

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

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

MISCELLANEOUS WORKERS' AWARD - STATE 2002

Following the Declaration of the General Ruling in the 2011 State Wage Case (matter numbers B/2011/17 and B/2011/19), the Miscellaneous Workers' Award - State 2002 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 Miscellaneous Workers' Award - State 2002 as at 1 September 2011.

Dated 1 December 2011.

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

MISCELLANEOUS WORKERS' AWARD - STATE 2002

PART 1 - APPLICATION AND OPERATION

1.1 Title

This Award is known as the Miscellaneous Workers' Award - State 2002.

1.2 Arrangement

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1.3 Date of operation

This Award takes effect from 7 October 2002.

1.4 Award coverage

- 1.4.1 This Award applies to all the classes of employees, and to their respective employers, mentioned in this Award within the State of Queensland, but does not apply to employees of the Crown or to junior messengers.
- 1.4.2 This Award will not apply where those employees mentioned in clause 1.4.1 are employed in domestic service in or about a private residence, except where such employees are employed by a contractor or by a proprietor who lets the Premises at which they are employed.
- 1.4.3 This Award does not apply to employees covered by:
- Brewing Industry Award - State,
 - Contract Cleaning Industry Award - State,
 - Electricity Supply Industry Employees' Award - State,
 - Security Industry (Contractors) Award - State,
 - Theatrical Employees' Award - State, or
 - any other Award or Industrial Agreement.

1.5 Definitions

Subject to clause 5.1 the following definitions have application for the purposes of this Award.

- 1.5.1 The "Act" means the *Industrial Relations Act 1999* as amended or replaced from time to time.
- 1.5.2 "Bill Poster" means an employee engaged to install and/or post advertising material.
- 1.5.3 "Broken Shift" means a shift which is broken into two or more periods (excluding rest pauses and meal breaks) where the unpaid break in between such periods is greater than one hour:
- Provided that a Broken Shift only applies to Cleaners.
- 1.5.4 "Caretaker" means an employee whose presence is required on Premises for the protection (including the closing and locking and unlocking and opening) or convenient use thereof, and who may also have other duties in respect to the Premises's cleanliness or upkeep:
- Provided that any employee required by the employer to sleep on the employer's Premises for the purpose of providing protection for the Premises or for the carrying out of other caretaking duties will be deemed to be a Caretaker for the purposes of this Award.
- 1.5.5 "Caretaker's Quarters" in existing Premises means not less than 2 rooms, with an aggregate floor space of not less than 21 square metres, but in the case of Premises which may be erected, altered or renovated after 7 April 1997, the term means not less than 3 rooms - two rooms each with not less than 13 square metres of floor space, and one room with 9 square metres of floor space, the ceiling heights for such rooms to be in accordance with the appropriate Local Government building regulations.
- Caretaker's Quarters in all cases must be reasonably suitable for human habitation both in themselves and in their immediate surroundings.
- 1.5.6 "Cleaner" means a person employed for the greater part of their working time in cleaning work of any description on any Premises or in bringing into or maintaining Premises in a clean condition, whatever may be the nature of their other duties.
- 1.5.7 "Commission" means the Queensland Industrial Relations Commission.
- 1.5.8 "Day Worker" means an employee whose ordinary hours fall within the spread of hours prescribed in clause 6.1.1.
- 1.5.9 "Gatekeeper" means an employee who is mainly employed at the gate attending to the entry and exit of persons, vehicles and/or goods of any description.
- 1.5.10 "Lift Attendant" means an employee engaged for the purpose of being in charge of an elevator in accordance with the appropriate legislation. The duties of a Lift Attendant may also include providing advice or information to visitors or customers regarding the location of various areas within a building.
- 1.5.11 "Premises" means all classes of buildings and their environs whether enclosed or not enclosed, and includes - buildings in the course of construction or demolition, construction works, showgrounds, sportsgrounds, racecourses, mines, tramways, and any other place where the service of employees subject to this Award may be required.

1.5.12 "Shift Worker" means an employee whose ordinary hours of duty fall outside the spread of hours prescribed in clause 6.1.1.

1.5.13 "Union" means the Australian Liquor, Hospitality and Miscellaneous Workers Union, Queensland Branch, Union of Employees.

1.5.14 "Watchperson" means a person employed to safeguard Premises, or property on or about Premises, and who may be required to perform related functions for the purpose of effecting such safeguarding.

1.5.15 "Week" means a period of 7 days, but the ordinary working hours must be comprised within 5 days.

1.6 Area of operation

For the purposes of this Award, the Divisions and Districts are as follows:

1.6.1 Divisions

Northern Division - That portion of the State along or north of a line commencing at the junction of the sea coast with the 21st parallel of south latitude; from that latitude due west to 147 degrees of east longitude; from that longitude due south to 22 degrees 30 minutes of south latitude; from that latitude due west to the western border of the State.

Mackay Division - That portion of the State within the following boundaries:- Commencing at the junction of the sea-coast with the 21st parallel of south latitude; from that latitude due west to 147 degrees of east longitude; from that longitude due south to 22 degrees of south latitude; from that latitude due east to the sea coast; from the sea-coast northerly to the point of commencement.

Southern Division - That portion of the State not included in the Northern or Mackay Divisions.

1.6.2 Districts

(a) Northern Division:

Eastern District - That portion of the Northern Division along or east of 144 degrees 30 minutes of east longitude.

Western District - The remainder of the Northern Division.

(b) Southern Division:

Eastern District - That portion of the Southern Division along or east of a line commencing at the junction of the southern border of the State with 150 degrees of east longitude; from that longitude due north to 25 degrees of south latitude; from that latitude due west to 147 degrees of east longitude; from that longitude due north to the southern boundary of the Mackay Division.

Western District - The remainder of the Southern Division.

1.7 Parties bound

This Award is legally binding on the employers and employees as prescribed by clause 1.4, the Union and its members.

1.8 Pre-existing conditions

No employee will suffer a reduction in wages for ordinary hours of work in the course of the employee's normal duties as a result of this Award coming into operation.

PART 2 - FLEXIBILITY

2.1 Enterprise flexibility

2.1.1 As part of a process of improvement in productivity and efficiency, discussion should take place at each enterprise to provide more flexible working arrangements, improvement in the quality of working life, enhancement of skills, training and job satisfaction and to encourage consultative mechanisms across the workplace.

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

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

2.2 Majority clause

2.2.1 The provisions of clause 2.2 will apply by agreement between the employer and an individual employee or the majority of employees concerned and who are engaged under this Award. The decision of a majority of employees is binding on all employees bound by this Award from time to time.

2.2.2 Where an employee or employees bound by this Award is/are engaged upon work which is incidental or peripheral to the main business of the employer, and the majority of employees employed by the employer in Queensland are covered by another award made or approved by the Queensland Industrial Relations Commission or the Australian Industrial Relations Commission, then any one or more of the corresponding provisions of that other award will, to the extent agreed and without variation, apply to the employer's employees covered by this Award in lieu of one or more of the following clauses of this Award:

- clause 4.3 Part-time employment;
- clause 6.1 Hours of work; and
- clause 6.3 Meal breaks

The agreement may apply to the whole or a nominated severable part of the last mentioned clauses and to the whole or a nominated severable part of corresponding provisions of another award of Queensland or the Commonwealth.

2.2.3 (a) Any agreement made pursuant to clauses 2.2.1 and 2.2.2, shall be in writing and shall particularise the provisions to be applied. It shall be signed by the employer and the employee/s concerned or a representative of the employees if more than one are involved.

(b) The intent of any such agreement, when considered as a whole, should be to improve productivity and efficiency in the particular workplace where multi-award coverage is a problem and not to disadvantage employees.

(c) A copy of such agreement shall be retained by the employer and the employee/s or representative of the employees and a further copy shall be exhibited as if it was an Award.

(d) Without in any way limiting what may be contained in an agreement, clause 2.2 authorises the making of an agreement for a fixed period of time, the duration of a specific task or an indefinite period of time:

Provided always that an agreement for an indefinite period of time may be terminated by either the employer, the employee or a majority of the existing employees concerned, by the giving of not less than 28 days' written notice to the other party to the agreement of intention to terminate the agreement.

(e) By mutual agreement of both parties any agreement, including one for a fixed period of time, may be terminated at any time upon such notice and such terms, if any, as may be mutually agreed.

(f) Termination in accordance with clause 2.2.3(d) may be effected without any reason being given and will be effective upon expiration of the notice period.

2.2.4 Upon an agreement being made pursuant to clause 2.2 any provision of another award of Queensland or the Commonwealth which is by such agreement applied to employees covered by this Award, shall be deemed to be a provision of this Award and shall be binding upon and enforceable in all respects against the employer and employee or employees concerned as if it was a provision of this Award.

2.2.5 Any obligation or liability incurred during the currency of an agreement made pursuant to clause 2.2 continues to be enforceable to the same extent as other provisions of this Award, regardless of the expiry or termination of the agreement.

2.2.6 Clause 2.2 is to be read and applied subject to, and so as not to exceed any limitations, powers or requirements imposed upon the Commission by the *Industrial Relations Act 1999* and the *Anti-Discrimination Act 1991*.

PART 3 - COMMUNICATION, CONSULTATION AND DISPUTE RESOLUTION

3.1 Consultative mechanisms and procedures in the workplace

3.1.1 The parties to this Award are committed to co-operating positively to increase the efficiency, productivity and competitiveness of the industries covered by this Award and to enhance the career opportunities and job security

of employees in such industries.

- 3.1.2 At each enterprise the employer, the employees and their Union commit themselves to establishing a consultative mechanism and procedures appropriate to the size, structure and need of that enterprise. Measures raised by the employer, employees or Union for consideration consistent with the objectives of clause 3.1.1 shall be processed through the consultative mechanisms and procedures.

3.2 Grievance and dispute settling procedure

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

- 3.2.1 In the event of an employee having a grievance or dispute the employee shall in the first instance attempt to resolve the matter with the immediate supervisor, who shall respond to such request as soon as reasonably practicable under the circumstances. Where the dispute concerns alleged actions of the immediate supervisor the employee/s may bypass this level in the procedure.
- 3.2.2 If the grievance or dispute is not resolved under clause 3.2.1, the employee or the employee's representative may refer the matter to the next higher level of management for discussion. Such discussion should, if possible, take place within 24 hours after the request by the employee or the employee's representative.
- 3.2.3 If the grievance involves allegations of unlawful discrimination by a supervisor the employee may commence the grievance resolution process by reporting the allegations to the next level of management beyond that of the supervisor concerned. If there is no level of management beyond that involved in the allegation the employee may proceed directly to the process outlined at clause 3.2.5.
- 3.2.4 If the grievance or dispute is still unresolved after discussions mentioned in clause 3.2.2, the matter shall, in the case of a member of a Union, be reported to the relevant officer of that Union and the senior management of the employer or the employer's nominated industrial representative. An employee who is not a member of the Union may report the grievance or dispute to senior management or the nominated industrial representative. This should occur as soon as it is evident that discussions under clause 3.2.2 will not result in resolution of the dispute.
- 3.2.5 If, after discussion between the parties, or their nominees mentioned in clause 3.2.4, the dispute remains unresolved after the parties have genuinely attempted to achieve a settlement thereof, then notification of the existence of the dispute is to be given to the Commission in accordance with the provisions of the Act.
- 3.2.6 Whilst all of the above procedure is being followed, normal work shall continue except in the case of a genuine safety issue.
- 3.2.7 The *status quo* existing before the emergence of the grievance or dispute is to continue whilst the above procedure is being followed.
- 3.2.8 All parties to the dispute shall give due consideration to matters raised or any suggestion or recommendation made by the Commission with a view to the prompt settlement of the dispute.
- 3.2.9 Any Order or Decision of the Commission (subject to the parties' right of appeal under the Act) will be final and binding on all parties to the dispute.
- 3.2.10 Discussions at any stage of the procedure shall not be unreasonably delayed by any party, subject to acceptance that some matters may be of such complexity or importance that it may take a reasonable period of time for the appropriate response to be made. If genuine discussions are unreasonably delayed or hindered, it shall be open to any party to give notification of the dispute in accordance with the provisions of the Act.

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

4.1 Employment categories

- 4.1.1 Employees covered by this Award shall be advised in writing of their employment category upon appointment. Employment categories are:
- (a) Full-time;
 - (b) Part-time (as prescribed in clause 4.3); and
 - (c) Casual (as prescribed in clause 4.4).

4.2 Full-time employment

Employees other than casual or part-time employees are deemed to be full-time employees and are entitled to all of the benefits provided by this Award.

4.3 Part-time employment

4.3.1 An employer may employ part-time employees in any classification in this Award.

4.3.2 A part-time employee is an employee who:

- (a) is employed for a minimum of 7.6 hours per week and for a maximum of 32 ordinary hours per week; and
- (b) works on no more than 5 days of the week, being Monday to Sunday; and
- (c) has reasonably predictable hours of work; and
- (d) receives, on a proportionate basis, equivalent pay and conditions to those of full-time employees who do the same kind of work.

4.3.3 At the time of engagement, the employer and the employee are to agree in writing on the number of ordinary hours per week and the normal rostering arrangements.

4.3.4 The agreed number of ordinary hours per week may only be varied by mutual agreement. Any such agreed variation to the number of weekly hours of work will be recorded in writing.

4.3.5 Any variation to the work pattern will be in accordance with methods of altering the ordinary hours of work for full-time employees as detailed in Part 6 of this Award, unless otherwise mutually agreed.

4.3.6 An employer is required to roster a part-time employee for a minimum of 4 consecutive hours on any day or shift.

4.3.7 All time worked in excess of the rostered hours as mutually arranged in accordance with clauses 4.3.3 and 4.3.4 will be overtime and paid for at the rates prescribed in clause 6.5.

4.3.8 A part-time employee must be paid for ordinary hours worked at the rate of 1/38th of the weekly rate prescribed in clause 5.2 for the class of work performed.

4.3.9 Where a public holiday falls on a day upon which a part-time employee is normally engaged, that employee shall be paid their ordinary time rate of pay for the number of hours normally worked on that day.

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

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

4.4 Casual employment

4.4.1 A casual employee is an employee engaged as such under clause 4.1.1 who is employed for less than 32 hours in any one week under this Award:

Provided that a casual employee does not include an employee as described in clause 4.3.

4.4.2 Except where otherwise expressly provided, a casual employee must be engaged for a minimum period of 2 hours work or receive a minimum payment of 2 hours per engagement.

4.4.3 A casual employee must be paid for ordinary hours worked at the rate of 1/38th of the weekly rate prescribed in clause 5.2 for the class of work performed plus a loading of 23%.

4.4.4 Subject to clause 4.4.2 a casual employee may leave the employer's service or be discharged without notice.

4.4.5 A casual Watchperson is entitled to a minimum of 4 hours for each engagement where the engagement does not exceed 4 hours, or to a minimum of 8 hours for engagements exceeding 4 hours. Subject to clause 6.1 all time worked in excess of 8 hours on any one day will be paid for at overtime rates. For the purposes of this provision each day's work constitutes a separate engagement. In this context "day" means each period of 24 hours from

the commencement of the job.

4.4.6 The minimum period of engagement for a casual Gatekeeper will be not less than 8 hours.

4.5 Mixed functions

An employee who is required to perform work on any day for which a higher rate of pay is prescribed in clause 5.2 shall be paid as follows:

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

4.6 Incidental or peripheral tasks

4.6.1 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.

4.6.2 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.

4.6.3 Any direction issued by an employer pursuant to clauses 4.6.1 and 4.6.2 shall be consistent with the employer's responsibilities to provide a safe and healthy working environment.

4.7 Anti-discrimination

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

- (a) discrimination on the basis of sex, 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.

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

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

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

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

4.8 Termination of employment

4.8.1 Statement of employment

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

4.8.2 Termination by employer

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

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

| | |
|---|---------|
| More than 3 years but not more than 5 years | 3 weeks |
| More than 5 years | 4 weeks |

- (b) In addition to the notice in (a) above, employees 45 years old or over and who have completed at least 2 years' continuous service with the employer shall be entitled to an additional week's notice.
- (c) Payment in lieu of notice shall be made if the appropriate notice is not given:
- Provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof.
- (d) In calculating any payment in lieu of notice the minimum compensation payable to an employee will be at least the total of the amounts the employer would have been liable to pay the employee if the employee's employment had continued until the end of the required notice period. The total must be worked out on the basis of:
- (i) the ordinary working hours to be worked by the employee; and
 - (ii) the amounts payable to the employee for the hours including for example allowances, loadings and penalties; and
 - (iii) any other amounts payable under the employee's employment contract.
- (e) The period of notice in this clause shall not apply in the case of dismissal for misconduct or other grounds that justify instant dismissal, or in the case of a casual employee, or an employee engaged by the hour or day, or an employee engaged for a specific period or tasks.

4.8.3 *Notice of termination by employee*

The notice of termination required to be given by a 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 one week.

4.8.4 *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.

4.9 Introduction of changes

4.9.1 *Employer's duty to notify*

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

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

4.9.2 *Employer's duty to consult over change*

- (a) The employer shall consult the employees affected and, where relevant, their Union or Unions about the introduction of the changes, the effects the changes are likely to have on employees (including the number and categories of employees likely to be dismissed, and the time when, or the period over which, the employer intends to carry out the dismissals), and the ways to avoid or minimise the effects of the changes (e.g. by finding alternative employment).
- (b) The consultation must occur as soon as practicable after making the decision referred to in clause 4.9.1.
- (c) For the purpose of such consultation the employer shall provide in writing to the employees concerned and, where relevant, their Union or Unions, all relevant information about the changes including the nature of the

changes proposed, the expected effects of the changes on employees, and any other matters likely to affect employees:

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

4.10 Redundancy

4.10.1 Consultation before terminations

- (a) Where an employer decides that the employer no longer wishes the job the employee has been doing to be done by anyone, and this is not due to the ordinary and customary turnover of labour, and that decision may lead to termination of employment, the employer shall consult the employee directly affected and where relevant, their Union or Unions.
- (b) The consultation shall take place as soon as it is practicable after the employer has made a decision, which will invoke the provisions of clause 4.10.1(a) and shall cover the reasons for the proposed terminations, measures to avoid or minimise the terminations and/or their adverse effects on the employees concerned.
- (c) For the purpose of the consultation the employer shall, as soon as practicable, provide in writing to the employees concerned and, where relevant, their Union or Unions, all relevant information about the proposed terminations including the reasons for the proposed terminations, the number and categories of employees likely to be affected, the number of workers normally employed and the period over which the terminations are likely to be carried out:

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

4.10.2 Transfer to lower paid duties

- (a) Where an employee is transferred to lower paid duties for reasons set out clause 4.10.1 the employee shall be entitled to the same period of notice of transfer as the employee would have been entitled to if the employee's employment had been terminated under clause 4.8.
- (b) The employer may, at the employer's option, make payment in lieu thereof of an amount equal to the difference between the former amounts the employer would have been liable to pay and the new lower amount the employer is liable to pay the employee for the number of weeks of notice still owing.
- (c) The amounts must be worked out on the basis of:
 - (i) the ordinary working hours to be worked by the employee; and
 - (ii) the amounts payable to the employee for the hours including for example, allowances, loadings and penalties; and
 - (iii) any other amounts payable under the employee's employment contract.

4.10.3 Transmission of business

- (a) Where a business is, whether before or after the date of insertion of this clause in the Award transmitted from an employer (transmittor) to another employer (transmittee), and an employee who at the time of such transmission was an employee of the transmittor of the business, becomes an employee of the transmittee:
 - (i) the continuity of the employment of the employee shall be deemed not to have been broken by reason of such transmission; and
 - (ii) the period of employment which the employee has had with the transmittor or any prior transmittor shall be deemed to be service of the employee with the transmittee.
- (b) In clause 4.10.3, 'business' includes trade, process, business or occupation and includes a part or subsidiary (which means a corporation that would be taken to be a subsidiary under the Corporations Law, whether or not the Corporations Law applies in the particular case) of any such business and 'transmission' includes transfer, conveyance, assignment or succession whether by agreement or by operation of law and 'transmitted' has a corresponding meaning.

4.10.4 Time off during notice period

- (a) Where a decision has been made to terminate an employee in the circumstances outlined in clause 4.10.1, the employee shall be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment.

- (b) If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee shall, at the request of the employer, be required to produce proof of attendance at an interview or the employee shall not receive payment for the time absent. For this purpose a statutory declaration will be sufficient.

4.10.5 *Notice to Centrelink*

Where a decision has been made to terminate employees in the circumstances outlined in clause 4.10.1, the employer shall notify Centrelink as soon as possible giving all relevant information about the proposed terminations, including a written statement of the reasons for the terminations, the number and categories of the employees likely to be affected, the number of workers normally employed and the period over which the terminations are intended to be carried out.

4.10.6 *Severance pay*

- (a) In addition to the period of notice prescribed for ordinary termination in clause 4.8.2(a), and subject to further order of the Commission, an employee whose employment is terminated for reasons set out in clause 4.10.1(a), shall be entitled to the following amounts of severance pay:

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

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

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

4.10.7 *Superannuation benefits*

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

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

4.10.8 *Employee leaving during notice*

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

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

4.10.9 *Alternative employment*

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

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

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

4.10.11 *Employees exempted*

Clause 4.10 shall not apply:

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

4.10.12 *Employers exempted*

- (a) Subject to an order of the Commission, in a particular redundancy case, clause 4.10 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.

4.10.13 *Exemption where transmission of business*

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

4.10.14 *Incapacity to pay*

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

4.11 Continuity of service - transfer of calling

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

PART 5 - WAGES AND WAGE RELATED MATTERS

5.1 Definition of classifications

Employees covered by this Award are to be classified into one of the following classification and wage levels and remunerated accordingly.

5.1.1 *Level 1: (Relativity to Trade Equivalent:- 82.0%)*

(a) "Level 1 Employee" is an employee who is undertaking induction training to a maximum of 3 months which may include information on the enterprise, conditions of employment, introduction to supervisors and fellow workers, training and career path opportunities, plant layout, work and documentation procedures, occupational health and safety, equal employment opportunity and quality assurance and who is being assessed on their ability to undertake duties to a higher level. An employee at this level performs routine duties to the level of their training and:

- exercises minimal judgement;
- works under direct supervision; or
- is undertaking training so as to enable the employee to perform work at Level 2.

5.1.2 Level 2: (Relativity to Trade Equivalent:- 87.4%)

(a) "Security Officer - Grade 1" is an employee who performs work to the level of their training.

Indicative of the tasks which an employee at this level may perform are the following:

- (i) Watch, guard or protect persons and/or Premises and/or property.
- (ii) Be stationed at an entrance and/or exit and whose principal duties include the control of movement of persons, vehicles, goods and/or property coming out of or going into Premises or property, including vehicles carrying goods of any description, to ensure that the quantity and description of such goods is in accordance with the requirements of the relevant document and includes an area or door attendant or commissionaire in a commercial building.
- (iii) Respond to basic fire/security alarms at the designated post.
- (iv) In performing the duties referred to above, the security officer may be required to use electronic equipment such as hand-held scanners, walk-through detectors and simple closed circuit television systems utilising basic keyboard skills.

Any employee required by the employer to sleep on the employer's Premises for the purpose of providing protection to the Premises or for the carrying out of other caretaker's duties will be deemed to be a Caretaker for the purposes of this Award.

(b) Bill Poster.

(c) Caretaker.

(d) Cleaner.

(e) Lift Attendant.

(f) Watchperson.

5.1.3 Level 3: (Relativity to Trade Equivalent:- 92.4%)

(a) "Security Officer - Grade 2" is an employee who performs work above and beyond the skills of a Security Officer - Grade 1 to the level of their training.

Indicative of the tasks which an employee at this level may perform are the following:

- (i) Securing, watching, guarding and/or protecting as directed, including responding to and attending to alarm signals, and required to patrol in a vehicle two or more separate establishments or sites.
- (ii) Monitoring and responding to electronic intrusion, detection or access control equipment terminating at a visual display unit and/or computerised printout (except for simple closed circuit television systems).
- (iii) Operating a public weighbridge by a security officer appropriately licensed to do so.
- (iv) Monitoring and operating integrated intelligent building management and security systems, terminating at a visual display unit or computerised print out, which requires data input from the security officer.

(b) "Building Service Employee - Grade 1" is an employee performing the duties of a Cleaner, who in addition is engaged for the greater part of each day or shift on any of the following tasks, or a combination of such tasks:

- (i) Ordering supplies and receiving deliveries and/or being given the responsibility for the distribution and maintenance of toilet and other requisites and cleaning materials in buildings or establishments and/or an employee performing customer or public relations or other duties as required.
- (ii) Carpet cleaning - operating equipment used in any or all of the following methods - powder systems or liquid shampoo systems or hot water injection and extraction systems (commonly called "steam cleaning").
- (iii) Cleaning windows on the exterior of multi-storied buildings from swinging scaffolds, bosun's chairs, hydraulic bucket trucks or similar devices.
- (iv) Operating "Ride-On" powered sweeping machines.
- (v) Operating steam cleaning and pressure washing equipment on the exterior of buildings.

5.1.4 *Level 4: (Relativity to Trade Equivalent:- 100.0%)*

- (a) "Security Officer - Grade 3" is an employee who performs work above and beyond the skills of a Security Officer - Grade 2, to the level of their training, and co-ordinates the work of security officers working in a team environment.

Indicative of the tasks which an employee at this level may be required to perform are the following:

- (i) Monitoring, recording, inputting information or reacting to signals and instruments related to electronic surveillance of any kind within a central station.
 - (ii) Keyboard operation to alter the parameters within an integrated intelligent building management and/or security system.
 - (iii) Co-ordinating, monitoring or recording of the activities of security officers utilising a verbal communications system within a central station.
 - (iv) May be required to perform the duties of security officers.
- (b) "Building Service Employee - Grade 2" is an employee who is entrusted with the supervision of cleaning as a principal responsibility and/or who may be required to generally superintend and maintain a building or buildings and/or building equipment and who may also perform the duties of a Cleaner or Building Service Employee - Grade 1 as required.

5.2 Wage rates

5.2.1 *Weekly wage rates*

The minimum rates of wages payable are as follows:

| Classification and Relativity | Note 1 | Award Rate Per Week \$ |
|-------------------------------|---------|---------------------------|
| Level 1 | 82.0% | 626.90 |
| Level 2 | 87.4% | 649.40 |
| Level 3 | 92.4% | 670.30 |
| Level 4 | 100.00% | 705.20 |

Note 1: The percentage relativities column relates to the percentages applying before the application of the first, second and third arbitrated safety net adjustments. The percentage relativities are based on a base rate and supplementary payment totalling \$427.20 per week.

Note 2: The rates of pay in this Award are intended to include the arbitrated wage adjustment payable under the 1 September 2011 Declaration of General Ruling and earlier Safety Net Adjustments and arbitrated wage adjustments. This arbitrated wage adjustment may be offset against any equivalent amount in rates of pay received by employees whose wages and conditions of employment are regulated by this Award which are above the wage rates prescribed in the Award. Such payments include wages payable pursuant to certified agreements, currently operating enterprise flexibility agreements, award amendments to give effect to enterprise agreements and overaward arrangements. Absorption which is contrary to the terms of an agreement is not required.

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

5.2.2 *Leading hand*

A Leading Hand who has been appointed as such is to be paid the following amounts in addition to the wage rates prescribed in clause 5.2.1.

| | Per Week |
|-------------------------------------|----------|
| | \$ |
| In charge of up to 15 employees | 17.10 |
| In charge of more than 15 employees | 25.00 |

These allowances are payable for all purposes of this Award.

5.2.3 *Divisional and District parities*

Employees employed outside the Eastern District of the Southern Division shall be paid the following amounts in addition to the wage rates prescribed by clause 5.2.1 for the Division or District in which they are located:

| | Adults Per Hour \$ | Adults Per Week \$ | Juniors Per Hour \$ | Juniors Per Week \$ |
|-------------------------------------|--------------------------|--------------------------|---------------------------|---------------------------|
| Northern Division, Eastern District | 0.0275 | 1.05 | 0.0140 | 0.53 |
| Northern Division, Western District | 0.0855 | 3.25 | 0.0430 | 1.63 |
| Mackay Division | 0.0235 | 0.90 | 0.0120 | 0.45 |
| Southern Division, Western District | 0.0275 | 1.05 | 0.0140 | 0.53 |

These amounts are payable for all purposes of this Award.

5.3 **Allowances**

5.3.1 *Abattoirs' and meatworks' prosperity loading*

All employees covered by this Award employed by the Thomas Borthwick and Sons (Australasia) Limited, Queensland Meat Export Company Limited, Swift Australian Company (Pty.) Limited, and the Central Queensland Meat Export Company Pty. Limited will, in addition to their ordinary time rate of pay, be paid a prosperity loading of \$3.47 per week.

5.3.2 *Broken shift*

A Cleaner working a Broken Shift is entitled to a payment of \$8.47 per shift for each shift so worked.

5.3.3 *Caretaker's accommodation*

A Caretaker who is required by the employer to reside on or in the vicinity of the employer's Premises will be provided with living quarters, fuel and light at the employer's expense.

Where a Caretaker is not provided with quarters they are to be paid an allowance of \$6.07 per week, and where they are not provided with fuel and light they will be paid an allowance of \$2.60 per week in lieu thereof.

5.3.4 *Lifts*

Where there is only one lift in use and goods as well as passengers travel in it, \$6.00 per week extra will be paid when the Lift Attendant is required to handle goods.

5.3.5 *Lift Attendant - uniforms*

Where a Lift Attendant is required by the employer to wear a uniform, such uniform will be supplied by the employer and laundered at the employer's expense. If the employer does not launder such uniform, the employee will be paid an allowance of 60c per week.

5.3.6 *Non-rotation of shifts*

Where an employer refuses to allow rotation of shifts, employees on night shifts will be paid 16.05c per hour in addition to their ordinary wage rates.

5.3.7 *Outside work*

A Cleaner or Caretaker working outside a building will be paid 4.85c per hour extra while so employed.

5.3.8 Toilet cleaning

- (a) Employees required to clean toilets connected with septic tanks or sewerage are to be paid an allowance of \$7.70 per week in addition to their ordinary wage rates.
- (b) Employees required to clean earth closets or urinals, other than merely by hosing them, are to be paid 41c per closet per service, or 41c for each 3 (or fraction of 3) urinals, in addition to their ordinary wage rates. Neither of these payments will apply where the allowance in clause 5.3.8(a) applies.

5.3.9 Washing dusters and towels

Employees who are called upon outside their ordinary working hours to wash dusters will be paid 25c each and for washing towels or larger articles, 35c each.

5.3.10 Watchperson

A Watchperson who is required by the employer to perform duties totally unrelated to the function of watching, safeguarding or protecting Premises and/or property is to be paid an additional payment of \$4.00 per week when required to perform such duties:

Provided that duties of a simple clerical or recording nature and/or duties normally performed by a Gatekeeper will be regarded as duties related to the function of a Watchperson for the purposes of clause 5.3.10.

5.3.11 Window cleaning

- (a) Any employee who is required to clean windows when it is necessary to go wholly outside the window or climb around an outside column to do such cleaning will, if such cleaning or climbing is at a height of more than 3 metres from the ground or verandah, be paid 41c extra for each such window unless the outside window or column ledge is more than 50 centimetres wide:

Provided clause 5.3.11(a) does not apply to cleaning from a ladder resting on the ground.

- (b) Where cleaning is done from a ladder, and any portion of the window to be cleaned exceeds in height 7.5 metres from the ground, the employee is to be paid 41c per window extra for each window so cleaned:

Provided that clause 5.3.11(b) does not apply when an efficient safety device is provided.

5.4 Payment of wages

5.4.1 Wages are to be paid at least weekly by either cash, cheque or electronic funds transfer at the discretion of the employer. Wages will be paid on the same day every week but will not be paid on Saturday or Sundays. The weekly pay day may be altered after a period of 3 calendar months provided that employees are given at least 14 days' notice of such change.

5.4.2 Not more than 2 days' pay may be held by the employer.

5.4.3 Where payment is made by cash or cheque, wages will be paid in the employer's time and any employee who is not paid within 15 minutes from the time specified is to be deemed to be working during the time the employee is kept waiting.

5.5 Superannuation

5.5.1 *Application* - In addition to the rates of pay prescribed in clause 5.2, eligible employees (as defined in clause 5.5.3(b)) shall be entitled to occupational superannuation benefits, subject to the provisions of clause 5.5.

5.5.2 Contributions

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

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

- (b) Regular payment - The employer shall pay such contributions to the credit of each eligible employee at least once each calendar month or in accordance with the requirements of the approved fund trust deed.

- (c) Minimum level of earnings - As from 1 January 2005 no employer shall be required to pay superannuation

contributions on behalf of any eligible employee in respect of any month during which the employee's ordinary time earnings, as defined, is less than \$450.00.

- (d) Absences from work - Contributions shall continue to be paid on behalf of an eligible employee during any absence on paid leave such as annual leave, long service leave, public holidays, sick leave and bereavement leave, but no employer shall be required to pay superannuation contributions on behalf of any eligible employee during any unpaid absences except in the case of absence on workers' compensation.
- (e) Other contributions - Nothing in clause 5.5 shall preclude an employee from making contributions to a fund in accordance with the provisions of the trust deed of the fund.
- (f) Cessation of contributions - An employer shall not be required to make any further contributions on behalf of an eligible employee for any period after the end of the ordinary working day upon which the contract of employment ceases to exist.
- (g) No other deductions - No additional amounts shall be paid by the employer for the establishment, administration, management or any other charges in connection with the fund other than the remission of contributions as prescribed in clause 5.5.

5.5.3 Definitions

- (a) "Approved fund" means a fund (as defined in clause 5.5.3(c)) approved for the purposes of clause 5.5 by the Commission as one to which occupational superannuation contributions may be made by an employer on behalf of an employee, as required by clause 5.5. Such approved fund may be individually named or may be identified by naming a particular class or category.
- (b) "Eligible employee" means any employee who has been employed by the employer during 5 consecutive weeks and who has worked a minimum of 50 hours during that period. After completion of the above qualifying period, superannuation contributions shall then be made in accordance with clause 5.5.2 effective from the commencement of that qualifying period.
- (c) "Fund" means a superannuation fund satisfying the Commonwealth legislation for occupational superannuation funds and satisfying the superannuation fund conditions in relation to a year of income, as specified in the relevant Act and complying with the operating standards as prescribed by Regulations made under the relevant Act. In the case of a newly established fund, the term shall include a superannuation fund that has received a notice of preliminary listing from the Insurance and Superannuation Commissioner.
- (d) "Ordinary time earnings" for the purposes of clause 5.5 means the actual ordinary time rate of pay the employee receives for ordinary hours of work including shift loading, skill allowances and leading hand allowances, where applicable. The term includes any over-award payment as well as casual rates received for ordinary hours of work. Ordinary time earnings shall not include overtime, disability allowances, commission, bonuses, lump sum payments made as a consequence of the termination of employment, annual leave loading, penalty rates for public holiday work, fares and travelling time allowances or any other extraneous payments of a like nature.

5.5.4 For the purposes of this Award, an approved fund means -

- (a) Sunsuper.
- (b) Any named fund as is agreed to between the relevant employer/Union parties to this Award and as recorded in an approved Industrial Agreement.
- (c) In the case of a minority group of employees of a particular employer, any industry, multi-industry or other fund which has been approved in an award or an agreement approved by an Industrial Tribunal whether State or Federal jurisdiction which has already had practical application to the majority of award employees of that employer.
- (d) As to employees who belong to the religious fellowship known as the Brethren, who hold a Certificate issued pursuant to section 115 of the Act and are employed by an employer who also belongs to that fellowship, any fund nominated by the employer and approved by the Brethren.
- (e) Any fund agreed between an employer and an employee who holds a Certificate issued pursuant to section 115 of the Act where membership of a fund cited in an award would be in conflict with the conscientious beliefs of that employee in terms of section 115 of the Act.
- (f) In relation to any particular employer, any other established fund to which that employer was already actually making regular and genuine contributions in accordance with clause 5.5.2 on behalf of at least a significant number of that employer's employees covered by this Award as at 29 September 1989 and continues to make

such contribution.

- (g) The employer and employee may agree to have the employee's superannuation contributions made to an approved superannuation fund, other than those specified in this Award.
 - (i) Any such agreement must be recorded in writing and signed by the employer and employee and kept on the employee's file.
 - (ii) A person must not coerce someone else to make an agreement.
 - (iii) Such agreement, where made, will continue until such time as the employer and employee agree otherwise, and shall be made available to relevant persons for the purposes of sections 371 and 373 (inspection of time and wage records) of the Act.
 - (iv) Any dispute arising out of this process will be handled in accordance with the grievance and dispute settling procedure as contained in clause 3.2.

5.5.5 *Challenge of a fund*

- (a) An eligible employee being a member or a potential member of a fund, as well as the Union, may by notification of a dispute to the Commission challenge a fund on the grounds that it does not meet the requirements of clause 5.5.
- (b) Notwithstanding that the Commission determines that a particular fund does not meet the requirements of clause 5.5, the Commission may in its discretion and subject to any recommendation, direction or order it may make, recognise any or all of the contributions previously made to that fund as having met the requirements or part thereof of clause 5.5.2 up to and including the date of that determination.
- (c) In the event of any dispute over whether any fund complies with the requirements of clause 5.5, the onus of proof shall rest upon the employer.

5.5.6 *Fund selection*

- (a) No employer shall be required to make or be prevented from making, at any one time, contributions into more than one approved fund. Such fund, other than a fund referred to in clauses 5.5.4(c), (d), (e), (f) and (g) shall be determined by a majority decision of employees.
- (b) Employees who are members of an established fund covered by clause 5.5.4(f) shall have the right by majority decision to choose to have the contributions specified in clause 5.5.2 paid into a fund as provided for elsewhere in clause 5.5.4 in lieu of the established fund to which clause 5.5.4(f) has application.
- (c) The initial selection of a fund recognised in clause 5.5.4 shall not preclude a subsequent decision by the majority of employees in favour of another fund recognised under that clause where the long term performance of the fund is clearly disappointing.
- (d) Where clause 5.5.6 has been utilised and as a result another approved fund is determined, access to a further re-appraisal of the fund for the purpose of favouring yet another fund shall not be available until a period of 3 years has elapsed after that utilisation.

5.5.7 *Enrolment*

- (a) Each employer to whom clause 5.5 applies shall as soon as practicable as to both current and future eligible employees:
 - (i) Notify each employee of the employee's entitlement to occupational superannuation;
 - (ii) Consult as may be necessary to facilitate the selection by employees of an appropriate fund within the meaning of clause 5.5.4;
 - (iii) Take all reasonable steps to ensure that upon the determination of an appropriate fund, each eligible employee receives, completes, signs and returns the necessary application form/s provided by the employer, to enable that employee to become a member of the fund; and
 - (iv) Submit completed application form/s and any other relevant material to the trustees of the fund.
- (b) Each employee upon becoming eligible to become a member of a fund determined in accordance with clause 5.5 shall:

- (i) complete and sign the necessary application form/s to enable that employee to become a member of that fund; and
 - (ii) return such form/s to the employer within 28 days of receipt of the application form/s in order to be entitled to the benefit of the contributions prescribed in clause 5.5.2.
- (c) Where an employer has complied with the requirements of clause 5.5.7(a) and an eligible employee fails to complete, sign and return the application form/s within 28 days of the receipt by the employee of that form/s, then that employer shall:
- (i) Advise the eligible employee in writing of the non-receipt of the application form/s and further advise the eligible employee that continuing failure to complete, sign and return such form/s within 14 days could jeopardise the employee's entitlement to the occupational superannuation benefit prescribed by clause 5.5.
 - (ii) In the event that the eligible employee fails to complete, sign and return such application form/s within the specified period of 14 days be under no obligation to make any occupational superannuation contributions in respect of such eligible employee excepting as from any subsequent date from which the completed and signed application form/s is received by the employer.
 - (iii) In the event that the eligible employee fails to return a completed and signed application form/s within a period of 6 months from the date of the original request by the employer, again advise that eligible employee in writing of the entitlement and that the receipt by the employer of a completed and signed application form/s is a pre-requisite to the payment of any occupational superannuation contributions.
 - (iv) At the same time as advising the eligible employee pursuant to clause 5.5.7(c)(iii) submit both to the Chief Industrial Inspector, Brisbane and to the Union a copy of each letter forwarded by the employer to the eligible employee pursuant to clauses 5.5.7(c)(i) and 5.5.7(c)(iii).
- (d) Where an employer fails to provide an eligible employee with an application form/s in accordance with clause 5.5.7(a)(iii) the employer shall be obliged to make contributions as from the date the employee became an eligible employee provided that the eligible employee completes, signs and returns to the employer an application form/s within 28 days of being provided with the application form/s by the employer. Where the eligible employee fails to complete, sign and return an application form/s within such period of 28 days the provisions of clause 5.5.7(c) shall apply.

5.5.8 *Unpaid contributions*

Subject to Chapter 11, Part 2, Division 5 of the Act and to clause 5.5.5, where the discretion of the Commission has been exercised, should it be established that the employer has failed to comply with the requirements of clause 5.5.2 in respect of any eligible employee such employer shall be liable to make the appropriate contributions retrospectively to the date of eligibility of the employee, plus an amount equivalent to the rate of return those contributions would have attracted in the relevant approved fund, or as necessary a fund to be determined by the Commission under clause 5.5.5, had they been paid on the due dates.

The making of such contributions satisfies the requirements of clause 5.5 excepting that resort to clause 5.5.8 shall not limit any common law action which may be available in relation to death, disablement or any similar cover existing within the terms of a relevant fund.

5.5.9 *Exemptions*

- (a) An employer may apply to the Commission for exemption from all or any of the provisions of clause 5.5 in the following circumstances:
 - (i) Incapacity to pay the costs associated with its implementation; or
 - (ii) Any special or compelling circumstances peculiar to the business of the employer.
- (b) Clause 5.5 does not apply to the Broken Hill Proprietary Company Limited or Tubemakers of Australia Limited, or any corporation which is a related corporation (within the meaning of the Companies (Queensland Code)) of either the Broken Hill Proprietary Company Limited or Tubemakers of Australia Limited.

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

6.1 Hours of work

6.1.1 *Day Worker:*

- (a) Subject to clause 6.1.2 (Working of a 38 hour week) and subject to the exceptions hereinafter provided, the ordinary hours of work will be an average of 38 per week, to be worked in one of the following ways:
 - (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 for employees are to be worked continuously except for meal breaks. Subject to clauses 6.1 and 6.8 ordinary hours may be worked on a maximum of 5 consecutive days in the week between 6.00 a.m. and 6.00 p.m., Monday to Sunday inclusive.
- (c) The ordinary hours of work prescribed herein must 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 must be subject to the agreement of the employer and the majority of employees concerned.
- (d) The ordinary starting and finishing times of various groups of employees or individual employees may be staggered provided that there is agreement between the employer and the majority of employees concerned.

6.1.2 Working of a 38 hour week

- (a) The 38 hour week will be worked in one of the following ways, most suitable to the particular enterprise, 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 rostered 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.
- (b) Subject to clause 6.1.1(c), employees may agree that the ordinary hours of work are to exceed 8 on any day, thus enabling more than one work day to be taken off during a particular work cycle.
- (c) Regardless of any other provision in clause 6.1, where the arrangement of ordinary hours of work provides for a rostered day off, the employer and the majority of employees concerned may agree to accrue up to a maximum of 5 rostered days off. Where such agreement has been reached, each accrued rostered day off must be taken within 12 calendar months of the date on which that rostered day off was accrued. Consent to accrue rostered days off will not be unreasonably withheld by either party.
- (d) Different methods of working a 38 hour week may apply to individual employees, groups or sections of employees in the enterprise concerned.

6.1.3 Procedures for enterprise level discussions

- (a) The employer and all employees concerned in each enterprise will consult over the most appropriate means of working a 38 hour week.
- (b) The objective of such consultation is to reach agreement on the method of working the 38 hour week in accordance with clause 6.1.
- (c) The outcome of such consultation must be recorded in writing.
- (d) 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 Union or employer organisation.
- (e) Notwithstanding the consultative procedures outlined above, and notwithstanding any lack of agreement by employees, the employer has the right to make the final determination as to the method by which the 38-hour week is to be worked from time to time.

- (f) 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.

6.1.4 *Rostered days off*

- (a) Where the arrangement of ordinary hours of work provides for a rostered day off all employees will be given a fair spread of rostered days off, from Monday to Friday.
- (b) An employee must be advised by the employer at least 7 days in advance of an entitlement to a rostered day off.
- (c) In the event that an employee is rostered off duty on a day which coincides with pay day, the employee will be paid not later than the working day immediately following pay day.
- (d) All time worked on an employee's rostered day off is to be paid for at the appropriate overtime rate (time and a-half for the first 3 hours, double time thereafter) with a minimum payment as for 2 hours' work:

Provided that by mutual agreement the employer and the employee may agree to substitute another day in lieu of the rostered day off, in which case the day that had been rostered off will be regarded as an ordinary working day.

- (e) Where a rostered day off falls on a public holiday as prescribed in clause 7.6, the employee and the employer will agree to an alternative day off in lieu thereof.

6.2 **Roster posting**

The employer must, by legible notice displayed at some place accessible to the employees, notify the times of commencing and ceasing work. Such times, once notified, will not be changed except by giving 7 days' notice.

6.3 **Meal breaks**

- 6.3.1 Employees will receive at least 30 minutes and not more than 60 minutes for an unpaid meal break to be taken not later than 6 hours after the employee commences work, unless the employer and employee agree otherwise.
- 6.3.2 If the meal period prescribed in clause 6.3.1 is worked, it will be paid for at the rate of double time and such double time payment will continue until the employee finishes work or is allowed a meal break, for which no deduction of pay is to be made.

6.4 **Rest pauses**

- 6.4.1 Every employee is entitled to a paid rest pause of 10 minutes' duration in the employer's time in the first and second half of the working day. Such rest pauses must be taken at such times as will not interfere with the continuity of work where continuity is necessary.
- 6.4.2 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. The meal break should be arranged in such a way that the ordinary working day is broken up into three approximately equal working periods.

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

6.5 **Overtime**

- 6.5.1 All work performed by a Day Worker outside of or in excess of the hours prescribed in clause 6.1, or outside the roster prescribed in clause 6.7.2 in the case of a Shift Worker, is deemed to be overtime. Such overtime will be paid for at the rate of time and a-half for the first 3 hours and double time thereafter:

Provided that all overtime worked on Sundays is to be paid for at the rate of double time.

- 6.5.2 The minimum payment for Saturday and Sunday overtime is for 2 hours.

6.5.3 *Meal allowances*

An employee, who is required to continue work after the usual ceasing time for more than 2 hours, or after more than one hour if overtime continues beyond 6.00 p.m., will be supplied with a reasonable meal at the employer's expense or be paid \$12.10 in lieu thereof.

6.6 Fatigue breaks

- 6.6.1 An 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 6.6, be released after 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.
- 6.6.2 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 released from duty for such period. The employee shall then be entitled to be absent until the employee has had 10 consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.
- 6.6.3 Clauses 6.6.1 and 6.6.2 apply in the case of a Shift Worker who rotates 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.

6.7 Shift work

- 6.7.1 A Shift Worker will receive a shift allowance of 15% in addition to their ordinary time rate of pay, Monday to Friday inclusive.
- 6.7.2 *Hours of work* - The ordinary working hours of Shift Workers will be agreed between the employer and the majority of the employees concerned and must not exceed an average of 38 per week to be worked in accordance with a roster prescribed by clause 6.2.
- 6.7.3 *Change of roster* - Except by agreement between the employer and the employee, the employer must give at least 7 days' notice of change of roster.
- 6.7.4 *Crib breaks* - A Shift Worker is entitled to a crib break of 30 minutes' duration without loss of pay. Such crib break is to be taken not later than 6 hours after the commencement of each shift.

6.8 Weekend work

- 6.8.1 Ordinary hours worked on a Saturday or Sunday are to be paid at the rate of time and a-half.
- 6.8.2 Any arrangement of hours which includes a Saturday or Sunday as ordinary hours must be subject to agreement between the employer and the majority of employees concerned.
- 6.8.3 In any arrangement of hours which includes a Saturday or Sunday as ordinary hours, the Union is to be notified in writing within 14 days of commencement of work under such arrangement.

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 7.1.5) 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 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
 - 4 weeks in any other case.
 - (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.

7.1.8 Such annual leave will be exclusive of any rostered day off which would have occurred had the employee not been on annual leave.

7.1.9 Annual shut down - An employer may close down an enterprise for a period of at least 21 consecutive days and grant the balance of the annual leave due to an employee in one continuous period in accordance with a roster:

Provided that by agreement with the majority of employees concerned, an employer may close down an enterprise for a period of at least 14 consecutive days including non-working days and grant the balance of annual leave due to the employee(s) by mutual arrangement.

7.2 **Sick leave**

7.2.1 *Entitlement*

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

Provided that part-time employees accrue sick leave on a proportional basis.

- (b) This entitlement will accrue at the rate of 7.6 hours' sick leave for each 6 weeks of employment.
- (c) Payment for sick leave will be made based on the number of hours which would have been worked by the employee if the employee were not absent on sick leave.
- (d) Sick leave may be taken for part of a day.
- (e) Sick leave shall be cumulative, but unless the employer and employee otherwise agree, no employee shall be entitled to receive, and no employer shall be bound to make, payment for more than 13 weeks' absence from work through illness in any one year.

7.2.2 *Employee must give notice*

The payment of sick leave is subject to the employee promptly advising 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;
- (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 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 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 *Employees who do not work Monday to Friday of each week*

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

- (a) A full-time employee is entitled to either payment for each public holiday or a substituted day's leave.
- (b) A part-time employee is entitled to either payment for each public holiday or a substituted day's leave:

Provided that the part-time employee would have been ordinarily rostered to work on that day had it not been a public holiday.
- (c) Where a public holiday would have fallen on a Saturday or a Sunday but is substituted for another day all employees who would ordinarily have worked on such Saturday or Sunday but who are not rostered to work on such day are entitled to payment for the public holiday or a substituted day's leave.
- (d) Where Christmas Day falls on a Saturday or a Sunday and the public holiday is observed on another day an employee required to work on Christmas Day (i.e. 25th December) is to be paid at the rate of double time.
- (e) Nothing in clause 7.6.4 confers a right to any employee to payment for a public holiday as well as a substituted day in lieu.

7.6.5 *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.

7.6.6 *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 New Year's Day.

7.6.7 *Substitution*

Where there is agreement between the employer and the majority of employees concerned, a public holiday may be substituted for another day. If such other day is worked, then payment for that day will be at the rate of double time and a-half at the employees' ordinary time rate of pay.

7.7 Jury service

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

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

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

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

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

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

8.1 Court attendance

8.1.1 Employees required to attend a court of justice in connection with their duties shall be paid:

- (a) travelling time if outside their ordinary working hours;

(b) fares; and

(c) their ordinary time rate of pay for the time they are attending the court.

PART 9 - TRAINING AND RELATED MATTERS

9.1 Commitment to training

9.1.1 The level of training in the industry will continue to be reviewed and upgraded where the parties deem it necessary.

9.1.2 The parties commit themselves to training as is regarded by them as appropriate and also to improving training in such cases where this is required.

9.1.3 It is agreed that the parties will co-operate in ensuring that training is maintained and improved.

9.1.4 This training will form the basis of an enhanced career structure in the industry.

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

10.1 Cleaning materials and dressing rooms

10.1.1 All cleaning materials and disinfectants, where necessary, will be provided by the employer.

10.1.2 The employer will provide suitable dressing accommodation. The changing of clothes will occur in the employee's time. Cleaning materials must not be kept in the dressing room.

10.1.3 Where mopping is to be done, wringer buckets will be supplied by the employer.

10.2 Night workers

10.2.1 Provision will be made for night workers to be able to leave the Premises in cases of necessity. Keys of doors for this purpose will be kept in a sealed jar or glass case where, in case of emergency, the keys can be got out. Night employees are to be allowed to eat their meals in some portion of the Premises properly protected from the weather. The employee/s will leave such place in a clean condition.

10.2.2 Night workers are not required to clean the outside windows above the ground or floor, or, in other than retail shops, the inside windows, if the Cleaner is required to work more than 3 metres from the ground or floor.

10.3 Uniforms

10.3.1 Clean overalls will be supplied where the employer requires overalls to be worn.

10.3.2 Where Lift Attendants are required by the employer to wear a uniform, such uniform will be supplied by the employer and laundered at the employer's expense. If the employer does not launder such uniform, the employee will be paid an allowance as prescribed in clause 5.3.5.

10.4 Toilet cleaning

Employees are not required to clean toilets used by members of the opposite sex during times when the toilets are available for use by other employees or members of the public. At other times, males may clean female toilets and vice versa provided that it is made quite clear by the use of a notice that the toilets are not in use and are being cleaned by a member of the opposite sex.

10.5 Caretaker's quarters

Where a Caretaker occupies quarters provided by the employer and provides their own furniture and personal effects, a relieving Caretaker must not occupy such quarters without the permission of the first Caretaker.

10.6 Work in the rain

When an employee's clothes get wet because the employee is required to work in the rain, the employee will be paid double rates for all work so performed. Such payment is to continue until such time as the employee finishes work or is able to change into dry clothing:

Provided that clause 10.6 will not apply where the employee has been supplied with adequate rainproof clothing.

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 they do not want their record inspected.
- (c) The authorised industrial officer may make a copy of the record, but cannot require any help from the employer.
- (d) A person must not coerce an employee or prospective employee into consenting, or refusing to consent, to the inspection of their records by an authorised industrial officer.

11.1.4 Discussions with employees

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

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

11.1.5 Conduct

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

11.2 Time and wages record

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

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

11.2.2 The time and wages record must also contain:

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

11.2.3 The employer must keep the record for 6 years.

11.2.4 Such records shall be open to inspection during the employer's business hours by an inspector of the Department of 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 Trade union training leave

11.3.1 A Union delegate or duly elected or appointed Union representative will, upon written application by the Union to the employer, such application being endorsed by the Union and given to the employer at least 2 months in advance (or such lesser period as mutually agreed between the Union and the employer/s), be granted up to 5 working days' leave (non-cumulative) on ordinary pay each calendar year to attend courses or seminars conducted by the Union. The scope, content and level of such courses or seminars must be such as to contribute to a better understanding of industrial relations within the employer's operations.

Other courses mutually agreed between the Union and an employer, or employers, may be included under clause 11.3.

11.3.2 Any written application by the Union seeking release of a delegate or representative to attend a course will include details of the type and content of the course to be attended as well as the dates upon which the course is proposed to be conducted.

11.3.3 For the purposes of clause 11.3 "ordinary pay" means the ordinary time rate of pay payable to the employee exclusive of any allowance for travelling time and fares.

11.3.4 The granting of such leave is subject to the employee having at least 6 months' continuous service with the employer prior to such leave being granted and being the elected Union delegate/representative.

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

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

11.3.6 The granting of such leave is subject to the convenience of the employer so that the operations of the enterprise will not be adversely affected.

11.3.7 Where an employer approaches the Union and demonstrates genuine difficulties with respect to the release of a particular Union delegate or representative at a particular time (including where the employer might have previously advised of its ability to release such Union delegate or representative) the Union will not unreasonably press its request for the release of that delegate/representative at that time. If the matter is not amicably resolved, it will be processed in accordance with the grievance and dispute settling procedure contained in clause 3.2.

11.3.8 In granting such paid leave, the employer is not responsible for any additional costs except the payment of extra remuneration where relieving arrangements are instituted by the employer to cover the absence of the employee.

11.3.9 Leave granted to attend such training courses will not incur any additional payment or alternate time off if such course coincides with an employee's rostered day off or with any other concessional leave.

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

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

11.4 Posting of award

A true copy of this Award must be exhibited in a conspicuous and convenient place on the Premises of the employer so as to be easily read by employees.

11.5 Union encouragement

Preamble

Clause 11.5 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.

11.5.1 Documentation to be provided by employer

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

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

11.5.2 Union delegates

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

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

11.5.3 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.

SCHEDULE 1

Classification structure and rates of pay - Brisbane Market Corporation

The classifications and rates of pay for employees covered by this Award employed by the Brisbane Market Corporation are as follows:

S1 Classification Structure

S1.1 *Market officer Level 1* - (Relativity to Trade Equivalent - 82%) - means an employee without prior relevant experience engaged for the purpose of undertaking induction training for a probationary period of up to 3 months. Such induction training includes actual working involvement and information relating to the Brisbane Market conditions of employment., introduction to Supervisors and fellow workers, career path opportunities, work and documentation procedures, occupational health and safety, equal employment opportunities.

S1.2 *Market officer Level 2* - (Relativity to Trade Equivalent - 88%) - means an employee either having relevant prior experience or having undergone induction training at Level 1. Such an employee would for the majority of their working time be engaged in cleaning duties of any description or maintaining Premises in a clean condition internally or externally within the market.

S1.3 *Market officer Level 3* - (Relativity to Trade Equivalent - 93%-98%) - means an employee performing work to a level of skill beyond that of a Level 2 employee. Such an employee will be trained to possess the following skills and/or proficiencies:

- Understanding of regulatory controls, policies and permits.
- Sound interpersonal skills appropriate to the tasks required at this level.
- Understanding of the clerical requirements of the position.

Indicative duties of an employee at this level would include:

- Collection of manifests and various fees.
- Control of parking and traffic within the markets.
- Preparation of management and information reports.
- Cleaning and minor maintenance duties as required.

S1.4 *Market officer Level 4* - (Relativity to Trade Equivalent - 100%-105%) - means an employee with relevant skills and/or experience to perform duties beyond that of a Level 3 employee. In addition to skills, proficiencies and duties required of a Level 3 employee, such an employee would be required to:

- Control the unloading procedures as and when required by the Supervisor.
- Exercise a greater level of autonomy with respect to the performance of duties.
- Work within a 24 hour, 7 day roster system.

S2 Rates of Pay

The minimum rates of wages payable are as follows:

| Classification | Award Rate Per Week \$ |
|------------------------|---------------------------|
| Market Officer Level 1 | 626.90 |
| Market Officer Level 2 | 651.90 |
| Market Officer Level 3 | |
| Year 1 (93%) | 672.90 |
| Year 2 (95%) | 681.50 |
| Year 3 (98%) | 694.50 |
| Market Officer Level 4 | |
| Year 1 (100%) | 705.20 |
| Year 2 (102%) | 713.80 |
| Year 3 (105%) | 726.80 |

Dated 13 August 2002.

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

