

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

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

**JAM, PRESERVED FRUIT AND VEGETABLE PROCESSING AWARD - SOUTHERN DIVISION  
(EASTERN DISTRICT) - 2002**

Pursuant to s. 698 of the *Industrial Relations Act 1999* the Jam, Preserved Fruit and Vegetable Processing Award - Southern Division (Eastern District) - 2002 with all amendments as at 10 December 2009, is hereby reprinted.

I hereby certify that the Award contained herein is a true and correct copy of Jam, Preserved Fruit and Vegetable Processing Award - Southern Division (Eastern District) - 2002 as at 10 December 2009.

Dated 10 December 2009.

G.D. Savill  
Industrial Registrar

**JAM, PRESERVED FRUIT AND VEGETABLE PROCESSING AWARD - SOUTHERN DIVISION  
(EASTERN DISTRICT) - 2002**

**PART 1 - APPLICATION AND OPERATION**

**1.1 Title**

This Award is known as the Jam, Preserved Fruit and Vegetable Processing Award - Southern Division (Eastern District) - 2002.

**1.2 Arrangement**

Subject Matter	Clause No.
<b>PART 1 - APPLICATION AND OPERATION</b>	
Title	1.1
Arrangement	1.2
Application of Award	1.3
Operation of Award	1.4
Parties bound	1.5
Definitions	1.6
<b>PART 2 - FLEXIBILITY</b>	
Enterprise flexibility	2.1
<b>PART 3 - COMMUNICATION, CONSULTATION AND DISPUTE RESOLUTION</b>	
Conciliation committee	3.1
Grievance and dispute settling procedure	3.2
<b>PART 4 - EMPLOYER AND EMPLOYEES' DUTIES, EMPLOYMENT RELATIONSHIP AND RELATED ARRANGEMENTS</b>	
Contract of employment	4.1
Part-time employment	4.2
Casual employment	4.3
Trainees	4.4
Flexibility of work	4.5
Anti-discrimination	4.6
Termination of employment	4.7
Introduction of changes	4.8

Subject Matter	Clause No.
Redundancy	4.9
Transmission of Business - Continuity of service	4.10
 <b>PART 5 - WAGES AND WAGE RELATED MATTERS.</b>	
Classification definitions	5.1
Wages	5.2
Allowances	5.3
Two classes of work	5.4
Payment of wages	5.5
Superannuation	5.6
 <b>PART 6 - HOURS OF WORK, BREAKS, OVERTIME, SHIFT WORK, WEEKEND WORK</b>	
Hours of work	6.1
Implementation of 38 hour week	6.2
38 Hour Week - Procedures for enterprise level discussions	6.3
38 Hour Week - Preservation of pre-existing arrangements	6.4
Overtime and Sunday work	6.5
Meal hours and rest pauses	6.6
Time of starting	6.7
 <b>PART 7 - LEAVE OF ABSENCE AND PUBLIC HOLIDAYS</b>	
Annual leave	7.1
Sick leave	7.2
Bereavement leave	7.3
Family leave	7.4
Long service leave	7.5
Public holidays	7.6
Jury service	7.7
 <b>PART 8 - TRANSFERS TRAVELLING AND WORKING AWAY FROM USUAL PLACE OF WORK</b>	
NOTE: No provisions inserted in this Award relevant to this Part.	
 <b>PART 9 - TRAINING AND RELATED MATTERS</b>	
Training	9.1
 <b>PART 10 - OCCUPATIONAL HEALTH AND SAFETY MATTERS, EQUIPMENT, TOOLS AND AMENITIES</b>	
First aid	10.1
Protective clothing and equipment	10.2
Hot and cold drinking water	10.3
 <b>PART 11 - AWARD COMPLIANCE AND UNION RELATED MATTERS</b>	
Right of entry	11.1
Time and wages record	11.2
Union Encouragement	11.3
Union facilities	11.4
Trade union training leave	11.5
List of employers exempt from the provisions of the 38 Hour Week	Schedule 1

### **1.3 Application of Award**

This Award shall apply to all employees and their employers engaged in the preparation, processing, preserving or manufacturing of jam, preserved fruit, fresh fruit, ginger, jellies, candied peel, preserved and fresh vegetables and shall include the deep freezing and/or cold storage of such products in any factory where such products are processed, except Superintendents at any factory, comprised within the following boundaries - That portion of the State along or east of a line commencing at the junction of the southern border of the State within 150 degrees of east longitude; then by that meridian of longitude due north to 25 degrees of south latitude; then by that parallel of latitude due west to 147 degrees of east longitude; then by that meridian of longitude due north to 22 degrees south latitude and thence by that parallel of latitude due east to the sea-coast.

## **1.4 Operation of Award**

This Award takes effect from 23 December 2002.

## **1.5 Parties bound**

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

## **1.6 Definitions**

- 1.6.1 The "Act" means the *Industrial Relations Act 1999* as amended or replaced from time to time.
- 1.6.2 "Bottling Operator" means an employee who operates a machine for the bottling of fruit juices.
- 1.6.3 "Casual Hand" means any person engaged by the hour who may be put off or leave the employer's services at any moment without notice.
- 1.6.4 "Cleaner" means an employee who is engaged in general cleaning of factory plant and equipment outside normal factory hours and may be required to work 8 consecutive hours in 24 exclusive of a meal break of not less than forty minutes at a time to be mutually agreed between the Union and the employer.
- 1.6.5 "Commission" means the Queensland Industrial Relations Commission.
- 1.6.6 "Double Time" means wages at the rate of one day's wage in addition to the ordinary weekly rate payable or *pro rata* if more or less than a day.
- 1.6.7 "Ginger Briner in Charge" means the person who is responsible for the admixture of ingredients to a formula and the processing of brined ginger. The definition shall not apply to an employee in the ginger department of a factory doing manual work or adding ingredients and whose work does not entail responsibility for the condition of the ginger.
- 1.6.8 "Junior" means any employee under the age of 19 years.
- 1.6.9 "Person in Charge" means an employee appointed to supervise or direct other employees.
- 1.6.10 "Processing of Fresh Fruit" means the removing of stems from strawberries, peel from fresh fruit, and general preparing of fresh fruit for cooking, preserving, freezing, cold storage or disposed of as prepared fresh fruit.
- 1.6.11 "Senior" means any employee 19 years of age or over engaged in the processing of fruit, vegetables, jams, fruit juices, and similar products, including inspection, peeling, trimming, sorting, feeding machines, packing into containers, or work of a like nature.
- 1.6.12 "Superintendents" are persons who supervise and co-ordinate a production line or section, but who are not engaged in any physical work whatsoever. The names of those persons shall be forwarded to the Union office for record.
- 1.6.13 "Time and a-Half" means wages at the rate of half a day's wage in addition to the ordinary weekly rate payable or *pro rata* if more or less than a day.
- 1.6.14 "Union" means The National Union of Workers Industrial Union of Employees Queensland.

## **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 an 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 terms of this Award may provide an appropriate mechanism for consideration of matters relevant to clause 2.1.1. Union delegates at the place of work may be involved in such discussions.
- 2.1.3 Any proposed genuine agreement reached between an employer and employee/s in any enterprise is contingent upon the agreement being submitted to the Commission in accordance with the requirements of the Act and is to have no force or effect until approval is given.

## **PART 3 - COMMUNICATION, CONSULTATION AND DISPUTE RESOLUTION**

### **3.1 Conciliation committee**

In order to secure the greatest possible measure of joint action for the harmonious working of this Award, there shall be a joint committee, consisting of up to five representatives of the Union, and an equal number of representatives from the employers (called the respondents). This committee shall meet as occasion requires at a place to be arranged within twenty-four hours of either the Union or the respondents giving notice in writing one to the other setting out the matters in dispute. All decisions of the committee which affect Award provisions shall be notified in writing to the Commission. In the event of the committee being unable to agree the matter may be referred by either party to the Commission.

### **3.2 Grievance and dispute settling procedure**

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

- 3.2.1 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 listed 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 organisation of employees and the senior management of the employer or the employer's nominated Industrial representative. An employee who is not a member of a 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 in accordance with the relevant industrial relations legislation applicable from time to time.
- 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 shall give due consideration to matters raised or any suggestion or recommendation made by an Industrial Commissioner with a view to the prompt settlement of the dispute.
- 3.2.9 Any Order of the Queensland Industrial Relations 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 relevant industrial relations legislation applicable from time to time.

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

### **4.1 Contract of employment**

4.1.1 Employees covered by this Award shall be advised in writing of their employment category upon appointment.

Employment categories are:

- (a) full-time;
- (b) part-time (as defined in clause 4.2); or
- (c) casual (as defined in clause 4.3).

## **4.2 Part-time employment**

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

4.2.1 A part-time employee is an employee who:-

- (a) is employed for not less than 15 hours per week and for not more than 38 ordinary hours per week;
- (b) is rostered for a minimum of 4 consecutive hours on any shift or day; and
- (c) is rostered to work regular hours on regular days in accordance with the Award provisions for permanent employees.

4.2.2 At the time of engagement the employer and the part-time employee will agree in writing the number of ordinary hours to be worked each week. For the purpose of determining the regularity or otherwise of the hours, the parties may agree to averaging ordinary hours over a period of four weeks.

4.2.3 Any agreed variation to the number of ordinary weekly hours worked will be recorded in writing.

4.2.4 A roster for all employees showing normal starting and finishing times and the surname and initial of each employee shall be prepared by the employer and shall be posted 7 days in advance in a place accessible to the employee concerned. The roster shall be alterable by mutual consent at any time or in the case of full-time and part-time employees who work for a specific number of hours pursuant to clause 6.1 (Hours of Work), by amendment with seven days notice.

4.2.5 Such roster shall show the starting and ceasing times and the days upon which an employee is engaged to work as well as the number of hours to be worked each week to suit the exigencies of the establishment:

Provided that:

- (a) Part-time employees will be entitled to predictability and regularity of hours in their employment.
- (b) Wherever practical and possible rosters shall not be changed from week to week, or fortnight to fortnight,

4.2.6 All time worked outside of the ordinary daily and weekly hours specified in the employee's roster will be overtime and paid for at the rates prescribed in clause 6.5 - Overtime.

4.2.7 A part-time employee employed under the provisions of 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 A part-time employee will receive, on a *pro rata* basis, equivalent pay and conditions to those of full-time employees.

4.2.9 Where a public holiday falls on a day upon which an employee is normally employed, that employee shall be paid the appropriate rate for the number of hours normally worked on that day. An employee's regular roster will not be altered to avoid this obligation.

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

4.2.11 Subject to the provisions contained in clause 4.2, all other provisions of the Award relevant to weekly employees shall apply to part-time employees.

4.2.12 *Rest Pauses*

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

work a minimum of 4 consecutive ordinary hours on any day (but less than 7.6 ordinary hours) shall be entitled to one rest pause of 10 minutes duration in the employer's time.

### **4.3 Casual employment**

- 4.3.1 A casual may be employed on any day for a period of eight hours at the rate specified herein plus the addition of 23%. All time worked in excess of eight hours on any one day shall be considered overtime and shall be paid for at the rate of Time and a-Half for the first three hours and Double Time thereafter.
- 4.3.2 Work performed (up to a period not exceeding eight hours) on Saturday and Sunday shall not be regarded as overtime for casual employees unless and until the casual employee has been required to work two or more days in any week, Monday to Friday.
- 4.3.3 When any casual employee has worked on any two days during the week Monday to Friday, such employee shall be paid in respect of Saturday at the rate of Time and a-Half for the first three hours and Double Time thereafter, and in respect to Sundays at the rate of Double Time.

### **4.4 Trainees**

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

### **4.5 Flexibility of work**

- 4.5.1 Employees within each classification are to perform a wider range of duties including work which is incidental or peripheral to their main tasks or functions.
- 4.5.2 An employer may direct an employee to carry out such duties as are within the limits of the employee's skill, competence and training consistent with the classification structure of this Award, provided that such duties are not designed to promote deskilling.
- 4.5.3 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 this subclause shall be consistent with the employer's responsibilities to provide a safe and healthy working environment.

### **4.6 Anti-discrimination**

- 4.6.1 It is the intention of the parties to this Award to prevent and eliminate discrimination as defined by the *Anti-Discrimination Act 1991* and the *Industrial Relations Act 1999* which includes-
- (a) discrimination on the basis of sex, marital status, family responsibilities, pregnancy, parental status, age, race, impairment, religion, political belief or activity, trade union activity, lawful sexual activity and association with, or relation to, a person identified on the basis of the above attributes.
  - (b) sexual harassment; and,
  - (c) racial and religious vilification.
- 4.6.2 Accordingly in fulfilling their obligations under the disputes avoidance and settling clause, the parties to the Award must take reasonable steps to ensure that neither the Award provisions nor their operation are directly or indirectly discriminatory in their effects.
- 4.6.3 Under the *Anti-Discrimination Act 1991* it is unlawful to victimise an employee because the employee has made or may make or has been involved in a complaint of unlawful discrimination or harassment.
- 4.6.4 Nothing in clause 4.6 is to be taken to affect-
- (a) any different treatment (or treatment having different outcomes) which is specifically exempted under the *Anti-Discrimination Act 1991*;
  - (b) an employee, employer or registered organisation, pursuing matters of discrimination, including by application to the Human Rights and Equal Opportunity Commission/Anti-Discrimination Commission Queensland.

### **4.7 Termination of employment**

- 4.7.1 *Statement of employment*

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

#### 4.7.2 *Termination by employer*

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

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

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

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

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

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

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

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

#### 4.7.3 *Notice of termination by employee*

The notice of termination required to be given by an employee shall be one week. If an employee fails to give notice the employer shall have the right to withhold monies due to the employee with a maximum amount equal to the ordinary time rate for the period of the notice.

#### 4.7.4 *Time off during notice period*

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

### **4.8 Introduction of changes**

#### 4.8.1 *Employer's duty to notify*

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

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

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

- (a) The employer shall consult the employees affected and, where relevant, their Union or Unions about the introduction of the changes, the effects the changes are likely to have on employees (including the number and categories of employees likely to be dismissed, and the time when, or the period over which, the employer intends to carry out the dismissals), and the ways to avoid or minimise the effects of the changes (e.g. by finding alternative employment).
- (b) The consultation must occur as soon as practicable after making the decision referred to in clause 4.8.1.
- (c) For the purpose of such consultation the employer shall provide in writing to the employees concerned and, where relevant, their Union or Unions, all relevant information about the changes including the nature of the changes proposed, the expected effects of the changes on employees, and any other matters likely to affect employees:

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

## **4.9 Redundancy**

### *4.9.1 Consultation before terminations*

- (a) Where an employer decides that the employer no longer wishes the job the employee has been doing to be done by anyone, and this is not due to the ordinary and customary turnover of labour, and that decision may lead to termination of employment, the employer shall consult the employee directly affected and where relevant, their Union or Unions.
- (b) The consultation shall take place as soon as it is practicable after the employer has made a decision, which will invoke the provisions of clause 4.9.1(a) and shall cover the reasons for the proposed terminations, measures to avoid or minimise the terminations and/or their adverse effects on the employees concerned.
- (c) For the purpose of the consultation the employer shall, as soon as practicable, provide in writing to the employees concerned and, where relevant, their Union or Unions, all relevant information about the proposed terminations including the reasons for the proposed terminations, the number and categories of employees likely to be affected, the number of workers normally employed and the period over which the terminations are likely to be carried out:

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

### *4.9.2 Transfer to lower paid duties*

- (a) Where an employee is transferred to lower paid duties for reasons set out clause 4.9.1 the employee shall be entitled to the same period of notice of transfer as the employee would have been entitled to if the employee's employment had been terminated under clause 4.7.
- (b) The employer may, at the employer's option, make payment in lieu thereof of an amount equal to the difference between the former amounts the employer would have been liable to pay and the new lower amount the employer is liable to pay the employee for the number of weeks of notice still owing.
- (c) The amounts must be worked out on the basis of:
  - (i) the ordinary working hours to be worked by the employee; and
  - (ii) the amounts payable to the employee for the hours including for example, allowances, loadings and penalties; and
  - (iii) any other amounts payable under the employee's employment contract.

### *4.9.3 Transmission of business*

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

- (b) In clause 4.9.3, 'business' includes trade, process, business or occupation and includes a part or subsidiary (which means a corporation that would be taken to be a subsidiary under the Corporations Law, whether or not the Corporations Law applies in the particular case) of any such business and 'transmission' includes transfer, conveyance, assignment or succession whether by agreement or by operation of law and 'transmitted' has a corresponding meaning.

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

- (a) *Where a decision has been made to terminate an employee in the circumstances outlined in clause 4.9.1, the employee shall be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment.*
- (b) If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee shall, at the request of the employer, be required to produce proof of attendance at an interview or the employee shall not receive payment for the time absent. For this purpose a statutory declaration will be sufficient.

#### 4.9.5 *Notice to Centrelink*

Where a decision has been made to terminate employees in the circumstances outlined in clause 4.9.1, the employer shall notify Centrelink as soon as possible giving all relevant information about the proposed terminations, including a written statement of the reasons for the terminations, the number and categories of the employees likely to be affected, the number of workers normally employed and the period over which the terminations are intended to be carried out.

#### 4.9.6 *Severance pay*

- (a) In addition to the period of notice prescribed for ordinary termination in clause 4.7.2(a), and subject to further order of the Commission, an employee whose employment is terminated for reasons set out in clause 4.9.1(a), shall be entitled to the following amounts of severance pay:

Period of Continuous Service	Severance Pay (weeks' pay)
Less than 1 year	nil
1 year but not more than 2 years	4
More than 2 years but not more than 3 years	6
More than 3 years but not more than 4 years	7
More than 4 years but not more than 5 years	8
More than 5 years but not more than 6 years	9
More than 6 years but not more than 7 years	10
More than 7 years but not more than 8 years	11
More than 8 years but not more than 9 years	12
More than 9 years but not more than 10 years	13
More than 10 years but not more than 11 years	14
More than 11 years but not more than 12 years	15
More than 12 years	16

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

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

#### 4.9.7 *Superannuation benefits*

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

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

#### 4.9.8 *Employee leaving during notice*

An employee whose employment is terminated for reasons set out in clause 4.9.1(a), may terminate such employment during the period of notice, and, if so, shall be entitled to the same benefits and payments under this clause had such employee remained with the employer until the expiry of such notice:

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

#### 4.9.9 *Alternative employment*

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

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

Clause 4.9 shall not apply to employees with less than one year's continuous service and the general obligation on employers should be no more than to give relevant employees an indication of the impending redundancy at the first reasonable opportunity, and to take such steps as may be reasonable to facilitate the obtaining by the employees of suitable alternative employment.

#### 4.9.11 *Employees exempted*

Clause 4.9 shall not apply:

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

(\*A reference to seasonal employees, or employees engaged by the hour or day, may be included where such employees are a feature of the Award.)

#### 4.9.12 *Employers exempted*

- (a) Subject to an order of the Commission, in a particular redundancy case, clause 4.9 shall not apply to an employer including a company or companies that employ employees working a total of fewer than 550 hours on average per week, excluding overtime, Monday to Sunday. The 550 hours shall be averaged over the previous 12 months.
- (b) A 'company' shall be defined as:
  - (i) a company and the entities it controls; or
  - (ii) a company and its related company or related companies; or
  - (iii) a company where the company or companies has a common Director or common Directors or a common shareholder or common shareholders with another company or companies.

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

- (a) The provisions of clause 4.9.6 are not applicable where a business is before or after the date of the insertion of this clause into the Award, transmitted from an employer (transmittor) to another employer (transmittee), in any of the following circumstances:
  - (i) where the employee accepts employment with the transmittee which recognises the period of continuous service which the employee had with the transmittor, and any prior transmittor, to be continuous service of the employee with the transmittee; or
  - (ii) where the employee rejects an offer of employment with the transmittee:
    - (A) in which the terms and conditions are substantially similar and no less favourable, considered on an overall basis, than the terms and conditions applicable to the employee at the time of ceasing employment with the transmittor; and
    - (B) which recognises the period of continuous service which the employee had with the transmittor and any prior transmittor to be continuous service of the employee with the transmittee.
- (b) The Commission may amend clause 4.9.13(a)(ii) if it is satisfied that it would operate unfairly in a particular case, or in the instance of contrived arrangements.

#### 4.9.14 *Incapacity to pay*

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

#### **4.10 Transmission of Business - Continuity of service**

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

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

#### **5.1 Classification definitions**

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

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

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

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

Skills/duties - A manufacturing/production worker level 1 -

- (a) performs routine duties associated with the relevant manufacturing process including labouring and cleaning duties;
- (b) exercises minimal judgement;
- (c) works under direct supervision in the following functions:
  - performs house keeping duties;
  - assists machine operators;
  - performs basic test functions;
  - operates hand operated transport and lifting devices;
  - uses selected hand tools;
  - maintains simple records;
  - process worker during induction period learning processing skills.

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

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

An employee at this level performs above and beyond the skills of an employee at MP1 level or has completed an Australian Traineeship System Traineeship.

Skills/duties - A manufacturing/production worker level 2 -

- (a) works under direct supervision either individually or in a team environment;
- (b) understands and undertakes basic quality control/assurance procedures including the ability to recognise basic quality deviation/faults.
- (c) Indicative of the tasks which an employee at this level may perform are the following:-
  - performs repetitive work on automatic, semi-automatic or single purpose machines or equipment;
  - assembles components using basic written, spoken and/or diagrammatic instructions in an assembly environment;

- measures accurately using gauges and records;
- maintains records;
- operates machinery that requires basic set up skills;
- process worker having completed induction phase.

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

An employee at this level performs work above and beyond the skills of an employee at MP2 and to the level of their training for this level including appropriate certification.

Skills/duties - A manufacturing/production worker level 3 -

- (a) is responsible for the quality of own work subject to detailed direction;
- (b) works in a team environment and/or under routine supervision;
- (c) undertakes duties in a safe and responsible manner;
- (d) exercises discretion within the employee's level of skills and training;
- (e) possesses basic interpersonal and communication skills.
- (f) Indicative of the tasks which an employee at this level may perform are the following:-
  - operates with flexibility between assembly/process stations;
  - operates machinery and equipment requiring the exercise of skills knowledge and discretion beyond that of an employee at level MP2;
  - basic tracing and sketching skills;
  - receives, despatches, distributes, sorts, checks, packs (other than repetitive packing in a standard container or containers in which such are ordinarily sold), documents and records details relating to goods, materials and components;
  - basic inventory control in the context of a production process;
  - basic keyboard skills;
  - measures accurately using gauges and meters;
  - maintains records;
  - operates mixing and milling machines or similar machinery requiring set-up skills;
  - battling operator;
  - foreman packers assistant;
  - foreman pulp department;
  - candy peel maker in charge.

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

An employee at this level performs work above and beyond the skills of an employee at MP3 level and to the level of their training for this level including appropriate certification.

Skills/duties - A manufacturing/production worker level 4 -

- (a) is able to understand detailed instructions and work from procedures;
- (b) is able to co-ordinate work in a team environment under limited supervision;

- (c) is responsible for quality of own work;
- (d) possesses sound interpersonal and communication skills;
- (e) operates mobile equipment including forklifts, hand trolleys, pallet trucks and overhead cranes;
- (f) foreman, first jam boiler;
- (g) foreman, packer in charge of packing and despatch department.

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

An employee at this level performs work above and beyond the skills of an employee at MP4 level and to their training for this level including appropriate certification.

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

- (a) understands and is responsible for quality control standards;
- (b) possesses an advanced level of interpersonal and communication skills;
- (c) possesses competent keyboard skills;
- (d) has a sound working knowledge of production/manufacturing duties performed at levels below this grade, exercises discretion within scope of this grade;
- (e) may perform work requiring minimal supervision either individually or in a team environment.

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

A manufacturing/production worker level 6 works above and beyond an employee at MP5 level and to the level of their training, applies the skills acquired through the successful completion of a qualification in the production, distribution, or stores functions according to the needs of the enterprises.

Skills/duties - A manufacturing/production worker level 6 -

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

## 5.2 **Wages**

5.2.1 *Seniors* - The minimum rates of wages payable to the following classes of employees shall be:

Classification Level	Relativity % (Note 2)	Award Rate Per Week (Note 1) \$
Manf/Prod 1	78	571.00
Manf/Prod 2	82	584.90
Manf/Prod 3	87.4	607.40
Manf/Prod 4	92.4	628.30
Manf/Prod 5	96	643.30
Manf/Prod 6	100	662.00

NOTE 1: Manf/Prod 1 includes excess payment of \$2.80.

NOTE 2: The percentage relativities column relates to percentages applying before the application of the \$8.00 arbitrated safety net adjustment made in accordance with the February 1994 Review of Wage Fixing Principles. The percentage relativities are based on a base rate and supplementary payment totalling \$417.20 per week. The percentage relativities column should also be applied by excluding amounts shown in the 'Excess Payment' column in any calculations of relativities.

All employees engaged in peeling or trimming pineapples by hand shall be paid in addition to the rate prescribed 10 cents per day or part of a day whilst so engaged.

	Percentage of minimum adult rate Per Week %
5.2.2 <i>Juniors -</i>	
Under 16 years of age	45
16 years and under 17 years of age	50
17 years and under 18 years of age	60
18 years and under 19 years of age	75

Note - Junior rates shall be calculated in multiples of ten cents with any result of five cents or more being taken to the next highest ten cent multiple.

The rates of pay in this Award are intended to include the arbitrated wage adjustment payable under the 1 September 2009 Declaration of General Ruling and earlier Safety Net Adjustments and arbitrated wage adjustments. This arbitrated wage adjustment may be offset against any equivalent amount in rates of pay received by employees whose wages and conditions of employment are regulated by this Award which are above the wage rates prescribed in the Award. Such payments include wages payable pursuant to certified agreements, currently operating enterprise flexibility agreements, Queensland workplace agreements, award amendments to give effect to enterprise agreements and overaward arrangements. Absorption which is contrary to the terms of an agreement is not required.

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

### **5.3 Allowances**

#### *5.3.1 Deep freeze and/or cold storage plant*

When an employee is working in the deep freeze and/or cold storage plant such employee shall be paid 10% in addition to the appropriate classification for each hour whilst so engaged, with a minimum payment of 4 hours for each day.

#### *5.3.2 Unloading coal*

Employees engaged in unloading coal shall be paid 17.25c per hour extra while so engaged with a minimum payment of 36c.

#### *5.3.3 Carrying heavy articles*

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

### **5.4 Two classes of work**

An employee engaged for more than four hours during one day or shift on duties carrying a higher rate than their ordinary classification shall be paid the higher rate for such day or shift. If for four hours or less during one day or shift the employee shall be paid the higher rate for the time worked at the higher duty.

### **5.5 Payment of wages**

5.5.1 All wages, including overtime, shall be paid during working hours on Friday and shall be up to and including the previous Wednesday:

Provided that a casual employee shall be paid in the employer's time when the employee's services are being dispensed with.

Provided that where mutually agreed between an employer and a majority of employees wages may be paid weekly or fortnightly by Electronic Funds Transfer directly into the employee's nominated financial institution account.

- 5.5.2 Employers covered by existing 2nd Tier/Restructuring and Efficiency Orders shall remain unaffected by clause 5.5.1.

## **5.6 Superannuation**

- 5.6.1 *Application* - In addition to the rates of pay prescribed by this Award, eligible employees, as defined, shall be entitled to occupational superannuation benefits, subject to the provisions of clause 5.6.

### *5.6.2 Contributions*

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

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

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

### *5.6.3 Definitions*

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

as a consequence of the termination of employment, annual leave loading, penalty rates for public holiday work, fares and travelling time allowances or any other extraneous payments of a like nature.

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

- (a) The Labour Union Co-operative Retirement Fund - L.U.C.R.F.
- (b) Sunsuper
- (c) Any named fund as is agreed to between the relevant employer/Union(s) parties to this Award and as recorded in an approved Industrial Agreement.
- (d) In the case of a minority group of employees of a particular employer, any industry, multi-industry or other fund which has been approved in an award or an agreement approved by an Industrial Tribunal whether State or Federal jurisdiction and already had practical application to the majority of award employees of that employer.
- (e) As to employees who belong to the religious fellowship known as the Brethren, who hold a certificate issued pursuant to section 115 of the Act and are employed by an employer who also belongs to that fellowship any fund nominated by the employer and approved by the Brethren.
- (f) Any fund agreed between an employer and an employee who holds a certificate issued pursuant to section 115 of the Act where membership of a fund cited in this Award would be in conflict with the conscientious beliefs of that employee in terms of section 115 of the Act.
- (g) In relation to any particular employer, any other established fund to which that employer was already actually making regular and genuine contributions in accordance with clause 5.6.2 on behalf of at least a significant number of that employer's employees covered by this Award as at 29 September 1989 and continues to make such contribution.
- (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 "grievance and dispute settlement procedure" in this Award.

5.6.5 *Challenge of a fund*

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

5.6.6 *Fund selection*

- (a) No employer shall be required to make or be prevented from making, at any one time, contributions into more than one approved fund. Such fund, other than a fund referred to in clause 5.6.4(d)(e)(f) and (g) shall be determined by a majority decision of employees.
- (b) Employees to whom these provisions apply who are members of an established fund covered by clause 5.6.4(g) shall have the right by majority decision to choose to have the contributions specified in clause 5.6.2

paid into a fund as provided for elsewhere in clause 5.6.4 in lieu of the established fund to which clause 5.6.4(g) has application.

- (c) The initial selection of a fund recognised in clause 5.6.4 shall not preclude a subsequent decision by the majority of employees in favour of another fund recognised under that clause where the long term performance of the fund is clearly disappointing.
- (d) Where this provision has been utilised and as a result another approved fund is determined, access to a further re-appraisal of the fund for the purpose of favouring yet another fund shall not be available until a period of 3 years has elapsed after that utilisation of this provision.

#### 5.6.7 *Enrolment*

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

#### 5.6.8 *Unpaid contributions*

Subject to section 393 of the Act and to clause 5.6.5, where the discretion of the Commission has been exercised, should it be established that the employer has failed to comply with the requirements of clause 5.6.2 in respect of any eligible employee such employer shall be liable to make the appropriate contributions retrospectively to the date of eligibility of the employee, plus an amount equivalent to the rate of return those contributions would have attracted in the relevant approved fund, or as necessary a fund to be determined by the Commission under clause 5.6.4, had they been paid on the due dates.

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

#### 5.6.9 Exemptions

- (a) An employer may apply to the Commission for exemption from all or any of the provisions of clause 5.6 in the following circumstances:-
  - (i) Incapacity to pay the costs associated with its implementation; or
  - (ii) Any special or compelling circumstances peculiar to the business of the employer.
- (b) Clause 5.6 does not apply to the Broken Hill Proprietary Company Ltd. or Tubemakers of Australia Ltd. or any corporation which is a related corporation within the meaning of the Companies (Queensland) Code of either the Broken Hill Proprietary Company Ltd. or Tubemakers of Australia Ltd.
- (c) Clause 5.6 shall not apply to Crown employees where the Government Officers Superannuation Scheme (Gosuper) is mandatory for eligible employees of the Crown and other instrumentalities in accordance with the *Superannuation (Government and other Employees) Act 1988*.

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

### **6.1 Hours of work**

- 6.1.1 Subject to clause 6.2 (Implementation of 38 hour week), and subject to the exceptions hereinafter provided, the ordinary hours of work shall be an average of 38 per week, to be worked on one of the following bases:
- (a) 38 hours within a work cycle not exceeding seven consecutive days; or
  - (b) 76 hours within a work cycle not exceeding fourteen consecutive days; or
  - (c) 114 hours within a work cycle not exceeding twenty-one consecutive days; or
  - (d) 152 hours within a work cycle not exceeding twenty-eight consecutive days.
- 6.1.2 The ordinary hours of work prescribed may be worked on any five consecutive days in the week, Monday to Saturday inclusive, subject to the following:
- (a) ordinary hours worked on a Saturday shall be paid at the appropriate weekend overtime rate specified in clause 6.5 (Overtime and Sunday work).
  - (b) any arrangement of hours which includes a Saturday as ordinary hours shall be subject to agreement between the employer and the majority of employees concerned.
- 6.1.3 The ordinary hours of work prescribed in clause 6.1 shall be worked continuously, except for meal breaks and rest pauses, between 6.00 a.m. and 6.00 p.m. The spread of hours prescribed in clause 6.1 may be altered as to all or a section of employees provided there is agreement between the employer and the majority of employees concerned:

Provided further that work done outside the hours of 6.00 a.m. to 6.00 p.m. shall be paid at overtime rates and will be deemed to be part of the ordinary hours of work for the purposes of this subclause.

- 6.1.4 The ordinary starting and finishing times of various groups of employees or individual employees, may be staggered, provided that there is agreement between the employer and the majority of employees concerned.

- 6.1.5 The ordinary hours of work prescribed herein except for meal breaks and rest pauses shall not exceed 10 hours on any day:

Provided that where the ordinary working hours are to exceed 8 on any one day, the arrangement of hours shall be subject to the agreement of the employer and the majority of employees concerned.

- 6.1.6 Employees are required to observe the nominated starting and finishing times for the work days, including designated breaks to maximise available working time. Preparation for work and cleaning up of the employee's person shall be in the employee's time.
- 6.1.7 Not less than thirty minutes and not more than one hour shall be allowed for the midday meal on each day from Monday to Friday and such meal break shall be between the 4th and the 6th hour after commencement of work as may be arranged between the employer and the majority of employees concerned.
- 6.1.8 All work done during the recognised meal period shall be paid for at the rate of Double Time, such payment to continue until a meal break period has commenced:

Provided that (except in cases of emergency) no employee shall be required to work more than six hours without a break for a meal. Such meal period to be of the prescribed duration.

- 6.1.9 Except in case of emergency or with the agreement of the majority of employees concerned one week's notice must be given by the employer to the employee of the intention to alter the meal hour.

## **6.2 Implementation of 38 hour week**

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

- (a) by employees working less than eight ordinary hours each day; or
- (b) by employees working less than eight ordinary hours on one or more days each work cycle; or
- (c) by fixing one or more work days on which all employees will be off during a particular work cycle; or
- (d) by rostering employees off on various days of the week during a particular work cycle, so that each employee has one work day off during that cycle.

- 6.2.2 Subject to the provisions of subclause (e) of clause 4 (Hours of Work), employees may agree that the ordinary hours of work are to exceed eight on any day, thus enabling more than one work day to be taken off during a particular work cycle.

- 6.2.3 Notwithstanding any other provision in clause 6.2, where the arrangement of ordinary hours of work provides for a rostered day off, the employer and the majority of employees concerned, may agree to accrue up to a maximum of five rostered days off. Where such agreement has been reached, the accrued rostered days off shall be taken within twelve calendar months of the date on which the first rostered day off was accrued. Consent to accrue rostered days off shall not be unreasonably withheld by either party.

- 6.2.4 Different methods of implementation of the 38 hour week may apply to individual employees, groups or sections of employees in the business concerned.

## **6.3 38 Hour Week - Procedures for enterprise level discussions**

- 6.3.1 The employer and all employees concerned in each establishment shall consult over the most appropriate means of implementing and working a 38 hour week.

- 6.3.2 the objective of such consultation shall be to reach agreement on the method of implementing and working the 38 hour week in accordance with clause 6.2 (Implementation of 38 Hour Week).

- 6.3.3 The outcome of such consultation shall be recorded in writing.

- 6.3.4 In cases where agreement cannot be reached as a result of consultation between the parties, either party may request the assistance or advice of their relevant employee or employer organization.

- 6.3.5 Notwithstanding the consultative procedures outlined in clause 6.3, and notwithstanding any lack of agreement by employees, the employer shall have the right to make the final determination as to the method by which the 38 hour week is implemented or worked from time to time.

- 6.3.6 After implementation of the 38 hour week, upon giving seven days' notice or such shorter period as may be mutually agreed upon, the method of working the 38 hour week may be altered, from time to time, following negotiations between the employer and employees concerned.

## **6.4 38 Hour Week - Preservation of pre-existing arrangements**

- 6.4.1 Employers as listed in Schedule 1 to this Award and the employees of such employers, shall be exempt from the provisions of the 38 hour week .
- 6.4.2 Employers and employees exempted pursuant to clause 6.4.1 shall until otherwise ordered by the Commission be bound by the provisions of Schedule 1 as existed in this Award prior to 10 August 1992.
- 6.4.3 Without limiting in any way the power of the Commission to make such orders it may see fit to make from time to time in relation to the exemption outlined in clause 6.4.1, an employer may agree in writing to the removal of such employer from the said Schedule 1 and may submit such agreement to the Commission in support of an application to remove the exemption in question from such date as ordered by the Commission.
- 6.4.4 The employees of employers listed in Schedule 1 shall not suffer any reduction of ordinary time earnings or conditions of employment whether award or overaward, except to the extent that award amendments made by this Order and to which the exemption order does not apply, effectively alter conditions of employment as contained in this Award.

## **6.5 Overtime and Sunday work**

- 6.5.1 All time worked on Sunday by weekly employees shall be paid for at the rate of Double Time.
- 6.5.2 All time worked by weekly employees outside or in excess of the hours prescribed by clause 6.1 of this Award shall be deemed overtime and shall be paid for at the rate of Time and a-Half for the first three hours on any one day, Monday to Friday, and thereafter at the rate of Double Time:

Provided that all overtime worked between midnight and the ordinary starting time shall be paid for at the rate of Double Time. Clause 6.5.2 shall not apply where overtime commences within 1 1/2 hours of the ordinary starting time.

- 6.5.3 All overtime work performed by shift workers shall be paid for at the rate of Double Time.
- 6.5.4 Where a weekly employee is required to work on a Saturday Time and a-Half shall be paid for the first three hours and Double Time thereafter.
- 6.5.5 *Meals or meal allowances during overtime:* An employee, who is required to continue work after the usual ceasing time shall be supplied with a reasonable meal at the employer's expense or be paid \$9.60 in lieu thereof, after more than two hours or after more than one hour if overtime continues beyond 6.00 p.m. in addition to overtime payment for the time worked:

Provided that where notice of overtime has been given and arrangements have been made for a meal and such overtime is not worked, meal allowance shall be paid.

- 6.5.6 Employees who are required to continue work after their usual ceasing time shall be entitled to a thirty minute crib break after more than two hours, or after more than one hour if overtime continues beyond 6.00 p.m.
- 6.5.7 When an employee works through the meal break the employee shall be paid double the appropriate rate for such meal break and such rate shall continue until such meal break is allowed.
- 6.5.8 An employee who works so much overtime between termination of ordinary work on one day and the commencement of ordinary work on the next day that the employee has not had at least ten consecutive hours off duty between those times, shall, subject to clause 6.5.8 be released after completion of such overtime until the employee has had ten 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 ten consecutive hours off duty, the employee shall be paid double rates until the employee is released from duty for such period and the employee shall then be entitled to be absent until the employee has had ten consecutive hours off duty without loss of pay for ordinary working time occurring during such absence:

Provided that, where an employee is re-called to work after the ordinary ceasing time, overtime worked in such circumstances shall not be regarded as overtime for the purposes of clause 6.5.8 where the actual time worked is less than three hours on such recall or on each of such recalls.

The provisions of clause 6.5.8 shall apply in the case of shift workers who rotate from one shift to another as if eight hours were substituted for ten hours when overtime is worked:

- (a) For the purposes of changing shift rosters; or
- (b) Where a shift worker does not report for duty; or
- (c) Where a shift is worked by arrangement between the employees themselves.

## **6.6 Meal hours and rest pauses**

6.6.1 The following meal hours and rest pauses shall be observed on any day in the week that employees are working, including Saturdays, Sundays and holidays:

In all cases the meal break will be taken between the fourth and sixth hour after the commencement of work and be not less than thirty (30) minutes and not more than sixty (60) minutes in duration.

6.6.2 *Evening break* - When an employee is called upon to work for more than one hour after the normal ceasing time, such employee shall be entitled to a break of 30 minutes which shall be taken and completed between the hours of 4.40 p.m. and 6.10 p.m.

6.6.3 *1st night break* - If an employee is requested to continue working overtime for more than 4 hours, such employee shall be entitled to a break of 30 minutes, which shall be taken and completed between the hours of 9.10 p.m. and 10.10 p.m.

6.6.4 *2nd night break* - If an employee is required to continue working overtime for a further 4 hours after the 1st night break, such employee shall be entitled to a break of 30 minutes, which shall be taken and completed between the hours of 1.40 a.m. and 2.40 a.m.

6.6.5 *Breakfast break* - If an employee is required to continue working overtime for a further 4 hours after the 2nd night break, such employee shall be entitled to a break of 30 minutes, which shall be taken and completed between the hours of 6.10 a.m. and 7.10 a.m.

6.6.6 When an employee is required to continue working through their normal meal break, they shall be paid at double the ordinary rate, and such rate shall continue until a meal break is allowed.

6.6.7 *Rest pauses* - Every employee covered by this Award shall be entitled to a rest pause of ten minutes duration in the employers time in the first and second half of the working day. Such rest pauses shall be taken at such times as will not interfere with the continuity of work where continuity is necessary:

Provided that where there is agreement between the employer and the majority of employees concerned the rest pauses may be combined into one 20 minute rest pause and the meal break arranged in such a way that the ordinary working day is broken up into three approximately equal working periods.

Consent to combine the rest pauses shall not be unreasonably withheld by either party.

6.6.8 *Rest pauses during overtime.*- When working overtime for more than two hours, employees shall be entitled to a rest pause of 10 minutes duration in the employer's time after each two hours:

Provided that this shall not apply at times when employees are entitled to a break of 30 minutes.

6.6.9 *Rest pauses - deep freeze and cold storage plant.*- Each period worked by any employee within the deep freeze and/or cold storage plant shall not exceed 50 minutes when the employee shall be given a 10 minutes rest.

## **6.7 Time of starting**

Employers shall notify the employees of the time of starting and ceasing work by suitable means, and a clock shall be kept in view of all employees, and a suitable starting and ceasing signalling system shall be installed.

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

### **7.1 Annual leave**

7.1.1 An employee (other than a casual employee) covered by this Award shall, at the end of each year of such employee's employment, be entitled to annual leave on full pay of 152 hours.

7.1.2 *Leave debits* - annual leave will be paid and debited on the basis of hours actually taken.

7.1.3 *Rostered day off arising from the implementation of the 38 hour week* - An employee will not derive any additional benefit for rostered days off falling within a period of annual leave.

7.1.4 Such annual leave shall be exclusive of any public holiday which may occur during the period of that annual leave and (subject to clause 7.1.9), 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.

7.1.5 If the employment of any employee is terminated at the expiration of a full year of employment, the employer shall be deemed to have given the leave to the employee from the date of the termination of the employment and shall forthwith pay to the employee in addition to all other amounts due to the employee, the employee's pay, calculated in accordance with clause 7.1.9, for the employee's annual leave entitlements and also the employee's ordinary hours pay for any public holiday occurring during such period of annual leave.

7.1.6 If the employment of any employee is terminated before the expiration of a full year of employment, such employee shall be paid, in addition to all other amounts due to such employee, an amount equal to 1/12th of such employee's pay for the period of such employee's employment, calculated in accordance with clause 7.1.9.

7.1.7 The employer may arrange for the annual leave to be taken during the Christmas period.

7.1.8 All employees of the Crown shall have their annual leave entitlement debited by the number of ordinary hours they would have worked between Christmas Day and the 1st January (New Year's Day) inclusive when there is a compulsory closure of Government establishments over the Christmas/New Year period.

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

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

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

(i) the employee's ordinary wage rate as prescribed by the Award for the period of the annual leave (excluding week-end penalty rates);

(ii) Leading hand allowance or amounts of a like nature;

(iii) a further amount calculated at the rate of seventeen and one-half per centum (17-1/2%) of the amounts referred to in clauses 7.1.9(b)(i) and (ii).

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

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

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

## **7.2 Sick leave**

### *7.2.1 Entitlement*

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

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

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

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

(e) Sick leave 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 thirteen weeks' absence from work through illness in any one year.

### *7.2.2 Employee must give notice*

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

### *7.2.3 Accumulated sick leave*

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

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

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

#### 7.2.4 *Workers' compensation*

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

### **7.3 Bereavement leave**

7.3.1 An employee (other than a casual) on the death of a member of their immediate family or household in Australia is 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 two ordinary days of work. Proof of such death is to be furnished by the employee to the satisfaction of the employer.

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

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

#### 7.3.3 Immediate family includes:

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

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

### **7.4 Long service leave**

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

### **7.5 Family leave**

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

It is to be noted that:

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

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

7.5.3 The Family Leave Award also provides for the terms and conditions of leave associated with -

- (a) Maternity Leave
- (b) Parental Leave

(c) Adoption Leave

(d) Special Responsibility Leave for the care and support of the employee's immediate family or household.

## **7.6 Public holidays**

7.6.1 Subject to clause 7.6.5 all work done by any employee on:

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

will be paid for at the rate of Double Time and a-Half with a minimum of 4 hours.

### *7.6.2 Labour Day*

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

### *7.6.3 Annual show*

All work done by employees in a district specified from time to time by the Minister by notification published in the *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.

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

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

For the purposes of clause 7.2, 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.

### *7.6.5 Substitution*

Where there is agreement between the majority of employees concerned and the employer, and subject to statutory limitations, other ordinary working days may be substituted for the public holidays specified in clause 7.6:

Provided that, where an employee is subsequently required to work on such substituted days, the employee shall be paid the rate applicable for the holidays that have been substituted.

### *7.6.6 Stand down*

Any employee, with two 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 terminated or stood down, for any one or more of the following holidays, namely, Christmas Day, Boxing Day and the 1st January (New Year's Day).

### *7.6.7 Payment if dismissed with 7 days of Good Friday and Easter Monday*

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

### *7.6.8 Employees who do not work Monday to Friday of each week*

Employees who do not ordinarily work Monday to Friday of each week are entitled to public holidays as follows:

- (a) A full-time employee is entitled to either payment for each public holiday or a substituted day's leave.
- (b) A part-time employee is entitled to either payment for each public holiday or a substituted day's leave provided that the part-time employee would have been ordinarily rostered to work on that day had it not been a public holiday.
- (c) Where a public holiday would have fallen on a Saturday or a Sunday but is substituted for another day all employees who would ordinarily have worked on such Saturday or Sunday but who are not rostered to work on such day are entitled to payment for the public holiday or a substituted day's leave.
- (d) Where Christmas Day falls on a Saturday or a Sunday and the public holiday is observed on another day an employee required to work on Christmas Day (i.e. 25 December) is to be paid at the rate of Double Time.
- (e) Nothing in clause 7.6.8 confers a right to any employee to payment for a public holiday as well as a substituted day in lieu

## **7.7 Jury service**

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

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

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

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

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

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

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

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

### **9.1 Training**

9.1.1 The parties to this Award recognise that in order to increase the efficiency, productivity and international competitiveness of industry, a greater commitment to training and skill development is required. Accordingly, the parties commit themselves to:

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

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

- (a) the current and future skills 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, through courses conducted by accredited educational institutions and providers.

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

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

9.1.4 Where it is agreed that additional training in accordance with the programme developed pursuant to clause 9.1.2 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. The employer shall not unreasonably withhold such paid training leave.

9.1.5 Any costs associated with standard fees for prescribed courses and prescribed textbooks (including those textbooks which are available in the employer's technical library), legitimately incurred in connection with the undertaking of training shall be reimbursed by the employer upon production of evidence of such expenditure:

Provided that reimbursement shall also be on an annual basis subject to the presentation of reports of satisfactory progress.

9.1.6 Legitimate 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 shall be reimbursed by the employer.

9.1.7 Clauses 9.1.2, 9.1.3 and 9.1.4 shall operate as interim clauses and shall be reviewed as part of the ongoing process of Award restructuring with a target completion date as agreed between the parties. In the meantime, the parties shall monitor the effectiveness of those interim clauses in encouraging the attainment of the objectiveness detailed in clause 9.1.1. In this connection, the Union reserves the right to press for the mandatory prescription of a minimum number of training hours per annum, without loss of pay, for an employee undertaking training to meet the needs of an individual enterprise and/or the industry.

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

### **10.1 First aid**

Adequate first aid outfits shall be provided in every establishment. Such outfits shall be kept so that they may be easily accessible or available to employees working in any such establishment. When twenty or more persons are employed in any establishment it shall be the duty of the employer to have in his employment in such establishment at least one person who shall be a certified first aid person. Such employee, after being classified by the employer as the first aid attendant, shall be paid \$13.30 per week in addition to the rates being paid.

### **10.2 Protective clothing and equipment**

#### *10.2.1 Deep freeze and/or cold storage plant*

When an employee is working in the deep freeze and/or cold storage plant, such employee shall be supplied by the employer, free of charge, suitable gloves, clothing, boots and head gear:

Provided that such employee shall be responsible for such articles whilst in the employee's possession and on termination of such services return same to employer in good order and condition, fair wear and tear excepted, or shall pay for same.

#### *10.2.2 Gloves*

All employees engaged in the preparation of pineapples, lemons or in connection with hot jam shall be provided with gloves by the employer, and employees engaged in work of a wet nature shall be provided with waterproof aprons or such suitable clothing as may be mutually agreed upon. Such gloves and waterproof aprons shall be returned to the employer by the employee on demand, and, in the case of default so to do, the employee shall pay the employer therefor at a reasonable rate.

#### *10.2.3 Brushes, spoons, etc*

Employers shall provide all brushes, spoons, knives, and other necessary implements and material in connection with their work, and the same shall be paid for at reasonable rates if the employee does not return them to the employer after the employer shall have demanded their return.

### **10.3 Hot and cold drinking water**

Employees shall be provided with boiling water at meal times, and with filtered or tank water for drinking purposes.

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

### **Preamble**

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

### **11.1 Right of entry**

#### *11.1.1 Authorised industrial officer*

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

#### *11.1.2 Entry procedure*

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

#### *11.1.3 Inspection of records*

- (a) An officer is entitled to inspect the time and wages record required to be kept under section 366 of the Act.
- (b) An 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 officer's organisation; or
  - (ii) is a party to a QWA or ancillary document, unless the employee has given written consent for the records to be inspected; or
  - (iii) has made a written request to the employer that the employee does not want that employee's record inspected.
- (c) The 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 stopped employment with the employer; and
- (f) if a casual employee's entitlement to long service leave is worked out under section 47 of the Act - the total hours, other than overtime, worked by the employee since the start of the period to which the entitlement relates, worked out to and including 30 June in each year.

11.2.3 The employer must keep the record for 6 years.

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

### **11.3 Union Encouragement**

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

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

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

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

### 11.3.2 *Union delegates*

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

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

### 11.3.3 *Deduction of union fees*

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

## **11.4 Union facilities**

At each factory reasonable facilities shall be afforded to members and officers of the Union for the necessary work in connection therewith, and the Union shall be permitted to post Union meeting notices on a board in each factory in a reasonable manner.

## **11.5 Trade union training leave**

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

11.5.2 For the purposes of clause 11.5 "ordinary pay" shall mean at the ordinary weekly rate paid to the employee exclusive of penalty rates or any allowance for travelling time and fares.

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

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

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

Where the employer employs between 10 - 50 employees	1
Where the employer employs between 51 - 100 employees	2
Where the employer employs over 100 employees	4

11.5.3 Clause 11.5 does not apply to a workplace with less than ten full-time employees under this Award.

11.5.4 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.

11.5.5 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.

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

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

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

## **SCHEDULES**

### **Schedule 1 List of employers exempt from the provisions of the 38 hour week**

Buderim Ginger Factory  
Golden Circle

In lieu of clauses 6.1, 6.6, 6.5.5, 6.5.6, 7.2 and 7.6 of this Award applying as from 10 August 1992 the provisions of the following clauses shall apply to the abovementioned employers and employees thereof:-

### **Hours of Work**

S1.1 The ordinary weekly working hours shall not exceed 40 in any one week or 8 on any one day, and shall be worked between 6.30 a.m. and 5.30 p.m. on Mondays, Tuesdays, Wednesdays, Thursdays and Fridays.

S1.2 Shift work may be worked by any employee covered by this Award, but not more than 8 hours shall be worked on any one shift at ordinary rates and thereafter overtime rates shall apply:

Provided that employees engaged on afternoon or night shift shall be paid 15 % above the rates set out in clause 5.2 (Wages), whilst engaged on afternoon or night shift.

The method of working shifts shall be mutually agreed upon between the employer and the Secretary of The National Union of Workers Industrial Union of Employees Queensland:

Provided that 2 days' notice shall be given by the employer to the said Union of any alteration to shifts.

"Afternoon shift" shall mean any shift of 8 hours finishing subsequent to 6.00 p.m. and at or before midnight.

"Night shift" shall mean any shift of 8 hours finishing subsequent to midnight and at or before 8.00 a.m.

S1.3 Unless otherwise mutually agreed between the employer and an employee and except in the case of emergency, one week's notice must be given by the employer to the employee to alter the meal break.

S1.4 Cleaners shall work 40 hours per week exclusive of meal breaks. Overtime shall be paid for all work after the completion of 8 working hours in any one shift.

Unless mutually agreed to the contrary, the employer shall give one week's notice of his intention to change the Cleaner's starting time.

### **Rest Pauses**

S2.1 Every employee covered by this Award shall be entitled to a rest pause of 10 minutes duration in the employer's time in the first and second half of the employee's daily work. Such rest pauses shall be taken at such times as will not interfere with continuity of work where continuity is necessary.

S2.2 Provided that where there is agreement between the majority of employees, the employer and the Union, rest pauses may be combined into one 20 minute rest pause to be taken in the first part of the ordinary working day, with the combined rest pause and the meal break arranged in such a way that the ordinary working day is broken up into 3 approximately equal periods:

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

### **Overtime and Sunday work**

S3.1 When an employee is called upon to work for more than one hour after the normal ceasing time for more than four hours on a Saturday or a Sunday such employee shall be entitled to a meal break of not less than 30 minutes and the employee shall be entitled to receive \$9.60 as meal money for each meal so occurring in addition to overtime payment for the time so worked.

Where overtime is worked for more than 4 hours such employee shall be entitled to a break of 30 minutes on completion of each four hours worked.

S3.2 When working overtime for more than two hours, employees shall be entitled to a rest pause of 10 minutes' duration in the employer's time after each two hours:

Provided that this shall not apply at times when employees are entitled to a break of 30 minutes under the provisions of this clause.

### **Annual holidays**

S4.1 Every employee (other than a casual employee) covered by this Award shall at the end of each year of his employment be entitled to an annual holiday on full pay of 4 weeks.

For the purposes of clause S4.1 "year of employment" shall mean and include any year of employment completed on or after 3rd December, 1973.

Such annual holiday shall be exclusive of any public holiday which may occur during the period of that annual holiday and (subject to clause S4.2 of this clause) shall be paid for by the employer in advance -

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

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

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 holiday to the employee from the date of the termination of the employment and shall forthwith pay to the employee in addition to all other amounts due to him, his pay, calculated in accordance with clause S4.2 hereof, for four weeks and also his ordinary pay for any public holiday occurring during such period of 4 weeks.

If the employment of any employee is terminated before the expiration of a full year of employment, such employee shall be paid, in addition to all other amounts due an amount equal to 1/12th of the employee's pay for the period of his employment, calculated in accordance with clause S4.2 hereof.

#### S4.2 *Calculation of annual leave pay:*

In respect to annual leave entitlements to which clause S4.2 applies, annual leave pay (including any proportionate payments) shall be calculated as follows:-

- (a) *Shift workers* - Subject to clause S4.2(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 S4.2(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 clause S4.2(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 17 1/2% of the amounts referred to in clauses S4.2(a) and S4.2(b)
- (d) Clause S4.2(c) does not apply to:
  - (i) any period or periods of annual leave exceeding:
    - 5 weeks in the case of employees employed in a calling where three shifts per day are worked over a period of seven days per week;
    - 4 weeks in any other case; and
  - (ii) Employers (and their employees) who are already paying (or receiving) an annual leave bonus, loading or other annual leave payment which is not less favourable to employees.

S4.3 The employer shall give one month's notice to the employee of the date when such employee's annual leave is to be taken.

S4.4 Except as hereinbefore provided, it shall not be lawful for the employer to give or for any employee to receive payment in lieu of annual leave.

#### **Sick Leave**

S5.1 In respect to employment on and after 14th August, 1972, every employee shall become entitled to not less than 8 days' sick leave for each completed year of employment with an employer.

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

Provided that any period of employment within the period of 6 weeks immediately preceding 14th August, 1972, in respect to which no sick leave entitlement accrued pursuant to the provisions of this Award as in force immediately prior to that date shall be taken into account in the calculation of sick leave under clause S5.1.

Dated 23 October 2002.

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

Operative Date: 23 December 2002