

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

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

**MILK TREATMENT, MILK PRODUCTS MANUFACTURE AND MILK ETC.,  
DISTRIBUTION AWARD - SOUTH-EASTERN DISTRICT 2003**

Following the Declaration of the General Ruling in the 2010 State Wage Case (matter numbers B/2010/20 and B/2010/21), the Milk Treatment, Milk Products Manufacture and Milk Etc., Distribution Award - South- Eastern District 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 Milk Treatment, Milk Products Manufacture and Milk Etc., Distribution Award - South- Eastern District 2003 as at 1 September 2010.

Dated 1 November 2010.

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

**MILK TREATMENT, MILK PRODUCTS MANUFACTURE AND MILK ETC.,  
DISTRIBUTION AWARD - SOUTH-EASTERN DISTRICT 2003**

**PART 1 - APPLICATION AND OPERATION**

**1.1 Title**

This Award is known as the Milk Treatment, Milk Products Manufacture and Milk Etc., Distribution Award - South- Eastern District 2003.

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### 1.3 Date of operation

This Award takes effect from 3 November 2003.

### 1.4 Award coverage

1.4.1 This Award applies to employees engaged in or in connection with the treatment of milk, the manufacture of milk products, and the distribution of milk and/or milk products at factories or depots, in that portion of the State of Queensland within the following boundaries:

Commencing at the junction of the sea-coast with the southern border of the State, then by the southern border of the State westerly to 150 degrees of east longitude; from that meridian of longitude due north to 25 degrees of south latitude; from that parallel of latitude due west to 147 degrees of east longitude; then by that meridian of longitude due north to 22 degrees of south latitude; from that parallel of latitude due east to the sea-coast; and then by the sea-coast southerly to the point of commencement:

#### 1.4.2 Exemptions from coverage

This Award shall not apply to employees engaged in or in connection with the manufacture of butter or cheese.

As to the employers named in Schedule 1 to this Award the provisions of the Award are modified in accordance with the requirements of the individual Orders listed in such Schedule.

This Award shall not apply to employees covered by the *Dairy Products Industry - Queensco-Unity Dairyfoods Co-operative Association Limited and Malando Dairyfoods Limited Award - State 2004*.

### 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 "Cold Room Hand" means an employee who is employed for more than 3 hours on any one day in a cold room.

1.5.3 "Commission" means the Queensland Industrial Relations Commission.

1.5.4 "Dairy Produce Laboratory Technician" means an employee who holds a current Dairy Produce Laboratory Technicians' Certificate of Competency, as issued by the Director of Dairying under the *Dairy Industry Act 1993*, and who is principally engaged within a registered Dairy Produce Laboratory carrying out tests, functions and duties within the parameters determined from time to time under the *Dairy Industry Act 1993* and Regulations to that Act.

1.5.5 "Milk Issuer" means an employee employed in the distribution of milk to vendors, and whose duties may include the keeping of records and issuing receipts in connection therewith.

1.5.6 "Union" means The Australian Workers' Union of Employees, Queensland.

1.5.7 "Yoghurt Maker" means the person responsible for the supervision of the manufacture of yoghurt.

### 1.6 Parties bound

This Award is legally binding upon the employees as prescribed by clause 1.4 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 the Union, be reported to the relevant officer of the 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); or
- (c) casual (as prescribed in clause 4.3).

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

- 4.2.1 Employees may be engaged on a part-time basis to work a number of ordinary hours less than the ordinary number of hours prescribed for full-time employees.
- 4.2.2 Part-time employees shall be entitled to the *pro rata* benefit of all of the provisions of the Award which apply to full-time employees, provided that the public holiday entitlements of part-time employees shall apply to those hours on the public holiday which otherwise would have formed a part of the employee's regular hours of work.
- 4.2.3 The ordinary hours of part-time employees (exclusive of meal times) shall be not less than 10 hours per week but less than 38 hours per week.
- 4.2.4 A part-time employee shall be advised of their commencing and ceasing time. Any work performed before or after such commencing and ceasing times will be considered overtime and paid as such.

4.2.5 Introduction of part-time work will, as far as practicable, be by consultation between the employer and employees in the work section or sections concerned. Notwithstanding these consultative procedures the employer shall have the right to make the final determination as to which employees are offered part-time employment.

### **4.3 Casual employment**

4.3.1 A casual employee shall be engaged as such and shall work an average of not more than 32 hours per week.

4.3.2 A casual employee will be engaged for a minimum of 4 hours per engagement.

4.3.3 Casual employees shall be paid 23% per hour in addition to the rate prescribed in clause 5.1.

4.3.4 Casual employees shall be notified at the end of the day if their services are not required next day. Failing such notice a full day's wages shall be paid. They shall be paid as soon as practicable after ceasing work. All waiting time exceeding 30 minutes shall be paid for at overtime rates.

### **4.4 Two or more classes of work**

An employee who is required to perform work on any day for which a higher rate of pay is prescribed in clause 5.1 shall be paid as follows:

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

### **4.5 Incidental and peripheral tasks**

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

4.5.2 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 (where relevant).

4.5.3 Any direction issued by an employer pursuant to clauses 4.5.1 and 4.5.2 shall be consistent with the employer's responsibilities to provide a safe and healthy working environment.

### **4.6 Anti-discrimination**

4.6.1 It is the intention of the parties to this Award to prevent and eliminate discrimination as defined by the *Anti-Discrimination Act 1991* and the *Industrial Relations Act 1999* 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 the above attributes;
- (b) sexual harassment; and
- (c) racial and religious vilification.

4.6.2 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.

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

4.6.4 Nothing in clause 4.6 is to be taken to affect:

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

### **4.7 Termination of employment**

#### 4.7.1 *Statement of employment*

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

#### 4.7.2 *Termination by employer*

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

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

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

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

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

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

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

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

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

The notice of termination required to be given by full-time or part-time employee shall be one week. If an employee fails to give notice, the employer shall have the right to withhold monies due to the employee with a maximum amount equal to the amount the employee would have received under clause 4.7.2(d) for a period of notice of one week.

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

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

### **4.8 Introduction of changes**

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

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

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

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

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

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

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

## **4.9 Redundancy**

### *4.9.1 Consultation before terminations*

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

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

### *4.9.2 Transfer to lower paid duties*

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

### *4.9.3 Transmission of business*

- (a) Where a business is, whether before or after the date of insertion of this clause in the Award transmitted from an employer (transmittor) to another employer (transmittee), and an employee who at the time of such transmission was an employee of the transmittor of the business, becomes an employee of the transmittee:
  - (i) the continuity of the employment of the employee shall be deemed not to have been broken by reason of such transmission; and
  - (ii) the period of employment which the employee has had with the transmittor or any prior transmittor shall be deemed to be service of the employee with the transmittee.
- (b) In clause 4.9.3, 'business' includes trade, process, business or occupation and includes a part or subsidiary (which means a corporation that would be taken to be a subsidiary under the Corporations Law, whether or

not the Corporations Law applies in the particular case) of any such business and 'transmission' includes transfer, conveyance, assignment or succession whether by agreement or by operation of law and 'transmitted' has a corresponding meaning.

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

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

#### 4.9.5 *Notice to Centrelink*

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

#### 4.9.6 *Severance pay*

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

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

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

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

#### 4.9.7 *Superannuation benefits*

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

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

#### 4.9.8 *Employee leaving during notice*

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

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

#### 4.9.9 *Alternative employment*

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

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

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

#### 4.9.11 *Employees exempted*

Clause 4.9 shall not apply:

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

#### 4.9.12 *Employers exempted*

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

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

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

#### 4.9.14 *Incapacity to pay*

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

### **4.10 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 Wage rates

The minimum rate of wages payable to the following classes of employees shall be:

The classification structure expresses the Award rate payable, being the combination of the minimum classification rate and a supplementary payment which includes the first, second and third \$8 per week safety net adjustments. The Award rate includes all increases and adjustments arising as a result of the Second Tier, 1st and 2nd structural efficiency payment and structural efficiency adjustment.

#### 5.1.1 *Other than Pauls Ltd*

The minimum rates of wages payable to the following classes of employees (other than employees of Pauls Ltd) shall be:

Classification	Award Rate Per Week \$
<i>Seniors -</i>	
Yoghurt Maker	635.80
Dairy Produce, Laboratory Technician	633.80
Milk Dryer Operator, spray system	626.70
Milk Grader, Milk Pasteuriser, Milk Tester	626.00
Milk Issuer	621.00
Milk Dryer Operator, Roller System	619.90
Cold Room Hand, Operator in charge of Bottling, Cartoning and/or Packaging Machine	616.90
General Labourers and all others not elsewhere classified	607.90
Carton Machine Operator (Grade 1) Shikoko	635.80
Carton Machine Operator (Grade 2) Shikoko	628.50
Blowmoulding Operator	644.90

#### 5.1.2 *Employees of Pauls Ltd (Brisbane, Nambour, Monto and Rockhampton Operations) and Montague Moulders Pty Ltd*

- (a) The minimum rates of wages payable to employees of Pauls Ltd (Brisbane, Nambour, Monto and Rockhampton Operations) and Montague Moulders Pty Ltd shall be:

	Award Rate Per Week \$
<i>Seniors -</i>	
Grade 7	723.70
Grade 6	702.90
Grade 5	682.00
Grade 4	663.30
Grade 3	646.60
Grade 2	629.90
Grade 1(a)	617.40
Grade 1(b)	606.00

- (b) Employees shall be graded as follows upon satisfactory completion of the requirements prescribed herein for the grade:

Grade	Minimum Total Points	Skill Points Minimum	Qualification Maximum *	Points Minimum	Maximum *
7	101	65	71	30	36
6	82	50	59	23	32
5	64	39	49	15	25
4	49	32	35	14	17

3	34	25	0	9
2	20	14	0	
1(a)	8	6	0	
1(b)	0	0	0	

\* indicates *maximum* number of points which can be used to obtain *minimum* total points for a grade.

(c) Implementation of the points based grading system shall be in accordance with the "Implementation Arrangements" tendered as Exhibit 2 before the Commission at the hearing of Case R13-3E of 1990.

(d) The provisions of clauses 5.1.4(a), 5.2.1, 5.2.2, 5.2.3 and 5.2.4 shall not apply.

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.

### 5.1.3 Juniors

The minimum rates of wages payable to junior employees shall be calculated as follows:

	Percentage of minimum adult rate %
Under 16 years of age	45
16 years and under 17 years of age	55
17 years and under 18 years of age	65
18 years and under 19 years of age	75

And thereafter the adult rate of wages for the class of work performed.

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

No junior shall be employed unless there be one senior employed. Thereafter 2 juniors may be employed to each senior employed respectively.

### 5.1.4 Leading hand allowance

(a) Any person in charge of other employees shall be paid the following in addition to the above rates:

	Per week \$
When in charge of 3 and no more than 5 employees	13.90
When in charge of over 5 but less than 10 employees	20.60
When in charge of 10 or more employees	27.90

(b) Leading hand allowance for employees of Pauls Ltd

Any employee appointed by the employer as a leading hand in charge of other employees shall be paid the following in addition to the above rates:

	Per Week \$
When in charge of 3 and no more than 5 employees	14.00
When in charge of over 5 but less than 10 employees	21.10
When in charge of 10 or more employees	28.10

## 5.2 Allowances

### 5.2.1 Fork lifts

Any employee required to drive a fork lift shall be paid 40.95c per hour in addition to their ordinary rate of wages.

#### 5.2.2 *Lavatory cleaning allowance*

Employees called upon to clean lavatories and urinals shall be paid \$2.03 extra on any day on which they are so employed.

5.2.3 General hands holding either Dairy Produce Laboratory Technician's, milk or cream grading, milk or cream testing or pasteurising certificates shall be entitled to:

	Per week
	\$
Dairy Produce Laboratory Technician's Certificate	18.60
Milk or Cream Grading Certificate	14.50
Milk or Cream Testing or Pasteurising Certificate	12.40

over the minimum wage.

5.2.4 Where juniors hold certificates of competency in milk or cream grading, milk or cream testing or pasteurising, or for Dairy Produce Laboratory Technician, and are employed in any of these classifications, they shall be paid the senior rate of wages for the class of work performed.

### 5.3 **Payment of wages**

Wages shall be paid weekly in cash, and, except as to employees who are paid on their ordinary day off, shall be paid in the employer's time.

### 5.4 **Superannuation**

5.4.1 *Application* - In addition to the rates of pay prescribed by this Award, eligible employees, as defined in clause 5.4.3(a), shall be entitled to occupational superannuation benefits, subject to the provisions of clause 5.4.

#### 5.4.2 *Contributions*

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

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

(b) The employer shall not be required to pay superannuation contributions on behalf of any eligible employee in respect of any week during which such employee receives less than 10 hours pay in ordinary time earnings.

(c) Absences from work - Contributions shall continue to be paid on behalf of an eligible employee during any absence on paid leave such as annual leave, long service leave, public holidays, sick leave and bereavement leave, but no employer shall be required to pay superannuation contributions on behalf of any eligible employee during any unpaid absences except in the case of absence on workers' compensation.

#### 5.4.3 *Definitions*

(a) "Eligible employee" shall mean any employee who has been employed by the employer during 6 consecutive weeks and who has worked a minimum of 60 hours during that period. On completion of the above qualifying period, superannuation contributions shall be made in accordance with clause 5.4.2 retrospectively to the commencement of that period:

Provided that any employee covered by this Award who has a break in employment in excess of 3 months, shall upon re-employment be required to complete the prescribed eligibility period before contributions are again made in accordance with the principles contained herein.

(b) "Ordinary time earnings" shall mean the actual ordinary rate of pay the employee receives for ordinary hours of work including shift loading and leading hand allowance where applicable. Ordinary time earnings shall not include overtime, disability allowances, penalty rates, fares and travelling time allowances, annual leave loadings, lump sum termination payments or any other extraneous payments of a like nature.

#### 5.4.4 *For the purposes of this Award, an approved fund means*

- (a) Sunsuper;
- (b) Austsafe;
- (c) Such other scheme or fund as agreed to between the relevant employer/Union parties to this Award and recorded in an approved Industrial Agreement; or
- (d) In relation to any particular employer, any other scheme or fund to which that employer was already making superannuation contributions on behalf of their employees as at 25 July 1989 and which is approved under the relevant Commonwealth legislation for occupational superannuation:

Provided that in the event of any dispute over whether any Scheme or Fund complies with the requirements of clause 5.4.4(d), the onus of proof shall be with the employer.

#### 5.4.5 *Freedom of choice*

- (a) No employer shall be required to make contributions into more than one fund at any time.
- (b) Employees in schemes or funds covered by clause 5.4.4 shall have the right to choose to have contributions specified in clause 5.4.2, paid into a scheme or fund as defined in clause 5.4.4, as decided by a majority of employees.

#### 5.4.6 *Enrolment*

- (a) Each employer shall notify each employee of the employee's eligibility to occupational superannuation entitlements and shall take all reasonable steps to ensure that each employee, upon becoming eligible, signs the necessary application forms provided by the employer, to join the scheme or fund.
- (b) Each employee shall be required to properly complete the necessary application forms to become a member of the appropriate scheme or fund and return them to the employer in order to be entitled to the contributions prescribed in clause 5.4.2.
- (c) Subject to the employer having complied with the requirements of clause 5.4.6(a) where any employee fails to sign and return to the employer the required superannuation scheme/fund application forms within a month of becoming eligible, such employee shall become entitled only to the contributions prescribed by clause 5.4.2 from the date on which such signed forms are returned to the employer.

#### 5.4.7 *Operative date*

No employer shall be required to make occupational superannuation contributions for any period prior to 1 August 1989 as a result of clause 5.4.

#### 5.4.8 *Cessation of contributions*

An employer shall not be required to make any further contributions on behalf of an eligible employee after the end of the day upon which the contract of employment ceases to exist.

#### 5.4.9 *Exemptions*

An employer may apply to the Commission for exemption from the provisions of clause 5.4 on the basis of incapacity to pay the costs associated with its implementation, or for any other special or compelling circumstances peculiar to the business.

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

### **6.1 Hours of work - other than employees of Pauls Ltd and Montague Moulders Pty Ltd**

- 6.1.1 (a) Subject to clause 6.3 (Working of a 38 hour week - all employees), and subject to the exceptions provided in clause 6.1 the ordinary hours of work shall be an average of 38 per week, to be worked on one of the following bases:
  - (i) 38 hours within a work cycle not exceeding 7 consecutive days; or
  - (ii) 76 hours within a work cycle not exceeding 14 consecutive days; or
  - (iii) 114 hours within a work cycle not exceeding 21 consecutive days; or
  - (iv) 152 hours within a work cycle not exceeding 28 consecutive days.

- (b) The ordinary hours of work on any day or shift shall be worked continuously except for meal breaks, shall not exceed 10 per day or shift and may be worked on any 5 consecutive days in the week, Monday to Sunday inclusive, subject to the following:
- (i) Ordinary hours worked on a Saturday or Sunday shall be paid at the appropriate week-end penalty rate specified in clause 6.7 (Week-end penalty rates).
  - (ii) Any arrangement of hours which includes a Saturday or Sunday as ordinary hours shall be subject to agreement between the employer and the majority of employees concerned.
  - (iii) The branch secretary of the Union shall be notified in writing by the employer within 14 days of the commencement of work under any arrangement of hours which exceeds 8 ordinary hours on any day or shift or which includes a Saturday or Sunday as ordinary hours
- (c) The ordinary daily starting and ceasing times shall be as mutually agreed between the employer and the majority of affected employees in the section or sections concerned.
- (d) The ordinary starting and ceasing times of various groups of employees or of individual employees may be altered or staggered provided there is agreement between the employer and the majority of employees in the section or sections concerned:

Provided that the ordinary starting and ceasing times applicable to employees as at the date of the introduction of the 38 hour week shall remain in force until otherwise altered in accordance with clause 6.1.

The branch secretary of the Union shall be notified by the employer in writing within 14 days of commencement of work under any of the above agreed arrangements.

- (e) A daily meal time of not less than one-half hour nor more than an hour shall be allowed in the employee's time, and shall be taken as mutually agreed upon between the employer and the employees:

Provided that any such meal time shall commence not earlier than 3 and one-half hours and not later than 6 hours after the ordinary daily commencing time.

- (f) Employees are required to observe the nominated starting and finishing times for the work day, including designated breaks to maximise available working time. Preparation for work and cleaning up of the employee's person shall be in the employee's time.
- (g) Where practicable every employee covered by this Award shall be entitled to a rest pause of 10 minutes duration in the employer's time in the first and second half of the working day. Such rest pauses shall be taken at such times as will not interfere with the continuity of work where continuity is necessary:

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

- (h) Notwithstanding the consultative procedures outlined in clause 6.1.1(g), and notwithstanding any lack of agreement by employees, the employer shall have the right to make the final determination as to the combination of rest pauses into one 20 minute rest pause.

#### 6.1.2 *Shift work*

Shift work may be worked in accordance with a roster and conditions as agreed between the employer and the majority of employees affected in the section or sections concerned.

The branch secretary of the Union shall be notified in writing of the details of such agreement by the employer within 14 days of commencement of work under such agreed conditions.

## 6.2 **Hours of work - Pauls Ltd and Montague Moulders Pty Ltd**

- 6.2.1 (a) Subject to clause 6.3, (Working of a 38 hour week - all employees, and subject to the exceptions provided in clause 6.2, the ordinary hours of work shall not (except as may be otherwise mutually agreed upon between the employer and the branch secretary of the Union) exceed an average of 38 per week, to be worked on one of the following bases:
- (i) 38 hours within a work cycle not exceeding 7 consecutive days; or

- (ii) 76 hours within a work cycle not exceeding 14 consecutive days; or
  - (iii) 114 hours within a work cycle not exceeding 21 consecutive days; or
  - (iv) 152 hours within a work cycle not exceeding 28 consecutive days.
- (b) The ordinary hours of work prescribed may be worked on any 5 consecutive days in the week, Monday to Sunday inclusive, subject to the following:
- (i) Ordinary hours worked on a Saturday or Sunday shall be paid at the appropriate week-end penalty rate specified in clause 6.7 (Week-end penalty rates).
  - (ii) Any arrangement of hours which includes a Saturday or Sunday as ordinary hours shall be subject to agreement between the employer and the majority of employees concerned.
- (c) Except as provided in clause 6.2.1(d), a daily meal time of not less than one-half hour nor more than an hour shall be allowed in the employee's time, and shall be taken as mutually agreed upon between the employer and the employees:
- Provided that any such meal time shall commence not earlier than 3 and one-half hours and not later than 6 hours after the ordinary daily commencing time.
- (d) Whilst the current hours are being worked in Brisbane milk depots, depot masters and depot assistants employed by Pauls Ltd in consideration of their being unable to take an uninterrupted daily meal break of 30 minutes on Monday to Friday (both inclusive) shall be paid 30 minutes at ordinary time with meal breaks to be taken as mutually arranged between the employer and the employees concerned.
- (e) The ordinary daily starting and ceasing times shall be as mutually agreed upon between the employer and the majority of affected employees.
- (f) The ordinary hours of work prescribed herein shall not exceed 10 hours on any day:
- Provided that where the ordinary working hours are to exceed 8 on any day, the arrangement of hours shall be subject to the agreement of the employer and the majority of employees concerned:
- Provided further, that where any arrangement of ordinary hours exceeds 8 on any day, the Union shall be notified in writing within 14 days of commencement of work under such arrangements.
- (g) Employees are required to observe the nominated starting and finishing times for the work day, including designated breaks to maximise available working time. Preparation for work and cleaning up of the employee's person shall be in the employee's time.
- (h) Where practicable every employee covered by this Award shall be entitled to a rest pause of 10 minutes duration in the employer's time in the first and second half of the working day. Such rest pauses shall be taken at such times as will not interfere with the continuity of work where continuity is necessary:
- Provided that where there is agreement between the employer and the majority of employees concerned the rest pauses may be combined into one 20 minute rest pause to be taken in the first part of the ordinary working day, with such 20 minute rest pause and the meal break arranged in such a way that the ordinary working day is broken up into 3 approximately equal working periods.
- Consent to combine the rest pauses shall not be unreasonably withheld by either party.

#### 6.2.2 *Shift work*

- (a) The ordinary working hours of employees working shift work shall be worked in accordance with a roster agreed in writing and not exceed 8 per shift unless agreed in writing between the employer and the majority of employees concerned.
- (b) The Union shall be provided with a copy of all such written agreements within 14 days of commencement of work under such arrangements.
- (c) Different methods of working shifts may apply to various work groups or sections of employees.
- (d) By agreement between an employer, the Union and the majority of employees in the plant or work section or sections concerned, ordinary hours not exceeding 12 on any day may be worked subject to:

- (i) the employer and the employee concerned being guided by the occupational health and safety provisions of the ACTU Code of Conduct on 12 Hour Shifts;
  - (ii) proper health monitoring procedures being introduced;
  - (iii) suitable roster arrangements being made; and
  - (iv) proper supervision being provided.
- (e) Shift workers engaged in an operation where 3 consecutive shifts (without overlap of ordinary time between such shifts) are worked on at least 5 days of the week shall be allowed 30 minutes in each shift for meal time which shall be taken at such time as not to cause a stoppage of work and no deduction shall be made therefore from the employee's wages.

### **6.3 Working of a 38 hour week - all employees**

- 6.3.1 (a) The 38 hour week shall be worked on one of the following bases, most suitable to the particular business, after consultation with and giving reasonable consideration to the wishes of the employees concerned:
- (i) by employees working less than 8 ordinary hours each day; or
  - (ii) by employees working less than 8 ordinary hours on one or more days each work cycle; or
  - (iii) by fixing one or more work days on which all employees will be off during a particular work cycle; or
  - (iv) by rostering employees off on various days of the week during a particular work cycle, so that each employee has one work day off during that cycle.

The employer and the majority of employees concerned may agree to accrue up to a maximum of 12 rostered days off.

Consent to accrue rostered days off shall not be unreasonably withheld by either party. Where such agreement has been reached, the accrued rostered days shall be taken within 12 calendar months of the date on which the first rostered day off was accrued. In all cases rostered days off shall be taken at times to suit the employer's work requirements.

- (b) Subject to clause 6.1.1(b), employees may agree that the ordinary hours of work are to exceed 8 on any day or shift, thus enabling more than one work day to be taken off during a particular work cycle.
- (c) Different methods of implementation of the 38 hour week may apply to individual employees, groups or sections of employees in the business concerned.
- (d) The employer and all employees concerned in each establishment shall consult over the most appropriate means of implementing and working a 38 hour week.
- (e) The objective of such consultation shall be to reach agreement on the method of implementing and working the 38 hour week.
- (f) The outcome of such consultation shall be recorded in writing.
- (g) In cases where agreement cannot be reached as a result of consultation between the parties, either party may request the assistance or advice of their relevant employee or employer organisation.
- (h) Notwithstanding the consultative procedures outlined above, and notwithstanding any lack of agreement by employees, the employer shall have the right to make the final determination as to the method by which the 38 hour week is worked from time to time.
- (i) After working the 38 hour week, upon giving 7 days' notice or such shorter period as may be mutually agreed upon, the method of working the 38 hour week may be altered, from time to time, following negotiations between the employer and employees concerned, utilising the provisions of clause 6.1.

### **6.4 Overtime**

- 6.4.1 All time worked before the ordinary commencing time or after the ordinary ceasing time shall be deemed overtime.

- 6.4.2 All overtime, except as otherwise provided in clause 6.4, shall be paid for at one and a-half times the ordinary rate for the first 3 hours on any one day, after which double time shall be paid until the ordinary starting time next morning.
- 6.4.3 Overtime worked by shift workers shall be paid for at the rate of double time.
- 6.4.4 All work done by employees on their days off shall be paid for at the rate of double time.
- 6.4.5 All work done during the recognised meal period shall be paid for at the rate of double time, such payment to continue until a meal period has commenced. Such meal period shall be of the prescribed duration.
- 6.4.6 Where an employee is called upon to work overtime for 4 hours or more before the ordinary commencing time, the employee shall at the expiration of 4 hours, be allowed one-half hour for a meal in the employer's time, and a further one-half hour in the employer's time at the completion of every additional 4 hours' overtime worked.
- 6.4.7 Where an employee is called upon to work overtime for 4 hours or more before the ordinary commencing time, the employee shall be supplied with a meal by the employer at each of the meal times allowed in accordance with clause 6.4.6, or shall be paid in lieu thereof an allowance of \$9.60 for each such meal.
- 6.4.8 Where an employee is called upon to work for more than one hour before the ordinary commencing time without receiving notice on their previous shift that the employee would be required to work such overtime, the employee shall be supplied with a meal by the employer or shall be paid an allowance of \$9.60 in lieu thereof.
- 6.4.9 Where an employee is called upon to work overtime for more than 2 hours overtime, or more than one hour if overtime continues beyond 6 p.m., they shall be allowed one-half hour for a meal in the employer's time and a further one-half hour in the employer's time at the completion of every 4 additional hours' overtime worked.
- 6.4.10 An employee who is required to continue work after the usual ceasing time shall be supplied with a reasonable meal at the employer's expense, or be paid a meal allowance of \$9.60 in lieu thereof, after more than 2 hours overtime, or after more than one hour if overtime continues beyond 6 p.m.
- 6.4.11 Where an employee has provided meals because of receipt of notice to work overtime, the employee shall, in the event of the work not being done or ceasing before the respective meal times, be paid an allowance of \$9.60 for each meal so provided.
- 6.4.12 Any employee who works so much overtime between the termination of that employee's ordinary work on one day and the commencement of the employee's ordinary work on the next day that the employee has not at least 10 consecutive hours off duty between those times shall, subject to clause 6.4.12 be released after the completion of such overtime until the employee has had 10 consecutive hours off duty without loss of pay for ordinary working time occurring during such absence. If on the instructions of the employer such an employee resumes or continues work without having had such 10 consecutive hours off duty, the employee shall be paid double rates until the employee is released from duty for such period and shall then be entitled to be absent until the employee has had 10 consecutive hours off duty without loss of pay for ordinary working time occurring during such absence:

Provided that, where an employee is recalled to work after the ordinary ceasing time, overtime worked in such circumstances shall not be regarded as overtime for the purposes of clause 6.4 where the actual time worked is less than 2 hours on such recall or on each of such recalls.

The provisions of clause 6.4.12 shall apply in the case of shift workers who rotate from one shift to another as if 8 hours were substituted for 10 hours when overtime is worked:

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

## **6.5 Recall to work**

- 6.5.1 Employees recalled to work following ordinary ceasing time or called into work prior to ordinary commencing time shall be provided with a minimum of 2 hours' work or payment therefor at the appropriate overtime rate.
- 6.5.2 Employees required to come in to work on rostered days off or holidays shall be provided with a minimum of 4 hours' work or payment therefor at the appropriate overtime rate.

## **6.6 Afternoon and night shift allowances**

6.6.1 (a) In addition to the rates of pay prescribed by clause 5.1 employees whilst engaged on afternoon shift and night shift, as established pursuant to clauses 6.1 and 6.2, shall be paid an additional penalty rate for each 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) For the purposes of clause 6.5:

- (i) "Afternoon shift" shall mean any shift finishing after 6.00 p.m. and at or before midnight;
- (ii) "Night shift" shall mean any shift finishing after midnight and at or before 8.00 a.m. or any shift commencing at or after midnight and before 5.30 a.m.;
- (iii) The percentage which is quoted shall be the amount which is payable for each shift in addition to the employee's ordinary time wage rate.

(c) No employee shall as a result of clause 6.6 suffer any reduction to their current entitlement to shift allowance.

## **6.7 Weekend penalty rates**

6.7.1 All ordinary time worked between midnight on Friday and midnight on Sunday shall be paid for at one and a-half times the ordinary rate.

6.7.2 Any time worked in excess of the ordinary daily hours provided for in this Award on any day or shift during the above period shall be paid for at double ordinary rates.

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

### **7.1 Annual leave**

7.1.1 Every employee (other than a casual employee) covered by this Award shall at the end of each year of their employment be entitled to 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, or if employed by Pauls Ltd as a Depot Master or Depot Assistant on permanent night work usually performed on a 6 day week basis.

(b) Not less than 4 weeks in any other case.

7.1.2 Such annual leave shall be exclusive of any public holiday which may occur during the period of that annual leave and (subject to clause 7.1.5) shall be paid for by the employer in advance:

(a) In the case of any and every employee in receipt immediately prior to that leave of ordinary wages at a rate in excess of the ordinary wages payable under clause 5.1, at that excess rate; and

(b) In every other case, at the ordinary time rate of pay payable to the employee concerned immediately prior to that leave.

7.1.3 If the employment of any employee is terminated at the expiration of a full year of employment, the employer shall be deemed to have given the leave to the employee from the date of the termination of the employment and shall forthwith pay to the employee in addition to all other amounts due to the employee, 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 holiday 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 an employee to whom clause 7.1.1(a) applies, and 1/12th of their pay for the period of their employment in the case of an employee to whom clause 7.1.1(b) applies, 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 and amounts of a like nature otherwise payable for ordinary time worked shall be included in the wages to be paid to employees during annual leave.
- (c) All employees - Subject to the provisions of clause 7.1.5(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 by the Award for the period of the annual leave (excluding shift premiums and week-end penalty rates);
  - (ii) leading hand allowance or amounts of a like nature;
  - (iii) a further amount calculated at the rate of 17 1/2% of the amounts referred to in clauses 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:
    - (A) 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 those employees employed by Pauls Ltd as Depot Masters or Depot Assistants on permanent night work usually performed on a 6 day week basis.
    - (B) 4 weeks in any other case.
  - (ii) Employers (and their employees) who are already paying (or receiving) an annual leave bonus, loading or other annual leave payment which is not less favourable to employees.

7.1.6 Notice of termination of service shall not be counted when computing annual leave.

7.1.7 Reasonable notice shall be given to each employee of such annual leave becoming due.

7.1.8 Except as provided in clause 7.1 it shall not be lawful for the employer to give or for any employee to receive payment in lieu of annual leave.

## **7.2 Sick leave**

### *7.2.1 Entitlement*

- (a) Every employee, except casuals, pieceworkers, and school-based apprentices and trainees, is entitled to 60.8 hours' sick leave for each completed year of their employment with their employer.
- (b) This entitlement will accrue at the rate of 7.6 hours' sick leave after each 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.

### *7.2.2 Employee must give notice*

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

### *7.2.3 Evidence supporting a claim*

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

#### 7.2.4 *Accumulated sick leave*

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

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

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

#### 7.2.5 *Workers' compensation*

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

### **7.3 Bereavement leave**

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

Full-time and part-time employees shall, on the death of a member of their immediate family or household 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) child or an adult child (including an adopted child, a foster child, an ex-foster child, a stepchild or an ex-nuptial child), parent, grandparent, grandchild or sibling of the employee or spouse of the employee.

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

### **7.4 Long service leave**

7.4.1 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.

Clause 7.4 shall not apply to:

Queensland Farmers Co-operative Association Limited in respect of their employees who are now, or subsequently become, members of the Queensland Farmers Co-operative Association Ltd Staff Retirement Plan.

### **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 Subject to clause 7.6.7 all work done by any employee on:

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

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

### 7.6.2 Labour Day

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

### 7.6.4 Double time and a-half

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

All time worked on any of the holidays mentioned in clauses 7.6.1, 7.6.2 and 7.6.3 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.

### 7.6.5 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 If a public holiday falls on a day on which a shift worker or other full-time rostered worker is rostered off, the employee shall have a day added to their annual leave or shall be paid a day's wages in lieu thereof:

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

Provided further that, 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.

## **7.7 Jury service**

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

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

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

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

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

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

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

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

### **9.1 Training**

9.1.1 The parties to this Award recognise that in order to increase the efficiency 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 Employees becoming ill**

Where employees are injured seriously or fall seriously ill at their work, the employer shall provide means of getting them to the nearest hospital, or pay expenses of transmission to hospital.

### **10.2 General conditions**

#### *10.2.1 Lockers, etc.*

The employer shall provide lockers, hot and cold showers, dressing and dining rooms and, with the co-operation of the employees, keep them in a sanitary condition.

#### *10.2.2 Hot water*

The employer shall provide hot water or facilities for boiling water at meal times.

#### *10.2.3 Rubber boots*

Where they are necessary to prevent the feet of the employees from becoming wet, suitable waterproof boots shall be supplied to employees by the employer free of charge. When not in use, boots shall be stored by the employees as required by the employer.

#### 10.2.4 *First aid kits*

First aid kits in suitable and secure cases shall be provided at central positions in the works, so as to be at all times readily available for the use of employees.

#### 10.2.5 *Garments to be supplied and laundered*

When an employee is required by their employer to wear a washable outer garment, such garment (not exceeding 2 each year) shall be provided and laundered free of charge by the employer.

#### 10.2.6 *Waterproof aprons*

Where they are necessary, suitable waterproof aprons shall be supplied to employees free of charge.

## **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.

## Schedule 1

*List of employers with 2nd Tier Orders which to varying degrees modify the Provisions of this Award*

Name	Case No	Date of Order
The Queensland Dairy Product Manufacturers Association Inc. }	B4/89	19. 1.89
}		
South Coast Co-operative Dairy Association Ltd	B201/89	29. 5.89
Port Curtis Co-operative Dairy Association Limited }	B244/89	5. 7.89
}		

## Schedule 2

*Structural Efficiency*

*Pauls Ltd - Second Payment*

### **Trade Union training leave**

Upon written application by an employee to the employer such application being endorsed by the Union and given to the employer at least one month in advance, such employee shall be granted up to 5 working days' leave (non-cumulative) on ordinary pay each calendar year to attend courses and seminars conducted by the Union.

For the purposes of these provisions 'ordinary pay' shall mean at the ordinary weekly rate paid to the employee exclusive of any allowance for travelling time and fares or shift work.

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

- (a) An employee must have at least 12 months' uninterrupted service with an employer prior to such leave being granted.
- (b) A maximum of 2 employees per site per year may attend a course or seminar.
- (c) The provisions shall not apply to a site with less than 10 full-time employees.
- (d) The granting of such leave shall be subject to the convenience of the employer and so that the operations of the employer will not be unduly affected.
- (e) The scope, content and level of the course shall be such as to contribute to a better understanding of Industrial Relations within the employer's operations.
- (f) In granting such paid leave, the employer is not responsible for any additional costs except the payment of extra remuneration where relieving arrangements are instituted to cover the absence of the employee.
- (g) Leave granted to attend courses will not incur any additional payment or alternative time off if such course coincides with the employee's day off in the 19 day month working arrangements or with any other concessional leave.
- (h) Such paid leave will not affect other leave granted to employees under this Award.
- (i) The employee, after attendance at such training, shall consult with employer representatives as to the relevance and quality of the course attended.

Dated 9 September 2003.

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

Operative Date: 3 November 2003