

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

*Industrial Relations Act 1999* - s. 130 – award review

**HOSPITALITY INDUSTRY - RESTAURANT, CATERING AND ALLIED ESTABLISHMENTS  
AWARD - SOUTH-EASTERN DIVISION 2002**

(Matter A/2010/121)

DEPUTY PRESIDENT SWAN  
DEPUTY PRESIDENT BLOOMFIELD  
COMMISSIONER THOMPSON

10 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the above Award as required by s. 130 of the *Industrial Relations Act 1999*, this Commission orders that the Award be repealed and the following Award be made as from 10 May 2012.

**HOSPITALITY INDUSTRY - RESTAURANT, CATERING AND ALLIED ESTABLISHMENTS  
AWARD - SOUTH-EASTERN DIVISION 2012**

**PART 1 - APPLICATION AND OPERATION**

**1.1 Title**

This Award is known as the Hospitality Industry - Restaurant, Catering and Allied Establishments Award - South-Eastern Division 2012.

**1.2 Arrangement**

Subject Matter Clause No.

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### **1.3 Definitions**

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

1.3.2 "Commission" means the Queensland Industrial Relations Commission.

1.3.3 "Day" means the period from midnight to midnight on any one day.

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

#### **1.4 Commencement date**

This Award takes effect from 10 May 2012.

#### **1.5 Award coverage**

1.5.1 This Award shall apply throughout the South-Eastern Division of Queensland to employers engaged in the business of:

- (a) the provision of live or recorded entertainment at licensed or unlicensed venues whether or not meals are served in conjunction with such entertainment;
- (b) the provision of meals including any type of light refreshments or take-away meals whether or not the establishment provides seating or table service and whether or not the establishment is licensed or unlicensed;
- (c) the provision of catering services where such services are incidental to the major business of the employer.

1.5.2 This Award shall apply to all employees engaged by employers carrying out a business identified in clause 1.5.1 above and for whom classifications and rates of pay are provided for in this Award.

1.5.3 This Award shall not apply where another award has application.

1.5.4 The South-Eastern Division of Queensland shall comprise the district within the following boundaries:

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

#### **1.6 Parties bound**

This Award is legally binding upon the employers and employees as prescribed by clause 1.5, and upon the United Voice, Industrial Union of Employees, Queensland and its members.

#### **1.7 Pre-existing conditions**

No employee shall 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.

### **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. 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 any 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 Consultation**

- 3.1.1 The parties to this Award are committed to co-operating positively to increase the efficiency, productivity and competitiveness of the industries covered by this Award and to enhance the career opportunities and job security of employees in such industries.
- 3.1.2 At each plant or enterprise, an employer, the employees and their relevant industrial organisation or industrial organisations commit themselves to establishing a consultative mechanism and procedures appropriate to the size, structure and needs of that plant or enterprise. Measures raised by the employer, employees or the Union for consideration consistent with the objectives of clause 3.1.1 shall be processed through that consultative mechanism and procedures.

### **3.2 Grievance and dispute settling procedures**

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

- 3.2.1 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.
- 3.2.2 If the grievance or dispute is not resolved under clause 3.2.1, 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.
- 3.2.3 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 3.2.5.
- 3.2.4 If the grievance or dispute is still unresolved after discussions mentioned in clause 3.2.2, 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 3.2.2 will not result in resolution of the dispute.
- 3.2.5 If, after discussion between the parties, or their nominees mentioned in clause 3.2.4, 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.
- 3.2.6 Whilst all of the above procedure is being followed, normal work shall continue except in the case of a genuine safety issue.
- 3.2.7 The *status quo* existing before the emergence of the grievance or dispute is to continue whilst the above procedure is being followed.
- 3.2.8 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.
- 3.2.9 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.
- 3.2.10 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 EMPLOYEE'S DUTIES, EMPLOYMENT RELATIONSHIP AND RELATED ARRANGEMENTS**

### **4.1 Contract of employment**

- 4.1.1 Every employee shall be advised in writing at the time of engagement whether they are full-time, part-time or casual, their rate of pay, classification and working hours. In the case of casual employees such notification need only be supplied at the initial engagement and when that employee's employment status changes (i.e. full-time

weekly, part-time weekly or casual). Such written advice may be provided as per the pro forma letter in Schedule 'A' to this Award.

4.1.2 The provision of information provided to new employees as required by clause 4.1.1 in a written format other than that provided herein shall not constitute a breach of the Award.

## **4.2 Part-time employment**

4.2.1 A part-time employee is an employee who:

- (a) is employed for not less than 10 hours per week and for less than 38 ordinary hours per week; and
- (b) has reasonably predictable hours of work; and
- (c) receives, on a proportionate basis, equivalent pay and conditions to those of full-time employees.

4.2.2 At the time of engagement, the employer and the employee will agree in writing on the normal pattern of work required, including specifying the number of ordinary hours per week.

4.2.3 Any variation to the work pattern will be in accordance with methods of altering the ordinary hours of work as prescribed in clause 6.3, or a lesser period where mutually agreed.

4.2.4 The agreed number of ordinary hours per week will not be varied without the consent of the employee. Any such agreed variation to the number of weekly hours of work will be recorded in writing.

4.2.5 An employer is required to roster a part-time employee for a minimum of 2 consecutive hours on any day and no more than 10 hours on any one day.

4.2.6 All time worked outside the spread of ordinary working hours as provided for in clause 6.1 and all time worked in excess of the hours as mutually arranged in clause 4.2.1 or 4.2.2 or 4.2.3 will be overtime and paid for at the rates prescribed in clause 6.4.

4.2.7 A part-time employee employed under clause 4.2 must be paid for ordinary hours worked at the rate of 1/38th of the weekly rate prescribed for the class of work performed.

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

4.2.9 Where an employee and the employer agree, part-time employment may be converted to full-time, and vice-versa on a permanent basis or for a specified period of time. If such an employee transfers from full-time to part-time (or vice-versa), all accrued award and legislative entitlements shall be maintained. Following transfer to part-time employment accrual will occur in accordance with the provisions relevant to part-time employment.

4.2.10 Any variation to the work pattern will be in accordance with methods of altering the ordinary hours of work for full-time employees as detailed in clause 6.3 of this Award, unless otherwise mutually agreed.

4.2.11 All other provisions of this Award relevant to full-time employees shall apply to part-time employees.

## **4.3 Casual employment**

4.3.1 A casual employee shall mean an employee who is engaged as such and who is employed by the hour.

4.3.2 The rate of pay for casual employees shall be 1/38th of the appropriate full-time rate prescribed in clause 5.2 with the addition of the appropriate loading, as prescribed in clause 4.3.3.

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

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

4.3.4 The minimum period of engagement for a casual employee shall be 2 hours or payment in lieu.

4.3.5 Casual employees may, by mutual agreement, be paid in the same manner as full-time employees or, in the absence of such agreement, at the termination of each engagement.

#### **4.4 Apprentices and trainees**

##### *4.4.1 Apprentices*

Apprentices may be engaged under this Award in accordance with the Order - Apprentices' and Trainees' Wages and Conditions. Wage rates for Grade 4 of this Award shall be used as the 100% rate for the purposes of calculating a percentage of the tradesperson's rate.

##### *4.4.2 Trainees*

Trainees may be engaged under this Award in accordance with the Order - Apprentices' and Trainees' Wages and Conditions.

No adult trainee shall receive less than the Queensland Minimum Wage.

#### **4.5 Incidental or peripheral tasks**

4.5.1 Employees are to be available to perform a wider range of duties, including work that is incidental or peripheral to their main task or functions.

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

4.5.3 An employer may direct an employee to carry out such duties and use such tools and equipment as may be required provided that the employee has been properly trained in the use of such tools and equipment.

4.5.4 Any direction issued by an employer pursuant to clauses 4.5.2 and 4.5.3 shall be consistent with the employer's responsibility to provide a safe and healthy working environment.

#### **4.6 Mixed functions**

An employee who is required to perform on any day work for which a higher rate of wage is prescribed, and this is not as part of an accredited course which has an on the job training component, shall be paid as follows:

- (a) If more than 2 hours on any day the higher rate for the whole of such day;
- (b) If 2 hours or less then payment of the higher rate for 4 hours.

#### **4.7 Anti-discrimination**

4.7.1 It is the intention of the parties to this Award to prevent and eliminate discrimination, as defined by the *Anti-Discrimination Act 1991* and the *Industrial Relations Act 1999* as varied 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 in relation to, a person identified on the basis of the above attributes;
- (b) sexual harassment; and
- (c) racial and religious vilification.

4.7.2 Accordingly, in fulfilling their obligations under the grievance and dispute settling procedure in clause 3.2, the parties to this Award must take reasonable steps to ensure that neither the Award provisions nor their operation are directly or indirectly discriminatory in their effects.

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

4.7.4 Nothing in clause 4.7 is to be taken to affect:

- (a) any different treatment (or treatment having different outcomes) which is specifically exempted under the

*Anti-Discrimination Act 1991;*

- (b) an employee, employer or registered organisation pursuing matters of discrimination, including by application to the Australian Human Rights Commission/Anti-Discrimination Commission Queensland.

**4.8 Termination of employment***4.8.1 Statement of employment*

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

*4.8.2 Termination by employer*

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

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

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

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

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

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

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

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

*4.8.3 Notice of termination by employee*

The notice of termination required to be given by an employee shall be one week. If an employee fails to give notice, the employer shall have the right to withhold monies due to the employee with a maximum amount equal to the amount the employee would have received under clause 4.8.2(d) for a period of notice of one week.

- 4.8.4 Annual leave shall not be used to provide the notice prescribed by clauses 4.8.2.(a) and (b) and clause 4.8.3.

*4.8.5 Time off during notice period*

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

**4.9 Introduction of changes***4.9.1 Employer's duty to notify*

- (a) Where an employer decides to introduce changes in production, program, organisation, structure or technology, that are likely to have significant effects on employees, the employer shall notify the employees who may be affected by the proposed changes and, where relevant, their Union or Unions.

- (b) 'Significant effects' includes termination of employment, major changes in the composition, operation or size of the employer's workforce or in the skills required; the elimination or diminution of job opportunities or job tenure; the alteration of hours of work; the need for retraining or transfer of employees to other work or locations and the restructuring of jobs:

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

#### 4.9.2 *Employer's duty to consult over change*

- (a) The employer shall consult the employees affected and, where relevant, their Union or Unions about the introduction of the changes, the effects the changes are likely to have on employees (including the number and categories of employees likely to be dismissed, and the time when, or the period over which, the employer intends to carry out the dismissals), and the ways to avoid or minimise the effects of the changes (e.g. by finding alternative employment).
- (b) The consultation must occur as soon as practicable after making the decision referred to in clause 4.9.1.
- (c) For the purpose of such consultation the employer shall provide in writing to the employees concerned and, where relevant, their Union or Unions, all relevant information about the changes including the nature of the changes proposed, the expected effects of the changes on employees, and any other matters likely to affect employees, provided that any employer shall not be required to disclose confidential information, the disclosure of which would be adverse to the employer's interests.

### 4.10 **Redundancy**

The provisions of clause 4.10 will not apply to Queensland Government employees to the extent that the provisions of the redundancy arrangements are contained in a Ruling issued by the Minister responsible for industrial relations pursuant to section 54 of the *Public Service Act 2008*, where the Directive provides for entitlements that are superior to clause 4.10.

#### 4.10.1 *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 4.10.1(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.

#### 4.10.2 *Transfer to lower paid duties*

- (a) Where an employee is transferred to lower paid duties for reasons set out clause 4.10.1 the employee shall be entitled to the same period of notice of transfer as the employee would have been entitled to if the employee's employment had been terminated under clause 4.8.
- (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.

#### 4.10.3 *Transmission of business*

- (a) Where a business is, whether before or after the date of insertion of this clause in the Award transmitted from an employer (transmittor) to another employer (transmittee), and an employee who at the time of such transmission was an employee of the transmittor of the business, becomes an employee of the transmittee:
  - (i) the continuity of the employment of the employee shall be deemed not to have been broken by reason of such transmission; and
  - (ii) the period of employment which the employee has had with the transmittor or any prior transmittor shall be deemed to be service of the employee with the transmittee.
- (b) In clause 4.10.3, '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.

#### 4.10.4 *Time off during notice period*

- (a) Where a decision has been made to terminate an employee in the circumstances outlined in clause 4.10.1, the employee shall be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment.
- (b) If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee shall, at the request of the employer, be required to produce proof of attendance at an interview or the employee shall not receive payment for the time absent. For this purpose a statutory declaration will be sufficient.

#### 4.10.5 *Notice to Centrelink*

Where a decision has been made to terminate employees in the circumstances outlined in clause 4.10.1, the employer shall notify Centrelink 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.

#### 4.10.6 *Severance pay*

- (a) In addition to the period of notice prescribed for ordinary termination in clause 4.8.2(a), and subject to further order of the Commission, an employee whose employment is terminated for reasons set out in clause 4.10.1(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.

#### 4.10.7 *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.

#### 4.10.8 *Employee leaving during notice*

An employee whose employment is terminated for reasons set out in clause 4.10.1(a), may terminate such employment during the period of notice, and, if so, shall be entitled to the same benefits and payments under this clause had such employee remained with the employer until the expiry of such notice:

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

#### 4.10.9 *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.

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

Clause 4.10 shall not apply to employees with less than one year's continuous service and the general obligation on employers should be no more than to give relevant employees an indication of the impending redundancy at the first reasonable opportunity, and to take such steps as may be reasonable to facilitate the obtaining by the employees of suitable alternative employment.

#### 4.10.11 *Employees exempted*

Clause 4.10 shall not apply:

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

#### 4.10.12 *Employers exempted*

Subject to an order of the Commission, in a particular redundancy case, clause 4.10 shall not apply to 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.

#### 4.10.13 *Exemption where transmission of business*

- (a) The provisions of clause 4.10.6 are not applicable where a business is before or after the date of the insertion of this clause into the Award, transmitted from an employer (transmittor) to another employer (transmittee), in any of the following circumstances:
  - (i) where the employee accepts employment with the transmittee which recognises the period of continuous service which the employee had with the transmittor, and any prior transmittor, to be continuous service of the employee with the transmittee; or
  - (ii) where the employee rejects an offer of employment with the transmittee:
    - (A) in which the terms and conditions are substantially similar and no less favourable, considered on an overall basis, than the terms and conditions applicable to the employee at the time of ceasing employment with the transmittor; and
    - (B) which recognises the period of continuous service which the employee had with the transmittor and any prior transmittor to be continuous service of the employee with the transmittee.
- (b) The Commission may amend clause 4.10.13(a)(ii) if it is satisfied that it would operate unfairly in a

particular case, or in the instance of contrived arrangements.

#### 4.10.14 *Incapacity to pay*

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

#### 4.10.15 *Employees of Queensland Government Departments and Agencies*

The provisions of clause 4.10 will not apply to employees of Queensland Government Departments and Agencies to the extent that the provisions of the redundancy arrangements are contained in a Directive issued by the Public Service Commissioner or the Minister for Industrial Relations pursuant to section 34 of the *Public Service Act 1996*, where the Directive provides for entitlements that are superior to clause 4.10.

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

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

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

### **5.1 Career path progression and classification criteria**

#### 5.1.1 *Career path progression*

The objective of clause 5.1 is to establish a generic framework of wages and conditions for new and existing employees based on the recognition of relevant industry skills and experience, responsibility and/or possession of qualifications.

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

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

Professional development is not compulsory and will be undertaken in either the employee's or employer's time depending on the circumstances. This is to promote a culture of learning in line with the employer's commitment to training that may utilise nationally accredited qualifications. Specific in-house training programmes that are compulsory, for example, Induction Training, Food Hygiene and Handling for Kitchen Attendants and Supervisors, and training for Supervisors would be undertaken in the employer's time.

To progress to a higher classification level, an employee must be able to demonstrate a competent level of work performance for that classification level. Award classification levels may also be supplemented by employer performance management programmes outlined in Staff Induction Manuals, Staff Handbooks or other like documents that shall be adhered to at all times.

#### 5.1.2 *Classification criteria*

- (a) The employer shall determine an employee's classification relevant to a particular Wage Level in the Award through the following process:
  - (i) an analysis is to be undertaken to establish the requisite skills and responsibilities for each identified position and a position description written for each position;
  - (ii) each position is classified by reference to the classification criteria in accordance with clause 5.1.3 to this Award; and
  - (iii) employees are notified in writing of their appointment to a position consistent with the requirements outlined in clause 4.1 to this Award.
  
- (b) Classification criteria as outlined in clause 5.1.3 are guidelines to determine the appropriate classification level under the Award and consist of:
  - (i) relativities for each Wage Level;
  - (ii) broad industry titles/callings, common industry-used titles and/or historical Award classifications (i.e. a Translation Guide that refers to Award classification titles across a number of hospitality awards);
  - (iii) indicative duties that represent where the majority of the employees duties are located (i.e. it is not mandatory that an employee performs every duty in a Wage Level and where it is acknowledged that some duties are only relevant for certain sectors of the hospitality industry);

- (iv) indicative experience and/or qualifications; and
  - (v) indicative levels of responsibility.
- (c) The characteristics nominated above are the principal guide to classification to a particular Wage Level as they are designed to indicate the level of basic knowledge, comprehension of issues, problem and procedures required, the level of autonomy, accountability supervision/training involved with the position.
- (d) The characteristics of a Wage Level must be read as a whole to gain an understanding of the position and the performance requirement. Isolated characteristics should not be used to justify the classification of a position. The key issue to be analysed in properly classifying an employee is the level of initiative, responsibility/accountability, competency and skill that an employee is required to exercise in performing the employee's work within the parameters of the characteristics of the position.
- (e) The attributes and skills for each Wage Level are indicative of those required for each Wage Level. They are by no means an exhaustive list of the skills, attributes, duties or tasks included in each position within each Wage Level and employees may be expected to carry out additional duties or tasks as requested, which require skills that are not listed.
- (f) It should be noted that some typical duties/skills appear at one Wage Level only while others appear at more than one Wage Level. Because of this, the classification or re-classification of a position needs to be done by reference to the specific characteristics of the Wage Level. As an example, because an employee may be utilising a skill comprehended at a higher Wage Level than that which the employee has been appointed, the employee assumes the level of qualification, initiative, accountability and competence envisaged by the characteristics of the higher Wage Level irrespective of whether the employee holds formal qualifications specified for that higher Wage Level.
- (g) Payment for skills required in a particular position and used on a regular basis and not skills/qualifications possessed in an acknowledgement that some employees are over-qualified for the position they will be engaged in.
- (h) All employees will be required, in addition to their own task, to carry out tasks and responsibilities of employees at lower Wage Levels. All employees are required to observe the relevant legislative requirements as it applies to their position, for example the *Liquor Act 1992* and the *Gaming Machine Act 1991* (and the employer's interpretation of the Acts that may be outlined in the employer's policy and procedure manuals). The ability to provide excellent customer service, where the customer may be external or internal, underpins all Wage Levels.
- (i) Where it is established that a particular set of tasks or callings are not clearly classified in this Award, the parties to the Award will meet to discuss the appropriate Wage Level and pay rates. Any dispute arising from this shall be followed in accordance with clause 3.1.

### 5.1.3 Classification levels and Award relativities

#### (a) Introductory - 78%

Introductory employees shall include the following classifications/callings or combination thereof:

- Employee Grade 1

- (i) Indicative experience and/or qualifications

The Introductory Wage Level shall apply to a new employee who enters the industry and who has not demonstrated the competency requirements of Wage Level 1 below.

An employee at this Wage Level will remain at the Wage Level for up to 3 months while training is undertaken to allow the employee to progress to Wage Level 1.

- (ii) Indicative level of responsibility

An employee at this Wage Level would require regular supervision as they are a new entrant or have limited experience and who:

- work under close direction using established routines, methods and procedures with little scope for deviating from these;
- are not required to provide more than basic judgement and application of basic problem solving skills; and

- usually operate within a work team with very limited authority.

(b) Wage Level 1 - 82%

Wage Level 1 employees shall include the following classifications/callings or combination thereof:

- Food and Beverage Attendant Grade 1
- Kitchen Attendant Grade 1
- Kitchenhand
- Singlehand Cook
- House Attendant Grade 1
- Guest Service Grade 1
- Hospitality Services Grade 1
- Employee Grade 2

(i) Indicative duties

Wage Level 1 shall mean an employee who is engaged in activities such as;

- setting, clearing and cleaning tables and areas of plates, glasses, ashtrays etc.;
- general cleaning duties within a kitchen, scullery or food preparation area, including the cleaning of cooking and general utensils and crockery used therein;
- assisting employees who are cooking or who are engaged on food and beverage activities not including service to customers;
- assembly and preparation of ingredients for cooking;
- handling, storing and distributing a variety of goods and hospitality products, including pantry items and linen;
- preparation of salad ingredients and/or distribution to a buffet bar, bistro or other food outlet;
- rubbish removal;
- laundry and/or linen duties which may include minor repairs to linen or clothing such as buttons, zips, seams and working with flat materials;
- collection and delivery of guests' personal dry cleaning and laundry, linen and associated material to and from accommodation areas;
- basic maintenance duties; and
- parking guest vehicles.

(ii) Indicative experience and/or qualifications

- Progression towards an AQF 2 qualification relevant to the employer.

(iii) Indicative level of responsibility

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

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

(c) Wage Level 2 - 88%

Wage Level 2 employees shall include the following classification/callings or combination thereof:

- Food and Beverage Attendant Grade 2
- Food and Beverage Attendant Grade 2 & 3
- Employee Grade 3
- Kitchen Attendant Grade 2
- Hospitality Services Grade 2
- House Attendant Grade 2
- Cook - Grade 1
- Leisure Attendant Grade 1
- Guest Service Grade 2

- Storeperson Grade 1
- Doorperson/Security Officer Grade 1

(i) Indicative duties

Wage Level 2 shall mean an employee who is engaged in activities such as:

- selling, supplying (not serving), dispensing or mixing of a range of alcoholic and non-alcoholic beverages, liquor store activities including the sale of specialised stock lines and/or takeaway liquor from a bottle shop or other liquor outlet consistent with the *Liquor Act 1992* and/or employer policy;
- assisting in the cellar,
- receiving and storing general and perishable goods;
- receipt of monies;
- attending a snack bar, coffee shop or other food and beverage outlet including taking orders and/or serving food and beverages;
- personalised guest services;
- taking reservations, greeting and seating guests, transferring guests' baggage and or property including delivery duties;
- operation of coin dispensing machine;
- payment of authorised jackpots, not requiring attendance at the device nor maintenance of detailed records;
- undertaking general waiting and butler duties including basic food and beverage services with led records;
- cooking of breakfasts, snacks and other basic meals and food items requiring regular supervision and limited experience;
- specialised non-cooking duties associated with a kitchen or food preparation area;
- servicing accommodation areas and cleaning thereof including assisting with dry cleaning processes;
- driving a passenger or courtesy vehicle;
- cleaning duties using specialised equipment and chemicals;
- undertaking routine repair work and maintenance not generally performed by a tradesperson;
- an employee engaged in activities such as internal promotions, and set ups for functions, basic merchandising for promotional activities, door and other minor security duties, bingo or other leisure activities and ushering for shows;
- acting as an assistant instructor or pool attendant including testing pools and spas, setting up equipment, distribution and care of equipment and the taking of bookings, power boat observer; and
- assisting with the maintenance of dress standards and good order in the establishment.

(ii) Indicative experience and/or qualifications

- Possession of an AQF 2 qualification or completion of a Traineeship at AQF 2 relevant to the employer.

(iii) Indicative level of responsibility

An employee at this Wage Level would require general supervision and who:

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

(d) Wage Level 3 - 92.4%

Wage Level 3 employees shall include the following classifications/callings or combination thereof:

- Food and Beverage Attendant Grade 3
- Food and Beverage Attendant Grade 4
- Employee Grade 4
- Kitchen Attendant Grade 3
- Storeperson Grade 2

- House Attendant Grade 3
- Guest Service Grade 3
- Hospitality Services Grade 3
- Cook - Grade 2
- Leisure Attendant Grade 2
- Handyperson
- Forklift Driver
- Timekeeper/Security Officer Grade 1

(i) Indicative duties

Wage Level 3 shall mean an employee who is engaged in activities such as:

- supplying (not serving) dispensing or mixing of liquor including a range of sophisticated drinks;
- full control of a cellar or liquor store or outlet including the receipt, delivery and recording of goods within such areas;
- cooking a range of meals requiring general supervision including a la carte cooking, grill cooking, deep frying and other cooking activities assigned by a higher level employee including setting up of an on-site kitchen;
- receipt of monies and cash handling;
- attending a wagering terminal (TAB, Keno) or similar electronic gaming terminal (poker machine), holding the appropriate license and who performs duties such as floor payouts, correction of minor gaming device faults and general machine maintenance;
- receiving, storing and distributing goods including the operation of mechanical lifting devices such as forklifts;
- major repair of linen and/or clothing;
- dry cleaning;
- supervision of laundry services;
- taking/directing of classes, tours and leisure activities associated with sporting areas, health and fitness activities and swimming pools; and
- timekeeping of staff, general security including security of keys and supervision of dress standard maintenance and good order in the establishment.

(ii) Indicative experience and/or qualifications

- Possession of an AQF 2 qualification or completion of a traineeship at AQF 2 and progress towards an AQF 3 qualification relevant to the employer.

(iii) Indicative level of responsibility

An employee at this Wage Level would require general supervision and who:

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

(e) Wage Level 4 - 100%

Wage Level 4 employees shall include the following classifications/callings or combination thereof:

- Food and Beverage Attendant Grade 4
- Food and Beverage Attendant Grade 5
- Bread Baker, Butcher, Cook, Dry Cleaner, Pastrycook, Tailor or other apprenticeship calling
- Commis Chef
- Cook - Grade 3
- Guest Service Grade 4
- Employee Grade 5
- Hospitality Services Grade 4
- Leisure Attendant Grade 3

## (i) Indicative duties

Wage Level 4 shall mean an employee who is engaged in activities such as:

- undertaking specialised waiting and butler duties in a fine dining room or restaurant e.g. bookings/cashier or maitre'd;
- maintaining and rotating stock and stock balancing;
- engaged in a variety of trade level activities such as cooking, baking, butchering, pastrycooking and/or setting up of an on-site kitchen; and
- planning, co-ordinating and implementing leisure activities for guests and patrons.

## (ii) Indicative experience and/or qualifications

- Possession of an AQF 3 qualification or completion of an Apprenticeship or Traineeship at AQF 3 or equivalent (such as a City and Guilds qualification) or a qualification with an AQF Level 3 outcome or who possesses a Recognition Certificate issued in accordance with the provisions of the *Vocational Education, Training and Employment Act 2000*.

## (iii) Indicative level of responsibility

An employee at this Wage Level would require limited supervision and who:

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

## (f) Wage Level 5 - 110%

Wage Level 5 employees shall include the following classifications/callings or combination thereof:

- Cook - Grade 4
- Demi Chef
- Employee Grade 6
- Food and Beverage Supervisor
- Food and Beverage Attendant Grade 6
- Guest Service Supervisor
- Hospitality Services Grade 5
- Relief Duty Supervisor

## (i) Indicative duties

Wage Level 5 shall mean an employee who is engaged in activities such as:

- a designated duty supervisor who has the responsibility for general operations, including the maintenance of operational standards during the temporary absence of the regular or principal manager, including when the principal manager is rostered off during a particular shift;
- co-ordinating the work of employees engaged in guest service and/or housekeeping;
- being solely responsible for supervision, training and co-ordination of gaming staff and/or food and/or beverage staff and/or house attendant employees and/or other cooks or kitchen employees in a single kitchen establishment where no Wage Level 4 or above cooks are employed; and
- maintenance or service and operational standards, preparation of operational reports and staff rostering.

## (ii) Indicative experience and/or qualifications

- Possession of an AQF 3 qualification or completion of an Apprenticeship or Traineeship at AQF 3 or equivalent (such as a City and Guilds qualification) or a qualification with an AQF Level 3 outcome or who possesses a Recognition Certificate issued in accordance with the provisions of the *Vocational Education, Training and Employment Act 2000* and has progress towards an AQF 4 qualification or higher relevant to the employer.

## (iii) Indicative level of responsibility

An employee at this Wage Level would require remote supervision and who:

- demonstrates understanding of a broad knowledge base incorporating some theoretical concepts;
- applies solutions to a defined range of unpredictable problems;
- identifies, analyses and evaluates information from a variety of sources;
- identifies and applies skill and knowledge to a variety of contexts with some depth in some areas;
- takes responsibility for their own outputs in relation to a specified human resource standards; and
- provides "hands on" supervisory direction for a work team usually on site.

## (g) Wage Level 6 - 115%

Wage Level 6 employees shall include the following classifications/calling or combination thereof:

- Cook Grade 5 - Head Chef
- Chef de Partie
- Duty Supervisor

## (i) Indicative duties

Wage Level 6 shall mean an employee who is engaged in activities such as:

- duties of a Duty Supervisor, who has the responsibility for administrative and accounting activities and responsibility for the maintenance of service and operational standards as required by a Duty Manager;
- an employee that has general and specialised duties including supervision or training of other kitchen staff, ordering and stock control;
- solely responsible for other cooks and other kitchen employees in the kitchens;
- an employee who has the responsibility for a safe or counting room, liaise with accounting staff and Duty Managers, solely responsible for takings and floats, ordering of coin, banking of takings (from all outlets), maintain and process payroll, dissection of wages, administration of superannuation, payroll tax and other payroll records, keep all records, change and maintain audit trails; and
- an employee who has responsibility for the full supervision of personnel and functions associated with the accounting and cash management functions, accurate reporting and submission of statutory terms, ensure all accounting taxation and administration functions are in compliance with legislative requirements.

## (ii) Indicative experience and/or qualifications

- Possession of an AQF 4 qualification or higher relevant to the employer.

## (iii) Indicative level of responsibility

An employee at this Wage Level would require remote supervision and who:

- demonstrates understanding of a broad knowledge base incorporating some theoretical concepts;
- applies solutions to a defined range of unpredictable problems;
- identifies, analyses and evaluates information from a variety of sources;
- identifies and applies skill and knowledge to a variety of contexts with some depth in some areas;
- takes responsibility for their own outputs in relation to specified human resource standards; and
- provides "hands on" supervisory direction for a work team usually on site.

## 5.2 Wage rates

### 5.2.1 Adults - The minimum wage rates to be paid shall be as follows:

	\$
Introductory	610.20
Wage Level 1	626.90
Wage Level 2	652.00
Wage Level 3	670.30
Wage Level 4	705.20

Wage Level 5	748.30
Wage Level 6	767.80

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.

### 5.3 Junior employees

Junior employees shall be entitled to not less than the following proportion of the appropriate adult rate for the relevant classification:

Under 17 years of age	55%
17 and under 18 years of age	65%
18 and under 19 years of age	75%
19 and under 20 years of age	85%

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

Junior employees on reaching the age of 18 years, may be employed in the sale of liquor. However, where such a junior is employed, the adult Award rate for the work being performed shall be paid.

An employer may at any time demand the production of a birth certificate or other satisfactory proof for the purpose of ascertaining the correct age of the junior employee. If a birth certificate is required, the cost shall be borne by the employer.

### 5.4 Allowances

#### 5.4.1 Late work

- (a) An employee who is required to work any ordinary hours between 10.00 p.m. and 12.00 midnight Monday to Friday inclusive shall be paid an additional \$1.6515 per hour for any hour or part thereof for any time worked within the said hours.

A minimum payment of \$2.41 shall apply on any one day.

- (b) An employee who is required to work any ordinary hours between 12.00 midnight and 6.00 a.m. Monday to Friday inclusive shall be paid an additional \$2.4055 per hour for any hour or part thereof for any time worked within the said hours. For the purposes of clause 5.4 midnight shall include midnight Sunday.

A minimum payment of \$2.41 shall apply on any one day.

### 5.5 Payment of wages

5.5.1 Wages may be paid either weekly or fortnightly and by agreement with the employer by one of the following means:

- (a) Payment directly by electronic funds transfer into an account nominated by the employee without cost to the employee.
- (b) Cash.
- (c) Cheque.

5.5.2 Where electronic funds transfer is the method of payment of wages, wages must be available to an employee prior to the normal ceasing time on the normal payday and in all other instances employees shall be paid in the employer's time.

- 5.5.3 The employer may stipulate the completion day for each pay cycle and payment to employees shall be made not later than 3 days after the completion of this stipulated pay cycle.
- 5.5.4 In the case of dismissal of an employee or of an employee leaving the service of the employer after the prescribed notice has been given, the employee shall be paid all wages due within half an hour of ceasing work. If such wages are not paid within the time prescribed, all waiting time in excess of half an hour shall be paid for at ordinary rates with a maximum of 8 hours payment on any one day.
- In the event of an employee being discharged or leaving without giving the prescribed notice, or in the event of an employee being discharged, without notice, such employee shall be paid all monies due within one hour of bank opening time on the next bank trading day.
- 5.5.5 The employer shall provide the employee with the following written details either by noting on the pay envelope of the employee, or by way of a statement handed to the employee at the time of payment of wages:
- (a) the date of payment;
  - (b) the period covered by the payment;
  - (c) the number of hours covered by the payment at:
    - (i) ordinary rate of pay;
    - (ii) overtime rate of pay;
  - (d) the ordinary hourly rate and the amount paid at that rate;
  - (e) the overtime hourly rate and the amount paid at that rate;
  - (f) the gross amount of wages payable;
  - (g) the net amount of wages paid;
  - (h) details of any deduction made; and
  - (i) the amount of contribution paid to an occupational superannuation scheme or fund.
- 5.5.6 Casual employees may, by mutual consent, be paid in accordance with clause 5.5.2 or, in the absence of such agreement, at the termination of each engagement.
- 5.5.7 An employer must not deduct any sum from the wages or income of an employee in respect of breakages or cashiering underings except in the case of wilful misconduct and/or gross negligence.

## 5.6 Superannuation

In addition to all other entitlements pursuant to this Award, all eligible employees shall as from 1 July, 1989, be entitled to superannuation contributions paid by the employer. Such contributions shall be paid into an approved fund in accordance with the following provisions:

5.6.1 *An approved fund* shall mean:

- (a) Sunsuper;
- (b) MTAA Industry Superannuation Fund;
- (c) Australian Enterprise Super;
- (d) Host Super Queensland;
- (e) Metway Super;
- (f) a fund to which the employer is, at 24 May 1989, contributing Superannuation payments on behalf of employees, and which complied with the requirements of the *Occupational Superannuation Standards Act 1987*;
- (g) any Superannuation Scheme or Fund which is approved under the *Superannuation Guarantee*

(Administration) Act 1992, and which has application to the majority of employees employed by the employer where the employees covered by this Award form a minority.

- (h) The employer and employee may agree to have the employee's superannuation contributions made to an approved superannuation fund, other than those specified in this award.
  - (i) Any such agreement must be recorded in writing and signed by the employer and employee and kept on the employee's file.
  - (ii) A person must not coerce someone else to make an agreement.
  - (iii) Such agreement, where made, will continue until such time as the employer and employee agree otherwise, and shall be made available to relevant persons for the purposes of sections 371 and 373 (time and wage records) of the Act.
  - (iv) Any dispute arising out of this process will be handled in accordance with the Disputes Resolution Procedure as contained in this award.

#### 5.6.2 *Eligible employee shall mean:*

- (a) a full-time employee having been employed for a period of 4 weeks;
- (b) other employees having been employed during any period of twelve weeks provided that within that aforesaid period of employment an adult employee must average twelve hours per week or more and junior employee an average of twenty hours a week or more;
- (c) where an employee has become an eligible employee in terms of (a) and (b) above, such employee shall be deemed an eligible employee in any such pay period in which an adult employee shall work more than twelve hours per week and a junior employee twenty hours per week or more;
- (d) Ordinary time earnings for the purpose of clause 5.6 shall mean the gross ordinary pay that the employee receives for the ordinary hours of work performed in the relevant pay period.

#### 5.6.3 *Contributions*

- (a) The employer shall contribute into such approved Fund an amount prescribed by the *Superannuation Guarantee (Administration) Act 1992* (Cth).
- (b) The employer may suspend contributions on behalf of an employee for any period when the employee is absent from work on unpaid leave provided that in relation to an eligible employee, an employer shall continue to make contributions in respect of any period during which an employee is absent from work on Workers' Compensation up to a maximum of 26 weeks.

5.6.4 *Future Movements* - The amount of contribution as prescribed in clause 5.6.3 shall be adjusted to accord with movements in the applicable rate of wages as set out in this Award with the particular classification of the employee concerned. Such contribution shall be rounded off to the nearest 10c.

#### 5.6.5 *General*

- (a) The employer shall remit the contributions to the approved Fund on a monthly basis;
- (b) Eligible employees may personally make contributions to the approved fund in addition to the employer contributions prescribed by clause 5.6.3. The employer shall, at the employee's written request, make arrangements for such authorised deductions from the employee's pay to be forwarded to the administrators of the approved Fund;
- (c) No additional amount shall be charged by the employer for the establishment, administration, management or any other changes in connection with the approved Fund;
- (d) Nothing in clause 5.6 shall act to diminish the rights or responsibilities of the Trustees of an approved Fund as set out in accordance with the Deed of Trust and Rules thereto as amended from time to time.

#### 5.6.6 *Exclusions*

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 s. 223 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 a complying fund as determined by the employer. Provided that where the employer is subject to the *Superannuation (State Public Service) Act 1990* (and associated Deed, Notice and Regulation), the employer will direct contributions to such fund as prescribed by that legislation.

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

### **6.1 Hours of work**

6.1.1 Unless otherwise provided in this Award the ordinary hours of work shall be an average of 38 hours per week to be worked as follows:

- (a) 152 hours per each 4 week period; or
- (b) 160 hours per each 4 week period, with a paid day off banked per period up to a maximum of 5; or
- (c) a combination of both (a) and (b) in any one establishment.

#### 6.1.2 *Implementation*

The method of rostering such hours shall be by agreement between the employer and the majority of employees concerned subject to the particular needs of the establishment and the following conditions:

- (a) Ordinary hours are to be worked within a minimum of 4 hours and a maximum of 10 hours per day and shall be exclusive of meal breaks subject to clause 6.2:

Provided that a maximum of twelve ordinary hours may be worked subject to agreement in writing between the employer and employee concerned.

- (b) No such extended shifts shall be worked in a manner contrary to the employer's responsibilities to provide a safe and healthy work environment.
- (c) Where employees are rostered to work 4 consecutive shifts of 10 or more hours per day, such employees shall not be rostered for work on more than 4 consecutive days of such hours without a break of at least 48 hours between rostering periods.
- (d) Employees rostered to work shifts of 9 or more ordinary hours in a 4 week period shall be entitled to at least 9 full days off per period:

Provided that at least 8 days off will be allowed in any other case.

- (e) No employee shall be rostered to work for more than 10 successive days without a day off.

#### 6.1.3 *Spread of hours*

Where broken shifts are worked the spread of hours shall not exceed the ordinary hours by more than 3 hours, not including meal breaks:

Provided that in no case shall the spread of hours exceed twelve hours per day.

#### 6.1.4 *Banking of rostered days off*

Where an employee's hours are worked in accordance with clauses 6.1.1(b) and 6.1.1(c) the banked rostered days off shall be taken within twelve calendar months from the date on which the first rostered day off was accrued.

## **6.2 Breaks**

### **6.2.1 Meal breaks**

- (a) No employee shall be required to work for more than 6 hours continuously, excluding a rest pause, without an unpaid meal break of at least thirty minutes, nor more than one hour.
- (b) Where employees are required to work through their normal 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 meal break of the usual duration can be taken or until the employee ceases work for the day.
- (c) Where employees are required to work overtime for more than 2 hours beyond the rostered ceasing time they shall be provided with an adequate meal by the employer, or, in the event of the employer being unable to provide such meal, be paid an allowance of \$12.10 in lieu thereof.

### **6.2.2 Rest pauses**

- (a) All employees who work a minimum of 8 consecutive ordinary hours (excluding the meal break) on any one day shall receive a rest pause of 10 minutes' duration in the first half and the second half of the period worked.
- (b) All employees who work a minimum of 4 consecutive ordinary hours but less than 8 consecutive ordinary hours on any one day shall receive a rest pause of 10 minutes' duration.
- (c) Rest pauses shall be taken in the employer's time.
- (d) Rest pauses shall be taken at times to suit the convenience of the employers and so as not to interfere with the continuity of work where continuity is necessary.
- (e) Notwithstanding the provisions of clause 6.2.2(a), where an employee is rostered to work less than a 9 hour day and there is agreement between the employer and the majority of employees concerned, the rest pauses may be combined into one twenty minute rest pause, so that the day is divided into 3 approximately equal work periods.

### **6.2.3 Other hours of work**

Notwithstanding any other provisions in this Award, the ordinary hours of work of a particular establishment may be agreed in writing between the relevant employer association on behalf of the employer and the relevant industrial organisation on behalf of the employees.

## **6.3 Rosters**

- 6.3.1 A roster for all employees showing normal starting and finishing time and the surname and initial of each employee shall be prepared by the employer and shall be posted in a place accessible to the employee concerned. The roster shall be alterable by mutual consent at any time or in the case of full-time and part-time employees who work for a specific number of hours, pursuant to clause 4.2 (Part-time employment), by amendment with 7 days notice. The 7 days notice shall not apply to casual employees. Where practicable, 2 weeks notice of rostered days off shall be given.
- 6.3.2 The roster for all employees shall provide for a minimum of 10 hours break between the finish of ordinary hours on one day and the commencement of ordinary hours on one day and the commencement of ordinary hours on the following day.

## **6.4 Overtime**

- 6.4.1 All time worked outside, or in excess of, the ordinary hours in clause 6.1 (Hours of work), or outside of the rostered starting and ceasing times shall be deemed to be overtime.

Overtime shall be paid for at the rate of time and a-half for the first 3 hours and double time thereafter.

- 6.4.2 All time worked on an employees rostered day off shall be paid at the rate of time and one-half for the first 3 hours and double time thereafter, with a minimum as for 2 hours worked.
- 6.4.3 All time worked on Sunday shall be paid for at the rate of double time.

6.4.4 An employee who works so much overtime between the termination of ordinary work on one day and the commencement of ordinary work on the next day such that the employee has not had at least 10 consecutive hours off duty between those times shall, subject to this clause, be released after completion of such overtime until that employee has had 10 consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

If, on the instructions of the employer, such an employee resumes or continues work without having had such 10 consecutive hours off duty then that employee shall be paid double time until the employee is released from duty for such a period and the employee shall then be entitled to be absent until the employee has had 10 consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

6.4.5 Notwithstanding the provisions in clauses 6.4.1 and 6.4.2, there may be an agreement in writing between the employee and the employer to take time off with pay in lieu of payment of overtime. Such time off shall be equivalent to the number of ordinary hours pay that the employee would have received for such overtime. Accumulated time must be taken within twelve months from the time of accrual and at a time mutually agreed between the employee and the employer. Outstanding accrued overtime shall be paid at the appropriate rate in full at the time of termination, for any reason, by either party.

## **6.5 Week-end work**

Employees, other than casuals, shall be paid for all time worked within their ordinary working hours on a Saturday or Sunday at the rate of time and a-half.

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

### **7.1 Annual leave**

7.1.1 Every employee (other than a casual employee) covered by this Award shall at the end of each year of their employment be entitled to an annual leave on full pay as follows:

- (a) Not less than five weeks if employed on shift work where three shifts per day are worked over a period of seven days per week; and
- (b) Not less than four weeks in any other case.

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 pay at a rate in excess of the ordinary rate payable under this Award, at that excess rate; and
- (b) In every other case, at the ordinary rate payable to the employee concerned immediately prior to that leave under this Award.

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 forthwith pay to the employee in addition to all other amounts due, the employee's pay calculated in accordance with clause 7.1.6, for 4 weeks and also their ordinary 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 one-twelfth 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 day's 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) *Shift Workers* - Subject to clause 7.1.6(c), the rate of wage to be paid to a shift worker shall be the rate payable for work in ordinary time according to the employee's roster or projected roster, including Saturday, Sunday or holiday shifts.

- (b) *Leading Hands, Etc* - Subject to clause 7.1.6(c), Leading Hand allowances and amounts of a like nature otherwise payable for ordinary time worked shall be included in the wages to be paid to employees during annual leave.
- (c) *All Employees* - Subject to the provisions of clause 7.1.6(d), in no case shall the payment by an employer to an employee be less than the sum of the following amounts:-
  - (i) The employee's ordinary wage rate as prescribed by this Award for the period of the annual leave (excluding shift premiums and weekend penalty rates);
  - (ii) Leading Hand allowance or amounts of a like nature;
  - (iii) A further amount calculated at the rate of seventeen and one-half percent of the amounts referred to in clauses 7.1.6(a) and 7.1.6(b)
- (d) Clause 7.1.6(c) does not apply to any period or periods of annual leave exceeding:
  - (i) five weeks in the case of employees employed in a calling where three shifts per day are worked over a period of seven days per week;
  - (ii) four weeks in any other case; and
  - (iii) Employers (and their employees) who are already paying (or receiving) an annual leave bonus, loading or other annual leave payment which is not less favourable to employees.

## **7.2 Sick leave**

### *7.2.1 Entitlement*

- (a) Every employee, except casuals and school-based apprentices and trainees, is entitled to 60.8 hours' sick leave for each completed year of their employment with their employer:  
  
Provided that part-time employees accrue sick leave on a proportional basis.
- (b) This entitlement will accrue at the rate of 7.6 hours' sick leave for each 6 weeks of employment.
- (c) Payment for sick leave will be made based on the number of hours which would have been worked 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 their employer of their illness and the expected duration of their absence.

### *7.2.3 Evidence supporting a claim.*

An employee may be required to provide evidence of the illness to the employers' satisfaction. When the employee's absence is for more than two days the employee is required to give their employer a doctor's certificate about the nature and approximate duration of the illness or other evidence to the employer's satisfaction.

### *7.2.4 Accumulated sick leave*

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

- (a) The employee is absent from work on unpaid leave granted by the employer;
- (b) The employer or employee terminates the employee's employment and the employee is re-employed within 3 months;
- (c) The employee's employment is terminated because of illness or injury and the employee is re-employed by

the same employer without having been employed in the interim.

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

#### 7.2.5 *Workers' compensation*

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

### 7.3 **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 2012*.

It is to be noted that for employees other than Queensland Government employees:

7.3.1 Part-time work can be performed by agreement in the circumstances specified in the *Family Leave Award 2003*;

7.3.2 A copy of the *Family Leave Award 2003* is required to be displayed in accordance with section 697 of the Act.

7.3.3 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; and
- (h) Cultural leave.

### 7.4 **Bereavement leave**

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

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

#### 7.4.2 *Long-term casual employees*

- (a) A long-term casual employee is entitled to at least 2 days unpaid bereavement leave on the death of a member of the person's immediate family or household.
- (b) A "long-term casual employee" is a casual employee engaged by a particular employer, on a regular and systematic basis, for several periods of employment during a period of at least 1 year immediately before the employee seeks to access an entitlement under clause 7.3.2.

#### 7.4.3 "Immediate family" includes:

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

#### 7.4.4 *Unpaid leave*

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

### 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 day of January;
- Good Friday
- Easter Saturday (the day after Good Friday);
- Easter Monday;
- the 25th day of 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

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

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

7.6.3 All work done by employees in a district specified from time to time by the Minister by notification published in the Gazette on the day appointed under the *Holidays Act 1983*, to be kept as a holiday in relation to the annual agricultural, horticultural or industrial show held at the principal city or town, as specified in such notification of such district shall be paid for at the rate of double time and a-half with a minimum of 4 hours.

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

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

7.6.6 All time worked on any of the aforesaid holidays outside the ordinary starting and ceasing times prescribed by this Award for the day of the week on which such holidays fall shall be paid for at double the rate prescribed by this Award for such time when worked outside the ordinary starting and ceasing times on an ordinary working day.

7.6.7 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.

7.6.8 Any employee who works in accordance with a roster as provided for in clause 6.3 of this Award shall be paid an additional 3 hours' wages at ordinary rates when rostered off duty on any half day upon which any of the public holidays in clause 7.6.1 occur and an additional 8 hours' wages at ordinary rates when rostered off duty on any day upon which any of the aforementioned public holidays occur.

7.6.9 *Holidays in lieu* - Where an employee's day or days off coincide with any of the holidays mentioned in clause 7.6.1, such employee shall receive an additional day off for each such holiday so occurring.

This shall not apply to employees who otherwise receive payment for a half day in accordance with clause 7.6.8.

Clause 7.6.9 shall not apply in respect of any employee who works his ordinary working hours on 5 days, Monday to Friday inclusive.

7.6.10 Where a public holiday falls on a day upon which an employee would have worked a half day, the employee shall receive 3 ordinary hours pay.

7.6.11 Notwithstanding the provisions of clause 7.6, by agreement in writing between the employer and the employee, ordinary hours worked by full-time and part-time employees may be paid at the rate of time and a-half for time worked on a public holiday and the employee shall receive either time off with pay equivalent to the time worked, or have an equivalent amount of time added to that employee's annual leave. Where equivalent time off with pay is taken, such time shall be taken at a mutually agreeable time within 28 days of its accrual. Outstanding accrued time shall be paid in full at the time of termination, for any reason by either party.

## **7.7 Jury service**

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

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

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

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

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

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

### **8.1 Travelling expenses**

All employees engaged in catering work away from the employer's regular place of business shall be paid reasonable travelling expenses where the employer does not provide means of conveyance, and for all time occupied in travelling to and from such employment.

### **8.2 Transport allowance**

Where employees cease work and their usual means of transport are not available the employer shall pay any reasonable additional amount incurred by those employees in reaching home.

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

### **9.1 Training**

9.1.1 A training programme commensurate with the needs of the establishment and/or industry shall be developed by consultation between the employer and the employees consistent with:

- (a) the current and future skill needs of the enterprise;
- (b) the size, structure and nature of the operations of the enterprise;
- (c) the need to develop vocational skills relevant to the enterprise and the industry and will be, where appropriate, provided through courses conducted by accredited educational institutions and providers, accredited industry training courses, and internal company training.

9.1.2 A training programme developed in accordance with clause 9.1.1 will have objectives consistent with:

- (a) developing a more highly skilled and flexible workforce;

(b) providing employees with career opportunities through appropriate training; and

(c) meeting the needs of an enterprise and/or the industry.

9.1.3 Where it is agreed between the employer and an employee that training in accordance with the programme developed pursuant to clause 9.1.1 should be undertaken by an employee, that training may be undertaken either on or off the job:

Provided that if the training is undertaken during ordinary working hours the employee concerned shall not suffer any loss of pay.

9.1.4 Any costs associated with such training, including standard fees for prescribed courses, and prescribed textbooks, incurred in connection with the undertaking of training may be reimbursed by the employer upon production of evidence of expenditure:

Provided that reimbursement may be on an annual basis subject to the presentation of reports of satisfactory progress and/or completion of the course.

9.1.5 Travel costs incurred by an employee undertaking training in accordance with clause 9.1 which exceed those normally incurred in travelling to and from work may be reimbursed by the employer.

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

### **10.1 First aid**

In all workplaces a first aid cabinet shall be available for employees in cases of accident. Such first aid cabinet shall be kept and maintained in accordance with the provisions of the *Work Health and Safety Act 2011*, and any Code of Practice issued pursuant to *Work Health and Safety Act 2011*.

### **10.2 Uniforms**

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

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

10.2.3 Where an employer requires an employee to wear a uniform, a sufficient number of uniforms shall be provided by the employer having regard to the number and regularity of shifts worked. Such uniforms shall be replaced on a fair wear and tear basis.

10.2.4 Where uniforms are supplied, an employer may charge a deposit for the supply of such uniforms.

(a) The employer shall refund the amount of the deposit on return of uniforms at the point of termination of employment;

(b) The employer may retain the deposit if the uniforms are not returned on termination;

(c) The maximum deposit which may be charged is \$40.00 per uniform.

### **10.3 Staff amenities**

Unless otherwise provided for by this Award, all employers shall provide staff amenities as prescribed by the *Work Health and Safety Act 2011* or any Code of Practice issued pursuant to *Work Health and Safety Act 2011*.

## **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

- (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 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.

### **11.4 Union encouragement**

#### **Preamble.**

Clause 11.4 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.

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

At the point of engagement, the employer 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.

#### *11.4.2 Union delegates*

- (a) 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.
- (b) The employer shall not unnecessarily hinder accredited Union delegates and/or job representatives in the

reasonable and responsible performance of their duties.

#### 11.4.3 *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.

### 11.5 Trade union training leave

11.5.1 A Union delegate or duly elected or appointed Union representative shall, upon written application by the Union to the employer, such application being endorsed by the Union and given to the employer at least 2 months in advance (or such lesser period as mutually agreed between the Union and the 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 relevant 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.

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

11.5.3 Any written application by a 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.

11.5.4 For the purposes of clause 11.5.1 "ordinary pay" shall mean the ordinary time earnings paid to the employee exclusive of any allowances, penalty rates or travelling time and fares.

11.5.5 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 leave which an employer shall be required to grant each year will be as follows:

No. of Ordinary Hours Worked By Employees Per Week	No. of Ordinary Hours Leave Per Calendar Year
380 - 1900	38
1901 - 3800	76
3801 and Over	152

- (c) Where an employer has more than one place of employment in Queensland then 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 and dispute settling procedure contained in this Award.

11.5.6 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.

11.5.7 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.

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

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

### **SCHEDULE A - Letter of Appointment**

Schedule A to this Award is a suggested pro-forma letter which must be provided to all employees, upon engagement consistent with clause 4.1 of this Award. The employer must complete the details required, provide any other employer-specific requirement and sign the letter along with the employee. The letter should be provided on the employer's letterhead. In the case of casual employees such notification need only be supplied at the initial engagement and when that employee's employment status changes. An employer shall not be in breach of the Award if an alternate letter of appointment is used. The provision of information as required by clause 4.1.1 in a written format other than that provided herein shall not constitute a breach of the Award.

(Insert Employer 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 e.g. 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 *Hospitality Industry - Restaurant, Catering and Allied Establishments Award - South-Eastern Division 2012*. Clause 11.4 of the Award encourages you to join and maintain financial membership of the *United Voice, Industrial Union of Employees, Queensland*.

### **NATURE OF EMPLOYMENT**

Salaried, full-time, part-time or casual? (please circle)	Salaried Full-time Part-time Casual Partial Exemption - Level A Partial Exemption - Level B
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 overaward payment or partial exemption loading if applicable)?	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 employees, hours of work may change according to a roster or by mutual agreement and for part-time and for casual employees in particular, 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 hour's notice or pay in lieu.

**Signed (Employer):** \_\_\_\_\_

**Signed (Employee):** \_\_\_\_\_

**Date:**

**SCHEDULE B - Application for Casual Conversion to Permanent**

- (a) (i) This schedule only applies to a regular casual employee.
- (ii) A regular casual employee means a casual employee who is employed by an employer on a regular and systematic basis for several periods of employment or on a regular and systematic basis for an ongoing period of employment during a period of at least twelve months.
- (b) A regular casual employee who has been engaged by a particular employer for at least twelve months, may elect (subject to the provisions of this Schedule) to have his or her contract of employment converted to full-time or regular part-time employment.
  - (i) An employee who has averaged at least 38 hours per week over an agreed work cycle in the period of twelve months' casual employment may elect to have his or her employment converted to full-time employment.
  - (ii) An employee who has averaged less than 38 hours per week over an agreed work cycle in the period of twelve months' casual employment may elect to have his or her employment converted to regular part-time employment as provided in clause 4.2.

- (iii) Where a regular casual employee seeks to convert to full-time or regular part-time employment, the employer may consent to the application, or may refuse the application, but only on reasonable grounds. In considering a request, the employer may have regard to any of the following factors:
- the size and needs of the workplace or enterprise;
  - the nature of the work the employee has been doing;
  - the qualifications, skills, and training of the employee;
  - the trading patterns of the workplace or enterprise (including cyclical and seasonal trading demand factors);
  - the employee's personal circumstances, including any family responsibilities; and
  - any other relevant matter.
- (c) Where it is agreed that a regular casual employee will have his or her employment converted to full-time or regular part-time employment as provided for in Schedule B, the employer and employee must discuss and agree upon:
- (i) to which form of employment the employee will convert - that is, full-time or regular part-time employment; and
  - (ii) if it is agreed that the employee will become a regular part-time employee, the matters referred to in clause 4.2 of this Award.
- (d) Despite clause 4.2.4 of this Award, where a regular casual employee is engaged for a two hour minimum shift pursuant to clause 4.3.4 of this Award, the employer and employee may agree that the employee will convert to regular part-time employment as provided for in this schedule for a minimum of two consecutive hours on any shift. However, nothing in this clause requires an employer to convert a casual employee working two hour shifts to regular part time employment
- (e) The date from which the conversion will take effect is the commencement of the next pay cycle following such agreement being reached unless otherwise agreed.
- (f) Once a regular casual employee has converted to full-time or regular part-time employment, the employee may only revert to casual employment with the written agreement of the employer.
- (g) An employee must not be engaged and/or re-engaged (which includes a refusal to re-engage) to avoid any obligation under this Award.
- (h) Nothing in Schedule B obliges a casual employee to convert to full-time or regular part-time employment, nor permits an employer to require a casual employee to so convert.
- (i) Nothing in Schedule B requires an employer to convert the employment of a regular casual employee to full-time or regular part-time employment if the employee has not worked for twelve months in a particular establishment in a particular classification stream.
- (j) Nothing in Schedule B requires an employer to increase the hours of a regular casual employee seeking conversion to full-time or regular part-time employment.
- (k) Any dispute about a refusal of an election to convert a contract of employment or about the matters referred to in clause (b) of Schedule B must be dealt with in accordance with the provisions of clause 3.2 - Grievance and dispute settling procedure.
- (l) Eligible employees who convert their employment under the provisions of Schedule B may do so from 1 July 2005. Service with the same employer prior to 1 July 2005 will be taken into account for the purposes of any such election. Any dispute arising about the application of this Schedule B between the date of this amendment and 1 July 2005 may be referred to the Commission for resolution.

Dated 10 May 2012.

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

Operative Date: 10 May 2012