

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

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

**MALTHOUSE EMPLOYEES' AWARD - SOUTH-EASTERN DIVISION 2003**

Following the Declaration of the General Ruling for Overtime Meal Allowance (matter numbers B/2010/34 and B/2010/38), the Malthouse Employees' Award - South-Eastern Division 2003 is hereby reprinted, pursuant to s. 698 of the *Industrial Relations Act 1999*.

I hereby certify that the Award contained herein is a true and correct copy of the Malthouse Employees' Award - South-Eastern Division 2003 as at 1 January 2011.

Dated 1 March 2011.

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

**MALTHOUSE EMPLOYEES' AWARD - SOUTH-EASTERN DIVISION 2003**

**PART 1 - APPLICATION AND OPERATION**

**1.1 Title**

This Award is known as the Malthouse Employees' Award - South-Eastern Division 2003.

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**1.3 Award coverage**

This Award will apply to employees in malthouses in the South-Eastern Division of the State of Queensland - that is, the area comprised within the following boundaries: Commencing at Point Danger, and bounded then by the southern boundary of the State westerly to 151 degrees of east longitude; then by that degree of longitude bearing true north to 24 degrees 30 minutes of south latitude; then by that parallel of latitude bearing true east to the sea-coast; and then by the sea-coast southerly to the point of commencement.

This Award will not have application to employees covered by the Brewing Industry Award - State 2002.

**1.4 Date of operation**

This Award takes effect from 28 April 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 "Commission" means the Queensland Industrial Relations Commission.

1.5.3 "Dirty Work" means cleaning kiln dust or malt dust from any room in the malting and levelling off bins, and

cleaning and bagging combings from between fires and kilns.

- 1.5.4 "Shift Work" means work performed by 2 or 3 sets of men working the recognised hours preceding, during or following the ordinary working hours.
- 1.5.5 "Union" means the Australian Liquor, Hospitality and Miscellaneous Workers Union, Queensland Branch, Union of Employees

## **1.6 Parties bound**

This Award is legally binding upon the employees as prescribed by clause 1.5 and their employers, and the Union and its members.

## **PART 2 - FLEXIBILITY**

### **2.1 Enterprise flexibility**

- 2.1.1 As part of a process of improvement in productivity and efficiency, discussion should take place at each enterprise to provide more flexible working arrangements, improvement in the quality of working life, enhancement of skills, training and job satisfaction and to encourage consultative mechanisms across the workplace.
- 2.1.2 The consultative processes established in an enterprise in accordance with clause 2.1 may provide an appropriate mechanism for consideration of matters relevant to clause 2.1.1. Union delegates at the place of work may be involved in such discussions.
- 2.1.3 Any proposed genuine agreement reached between an employer and employee/s in an enterprise is contingent upon the agreement being submitted to the Commission in accordance with Chapter 6 of the Act and is to have no force or effect until approval is given.

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

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

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

- 3.1.1 In the event of an employee having a grievance or dispute the employee shall in the first instance attempt to resolve the matter with the immediate supervisor, who shall respond to such request as soon as reasonably practicable under the circumstances. Where the dispute concerns alleged actions of the immediate supervisor the employee(s) may bypass this level in the procedure.
- 3.1.2 If the grievance or dispute is not resolved under clause 3.1.1, the employee or the employee's representative may refer the matter to the next higher level of management for discussion. Such discussion should, if possible, take place within 24 hours after the request by the employee or the employee's representative.
- 3.1.3 If the grievance involves allegations of unlawful discrimination by a supervisor the employee may commence the grievance resolution process by reporting the allegations to the next level of management beyond that of the supervisor concerned. If there is no level of management beyond that involved in the allegation the employee may proceed directly to the process outlined at clause 3.1.5.
- 3.1.4 If the grievance or dispute is still unresolved after discussions mentioned in clause 3.1.2, the matter shall, in the case of a member of 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.

## **3.2 Consultation**

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

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

### **4.1 Employment categories**

- 4.1.1 Employees covered by this Award will 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); or
- (c) casual (as prescribed in clause 4.3).

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

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

- (a) is employed for not less than 8 hours per week and for not more than 32 ordinary hours 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 covered by this Award:

Provided that during their induction period part-time employees may work 40 ordinary hours in any one week.

- 4.2.2 At the time of engagement, the employer and the employee will agree in writing on the pattern of work required, including specifying the number of ordinary hours per week, the days on which the work is to be performed and the usual daily starting and finishing times.
- 4.2.3 Any amendment to the normal starting and ceasing times will be in accordance with methods of altering the ordinary hours of work for full-time employees in clause 6.1.7.
- 4.2.4 The agreed number of ordinary hours per week will not be amended without the consent of the employee. Any such agreed amendment to the number of weekly hours of work will be recorded in writing.
- 4.2.5 An employer is required to roster a part-time employee for a minimum of 3 consecutive hours on any day.
- 4.2.6 All time worked outside the spread of ordinary working hours as provided for in clause 6.1 and all time worked in excess of the hours as mutually arranged in clause 4.2.1 or 4.2.2 will be overtime and paid for at the rates prescribed in clause 6.2 - 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 1/40th of the weekly rate prescribed for the class of work performed.

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

### **4.3 Casual employment**

4.3.1 A casual employee is an employee engaged for less than 40 ordinary hours per week.

4.3.2 Casual employees shall be paid 23% per day in addition to the rate of wages fixed herein.

### **4.4 Incidental or peripheral tasks**

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

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

4.4.3 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.

4.4.4 Any direction issued by an employer pursuant to clauses 4.4.1, 4.4.2 and 4.4.3 will be consistent with the employer's responsibility to provide a safe and healthy working environment.

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

(b) sexual harassment; and

(c) racial and religious vilification.

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

4.5.3 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*;

(b) an employee, employer or registered organization, pursuing matters of discrimination, including by application to the Human Rights and Equal Opportunity 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*

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

4.6.4 Employees giving or receiving such notice or being summarily dismissed will be paid within an hour of the termination of employment:

Provided that in cases of misconduct on the part of the employee which would justify dismissal at common law, dismissal will be instantaneous and without wages in lieu of notice. Notice of dismissal will not be considered as part of annual leave.

#### 4.6.5 *Time off during notice period*

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

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

### *4.8.4 Time off during notice period*

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

#### 4.8.5 *Notice to Centrelink*

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

#### 4.8.6 *Severance pay*

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

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

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

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

#### 4.8.7 *Superannuation benefits*

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

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

#### 4.8.8 *Employee leaving during notice*

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

- (a) Subject to an order of the Commission, in a particular redundancy case, clause 4.8 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.

#### 4.8.13 *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 Classification definitions**

5.1.1 "Leading Hand Maltster" will mean an employee who is in charge of and responsible for the work of Maltsters

and Senior Maltsters, who is qualified to be a Senior Maltster, and who in addition, may be responsible for (but not limited to) aspects of production, trouble-shooting plant or equipment operation, re-setting programmed logic controller setpoints, and changing programmed logic, and other duties as required from time to time. Duties will include all Senior Maltster classes of work.

Promotion to Leading Hand Maltster will occur when the Maltster is able to handle the majority of classes of Maltster work, has shown responsibility and concern for the work and has shown appropriate leadership skills.

Progression will not be automatic or by service, but by skill acquisition through training, and will only occur where a vacancy exists.

5.1.2 "Maltster" will mean an employee engaged in any or all of the following classes of work:

Cleaning (all types), receiving, storing, despatching, kilning, steeping, germinating, transporting, sampling, in-process testing or any other duties normally performed in a malthouse.

5.1.3 "Senior Maltster" will mean an experienced and competent Maltster who is versatile enough to do any of the Maltsters activities within a particular malthouse, in order that such employee may relieve other employees in a wide range of activities and who, in addition has shown over time a strong sense of responsibility and concern for the job and who will require no direct supervision. Duties will include all Maltster classes of work.

Promotion from Maltster to Senior Maltster will take place when sufficient experience has been gained in each class of work, when judged to be competent and responsible on the job and when there is a vacancy.

## 5.2 Wages

5.2.1 The following will be the minimum rates of wages payable:

Classification and relativity	Award rate	
		Per week
Maltster	87.4%	\$ 627.40
Senior Maltster	92.4%	648.30
Leading Hand Maltster	100.0%	682.00

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

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

5.2.2 Dirty work will be paid for at the rate of 65.75c per hour in addition to the rate of wages fixed herein:

Provided such payment will be for the time actually engaged on such dirty work.

5.2.3 An employee in charge of a shift will be paid \$14.40 per week in addition to the rate of wages fixed herein.

## 5.3 Payment of wages

5.3.1 All employees other than casual shall be paid weekly:

Provided that an employer may hold not more than 2 days' pay in hand.

5.3.2 Wages will be paid in the employer's time.

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

### 6.1 Hours

6.1.1 *Day work* - The ordinary working hours of employees other than shift workers, will not exceed 40 hours per week or 8 hours per day, to be worked on not more than 5 days of the week Monday to Friday.

Such working hours will be exclusive of meal times and will be worked between 7 a.m. and 5 p.m. on such days, with the actual time of commencement being mutually agreed upon between the employer and employee.

One hour will be allowed for the midday meal, but by mutual arrangement this may be reduced to not less than half an hour.

- 6.1.2 *Shift work* - The ordinary working hours of shift workers will not exceed 40 per week or 8 per day to be worked on 5 days of the week with 2 consecutive days off in each week.
- 6.1.3 The times of commencement of shifts will be clearly stated in a roster to be posted. Except in cases of emergency, a week's notice will be given before changing the time of a shift worker's shift.
- 6.1.4 All shift workers will be entitled to a 30 minute paid crib break to be taken as near as practicable to the middle of the employees' shift.
- 6.1.5 *Extra payment for afternoon and night shifts:*

All afternoon and night shift workers will be paid an allowance as set out hereunder in addition to the rates prescribed herein:

Afternoon shift	12.5% of ordinary time earnings (or \$9.70 whichever is greater)
Night shift	15% of ordinary time earnings (or (\$9.70 whichever is greater)

Provided that this payment will not be made for week-end shifts which attract extra payment by reason of clause 6.1.6.

- 6.1.6 All ordinary time worked by a shift worker between midnight Friday and midnight Saturday will be paid for at the rate of time and a-half and between midnight Saturday and midnight Sunday at the rate of double time.
- 6.1.7 A copy of the starting and ceasing times of each employee will be posted up in the malthouse which, except in the case of emergency, will not be alterable without 7 days' notice.

## **6.2 Overtime**

- 6.2.1 *Day workers* - All time worked in excess of 8 hours per day, 40 hours per week, or outside the normal commencing and ceasing times will be deemed to be overtime and will be paid for at the rate of time and a-half for the first 3 hours and double time thereafter on any one day:

Provided that all time worked on a Sunday will be paid for at the rate of double time and where an employee is called upon to work on a Saturday or Sunday the employee will be paid as for a minimum of 2 hours worked at the appropriate rate.

- 6.2.2 *Shift workers* - All time worked in excess of 8 hours per day, 40 hours per week, or outside the rostered hours will be deemed to be overtime and will be paid for at the rate of double time.
- 6.2.3 Except as otherwise provided, any employee called upon to work overtime for more than one hour after their ordinary ceasing time without notice on the previous day of the intention to work overtime will be allowed a meal break of 30 minutes after the first hour worked, for which no deduction in pay will be made and will be paid the sum of \$12.10 as meal money, and will also be allowed a meal break of 30 minutes after each further 4 hours worked for which no deduction in pay will be made, and will be paid the sum of \$12.10 as meal money.

Where an employee has provided customary meals because of receipt of notice to work overtime, in the event of work not being done, or ceasing before the respective meal time, the employee will be entitled to an allowance of \$12.10 for each meal so provided.

- 6.2.4 During the first half-hour's overtime any period up to 30 minutes will be paid for as if half-an-hour had been worked; any period over 30 minutes and up to 60 minutes will be paid for as if an hour had been worked and thereafter overtime will be paid for the actual time worked.
- 6.2.5 Where an employee works through their meal break the employee will be paid for such time worked at the rate of double time and such double time will continue until such time as the employee receives a 30 minute paid meal break or ceases work for the day.

## **6.3 Rest pauses**

Every employee covered by this Award will be entitled to a rest pause of 10 minutes' duration in the employer's time in

the first and second half of their daily work. Such rest pauses will be taken at such times as will not interfere with continuity of work where continuity is necessary.

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

### **7.1 Annual leave**

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

- (a) not less than 5 weeks if employed on shift work where 3 shifts per day are worked over a period of 7 days per week; and
- (b) not less than 4 weeks in any other case.

7.1.2 Such annual leave is exclusive of any public holiday which may occur during the period of that annual leave and (subject to clause 7.1.3) must be paid for by the employer in advance:

- (a) in the case of any and every employee in receipt immediately prior to that leave of ordinary wages at a rate in excess of the ordinary wages payable under clause 5.2, at that excess rate; and
- (b) in every other case, at the ordinary time rate of pay payable under clause 5.2 to the employee concerned immediately prior to that leave.

7.1.3 If the employment of any employee is terminated at the expiration of a full year of employment, the employer shall be deemed to have given the leave to the employee from the date of termination of the employment and shall immediately pay to the employee, in addition to all other amounts due to them, their pay, calculated in accordance with clause 7.1.5, for 4 or 5 weeks as the case may be and also their ordinary time rate of pay for any public holidays occurring during such period of 4 or 5 weeks.

7.1.4 If the employment of any employee is terminated before the expiration of a full year of employment, such employee shall be paid, in addition to all other amounts due, an amount equal to 1/9th of their pay for the period of their employment in the case of a shift worker, and 1/12th of their pay for the period of their employment in the case of a day worker, calculated in accordance with clause 7.1.5.

#### *7.1.5 Calculation of annual leave pay*

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

- (a) Shift workers - Subject to clause 7.1.5(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 public holiday shifts.
- (b) Leading hands etc. - Subject to clause 7.1.5(c), leading hand allowances otherwise payable for ordinary time worked shall be included in the wages to be paid to employees during annual leave.
- (c) All employees - Subject to the provisions of clause 7.1.5(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 in clause 5.2 for the period of the annual leave (excluding shift premiums and weekend penalty rates);
  - (ii) leading hand allowance prescribed in clause 5.2;
  - (iii) a further amount calculated at the rate of 17 1/2% of the amounts referred to in clauses 7.1.5(c)(i) and 7.1.5(c)(ii).
- (d) Clause 7.1.5(c) does not apply to the following:
  - (i) any period or periods of annual leave exceeding:
    - 5 weeks in the case of employees employed in a calling where 3 shifts per day are worked over a period of 7 days per week; or
    - exceeding 4 weeks in any other case; or
  - (ii) employers who are already paying an annual leave bonus, loading or other annual leave payment which is

not less favourable to employees.

7.1.6 Unless the employee agrees otherwise, the employer must give the employee at least 14 days' notice of the date from which the employee's annual leave will be taken.

7.1.7 Except as provided in clause 7.1.4, it is not lawful for the employer to give, or for the employee to receive, payment in lieu of annual leave.

## **7.2 Sick leave**

### *7.2.1 Entitlement*

(a) Every employee, except casuals, is entitled to 8 days' sick leave for each completed year of their employment with their employer.

(b) This entitlement will accrue at the rate of one day's sick leave after each 6 weeks of employment.

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

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

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

(f) "Day" means each period of 24 hours from the commencement of the job.

(g) Part-time employees accrue sick leave on a proportional basis.

### *7.2.2 Employee must give notice*

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

### *7.2.3 Evidence supporting a claim*

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

### *7.2.4 Accumulated sick leave*

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

(a) The employee is absent from work on unpaid leave granted by the employer;

(b) The employer or employee terminates the employee's employment and the employee is re-employed within 3 months; or

(c) The employee's employment is terminated because of illness or injury and the employee is re-employed by the same employer without having been employed in the interim.

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

### *7.2.5 Workers' compensation*

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

## **7.3 Bereavement leave**

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

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

### *7.3.2 Long-term casual employees*

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

#### 7.3.3 "Immediate family" includes:

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

#### 7.3.4 *Unpaid leave*

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

### 7.4 Long service leave

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

### 7.5 Family leave

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

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

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

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

- (a) Maternity leave
- (b) Parental leave
- (c) Adoption leave
- (d) Special responsibility leave for the care and support of the employee's immediate family or household.

### 7.6 Public holidays

#### 7.6.1 All work done by any employee on:

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

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

#### 7.6.2 *Labour Day*

All employees covered by this Award are entitled to be paid a full day's wage for Labour Day (the first Monday in May or other day appointed under the *Holidays Act 1983*, to be kept in place of that holiday) irrespective of the fact that no

work may be performed on such day, and if any employee concerned actually works on Labour Day, such employee will be paid a full day's wage for that day and in addition a payment for the time actually worked by the employee at one and a-half times the ordinary time rate of pay prescribed for such work with a minimum of 4 hours.

### 7.6.3 Annual show

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

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

### 7.6.4 Double time and a-half

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

### 7.6.5 Stand down

Any employee, with 2 weeks or more of continuous service, whose employment has been terminated by the employer or who has been stood down by the employer during the month of December, and who is re-employed in January of the following year, shall be entitled to payment at the ordinary rate payable to that employee when they were dismissed or stood down, for any one or more of the following holidays, namely, Christmas Day, Boxing Day and the 1st January (New Year's Day).

7.6.6 Should any of the aforementioned holidays occur on a working day on which an employee is rostered off the employee concerned will be paid an additional day's wages or an extra day will be added to their annual leave.

## 7.7 Jury service

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

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

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

## PART 9 - TRAINING AND RELATED MATTERS

### 9.1 Commitment to training and careers

- 9.1.1 The parties acknowledge that various degrees of training are provided to employees in the industry, both by internal on the job training and through external training providers.
- 9.1.2 The parties commit themselves to continuing such training as is regarded by them as appropriate and improving training in such cases where this is required.

- 9.1.3 It is agreed that the parties will co-operate in ensuring that appropriate training is available for all employees in this industry and the parties agree to co-operate in encouraging both employers and employees to avail themselves of the benefits from such training.
- 9.1.4 The parties agree to continue discussions on issues raised in relation to training.
- 9.1.5 The parties are committed to encouraging young people to view this industry as one which has the capacity to provide them with an interesting career.

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

### **10.1 Kiln temperature**

- 10.1.1 No employee will be asked to enter any kiln for the purpose of loading or unloading while the temperature inside is 49 degrees celsius or over.
- 10.1.2 Employees loading and unloading kilns at 38 degrees celsius or over will be allowed not less than 10 nor more than 15 minutes to cool down before being put on other work.
- 10.1.3 Not less than 2 men will be in kilns at the time of loading, turning, and unloading the kilns.

### **10.2 Dressing rooms**

Each employer will provide employees with showers and lavatories and a dressing-room with lockers suitable for the preservation of the employees' clothes, etc.

### **10.3 Equipment**

Employees engaged in doing Dirty Work will be supplied with masks, pads, or goggles.

### **10.4 First aid**

First-aid kit will be provided by the employers in each department, and in the event of an accident occurring the first-aid attendant will be allowed reasonable time to attend to employees concerned in such accident.

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

### **Preamble**

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

### **11.1 Right of entry**

#### *11.1.1 Authorised industrial officer*

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

#### *11.1.2 Entry procedure*

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



- (d) If the authorised industrial officer intentionally disregards a condition of clause 11.1.2 the authorised industrial officer may be treated as a trespasser.

#### 11.1.3 *Inspection of records*

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

#### 11.1.4 *Discussions with employees*

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

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

#### 11.1.5 *Conduct*

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

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

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

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

11.2.2 The time and wages record must also contain:

- (a) the employee's full name and address;

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

11.2.3 The employer must keep the record for 6 years.

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

### **11.3 Union encouragement**

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

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

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

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

#### *11.3.2 Union delegates*

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

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

#### *11.3.3 Deduction of Union fees*

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

### **11.4 Award posting**

Copies of this Award will be exhibited by the employer in a conspicuous place on the premises and in a dressing-room which will be easily accessible to the employees.

Dated 27 February 2003.

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

Operative Date: 28 April 2003