay:

Period of Continuous Service	Severance Pay (weeks' pay)
Less than 1 year	nil
1 year but not more than 2 years	4
More than 2 years but not more than 3 years	6
More than 3 years but not more than 4 years	7
More than 4 years but not more than 5 years	8
More than 5 years but not more than 6 years	9
More than 6 years but not more than 7 years	10

More than 7 years but not more than 8 years	11
More than 8 years but not more than 9 years	12
More than 9 years but not more than 10 years	13
More than 10 years but not more than 11 years	14
More than 11 years but not more than 12 years	15
More than 12 years	16

(b) "Weeks' pay" means the ordinary time rate of pay for the employee concerned:

Provided that the following amounts are excluded from the calculation of the ordinary time rate of pay: overtime, penalty rates, disability allowances, shift allowances, special rates, fares and travelling time allowances, bonuses and any other ancillary payments.

4.8.7 *Superannuation benefits*

An employer may make an application to the Commission for relief from the obligation to make severance payments in circumstances where:

- (a) the employer has contributed to a superannuation scheme which provides a particular benefit to an employee in a redundancy situation; and
- (b) the particular benefit to the employee is over and above any benefit the employee might obtain from any legislative scheme providing for superannuation benefits (currently the federal Superannuation Guarantee levy) or an award based superannuation scheme.

4.8.8 *Employee leaving during notice*

An employee whose employment is terminated for reasons set out in clause 4.8.1(a) may terminate such employment during the period of notice, and, if so, shall be entitled to the same benefits and payments under clause 4.8 had such employee remained with the employer until the expiry of such notice:

Provided that in such circumstances the employee shall not be entitled to payment in lieu of notice.

4.8.9 *Alternative employment*

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

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

Clause 4.8 shall not apply to employees with less than one year's continuous service and the general obligation on employers should be no more than to give relevant employees an indication of the impending redundancy at the first reasonable opportunity, and to take such steps as may be reasonable to facilitate the obtaining by the employees of suitable alternative employment.

4.8.11 *Employees exempted*

Clause 4.8 shall not apply:

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

4.8.12 *Employers exempted*

Subject to an order of the Commission, in a particular redundancy case, clause 4.8 shall not apply to an employer that employs 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.

4.8.13 *Exemption where transmission of business*

- (a) The provisions of clause 4.8.6 are not applicable where a business is before or after the date of the insertion of clause 4.8 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 transmitter, and any prior transmitter, 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 transmitter; and

(B) which recognises the period of continuous service which the employee had with the transmitter and any prior transmitter to be continuous service of the employee with the transmittee.

(b) The Commission may amend clause 4.8.13(a)(ii) if it is satisfied that it would operate unfairly in a particular case, or in the instance of contrived arrangements.

4.8.14 *Incapacity to pay*

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

4.9 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.

4.10 Anti-discrimination

4.10.1 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, relationship status, family responsibilities, pregnancy, parental status, breastfeeding, age, race, impairment, religious belief or religious activity, political belief or activity, trade union activity, lawful sexual activity, gender identity, sexuality 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.

4.10.2 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.

4.10.3 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.

4.10.4 Nothing in clause 4.10 is to be taken to affect:

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

PART 5 - WAGES AND WAGE RELATED MATTERS

5.1 Classification definitions

5.1.1 Classifications

- (a) Fitness Industry Workers Classification Criteria shall be those contained in Schedule A.
- (b) Swim School Workers Classification Criteria shall be those contained in Schedule B.
- (c) Indoor Sports Centre Workers Classification Criteria shall be those contained in Schedule C.
- (d) Support Staff Classification Criteria shall be those contained in Schedule D.

5.1.2 Recognition of previous service

- (a) Certificate of service - On termination the employer shall provide a certificate stating length of service, status and classification level.
- (b) Recognition of prior learning - In determining the classification level, regard shall be had to the employee's previous training and relevant industry experience. If previous training and relevant industry experience is not recognised, written justification of the employer's decision must be given to the employee in question. (When applying the provisions of clause 5.1.2(b), the parties shall apply the definition of "qualification", found at clause 1.6.4).
- (c) The onus shall be upon the employee to produce such evidence and recognition will lapse if such evidence is not produced within 14 days of engagement.

5.2 Wages rates

5.2.1 The minimum wages payable shall be as follows according to the classification attaching to the particular employee:

Classification	Per Week \$
SCHEDULE A	
Fitness industry workers:	
Level 1 - Fitness instructor	610.20
Level 2	624.80
Level 3	652.80
Level 4 - Fitness trainer	681.20
Level 5 - Fitness trainer/fitness therapist	705.00
Level 6 - Fitness therapist	726.70
Support staff Grade 1	610.20
Support staff Grade 2	624.80
SCHEDULE B	
Swim school workers:	
Level 1	610.20
Level 2	624.80
Level 3	652.80
Level 4	681.20
SCHEDULE C	
Indoor sports centre workers:	
Level 1	626.90
Level 2	630.40
Level 3	665.30
SCHEDULE D	
Support staff, swim schools and indoor sports venues:	
Level 1	610.20
Level 2	626.90
Level 3	649.40

NOTE: The rates of pay in this Award are intended to include the arbitrated wage adjustment payable under the 1 September 2011 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, 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 Implementation of the skill-based classification structure as per the relevant Schedule

The Award parties acknowledge that the above classification structure is a significant advance on its predecessor, in moving to a genuine skill-based Industry Classification system. For example some classifications have been redesignated, aerobics instructors, group exercise or aqua instructors, may now be known as fitness instructors or fitness trainers.

It is further acknowledged that with the introduction of this structure, employers, employees, Fitness Australia and the Union will co-operate to achieve its effective implementation.

This will require the parties to:

- (a) develop organisational needs analysis strategies to identify the overall skills required by the employer and skills possessed by employees;
- (b) develop a close relationship between the employer, employee and registered training organisations to ensure effective delivery and assessment outcomes;
- (c) initially trial the new skill-based classification structure before widespread introduction across the fitness sector;
- (d) familiarise themselves with new and existing qualifications and any on-going review of various training qualifications;
- (e) where relevant and in accordance with Schedule E Letter of Appointment, reclassify employees from their current position and classification level to their appropriate new classification/wage level consistent with the employer's merit-based recruitment and selection process;
- (f) identify any existing employee that does not possess the relevant cumulative experience, autonomy, decision-making capacity and/or qualification in terms of their classification level;
- (g) ensure that no employee is disadvantaged by the introduction of the new skill-based classification structure;
- (h) ensure employees are working within their level of skill and competence and safety limits; and
- (i) resolve any difficulties or problems associated with the implementation of the new classification structure in accordance with the grievance and dispute settling procedure contained in clause 3.1.

5.2.3 Translation and movement between classification levels

Progression from one level to another will occur through appointment by an employer to a position which primarily requires the exercise of skills and responsibilities characteristic of a particular level. Accordingly the employer shall have regard to the following principles:

- (a) the level of supervision, autonomy, problem solving and decision-making capability relevant to and within each classification level;
- (b) the overall requirements of the job consistent with employer human relations strategies and business needs;
- (c) possession of qualifications and/or relevant industry experience and the ability to satisfactorily apply their competencies to the job on a regular basis (where applicable);
- (d) payment for skills required and used on a regular basis and not skills and/or qualifications possessed; and
- (e) regular operation and/or maintenance of equipment.

In view of the above, re-classification does not automatically occur when particular tasks or new tasks are performed.

All existing employees will be classified in accordance with the relevant Schedule. Translation of existing employees to the new classification structure does not assume or equate the employee's skill level with the skill standard as indicated by the classification level.

The Award parties shall work to ensure that no employee will be disadvantaged or suffer a reduction in their hourly rate of pay by virtue of the introduction of the new skill-based classification level:

- (a) employees seeking re-classification to a higher level must provide evidence to satisfy all or most of the principles stated above. Evidence would include assessment outcomes in the form of a qualification or statement of attainment issued by a registered training organisation, RPL determinations or other methods or processes that the employer may develop consistent with human resource strategies.
- (b) any dispute arising from the operation of these arrangements shall be subject to the grievance and dispute settlement procedure contained in clause 3.1.

5.2.4 Supervisory allowance for support staff - Staff who are required to supervise other support staff shall receive the

following amounts:

	Per Week \$
Up to and including 3 employees supervised	15.70
More than 3 employees supervised	23.60

5.2.5 All employees classified as a fitness industry worker Level 2 or above, required to perform the functions of Group/Aqua Instructor shall receive an additional payment equal to 60% of their ordinary hourly rate. This additional payment:

(a) shall be used for all purposes to calculate entitlements, including casual hourly rates of pay, arising from this Award;

(b) be paid for a minimum of one hour on all occasions; and

(c) notwithstanding the other provisions of this Award, the hourly rates payable to employees who are required to perform the functions of Group/Aqua Instructor*, shall be paid not less than as follows:

	Casual	Other
Level 3	\$26.74	\$21.73

Note: This provision is designed to preserve hourly rates based on the rates of the rescinded Award that operated prior to the making of this Award for the classification of Aerobics Instructor - Level 2. It is acknowledged that State Wage Cases or other increases after 1 December 2004 will be absorbed into these rates, so that rates in clause 5.2.5(c) never increase and will ultimately become redundant.

5.2.6 *Junior rates* - The minimum weekly wage rate payable to junior employees shall be the age related percentage of the appropriate minimum weekly rate prescribed in clause 5.2.1 for the classification of work being performed by the employee. Notwithstanding the above, junior rates shall only apply to persons classified in Schedule A with no formal qualifications and to persons classified as juniors, within Schedules B, C and D.

Age	Per week %
17 years and under	65
18 years	75
19 years	85
20 years	100

5.2.7 *Divisional and District parities*

Employees employed outside the Eastern District of the Southern Division shall be paid the following amounts in addition to the wage rates prescribed by clause 5.2.1 for the Division or District in which they are located:

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

These amounts are payable for all purposes of this Award.

5.3 **Payment of wages**

5.3.1 Wages may be paid weekly or fortnightly in cash, or by mutual agreement, into a nominated bank account of the employee's choosing, or by any other mutually agreed method. No more than 3 days' wages shall be kept in hand by the employer.

(a) An employee who terminates after giving or receiving the required notice shall be paid all monies owing by close of business of the final day of employment.

(b) An employee who terminates without notice shall be paid on or before the next scheduled pay day.

5.4 **Superannuation**

Where employees subject to this Award are employed by an employer subject to any of the following Queensland

legislation, employer contributions shall be made in accordance with such Queensland legislation:-

- (a) *Superannuation (State Public Sector) Act 1990* (and associated Deed, Notice and Regulation).
- (b) *Local Government Act 2009* and the *Local Government (Operations) Regulation 2010*.

Provided that Local Governments and their Entities employing persons defined as being 'non-contributory members of the LG Super Scheme' pursuant to s223 of the *Local Government Act 2009*, shall on behalf of such employees, contribute an amount to the LG Super Scheme that must be made to avoid being required to pay the superannuation guarantee charge under the *Superannuation Guarantee (Administration) Act 1992* in respect of such employees.

Where federal legislation provides for choice of fund rights to such employees where their employer is subject to the abovementioned Queensland legislation, and that employee fails to elect which superannuation fund to which employer contributions are directed, the employer will direct contributions to such fund as prescribed by the abovementioned Queensland legislation.

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

6.1 Hours of work

6.1.1 The ordinary hours of work shall be not more than an average of 38 per week to be worked on any 5 consecutive days out of 7 in that particular week, and with 2 full days off in that period. The ordinary hours of work shall be performed within a spread of hours between 5.30 a.m. and 12 midnight except in the case of employees engaged to perform work within the classifications contained in Schedules B and D, in swim schools.

Notwithstanding the above an employer and an employee may agree that the ordinary hours of work may be arranged as follows:

- (a) 38 hours within a work cycle not exceeding 7 consecutive days;
- (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 Where part-time employees are employed, the maximum hours in clause 6.1.1 shall be in calculations of 32 hours.

6.1.3 The ordinary hours of work are to be worked each day in either one or 2 shifts totalling not more than:

- (a) 8 (or by prior mutual agreement, 10) hours for full-time employees;
- (b) 8 (or by prior mutual agreement 10) hours for part-time employees, provided that no shift shall be less than 3 consecutive hours in duration and there shall be not more than 2 such shifts per day within a span of 12 hours from start of the first shift to the end of the second such shift; or
- (c) 8 (or by prior mutual agreement 10) hours, for casual employees, exclusive of any breaks.

6.1.4 The arrangements in clause 6.1.1 are to be recorded and agreed in writing by the employer and employee.

6.1.5 All employees, other than casuals, shall work ordinary hours in accordance with a roster. Each employee shall be advised of their rostered hours at least 7 days prior to the roster coming into effect. Such roster may be changed, in the case of an emergency without notice, or in other cases, by either mutual agreement or by the giving of 7 days' notice.

6.1.6 Fatigue leave

Full-time and part-time employees will be given 10 clear hours off between finishing work on one ordinary shift and starting work on the next ordinary shift on consecutive days or be paid overtime for all time worked until the employee has had 10 clear hours off.

6.1.7 Instructors who, immediately after leading a Group/Aqua exercise class, are required to attend to other duties which require a change of dress, shall be permitted a paid "shower break" of not more than 15 minutes.

6.2 Meal breaks

6.2.1 Except as hereinafter provided, every employee shall be entitled to a meal break of not less than 30 minutes nor more than one hour for breakfast, lunch or dinner. No employee shall work for more than 5 hours without a

meal break except where overtime of one and a-half hour's duration or less is being worked immediately following an employee's ordinary ceasing time.

- 6.2.2 Where an employee is required to work through their normal meal break, the employee shall be paid at the rate of double time for all work so performed, and such double time shall continue to be paid until such time as a 30 minute break can be taken, or until the employee ceases work for the day.

6.3 Rest pauses

- 6.3.1 Weekly employees shall receive a rest pause of 10 minutes' duration in the employer's time in the first half and second half of each day worked.
- 6.3.2 Casual employees who work a minimum of 4 consecutive ordinary hours but less than 7.5 consecutive ordinary hours on any one day shall receive a rest pause of 10 minutes' duration. Employees who work a minimum of 7.5 consecutive ordinary hours (excluding the meal break) on any one day shall receive a rest pause of 10 minutes' duration in the 1st half and the 2nd half of the period worked.
- 6.3.3 Rest pauses shall be taken in the employer's time.
- 6.3.4 Rest pauses shall 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.
- 6.3.5 Notwithstanding the provisions of clause 6.3.1, where the employer and employees agree, the rest pauses may be combined so that the employee has one rest pause of 20 minutes' duration.

6.4 Overtime

- 6.4.1 All time worked by employees in excess of arranged daily hours, or outside of or in excess of ordinary hours, shall be paid for at time and a-half for the first 3 hours and double time thereafter.
- 6.4.2 All time worked by employees, other than casuals, on arranged days off shall be paid for at time and a-half for the first 3 hours and double time thereafter.
- 6.4.3 An employer may require an employee to work reasonable overtime at overtime rates and such an employee as a condition of employment shall work overtime in accordance with such requirement.

6.5 Meal allowance

An employee, other than a casual, required to work overtime for more than 2 hours after the cessation of their daily work shall be paid a meal allowance of \$12.10 for a meal. This allowance shall not apply where the employer provides a meal.

6.6 Weekend penalty rates

- 6.6.1 All ordinary time worked by employees, including casual employees, between midnight Friday and midnight Saturday, shall be paid for at the rate of time and a-quarter. All time worked between midnight Saturday and midnight Sunday shall be paid for at the rate of time and a-half.
- 6.6.2 Casual loadings shall not be applied to hourly rates when calculating entitlements for work performed on weekends and public holidays.

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

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

(ii) a further amount calculated at the rate of 17.5% 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 (and their employees) who are already paying (or receiving) an annual leave bonus, loading or other annual leave payment which is not less favourable to employees.

7.1.7 An employer may, by giving not less than 2 months' notice of their intention to do so, close down the business or section or sections thereof for one complete period or 2 separate periods, as aforesaid, for the purpose of allowing annual leave to all or the bulk of the employees in the business or section or sections concerned. Employees not entitled to annual leave to cover all of the period of close-down may enter into a mutual arrangement with their employer.

7.1.8 If an employee and employer so agree, annual leave may be taken wholly or partly in advance before the employee has become entitled to annual leave.

An employee who has taken in advance the whole of the annual leave that would be due at the end of a year of employment, is not entitled to any further annual leave at the end of that year of employment.

An employee who has taken in advance part of the annual leave that would be due at the end of a year of employment, becomes entitled at the end of that year of employment to the part of the annual leave not already taken.

7.1.9 An employer and employee may agree as to the time when, and the manner in which the employee's leave is to be given and taken, unless clause 7.1.7 applies.

Unless an employer and employee otherwise agree, an employer may give to an employee notice, which must be of at least 14 days, of the date on and from which the employee's annual leave is to be taken, and the employee is to comply with such notice.

7.2 **Sick leave**

7.2.1 *Entitlement*

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

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

(b) This entitlement will accrue at the rate of 7.6 hours' sick leave for each 6 weeks of employment.

(c) Payment for sick leave will be made based on the number of hours that would have been worked by the employee if the employee were not absent on sick leave.

(d) Sick leave may be taken for part of a day.

(e) Sick leave shall be cumulative, but unless the employer and employee otherwise agree, no employee shall be entitled to receive, and no employer shall be bound to make, payment for more than 13 weeks' absence from work through illness in any one year.

7.2.2 Employee must give notice

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

7.2.3 Evidence supporting a claim

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

7.2.4 Accumulated sick leave

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

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

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

7.2.5 Workers' compensation

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

7.3 Bereavement leave

7.3.1 Full-time and part-time employees

Full-time and part-time employees shall, on the death of a member of their immediate family or household, 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.
- (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 dies and the period of bereavement leave entitlement provided above is insufficient.

7.4 Family leave

The provisions of the Family Leave Award 2003 apply to and are deemed to form part of this Award.

Queensland Government employees shall receive conditions as contained in the *Family Leave (Queensland Public Sector) Award – State 2012*.

7.4.1 It is to be noted that:

- (a) part-time work can be performed by agreement in the circumstances specified in the *Family Leave Award 2003*; and
- (b) a copy of the *Family Leave Award 2003* is required to be displayed in accordance with section 697 of the Act.

7.4.2 The *Family Leave Award 2003* also provides for the terms and conditions of leave associated with:

- (a) Maternity leave;
- (b) Spousal leave;
- (c) Adoption leave;
- (d) Surrogacy leave;
- (e) Part-time work;
- (f) Carer's leave;
- (g) Bereavement leave;
- (h) Cultural leave.

7.5 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.

Portability of long service leave entitlements for Local Government employees is provided pursuant to Division 4; Part 3; Chapter 5 – *Administration of the Local Government (Operations) Regulation 2010*.

7.6 Public holidays

7.6.1 All work done by any employee on:

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

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

7.6.2 *Labour Day*

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

7.6.3 *Annual show*

All work done by employees in a district specified from time to time by the Minister by notification published in the *Industrial Gazette* on the day appointed under the *Holidays Act 1983*, to be kept as a holiday in relation to the annual

agricultural, horticultural or industrial show held at the principal city or town, as specified in such notification of such district will be paid for at the rate of double time and a-half with a minimum of 4 hours.

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

7.6.4 Double time and a-half

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

7.6.5 Stand down

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

7.6.6 Casual employees shall be paid when working on a public holiday at the rate which does not exceed that payable to a permanent employee.

7.6.7 Where an employee other than a casual works up to the commencement of a close-down of work at the Easter period and recommences on the day on which the employee is instructed to work after the resumption of operations they shall be entitled to be paid for any public holidays, which occur during such close-down. This provision shall not apply to employees who have been employed for a lesser period than one month.

7.6.8 Employees, other than casuals, 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 shall be entitled to either payment for each of the abovementioned public holidays or a substituted day's leave;
- (b) a part-time employee shall be entitled to either payment for each of the abovementioned public holidays or a substituted day's leave provided that that part-time employee would have been ordinarily rostered to work that day had it not been a public holiday;
- (c) where a public holiday would have fallen on a Saturday or a Sunday but is substituted for another day all employees who would ordinarily have worked on such Saturday or Sunday but who are not rostered to work on such day shall be entitled to payment for the public holiday or a substituted day's leave;
- (d) 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 shall be paid at the rate of time and three-quarters in the case of work performed on a Saturday and double time in the case of work performed on a Sunday; and
- (e) nothing in clause 7.6 confers a right to any employee to payment for as well as a substituted day in lieu of a public holiday.

7.7 Jury service

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

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

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

No provisions inserted in this Award relevant to this Part.

PART 9 - TRAINING AND RELATED MATTERS

9.1 Commitment to training and careers

9.1.1 The parties commit themselves to continuing and upgrading the training provided to employees.

9.1.2 It is agreed that the parties will co-operate in ensuring that it is maintained and improved.

9.1.3 This training will form the basis of an enhanced career structure in the industry.

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

10.1 Uniforms

If an employer requires an employee to wear a corporate uniform, the employer will provide the uniform to the employee free of charge, and where necessary, re-imburse the employee as part of the maintenance program for any cost incurred by the employee incurred in repairing any items. Any such uniforms supplied free of charge by the employer remain the employer's property and must be returned at time of termination.

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) 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 Justice and Attorney-General, 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 Trade union training leave

11.4.1 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' notice 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 by the Union or specific training courses approved and accredited 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.

11.4.2 Other courses mutually agreed between the Union and an employer, or employers, may be included under clause 11.4.1.

11.4.3 Any written application by the Union seeking release of a delegate or representative to attend a course shall 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.

11.4.4 For the purposes of clause 11.4 "ordinary pay" means the ordinary time earnings paid to the employee exclusive of any allowances, penalty rates or travelling time and fares.

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

(a) the employee must have at least 6 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 ordinary hours of Union training leave which an employer shall be required to grant each year will be as follows:

No. of ordinary hours worked by employees	No. of ordinary hours Union training leave
Per week	Per calendar year
400 up to 2000 hours	40 hours

2001 up to 4000 hours
4001 hours and over

80 hours
160 hours;

- (c) where an employer has more than one place of employment in Queensland, the maximum number of employees entitled to attend a course at the same time shall be 2. This shall not prevent an employer from agreeing to release additional employees;
- (d) the granting of such leave shall be subject to the convenience of the employer so that the operations of the enterprise will not be adversely affected;
- (e) 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 shall be processed in accordance with the grievance procedures contained in this Award;
- (f) in granting such paid leave, the employer is not responsible for any additional costs except the payment of extra remuneration where relieving arrangements are instituted by the employer to cover the absence of the employee;
- (g) leave granted to attend such 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;
- (h) such paid leave will not affect other leave granted to employees under this Award; and
- (i) on completion of the course the employee shall, 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.

11.5 Award posting

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

SCHEDULE A - FITNESS INDUSTRY WORKERS CLASSIFICATION STRUCTURE

N.B.: The following describes the nature of the work performed by Fitness Instructors Level 1, 2, and 3.

FITNESS INSTRUCTOR - Gym; Group; Aqua

Designs and delivers exercise programs for low risk (apparently healthy) individuals in a controlled environment.

A person trained in fitness activity specific competencies to instruct low risk (apparently healthy) individual and group clients in specified work environments, under predictable circumstances.

A Fitness Instructor facilitates skill transfer or development to clients in order that they may exercise independently or with minimal supervision.

This requires the Instructor to be able to:

- (a) conduct an initial client induction including basic screening, fitness appraisal, program development and exercise instruction;
- (b) design individualised training programs within the context of a long-term plan;
- (c) critique technique and apply a variety of appropriate instructional strategies in a range of exercise modalities; and
- (d) regularly appraise client's fitness and skill acquisition and modify their program accordingly.

Gym Instructor shall mean an employee involved in all aspects of fitness instruction other than Group or Aqua exercise programs.

Group Instructor shall mean an employee who leads any form of group or aerobic exercise program to music.

Aqua Instructor shall mean an employee who leads any form of water based group or aerobic exercise program to music.

N.B.: Employees performing the above Group or Aqua Instructor functions shall be paid the allowance prescribed by

clause 5.2.5.

FITNESS TRAINER - Personal Trainer; Specific Populations

Designs and delivers exercise programs for low risk (apparently healthy) individuals (in small groups) in a somewhat less controlled environment.

A person who possesses a wide range of relevant instructing and fitness-specific competencies and who facilitates the development in clients of a fit and healthy lifestyle in a range of environments.

A Fitness Trainer works with low risk (apparently healthy) clients in both predictable and unpredictable circumstances.

A Fitness Trainer must be able to:

- (a) develop, conduct and evaluate long term periodised fitness plans;
- (b) evaluate and analyse the performance of individual clients or groups in a variety of fitness settings;
- (c) provide advice on a range of areas related to health and fitness;
- (d) undertake basic dynamic postural screening using applied biomechanics;
- (e) apply teaching methods and instructional styles in a variety of indoor and outdoor fitness settings; and
- (f) supervise and train other fitness staff.

A Fitness Trainer may take further vocational training in other areas, such as musculoskeletal rehabilitation exercise instruction after referral from and under any guidelines set by a medical or suitably qualified allied health professional, exercise for specific population groups and lifestyle planning and behaviour modification.

FITNESS THERAPIST

Delivers and monitors exercise interventions for moderate risk people, working in close operation with suitably credentialed allied health professionals and/or medical practitioners.

A person who is skilled in working in a variety of environments relating to the delivery of higher level fitness training, sports conditioning and other fitness and health related activities. A Fitness Therapist is involved in the delivery of exercise programs for moderate (at-risk) clients in a range of unpredictable circumstances, and be involved in program design or modification for low risk clients but not moderate (at-risk) clients.

A Fitness Therapist is able to:

- (a) work in a variety of environments e.g. hospital, fitness centre, private home, portable gym;
- (b) deliver corrective exercise and rehabilitation for 'at risk' specific populations in collaboration with and under the guidance and supervision of allied health professionals, e.g. physios;
- (c) plan, modify and deliver higher level fitness training, sports conditioning, sports trainer, dealing with elite athletes;
- (d) manage GP referrals requesting admission into and supervision within specific approved programs;
- (e) liaise with a range of other professionals from both the fitness and health industries, and engage in project management and health promotional activities; and
- (f) carry out the functions of middle management, including staff management and training.

Employees shall be paid at the appropriate grade in line with following definitions, so as far as they are applicable to the type of work performed.

FITNESS INDUSTRY WORKER - LEVEL 1:

Fitness Instructor Level 1

Employees in this grade shall be employees without previous experience in the industry who do not possess industry recognised qualifications and/or are undertaking industry recognised training and are employed to carry out work associated with the classification of Fitness Instructor. Employees shall work under direct supervision according to specific instructions and procedures, which are prescribed by a more senior instructor or appropriately, qualified

manager.

During this period employees shall become familiar with all aspects of the establishment's operations.

Fitness Industry Worker - Level 2

Fitness Instructor Level 2 - Employees at this Grade shall have relevant industry experience and/or be recognised at Certificate III level of the Fitness Industry Training Package and are employed to carry out work associated with the role of Fitness Instructor in the designated specialisation of Gym, Group or Aqua. Employees at this Grade shall work under general supervision which requires operation within defined areas of responsibility with adherence to established guidelines and procedures.

Fitness Industry Worker - Level 3

Fitness Instructor Level 3 - Employees at this Grade shall have relevant industry experience and/or be recognised at Certificate III level of the Fitness Industry Training Package and be accredited through the National Instructor Registration program by Fitness Australia and are employed to carry out work associated with the role of Fitness Instructor in the designated specialisation of Gym, Group or Aqua. Employees at this Grade shall work under general supervision which requires operation within defined areas of responsibility with adherence to established guidelines and procedures.

Fitness Industry Worker - Level 4

Fitness Trainer Level 4 - Employees at this grade shall be recognised at Certificate IV level of the Fitness Industry Training Package and/or are employed to carry out work associated with the classification of Fitness Trainer in the designated specialisation of Personal Trainer and/or Specific Populations. Employees at this grade shall work under limited supervision and guidance and are required to exercise initiative and judgement in the performance of their duties.

Employees in this grade shall receive broad instructions and work is checked intermittently.

Fitness Industry Worker - Level 5

Fitness Trainer/Specialist - Level 5 - Employees at this grade shall be recognised at Certificate IV level of the Fitness Industry Training Package and/or be accredited through the National Instructor Registration program by Fitness Australia and are employed to carry out work associated with the classification of Fitness Trainer in the designated specialisation of Personal Trainer and/or Specific Populations; or

Shall be recognised at Diploma level of the Fitness Industry Training Package and be employed to carry out work associated with the classification of Fitness Therapist.

Fitness Industry Worker - Level 6

Specialist Level 6 - Employees at this grade shall be recognised at Diploma level of the Fitness Industry Training Package and/or be accredited through the National Instructor Registration program by Fitness Australia and are employed to carry out work associated with the classification of Fitness Therapist.

FITNESS INDUSTRY WORKER - LEVEL 1

Support Staff Level 1 - Employees at this level work under direct supervision with specific instructions and procedures and after appropriate "in-house" training, duties may include any or all of the following:

- (a) general counter duties including reception, taking bookings, members and membership enquiries, sale of products, activities organising and customer liaison;
- (b) general tidying/cleaning of immediate work area;
- (c) other duties as directed;
- (d) (unqualified) playroom attendant; and
- (e) cleaner/handyman duties.

Duties at this level are performed within established guidelines and determined procedures.

FITNESS INDUSTRY WORKER - LEVEL 2

Support Staff Level 2 - Employees shall perform duties as described in Support Staff Grade 1, but with limited

supervision. Employees may be required to exercise some initiative in the performance of their duties.

SCHEDULE B - SWIM SCHOOL WORKERS:

Level 1

An employee at this level works under general supervision and uses some judgement in predictable circumstances.

Typical Duties/Skills:

The tasks set out below are an indicative guide only and should not be regarded as an exhaustive list. Indicative tasks for work performed at this level are as follows:

- (a) Beginner Instructor; and
- (b) Holder of current Austswim registration or equivalent;

Has successfully completed the Centre's relevant Induction Course

Or

Holds an Australian Swimming Inc. Green Licence for Coaching and has successfully completed the Centre's relevant Induction Course.

Level 2

An employee at this level works under general supervision and exercises limited discretion within defined procedures.

Typical Duties/Skills/Experience:

The tasks set out below are an indicative guide only and should not be regarded as an exhaustive list. Indicative tasks for work performed at this level are as follows:

- (a) Intermediate Instructor holding current Austswim registration or equivalent and who has successfully completed the Centre's relevant induction training plus has:
- (b) performed 12 hours per year of recognised "workshop" and 250 hours of instructing Learn-to-Swim and a second recognised instructing qualification;

Or

- (a) have delivered 350 hours of instructing Learn-to-Swim; or
- (b) Holds an Australian Swimming Inc. Bronze Coaching Licence and has successfully completed the Centre's relevant induction course.

Level 3

An employee at this level works under limited supervision and performs work of a higher level complexity than an employee at Level 2.

Typical Duties/Skills/Experience:

An employee at this level shall be an experienced instructor:

- (a) holding a current Austswim registration or equivalent and have successfully completed the Centre's relevant induction training;
- (b) performed 12 hours per year of recognised 'workshops' and 500 hours of instructing Learn-to-Swim and a third recognised swim instructing qualification; or
- (c) delivered 700 hours of instructing Learn-to-Swim; and
- (d) holds an Australian Swimming Inc. Bronze Coaching Licence, having successfully completed the Centre's relevant induction training, and has performed 12 hours per year of recognised workshops and 500 hours of coaching junior squads and attendance at a recognised seminar/conference within the past 12 months, or conducted 700 hours of coaching of junior squads.

Level 4

An employee at this level works from complex instructions and procedures and is able to coordinate work in a team environment or work individually under general supervision.

Skills/Experience:

They shall have aggregate skills and experience and qualifications required of Level 2 and 3 operatives.

SCHEDULE C - INDOOR SPORTS CENTRE

Level 1

Employees work under supervision with specific instruction and procedures. Duties may include any or all of the following :

- (a) general counter duties including reception;
- (b) assist in the delivery of sport & recreation programs;
- (c) taking bookings and general enquiries;
- (d) sale of various products;
- (e) organising activities;
- (f) operation of cash registers and use of electronic swipe devices;
- (g) customer Liaison;
- (h) general tidying/cleaning of immediate work area;
- (i) cleaner/gardening or handyman duties;
- (j) umpiring or refereeing of competitions; and
- (k) other suitable duties as may be directed from time to time.

Level 2

Employees at this level shall perform the duties listed in Level 1 and will require limited supervision. These employees may be required to exercise some initiative in the performance of their duties. Other duties may include:

- (a) general administration and preparation of rosters;
- (b) answer and guide enquiries regarding teams for competitions;
- (c) reconciliation of cash;
- (d) facilitate the delivery of sport and recreation programs;
- (e) customer service; and
- (f) maintenance of ladders, records and data bases.

Level 3

Employees at this level will be responsible for the coordination of one or more sports within a facility. They will supervise staff. They will work from complex instructions and procedures. Their duties may include all of the roles in Level 2 plus any or all of the following:

- (a) preparation of staff rosters;
- (b) preparation of fixtures and draws;
- (c) coordinate sport & recreation programs;
- (d) supervision of support staff;

- (e) training, supervision and assessment of umpires and referees;
- (f) supervision and coordination of team coaches and player training programs; and
- (g) purchase of stock.

SCHEDULE D - SUPPORT STAFF SWIM SCHOOLS AND INDOOR CRICKET AND SPORTS VENUES

Employees engaged as support staff work within established guidelines and determined procedures.

Support Staff Level One

Work under direct supervision with specific instructions and procedures, and shall undertake appropriate "in house" training to acquire a working knowledge of the daily operations of the Centre.

Upon successful completion of three months probationary employment, shall be eligible for promotion to a more senior position, upon a vacancy being available to be filled.

Indicative tasks for work performed at Level One are as follows:

- (a) basic cleaning tasks;
- (b) gardening and labouring tasks;
- (c) handyman duties;
- (d) general counter duties; and
- (e) other duties as directed within the scope of their knowledge and experience at this level.

Support Staff Level Two

An employee at this level works under general supervision and uses some judgement in predictable circumstances.

The tasks set out below are an indicative guide only and shall not be regarded as an exhaustive list:

- (a) counter duties, including reception, operation of cash registrars, use of electronic swipe devices, taking bookings, members and membership enquiries;
- (b) customer liaison;
- (c) basic record keeping; and
- (d) other duties as directed within the scope of their knowledge and experience at this level.

Support Staff Level Three

Employees at this level shall be able to perform duties described above for Support Staff Level Two, however with only limited supervision. Employees may be required to exercise some initiative in the performance of their duties.

Indicative tasks for work performed by a Level Three are as follows:

- (a) assists with training employees at Levels One and Two;
- (b) playroom attending;
- (c) membership product or services sales;
- (d) activities organising;
- (e) promotional activities;
- (f) supervision of other Support Staff, in which circumstances, the provisions of Clause 5.2.4 shall be applied; and
- (g) other duties as directed within the scope of their knowledge and experience at this level.

SCHEDULE E

Schedule E to the Health & Fitness Centres, Swim Schools and Indoor Sports Award Queensland - 2005 provides a *pro-forma* letter, which complies with the requirements of clause 4.1.1 of the Award. A letter in this form must be provided to all employees upon engagement. The employer must complete the details required and sign the letter. The letter should be provided on the employer's letterhead.

Letter of Appointment

(Insert Employer's Name, address and letterhead)

(Insert Employee's Name and Address)

Employee Details	
Date of Birth	
Contact Phone/s	
Tax File Number	
Bank	
BSB	
Emergency Contact Person	
Family Doctor	
Reports to:	
Issued with keys (yes/no)	
Issued with security codes (yes/no)	
Property Issued eg: uniforms, tools etc	
Work-related Training Undertaken at Commencement	
Induction Manual/ Policies etc (yes/no)	

You have been engaged in accordance with the terms and conditions of the Health & Fitness Centres, Swim Schools and Indoor Sports Award Queensland - 2005 Clause 11.3 - Union Encouragement of the Award encourages you to join and maintain financial membership of the United Voice, Industrial Union of Employees, Queensland.

NATURE OF EMPLOYMENT

Full-time, part-time or casual ? (please circle)	Full-time Part-time Casual
What Wage Level is the employee assigned to perform?	

(e.g. Wage Level 2)* See Note 1 below

CONDITIONS OF EMPLOYMENT

What are the likely number and likely pattern of hours required* See Note 2 below (e.g. 24 hours per week with 8 hours on Monday, Tuesday and Wednesday)	
What are the hours to be worked?	
What days of the week will be worked?	
What are commencing and ceasing times?	

When are rosters most commonly set?	
A. What is the base ordinary rate of pay (including any over-award payment).	A=\$ per hour
B. (For casual employees) What is the amount of casual loading to be paid? (B = 23% of A)	B = 23% of A = \$ per hour
C. What is the total casual rate? (A + B = C)	C = A + B = \$ per hour
D. * See Note 3 below	

Your engagement as a casual employee could be terminated for any one or all of the following reasons: Provided that nothing may prevent your employment being terminated for a reason that is not listed here.* See Note 4 below.	Shortage of Work, Redundancy, Unsatisfactory Performance/Conduct, Conversion to permanent employment Any other reason - List Below
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Note 1: Weekly employees may work at different Wage Levels under the two or more classes of work concept and casuals may also be engaged on work at various Wage Levels requiring different skills, responsibilities and rates of pay.

Note 2: It is accepted that for full-time and part-time employees, hours of work may change according to a roster or by mutual agreement. For casual employees work may be on an "as required basis" in which case the starting and ceasing times or hours of work could vary. Where the starting and ceasing times or hours of work could vary, it is acceptable to simply state "could vary as required, or by agreement".

Note 3: This information is a guide only, referring to the wage level or rate of pay that a casual employee was to receive at the time of the first engagement. It is accepted that rates of pay will vary if employees are engaged on different levels of work. There is no need to issue a casual with a separate employment contract every time their level of work (and possibly rate of pay) changes as required.

Note 4: If you are a casual employee you will be provided as much notice as possible if your employment is terminated provided that your employment may be terminated with the provision of one hours' notice or pay in lieu.

Signed (Employer): _____

Signed (Employee): _____

Date:

Dated 23 May 2012.

By the Commission,
[L.S.] G.D. SAVILL,
Industrial Registrar.

Operative Date: 23 May 2012