

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

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

**LIFEGUARD AWARD - STATE 2003**

(Matter A/2010/165)

DEPUTY PRESIDENT SWAN  
DEPUTY PRESIDENT BLOOMFIELD  
COMMISSIONER THOMPSON

10 May 2012

AWARD REVIEW

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the above Award as required by s. 130 of the *Industrial Relations Act 1999*, this Commission orders that the Award be repealed and the following Award be made as from 10 May 2012.

**LIFEGUARD AWARD - STATE 2012**

**PART 1 - APPLICATION AND OPERATION**

**1.1 Title**

This Award is known as the Lifeguard Award - State 2012.

**1.2 Arrangement**

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### 1.3 Date of operation

This Award takes effect from 10 May 2012.

### 1.4 Coverage

1.4.1 This Award applies to all employers and their employees as contained within clause 5.1 (Classification Structure) engaged in or in connection with lifeguarding or life saving duties within the State of Queensland. Without limiting the generality of the foregoing, this Award shall apply to all such work contained in or in connection to the following:

- (a) ocean waters and ocean beaches, including enclosed or protected ocean waters and bays;
- (b) rivers and dams;
- (c) still water recreational or aquatic facilities:

1.4.2 This Award has no application to persons who perform lifeguarding or life saving duties or work of an incidental nature as provided for in this Award, on a volunteer basis.

1.4.3 This Award has no application to employees engaged under the following Awards:

(a) *Municipal Baths Attendants Award - State 2003*; or

(b) *Local Government Employees (excluding Brisbane City Council) Award - State 2003*.

## **1.5 Definitions**

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

1.5.2 "Afternoon Shift" - shall mean a shift that finishes between 6:00pm and midnight on any day.

1.5.3 "Commission" means the Queensland Industrial Relations Commission.

1.5.4 "Night Shift" - shall mean a shift that finishes after midnight and before 8:00am on any day.

1.5.5 "Non-Ocean Water Areas" shall mean all areas of water which are not principally considered to be an ocean environment, including but not limited to rivers, dams and still water or aquatic recreational facilities.

1.5.6 "Ocean Water Areas" shall mean areas of water which are principally considered to be an ocean environment, including all ocean waters and ocean beaches and enclosed or protected ocean waters and bays.

1.5.7 "Union" means The Australian Workers' 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 each enterprise to provide more flexible working arrangements, improvement in the quality of working life, enhancement of skills, training and job satisfaction and to encourage consultative mechanisms across the workplace.

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

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

### **2.2 Majority clause**

2.2.1 The employer, a majority of employees and the Union, may seek amendment to an Award to reflect an enterprise agreement that make the enterprise operate more efficiently according to its particular needs.

2.2.2 The amendment must satisfy the following:

(a) it is agreed by a valid majority of employees of the enterprise or workplace concerned, and

(b) it only deals with allowable award matters; and

(c) would result in a minimum rates award, and

(d) if it includes wage rates - would provide for minimum wage rates consistent with the Act.

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

### **3.1 Grievance and dispute settling procedure**

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

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

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

### **4.1 Employment categories**

- 4.1.1 Employees (other than casuals) covered by this Award shall be advised in writing of their employment category upon appointment.

Employment categories are:

- (a) full-time;
- (b) part-time (as prescribed in clause 4.2);
- (c) casual (as prescribed in clause 4.3); or
- (d) seasonal (as prescribed in clause 4.4).

- 4.1.2 All persons employed as Lifeguards shall have suitable qualifications as determined by Surf Life Saving Queensland policy and detailed in clause 5.1.1, and as amended from time to time
- 4.1.3 At the point of engagement of each employee, the employer will inform each employee of the terms of their engagement and in particular whether they are to be full-time, seasonal, part-time or casual.

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

4.2.1 A part-time employee is an employee who:

- (a) works less than full-time hours of 38 per week; and
- (b) has reasonably predictable hours of work; and
- (c) receives on a *pro rata* basis, equivalent pay and conditions to those of full-time employees who do the same kind of work.

4.2.2 A part-time employee paid 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.

4.2.3 A part-time employee who works in excess of the ordinary weekly hours prescribed by this Award shall be paid overtime in accordance with clause 6.6 (Overtime).

4.2.4 A part-time employee shall be engaged for a minimum of 3 hours per day and not less than 12 hours per week.

### **4.3 Casual employment**

4.3.1 A casual employee is an employee engaged as such.

4.3.2 A casual employee shall be paid for the actual time worked with a minimum of 2 hours per engagement and each engagement shall stand alone.

4.3.3 A casual employee shall be paid per hour at the rate of 1/38 of the weekly rate prescribed for the class of work performed, plus a loading of 23%. Such loading shall be in lieu of all leave entitlements applicable excepting long service leave.

### **4.4 Seasonal employment**

4.4.1 A Seasonal employee is an employee who may be engaged to work up to an average of 38 hours per week for a period of time and who at the point of engagement is advised that the period of employment shall conclude on an approximate date.

4.4.2 A Seasonal employee is an employee who:

- (a) has reasonably predictable hours of work; and
- (b) receives on a *pro rata* basis, equivalent pay and conditions to those of full-time employees who do the same kind of work.

### **4.5 Anti-discrimination**

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

- (a) discrimination on the basis of sex; relationship status, family responsibilities, pregnancy, parental status, breastfeeding, age, race, impairment, religious belief or religious activity, political belief or activity, trade union activity, lawful sexual activity, gender identity, sexuality and association with, or in relation to, a person identified on the basis of the above attributes;
- (b) sexual harassment; and
- (c) racial and religious vilification.

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

4.5.3 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.

4.5.4 Nothing in clause 4.5 is to be taken to affect:

- (a) any different treatment (or treatment having different outcomes) which is specifically exempted under the *Anti-Discrimination Act 1991*; or

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

## **4.6 Termination of employment**

### *4.6.1 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.

### *4.6.2 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.

### *4.6.3 Notice of termination by employee*

The notice of termination required to be given by an employee shall be the same as that required of an employer, save and except that there shall be no additional notice based on the age of the employee concerned. If an employee fails to give notice, the employer shall have the right to withhold monies due to the employee with a maximum amount equal to the amount the employee would have received under clause 4.6.2.

### *4.6.4 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.

## **4.7 Introduction of changes**

### *4.7.1 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.

#### 4.7.2 *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 4.7.1.
- (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.

### **4.8 Redundancy**

#### 4.8.1 *Consultation before terminations*

- (a) Where an employer decides that the employer no longer wishes the job the employee has been doing to be done by anyone, and this is not due to the ordinary and customary turnover of labour, and that decision may lead to termination of employment, the employer shall consult the employee directly affected and where relevant, their Union or Unions.
- (b) The consultation shall take place as soon as it is practicable after the employer has made a decision, which will invoke the provisions of clause 4.8.1(a) and shall cover the reasons for the proposed terminations, measures to avoid or minimise the terminations and/or their adverse effects on the employees concerned.
- (c) For the purpose of the consultation the employer shall, as soon as practicable, provide in writing to the employees concerned and, where relevant, their Union or Unions, all relevant information about the proposed terminations including the reasons for the proposed terminations, the number and categories of employees likely to be affected, the number of workers normally employed and the period over which the terminations are likely to be carried out:

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

#### 4.8.2 *Transfer to lower paid duties*

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

#### 4.8.3 *Transmission of business*

- (a) Where a business is, whether before or after the date of insertion of 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 transmitter or any prior transmitter shall be deemed to be service of the employee with the transmittee.

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

#### 4.8.4 *Time off during notice period*

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

#### 4.8.5 *Notice to Centrelink*

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

#### 4.8.6 *Severance pay*

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

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

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

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

#### 4.8.7 *Superannuation benefits*

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

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

#### 4.8.8 *Employee leaving during notice*



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

#### 4.8.9 *Alternative employment*

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

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

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

#### 4.8.11 *Employees exempted*

Clause 4.8 shall not apply:

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

#### 4.8.12 *Employers exempted*

Subject to an order of the Commission, in a particular redundancy case, clause 4.8 shall not apply to an employer that employs employees working a total of fewer than 550 hours on average per week, excluding overtime, Monday to Sunday. The 550 hours shall be averaged over the previous 12 months.

#### 4.8.13 *Exemption where transmission of business*

- (a) The provisions of clause 4.8.6 are not applicable where a business is before or after the date of the insertion of 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 4.8.13(a)(ii) if it is satisfied that it would operate unfairly in a particular case, or in the instance of contrived arrangements.

#### 4.8.14 *Incapacity to pay*

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

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

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

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

## 5.1 Definition of classifications

5.1.1 Following are the minimum qualifications and skills required to be eligible for appointment at any classification level:

- (a) Surf Life Saving Association Bronze Medallion or Royal Life Saving Australia Bronze Medallion;
- (b) First Aid Certificate;
- (c) Advanced Resuscitation Certificate;
- (d) Radio Operators Certificate; and
- (e) Advanced Lifesaving Certificate.

5.1.2 Employees are required to attain qualifications in accordance with clause 5.1.1 of this Award prior to engagement. Employees who do not hold such qualifications shall not be covered by this Award.

### 5.1.3 Level 1

An employee in their first 3 months of continuous employment (full-time equivalent) in the Industry who is required to perform lifeguarding or life saving duties in either ocean water or non-ocean water areas as defined by clause 1.5.

### 5.1.4 Level 2

An employee after completing 3 months of continuous employment (full-time equivalent) who is required to perform lifeguarding or life saving duties in non-ocean water areas as defined by clause 1.5.

### 5.1.5 Level 3

An employee after completing 3 months of continuous employment (full-time equivalent) who is required to perform lifeguarding or life saving duties in ocean water areas as defined by clause 1.5.

### 5.1.6 Level 4

- (a) An employee who is required to perform lifeguarding or life saving duties in either ocean water or non-ocean water areas as defined by clause 1.5.
- (b) Employees at this level are also required to hold a Level 4 Certificate in Lifeguard and Life Saving Operations or have successfully completed an Associate Diploma in a relevant field of study as determined by the employer.
- (c) Employees at this level shall also be required to have a minimum of 12 months continuous service in a full-time capacity.

### 5.1.7 Level 5

- (a) An employee who is required to perform life-guarding or life saving duties in either ocean water or non-ocean water areas as defined by clause 1.5.
- (b) Employees at this level are required to hold a Level 4 Certificate in Life-guard and Life Saving Operations or have successfully completed an Associate Diploma in a relevant field of study as determined by the employer.
- (c) Employees at this level shall also be required to have at least 2 years continuous service in a full-time capacity.

## 5.2 Wages

The minimum wage rates payable to the following classes of employees shall be as follows:

Classification	Weekly wage rate \$
Level 1	645.20
Level 2	677.50
Level 3	686.20
Level 4	725.00

NOTE: The rates of pay in this Award are intended to include the arbitrated wage adjustment payable under the 1 September 2011 Declaration of General Ruling and earlier Safety Net Adjustments and arbitrated wage adjustments. This arbitrated wage adjustment may be offset against any equivalent amount in rates of pay received by employees whose wages and conditions of employment are regulated by this Award which are above the wage rates prescribed in the Award. Such payments include wages payable pursuant to certified agreements, currently operating enterprise flexibility agreements, award amendments to give effect to enterprise agreements and overaward arrangements. Absorption which is contrary to the terms of an agreement is not required.

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

### 5.3 Allowances

#### 5.3.1 Supervisors allowance

Any employee appointed by the employer to supervise and control other employees shall be paid in addition to his/her ordinary rate the following allowance:

- (a) \$6.07 per day for supervising up to 5 employees (full-time equivalent);
- (b) \$9.15 per day for supervising more than 5 employees (full-time equivalent).

#### 5.3.2 Helicopter allowance

Any employee who holds a "Helicopter Crewperson Certificate" and who is required to use such certificate shall receive an all purpose allowance of \$15.23 per day or part thereof.

#### 5.3.3 Afternoon and night shift allowance

- (a) In addition to the rates of pay prescribed by clause 5.2 (Wages) of this Award, employees whilst engaged on afternoon shift and night shift, as defined in clause 1.5.2 and 1.5.4, shall be paid an additional penalty rate for each such shift as follows:

Afternoon Shift	12.5% (or \$9.70 whichever is the greater)
Night Shift	15% (or \$9.70 whichever is the greater)

- (b) This allowance shall not apply to shift work performed on Saturday and Sunday and public holidays where extra payments apply for such work.

#### 5.3.4 Lifeguard awards and proficiencies

The employer shall pay for all employees to retain their tickets as lifeguards, or the employer may pay an allowance of \$6.00 per week for full-time employees and *pro rata* for part-time and casual employees.

#### 5.3.5 Weekend penalty rates

All employees shall be entitled to the following weekend penalty rates:

- (a) for all ordinary time worked between midnight Friday and midnight Saturday, time and half shall be paid; and
- (b) for all ordinary time worked between midnight Saturday and midnight Sunday, double time shall be paid.

### 5.4 Payment of wages

5.4.1 All employees shall be paid weekly or fortnightly by one of the following methods at the employers discretion:

- (a) cash;
- (b) cheque; or
- (c) electronic funds transfer (E.F.T) into a recognised financial institute nominated by the employee.

### 5.5 Superannuation

5.5.1 The employer shall make contributions in accordance with the relevant legislation into one of the following funds:

- (a) Sunsuper;
- (b) Westpac.

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

### **6.1 Hours of work**

6.1.1 The ordinary hours of work shall be an average of 38 hours per week to be worked as follows:

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

6.1.2 The ordinary hours of a full-time employee shall be worked with a minimum of 3 hours per engagement. The ordinary hours of work for all employees shall not exceed 10 hours on any one day. Ordinary hours of work prescribed herein shall be worked continuously, except for meal breaks and rest pauses between 6.00 a.m. and 7.00 p.m., Monday to Sunday.

6.1.3 The spread of hours prescribed herein may be altered as to all or a section of employees provided there is agreement between the employer and the majority of employees concerned:

Work done outside the hours of 6:00 a.m. to 7:00 p.m. shall be paid at overtime rates and will be deemed to be part of the ordinary hours of work.

### **6.2 Facilitative provisions**

The following provisions relating to the hours of work shall be as agreed between the employer and employees involved:

- (a) the cycles for implementation of the ordinary hours of work and the alteration thereof.
- (b) the starting and ceasing times and alternatives thereof.
- (c) the time of taking meal breaks and rest pauses.

### **6.3 Rostering**

6.3.1 A roster implementing the work cycle in accordance with clause 6.1 (Hours of work), including the employee's ordinary days of duty and starting and finishing times on such days, shall be agreed upon between the employer and employee concerned and shall be displayed in a place conveniently accessible to employees at least 7 days (except in the case of emergencies) before the commencement of each roster.

### **6.4 Meal breaks**

6.4.1 All employees who work longer than 6 hours in any one day, shall be granted a meal break of not less than 30 minutes and not more than 60 minutes' duration.

6.4.2 Meal breaks shall not be counted as time worked.

6.4.3 An employee who works more than 2 hours after their usual ceasing time shall be entitled to be supplied with a meal at the employers expense or a meal allowance of \$12.10 in lieu thereof.

### **6.5 Rest pauses**

6.5.1 Each employee covered by this Award shall be entitled to a rest pause of ten minutes' duration in the employer's time in the first and second half of the daily work or one combined break of 20 minutes. Such rest pauses shall be taken at such times as will not interfere with continuity of work where continuity is necessary.

### **6.6 Overtime**

- 6.6.1 All time worked outside the spread of ordinary hours, or in excess of the working hours, on any one day, or in excess of an average of 38 hours per week or as agreed to in accordance with clause 6.1 (Hours of Work), shall be deemed to be overtime and shall be paid for at a rate of time and half for the first three hours and at double time thereafter.
- 6.6.2 All overtime performed by shiftworkers shall be paid for at double time:

Provided that the applicable shift allowance shall not be subject to any such penalty.

- 6.6.3 No employee shall work overtime and the employee shall not be entitled to payment for, without the permission of the employer.

## **6.7 Shift work**

- 6.7.1 Employees, including seasonal and casual employees covered by this Award may be required to perform shift work in accordance with the provisions of this clause.
- 6.7.2 Subject to the exceptions provided below the ordinary working hours of shift workers shall be an average of 38 per week.
- 6.7.3 Notwithstanding the provisions of 6.1.1 the ordinary hours of work shall be worked between Monday to Sunday inclusive with a paid 20 minute meal break.
- 6.7.4 Where shifts commence before midnight on a Sunday or any public holiday prescribed in clause 5.1 of this Award the time so worked before midnight shall not entitle an employee to the Sunday or holiday rate.

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

### **7.1 Annual leave**

- 7.1.1 Every employee, other than a casual employee, is entitled at the end of each year of continuous employment to at least 4 weeks (152 hours) annual leave on full pay.
- 7.1.2 Every employee, other than a casual employee, employed on shift work where three shifts per day are worked over a period of 7 days is at the end of each year of continuous employment entitled to at least 5 weeks (190 hours) annual leave on full pay.
- 7.1.3 An employee (excluding shift workers) shall be entitled to a payment for annual leave based on the following calculation:
- (a) the employee's ordinary weekly wage rate (excluding shift and weekend penalty rates) for the period of annual leave; and
  - (b) leading hand allowance or amounts of a like nature paid during ordinary time worked; and
  - (c) an additional 17.5% annual leave loading.
- 7.1.4 In the case of shift workers, the ordinary weekly wage rate including Saturday, Sunday or public holiday shifts, shall be in accordance with the employee's roster or projected roster. This shall include a leading hand allowance or amounts of a like nature, and 17.5% annual leave loading.
- 7.1.5 Subject to agreement between the employer, employee or the majority of employees, annual leave shall be paid for by the employer in advance.
- 7.1.6 Where possible, annual leave is to be taken at a mutually convenient time.
- 7.1.7 Unless otherwise agreed between the employer, employee, or the majority of employees, at least 14 days' notice of the commencement annual leave shall be given by both the employee and employer.

### **7.2 Payment instead of leave**

- 7.2.1 If an employee is terminated or resigns at the end of a full year of employment, they shall receive payment for accrued annual leave.
- 7.2.2 An employee who is terminated or resigns prior to completing a full year of employment, shall be entitled to a *pro rata* payment for any accrued annual leave.

### **7.3 Calculation of *pro-rata* annual leave pay**

7.3.1 Subject to agreement between the employer, employee or the majority of employees, an employee may access annual leave on a *pro rata* basis. The payment shall be calculated as follows:

1/12 (1/9th in the case of shift workers) of the rate prescribed by the Award for the entire period of employment, including leading hand allowance or amounts of a like nature, but excluding shift and weekend penalty rates; plus an additional 17.5% of this amount.

## **7.4 Sick leave**

### *7.4.1 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 76 hours sick leave after each 6 weeks of employment.
- (c) Payment for sick leave will be made based on the number of hours which would have been worked if the employee were not absent on sick leave.
- (d) Sick leave may be taken for part of a day.
- (e) Sick leave shall be cumulative, but unless the employer and employee otherwise agree, no employee shall be entitled to receive, and no employer shall be bound to make, payment for more than 13 weeks' absence from work through illness in any one year.
- (f) Part-time employees accrue sick leave on a proportional basis.

### *7.4.2 Employee must give notice.*

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

### *7.4.3 Evidence supporting a claim.*

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

### *7.4.4 Accumulated sick leave*

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

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

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

### *7.4.5 Workers' compensation*

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

## **7.5 Bereavement leave**

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

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

### *7.5.2 Long-term casual employees*

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

- (b) A "long-term casual employee" is a casual employee engaged by a particular employer, on a regular and systematic basis, for several periods of employment during a period of at least 1 year immediately before the employee seeks to access an entitlement under clause 7.5.2

7.5.3 "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.

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

## **7.6 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.

## **7.7 Family leave**

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

7.7.1 It is to be noted that:

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

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

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

## **7.8 Public holidays falling within annual leave**

7.8.1 Annual leave shall be exclusive of any public holiday which may occur during the period. If a public holiday falls within an employee's annual leave and is on a day which would have been an ordinary working day, then:

- (a) extra time equivalent to the public holiday is added to the employee's annual leave, however this time does not attract leave loading; or
- (b) the employee, with the agreement of the employer, can choose to be paid for the public holiday instead of having the extra time.

## **7.9 Public holidays**

7.9.1 All work done by any employee on:

- the 1st of January;
- the 26th of January;
- Good Friday;
- Easter Saturday (the day after Good Friday);
- Easter Monday;
- the 25th of April (Anzac Day);
- the Birthday of the Sovereign;
- Christmas Day;

- Boxing Day; or
- any day appointed under the *Holidays Act 1983*, to be kept in place of any such holiday

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

#### 7.9.2 *Labour Day*

All weekly 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 wages for that day and in addition a payment for the time actually worked by the employee at one and a-half times the ordinary rate prescribed for such work with a minimum of 4 hours.

#### 7.9.3 *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

7.9.4 Employees shall be entitled to payment for the aforesaid holidays (but not for Easter Saturday except where that day forms part of the ordinary working week) irrespective of the fact that no work may be required to be performed on any such day.

#### 7.9.5 *Double time and a half*

For the purposes of clause 7.9, 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.

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

#### 7.9.7 *Stand down*

Any and every employee who, having been dismissed or stood down by the employer during the month of December in any year, if re-employed by that employer at any time before the end of the month of January in the next succeeding year shall, if that employee shall have been employed by that employer for a continuous period of 2 weeks or longer immediately prior to being so dismissed or stood down, be entitled to be paid and shall be paid by the employer (at the ordinary rate payable to that employee when so dismissed or stood down) for any one or more of the following holidays namely Christmas Day, Boxing Day, and the first day of January occurring during the period on and from the date of the dismissal or standing down to and including the date of re-employment as aforesaid.

#### 7.9.8 *Substitution of holidays*

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 this clause 7.9.

Where an employee is subsequently required to work on such substituted day, the employee shall be paid the rate applicable for the holiday that has been substituted.

### **7.10 Leave without pay**

7.10.1 Every employee will become entitled to make application for up to 12 months' leave without pay once they have completed one year of continuous employment with an employer. Approval of leave without pay applications will be at the employer's discretion and the conditions that will apply for leave accruals will mirror the Continuity of Service conditions at Chapter 2, Part 6 of the Act. However, the employer will not unreasonably withhold agreement for leave without pay.

7.10.2 Employees who take leave without pay will be assured of a position at the same classification level they departed upon, when they return to duty after a period of leave without pay.

7.10.3 Approval of leave without pay is on the condition employees return to work on the agreed date (or other date as the employer may agree) at the end of leave. Where an employee breaks this agreement by not returning to work, the employer will have the right to terminate the employment from the commencement date of the leave without pay.



7.10.4 Employees who commence leave without pay may be required to take all leave entitlements and time off in lieu balances at the commencement of the period of leave without pay.

## **7.11 Close down provisions**

7.11.1 Where an employer closes down its operations, the following provisions will apply:

- (a) the employer may stand down for the duration of the close down, all employees in the establishment, and pay on a proportionate basis those who are not qualified to receive 4 weeks (or 5 weeks in the case of shiftworkers) annual leave;
- (b) as long as the stand down period does not exceed 5 weeks, all time that an employee is stood down without pay, shall be counted as service for the next 12 month qualifying period.

## **7.12 Jury service**

- (a) An employee, other than a casual employee, required to attend for jury service during their ordinary working hours shall be reimbursed by the employer an amount equal to the difference between the amount paid in respect of their attendance for such jury service and the ordinary pay the employee would have been paid if the employee was not absent on jury service.
- (b) Alternatively, by agreement, fees (other than meal allowance) received by the employee to attend jury service will be paid to the employer and the employer will continue to pay the employee their ordinary pay for the time the employee was absent on jury service.
- (c) Employees shall notify their employer as soon as practicable of the date upon which they are required to attend for jury service and shall provide their employer with proof of such attendance, the duration of such attendance and the amount received in respect thereof.
- (d) If the employee is not required to serve on a jury for a day or part of a day after attending for jury service and the employee would ordinarily be working for all or part of the remaining day, the employee must, if practicable, present for work at the earliest reasonable opportunity.
- (e) "Ordinary pay" means the rate of pay that an employee would normally expect to receive for working ordinary hours on an ordinary day of the week, including any over-award payment. "Ordinary pay" excludes overtime, penalty rates of all types - including those attaching to working ordinary hours (for example) on a Saturday, disability allowances, shift allowances, special rates, fares and travelling time allowances, bonuses and other ancillary payments of a like nature.

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

No provisions inserted in this Award relevant to this Part.

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

### **9.1 Training**

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

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

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

### **10.1 Uniforms**

The employer shall supply employees the following free of charge:

- (a) Sunscreen;
- (b) Sunglasses (annually);
- (c) Shorts and collared shirts;
- (d) Tracksuits (winter - June/August);

- (e) Wet weather gear;
- (f) Caps/hats;
- (g) Note pad; and
- (h) Rubber gloves.

## **10.2 Hepatitis vaccinations**

10.2.1 Employees will be provided free Hepatitis B vaccinations upon successful completion of their probation period.

10.2.2 An employee who organises such vaccinations for themselves and is intending to claim a Hepatitis reimbursement will be required to present evidence of expenditure which satisfies the employer that an entitlement to reimbursement exists. The amount to be reimbursed will not include any amounts covered by Medicare such as medical consultation fees etc.

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

### **Preamble**

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

### **11.1 Right of entry**

#### *11.1.1 Authorised industrial officer*

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

#### *11.1.2 Entry procedure*

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

#### *11.1.3 Inspection of records*

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

#### *11.1.4 Discussions with employees*

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

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

#### 11.1.5 *Conduct*

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

### **11.2 Time and wages record**

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

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

11.2.2 The time and wages record must also contain:

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

11.2.3 The employer must keep the record for 6 years.

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

### **11.3 Posting of award**

11.3.1 A true copy of this Award shall be available in a convenient place on the employer's premises so as to be readily available to employees.

Dated 10 May 2012.

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

