

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

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

MUSICIANS' AWARD - STATE 2002

Following the Declaration of the General Ruling in the 2010 State Wage Case (matter numbers B/2010/20 and B/2010/21), the Musicians' 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 Musicians' Award - State 2002 as at 1 September 2010.

Dated 1 November 2010.

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

MUSICIANS' AWARD - STATE 2002

PART 1 - APPLICATION AND OPERATION

1.1 Title

This Award is known as the Musicians' Award - State 2002.

1.2 Arrangement

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1.3 Date of operation

This Award takes effect from 23 December 2002.

1.4 Coverage

This Award shall apply to all Musicians and their employers throughout the State of Queensland.

This Award does not apply to:

- employers who are bound by any Award of the Australian Industrial Relations Commission relating to Musicians in respect of those employees whose rates of wages and conditions of employment are prescribed by such Award;
- Bands registered with the Queensland Band Association.

1.5 Parties bound

This Award applies to the employees as prescribed by clause 1.4, their employers, and the Musicians' Union of Australia (Brisbane Branch) Union of Employees and its members.

1.6 Definitions

- 1.6.1 The "Act" means the *Industrial Relations Act 1999* as amended or replaced from time to time.
- 1.6.2 An "Associate" means a Musician who is required to perform from a principal part jointly or separately when directed by the employer and/or the Conductor.
- 1.6.3 "Break" means periods during Calls in which an employee shall not be required to perform Musical Services but shall count as time worked. "Breaks" is the plural of "Break".
- 1.6.4 "Call" means an appearance for either a performance or a rehearsal of not less than 3 hours' duration. "Calls" is the plural of "Call".
- 1.6.5 "Commission" means the Queensland Industrial Relations Commission.
- 1.6.6 "Conductor" or "Musical Director" means a person who conducts only and does not play an instrument in the Orchestra.
- 1.6.7 "Conductor-Leader" means the member of the Orchestra who plays an instrument and directs the Orchestra.
- 1.6.8 "Doubling" means when a Musician is required to play one or more additional instruments in the same Call, other than the instrument for which the Musician is primarily employed.
- 1.6.9 "Leader" means the first or principal violinist or the instrumentalist who is required to perform the duties of Leader where there is a Conductor.
- 1.6.10 "Musical Services" means work performed in - general theatrical entertainment, inclusive of pantomime and variety shows, vaudeville, revue, comic opera, musical comedy, drama, burlesque, minstrel shows, circuses and any other class of work in which employee Musicians are required to accompany artists and all other work performed by Musicians:
- Provided that the word "artist" does not mean or include a vocalist who regularly works as an integral part of a Band or an Orchestra.
- 1.6.11 "Musician" means any person who plays any musical instrument, either singly or as a member of an Orchestra or Band of any kind whatsoever or any person who manipulates, works, or attends to or upon any piano, organ, or any other mechanical musical device in any place of amusement, cafe, hotel, restaurant, club, ship or vessel or public gathering, and shall also include any vocalist who regularly sings as an integral part of a Band. "Musicians" is the plural of "Musician".
- 1.6.12 "Orchestra" or "Band" means a combination of two or more players. Any reference to an Orchestra in this Award shall, unless repugnant to the context, include a reference to Band.
- 1.6.13 "Principal" or "Principal Instrument" or "Principal Instrumentalist" in any Orchestra or Band other than a dance Band means and includes:
- Repetiteur violin (that is a violinist sitting with the Leader), Principal second violin, Principal viola, Principal cello, Principal bass, Principal flute, Principal piccolo, Principal cor anglais, Principal clarinet, Principal E flat clarinet, Principal bass clarinet, Principal bassoon, Principal contra bassoon, Principal saxophone, Principal and third horn, Principal cornet, Principal trumpet, Principal and bass trombone, Principal euphonium, Principal tuba, Principal tympani, Principal percussion, Principal vibracussion, Principal harp, Principal piano, Principal organ and the first of any one or more musical instruments other than in the foregoing: where there is only one player of any one instrument in an Orchestra, the player of the instrument.
- 1.6.14 "Sound Balance" means a Call where the employee is required to rehearse for Musical Services or Speciality Entertainment for the balancing of electronic equipment.
- If a Sound Balance commences more than one and a-half hours prior to the performance then it shall count as a separate Call.
- 1.6.15 "Speciality Entertainment" means entertainment provided by famous artists imported or otherwise who perform for a limited season of less than 6 days of Calls in any one State.
- 1.6.16 "Union" means the Musicians' Union of Australia (Brisbane Branch) Union of Employees.

PART 2 - FLEXIBILITY

2.1 Enterprise flexibility

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

PART 3 - COMMUNICATION, CONSULTATION AND DISPUTE RESOLUTION

3.1 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 industry 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 needs of the enterprise. Measures raised by the employer, employees or Union for consideration consistent with the objectives of clause 3.1.1 shall be processed through that consultative mechanism and procedure.

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 the Union, be reported to the relevant officer of the Union and the senior management of the employer or the employer's nominated industrial representative. An employee who is not a member of the Union may report the grievance or dispute to senior management or the nominated industrial representative. This should occur as soon as it is evident that discussions under clause 3.2.2 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 Terms of engagement

- 4.1.1 Employees covered by this Award shall be advised in writing of their employment category upon appointment. Employment categories are:
- (a) weekly employment (as prescribed in clause 4.2);
 - (b) part-time employment (as prescribed in clause 4.3); and
 - (c) casual employment (as prescribed in clause 4.4).

4.2 Weekly employment

- 4.2.1 A weekly employee is an employee engaged by the week for at least 6 Calls in a week to be performed within 6 consecutive calendar days excluding Sundays:

Provided that in grand opera, ballet, religious and symphonic concerts a weekly employee shall be engaged for at least 7 Calls per week.

- 4.2.2 The wage rates prescribed in clause 5.1 shall be paid to each weekly employee who is ready and willing to perform the work provided for by the Award during any week whether the employee is required to perform such work or not. This entitlement to wages shall apply to all engagements whether an open air performance or otherwise.
- 4.2.3 Where an employee is engaged as a weekly employee for any fixed number of Calls per week, the engagement shall not be altered to a weekly engagement for which a lesser number of Calls is prescribed except on 7 day's notice to the employee.
- 4.2.4 Where the period of employment of a weekly employee includes in addition to one or more complete weeks a part of a week the employee shall be paid for each Call including in the part of a week a *pro rata* amount of the wage rates prescribed in clause 5.1.
- 4.2.5 Where an employee is required by an employer to go on tour, such employee shall be deemed to be in the employment of the employer for at least from the time at which the employee begins to travel on the tour and to remain in such employment at least until the employee finishes travelling on the return from the tour.

4.3 Part-time employment

- 4.3.1 A part-time employee is an employee who:
- (a) is specifically engaged as such and works for 2 to 5 performances each week for a period of not less than 4 consecutive weeks' duration; and
 - (b) has reasonably predictable hours of work; and
 - (c) receives, on a proportionate basis, equivalent pay and conditions to those of a weekly employee who does the same kind of work.
- 4.3.2 At the time of engagement, the employer and the part-time employee are to agree in writing on the number of ordinary hours to be worked per week.
- 4.3.3 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 also be recorded in writing.
- 4.3.4 Any variation to the normal work pattern will be by agreement with the employee/s directly affected.

- 4.3.5 Where a public holiday falls on a day upon which a part-time employee is normally engaged, the employee will be paid their ordinary time rate of pay for the number of hours normally worked on that day.
- 4.3.6 Where an employee and their employer agree in writing, part-time employment may be converted to weekly employment, and *vice-versa*, on a permanent basis or for a specified period of time. If such an employee transfers from weekly to part-time (or *vice-versa*) all accrued Award and legislative entitlements will be maintained. Following transfer to part-time employment accrual will occur in accordance with the provisions relevant to part-time employment. If the employer transfers the weekly employment back to part-time employment the employer must give at least 3 months' notice in writing of its intention to do so.
- 4.3.7 All other provisions of this Award relevant to weekly employees shall apply to part-time employees.

4.4 Casual employment

- 4.4.1 Where an employee is not expressly engaged as a weekly or a part-time employee such employee shall be deemed to be a casual employee.
- 4.4.2 At least 48 hours' notice shall be given of cancellation of a casual engagement either personally or to an address to be notified to the employer by the employee at the time of engagement, failing which full payment for the scheduled engagement shall be made.

4.5 Right to withhold wages

- 4.5.1 Notwithstanding anything elsewhere contained in this Award an employer may withhold payment of wages on any day on which any employee cannot be usefully employed because of:
- (a) any strike; or
 - (b) any breakdown of machinery; or
 - (c) any stoppage of work unavoidable by the employer.

4.6 Incidental and 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 will be consistent with the employer's responsibilities to provide a safe and healthy working environment.

4.7 Sub-contracts

No person or party covered by this Award shall permit any of the classes of work covered by this Award to be carried on at any place or premises by a contractor or other person except in accordance with the terms and conditions of this Award. Further, no employer shall enter into any contract for the carrying on of any of the classes of work covered by this Award by any contractor unless the contract contains a clause binding the contractor/employer as the case may be to pay the rates and observe the conditions set out in this Award.

4.8 Anti-discrimination

- 4.8.1 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 the above attributes;
 - (b) sexual harassment; and
 - (c) racial and religious vilification.
- 4.8.2 Accordingly, in fulfilling their obligations under the grievance and disputes 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.

4.8.3 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.

4.8.4 Nothing in clause 4.8 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.

4.9 Termination of employment

4.9.1 Statement of employment

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

4.9.2 Termination by employer

- (a) In order to terminate the employment of an employee the employer shall give 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 clause 4.9.2(a), employees over 45 years of age at the time of giving of notice and with not less than 2 years' continuous service, 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 ordinary time rate of pay for the employee concerned shall be used.
- (e) The period of notice in clause 4.9.2 shall not apply in the case of dismissal for misconduct or other grounds that justify instant dismissal, or in the case of casual employees, or employees engaged for a specific period of time or for a specific task or tasks.

4.9.3 Notice of termination by employee

The notice of termination required to be given by an employee shall be 7 days. If an employee fails to give notice the employer shall have the right to withhold monies due to the employee with a maximum amount equal to the ordinary time rate for the period of notice.

4.10 Introduction of changes

4.10.1 Employer's duty to notify

- (a) Where an employer has made a definite decision to introduce major 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 their Union.
- (b) "Significant effects" include 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 this Award makes provision for alteration of any of the matters referred to herein an alteration shall be deemed not to have significant effect.

4.10.2 *Employer's duty to discuss change*

- (a) The employer shall discuss with the employees affected and their Union, *inter alia*, the introduction of the changes referred to, the effects the changes are likely to have on employees and measures to avert or mitigate the adverse effects of such changes on employees.
- (b) The discussions shall commence as early as practicable after a definite decision has been made by the employer to make the changes referred to in clause 4.10.1.
- (c) For the purpose of such discussion, the employer shall provide in writing to the employees concerned and their Union, 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 an employer shall not be required to disclose confidential information, the disclosure of which would be inimical to the employer's interests.

4.11 Redundancy

4.11.1 *Discussions before terminations*

- (a) Where an employer has made a definite decision 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 hold discussions with the employees directly affected and, where relevant, their Union.
- (b) The discussions shall take place as soon as it is practicable after the employer has made a definite decision which will invoke clause 4.11.1, and shall cover *inter alia*, the reasons for the proposed terminations, measures to avoid or minimise the terminations and measures to avert or mitigate the adverse effects of any terminations of the employees concerned.
- (c) For the purpose of the discussion the employer shall, as soon as practicable, provide in writing to the employees concerned and their Union, 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 an employer shall not be required to disclose confidential information, the disclosure of which would be inimical to the employer's interests.

4.11.2 *Transfer to lower paid duties*

Where an employee is transferred to other duties for reasons set out in clause 4.11.1, the employee shall be entitled to the same period of notice of transfer as the employee would have been entitled to, pursuant to clause 4.9.2, if their employment had been terminated, and the employer may, at the employer's option, make payment in lieu thereof of an amount equal to the difference between the former ordinary time rate of pay and the new lower ordinary time rate of pay for the number of weeks of notice still owing.

4.11.3 *Transmission of business*

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

4.11.4 *Time off during notice period*

- (a) Where a decision has been made to terminate an employee in the circumstances outlined in clause 4.11.1, 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.

4.11.5 *Notice to Centrelink*

Where a decision has been made to terminate employees in the circumstances outlined in clause 4.11.1 the employer shall notify Centrelink thereof as soon as possible giving relevant information including a written statement of the reasons for the terminations, the number and categories of the employees likely to be affected and the period over which the terminations are intended to be carried out.

4.11.6 *Severance pay*

In addition to the period of notice prescribed for ordinary termination in clause 4.11.2, and subject to further order of the Commission, an employee whose employment is terminated for reasons set out in clause 4.11.1 shall be entitled to the following amounts of severance pay:

Period of Continuous Service	Severance Pay
1 year or less	nil
1 year and up to the completion of 2 years	4 weeks' pay
2 years and up to the completion of 3 years	6 weeks' pay
3 years and up to the completion of 4 years	7 weeks' pay
4 years and over	8 weeks' pay

"Weeks' pay" means the ordinary time rate of pay for the employee concerned.

4.11.7 *Superannuation benefits*

Subject to further order of the Commission where an employee who is terminated receives a benefit from a superannuation scheme, such employee shall only receive under clause 4.11.6 the difference between the severance pay specified in that clause and the amount of the superannuation benefit such employee receives which is attributable to employer contributions only. If this superannuation benefit is greater than the amount due under clause 4.11.6 then the employee shall receive no payment under that clause.

4.11.8 *Employee leaving during notice*

An employee whose employment is terminated for reasons set out in clause 4.11.1 may terminate such employment during the period of notice specified in clause 4.9.2, and, if so, shall be entitled to the same benefits and payments under clause 4.11 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.

4.11.9 *Alternative employment*

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

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

Clause 4.11 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.

4.11.11 *Employees exempted*

Clause 4.11 shall not apply:

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

(c) to casual employees.

4.11.12 *Employers exempted*

Subject to an order of the Commission, in a particular redundancy case, clause 4.11 shall not apply to employers who employ less than 15 people.

4.11.13 *Incapacity to pay*

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

4.12 Continuity of service - transfer of calling

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

PART 5 - WAGES AND WAGE RELATED MATTERS

5.1 Wage rates

5.1.1 *Weekly employees*

The minimum weekly wage rates of pay for weekly employees shall be \$31.99 per hour calculated by Calls of a minimum 3 hours duration with a minimum of 6 Calls per week.

Provided that in cabarets, night clubs and motels - the minimum weekly rates of pay shall be \$31.99 multiplied by the number of hours worked, to be performed within 6 consecutive calendar days excluding Sundays, with a minimum payment as for 4 hours for each engagement.

5.1.2 *Part-time employees*

The minimum weekly wage rates of pay for part-time employees shall be \$31.99 per hour calculated by the minimum number of hours agreed in accordance with clause 4.3.

5.1.3 *Casual employees*

The minimum hourly wage rate for casual employees shall be \$31.99 plus a loading of 23% with a minimum Call of 3 hours for each engagement.

5.1.4 *Musical Services*

Weekly, part-time and casual employees employed in Musical Services shall be paid an additional amount of 5% so long as they are so employed.

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

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

5.2 Special allowances

5.2.1 Conductor-Leader:

- (a) where there are 2 Musicians - appropriate rate in clause 5.1 plus 20%;
- (b) where there are 3 or more Musicians - appropriate rate in clause 5.1 plus 33 1/3%.

5.2.2 Employee playing in Speciality Entertainment - appropriate rate in clause 5.1 plus 66 2/3%.

5.2.3 Employee performing on stage - per Call \$7.59.

5.2.4 Employee performing solo in Orchestra - per instrument per Call \$5.42.

5.2.5 An employee required to supply their own public address system (P.A.) shall be paid:

(a) for a P.A. up to 100 watts output - \$6.00 per Call;

(b) for a P.A. over 100 watts output - \$12.03 per Call.

5.2.6 Employee required to supply own music:

(a) weekly employee - \$7.76 per week;

(b) casual employee - \$2.57 per Call.

5.2.7 Instrumentalist playing alone - appropriate rate in clause 5.1 plus 17.5%.

5.2.8 Leader employed in grand opera, grand ballet, concerts or religious performance - appropriate rate in clause 5.1 plus 30%.

5.2.9 Leader (other than clause 5.2.8) - appropriate rate in clause 5.1 plus 20%.

5.2.10 Organist/Keyboard player providing own instrument - appropriate rate in clause 5.1 plus 20%.

5.2.11 Player of one or more extra instruments - per additional instrument per Call:

(a) if supplied by the Musician - \$7.87;

(b) if supplied by the employer - \$4.62:

Provided that a percussionist shall receive such special allowance in respect of each of the following instruments only - xylophone, vibraphone, marimba and tympani.

5.2.12 Principal - appropriate rate in clause 5.1 plus 12 1/2%.

5.2.13 Supply and upkeep of harp:

(a) weekly employee - appropriate rate in clause 5.1 plus \$24.06 per week;

(b) casual employee - appropriate rate in clause 5.1 plus \$3.60 per Call.

5.2.14 Vocalist - appropriate rate in clause 5.1 plus \$5.17 per Call.

5.2.15 For broadcast, telecast or filmed Call:

(a) Principal players, with a minimum Call of 3 hours:

(i) \$50.82 per performance;

(ii) \$35.81 per rehearsal.

(b) other than Principal players with minimum Call of 3 hours:

(i) \$42.36 per performance;

(ii) \$29.96 per rehearsal.

(c) Doubling per additional instrument per Call - \$23.19.

5.2.16 For commercials or jingles Call:

(a) a minimum Call of 3 hours in which material can be recorded for one product shall be paid for at the rate of \$60.3765 per hour, with a minimum payment of \$181.131 to cover work done for radio or television or radio and television;

(b) Principal and Doubling - 25% extra in addition to the rate in clause 5.2.16(a).

5.2.17 For feature films and documentaries:

- (a) a minimum Call of 3 hours shall be paid at the rate of \$66.2725 per hour, with a minimum payment of \$198.819;
- (b) Principal and Doubling - 25% extra in addition to the rate in clause 5.2.17(a);
- (c) Overdubbing - Where a producer requires a Musician to play additional parts the employee shall be paid an additional base fee.

5.2.18 For recorded Call:

- (a) for a minimum Call of 3 hours duration, in which there can be 21 minutes of recorded material - \$138.25;
- (b) Principal and Doubling - 25% in addition to the rate in clause 5.2.18(a);
- (c) Overdubbing - Where a producer requires a Musician to play additional parts the employee shall be paid an additional base fee.

5.2.19 Simulcast (radio and television) (single use within Australia):

- (a) minimum rate - \$262.68;
- (b) Principals - \$304.94.

5.3 Superannuation

5.3.1 *Application* - In addition to the rates of pay prescribed in clauses 5.1 and 5.2, eligible employees (as defined in clause 5.3.3(b)) shall be entitled to occupational superannuation benefits, subject to the provisions of clause 5.3.

5.3.2 *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 5.3 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 5.3.

5.3.3 *Definitions*

- (a) "Approved fund" means a fund (as defined in clause 5.3.3(c)) approved for the purposes of clause 5.3 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 5.3. 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 5.3.2 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 5.3 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.

5.3.4 *For the purposes of this Award, an approved fund means:*

- (a) Joint Union Superannuation Trust.
- (b) Sunsuper.
- (c) Any named fund as is agreed to between the relevant employer/Union parties to this Award and as recorded in an approved Industrial Agreement.
- (d) In the case of a minority group of employees of a particular employer, any industry, multi-industry or other fund which has been approved in an Award or an agreement approved by an Industrial Tribunal whether State or Federal jurisdiction which has already had practical application to the majority of Award employees of that employer.
- (e) As to employees who belong to the religious fellowship known as the Brethren, who hold a Certificate issued pursuant to section 115 of the Act and are employed by an employer who also belongs to that fellowship, any fund nominated by the employer and approved by the Brethren.
- (f) Any fund agreed between an employer and an employee who holds a Certificate issued pursuant to section 115 of the Act where membership of a fund cited in an Award would be in conflict with the conscientious beliefs of that employee in terms of section 115 of the Act.
- (g) In relation to any particular employer, any other established fund to which that employer was already actually making regular and genuine contributions in accordance with clause 5.3.2 on behalf of at least a significant number of that employer's employees covered by this Award as at 29 September 1989 and continues to make such contribution.
- (h) The employer and employee may agree to have the employee's superannuation contributions made to an approved superannuation fund, other than those specified in this Award.
 - (i) Any such agreement must be recorded in writing and signed by the employer and employee and kept on the employee's file.
 - (ii) A person must not coerce someone else to make an agreement.
 - (iii) Such agreement, where made, will continue until such time as the employer and employee agree otherwise, and shall be made available to relevant persons for the purposes of sections 371 and 373 (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.

5.3.5 *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 5.3

- (b) Notwithstanding that the Commission determines that a particular fund does not meet the requirements of clause 5.3, 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 5.3.2 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 5.3, the onus of proof shall rest upon the employer.

5.3.6 *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 5.3.4(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 5.3.4(g) shall have the right by majority decision to choose to have the contributions specified in clause 5.3.2 paid into a fund as provided for elsewhere in clause 5.3.4 in lieu of the established fund to which clause 5.3.4(g) has application.
- (c) The initial selection of a fund recognised in clause 5.3.4 shall not preclude a subsequent decision by the majority of employees in favour of another fund recognised under that clause where the long term performance of the fund is clearly disappointing.
- (d) Where this provision has been utilised and as a result another approved fund is determined, access to a further re-appraisal of the fund for the purpose of favouring yet another fund shall not be available until a period of 3 years has elapsed after that utilisation of this provision.

5.3.7 *Enrolment*

- (a) Each employer to whom clause 5.3 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 5.3.4;
 - (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 5.3 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 5.3.2.
- (c) Where an employer has complied with the requirements of clause 5.3.7(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 5.3.
 - (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 5.3.7(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 5.3.7(c)(i) and 5.3.7(c)(iii).

(d) Where an employer fails to provide an eligible employee with an application form/s in accordance with clause 5.3.7(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 5.3.7(c) shall apply.

5.3.8 *Unpaid contributions*

Subject to Chapter 11, Part 2, Division 5 of the Act and to clause 5.3.5, 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 5.3.2 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 5.3.5, had they been paid on the due dates.

The making of such contributions satisfies the requirements of clause 5.3 excepting that resort to clause 5.3.8 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.

5.3.9 *Exemptions*

An employer may apply to the Commission for exemption from all or any of the provisions of clause 5.3 in the following circumstances:

- (a) incapacity to pay the costs associated with its implementation; or
- (b) any special or compelling circumstances peculiar to the business of the employer.

5.4 Payment of wages

5.4.1 All monies payable to a weekly employee and to a part-time employee shall be paid not later than Thursday in each week in the employer's time.

5.4.2 Upon termination of employment of a weekly or part-time employee all moneys due shall be paid within 24 hours.

5.4.3 All moneys due to a casual employee shall be paid on the completion of the work on which such employee is engaged and not less frequently than once a week.

5.4.4 Wages shall not be paid to any person other than the employee entitled to such wages or a person authorised by the employee in writing to collect wages on the employee's behalf. Unless the employee is paid in accordance with clause 5.4.4, payment shall be deemed not to have been made to the employee.

5.5 Absence from duty

The deduction of pay for absence from a night performance or from a performance, period of work or rehearsal made part of the week's work for which a rate is prescribed in clauses 5.1 or 5.2 shall be proportionate to that rate, and the deduction for absence from a performance or a rehearsal not part of a week's work shall be proportionate to the rate prescribed for that performance or rehearsal.

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

6.1 Duration of calls

6.1.1 Subject to clause 6.4 the duration of a Call shall not exceed 3 hours, and shall include all intervals and Breaks as time worked.

6.1.2 A Call shall be deemed to have started at the time notified by the employer to the employee as the starting time or, if no such time be notified, the time advertised for starting the Call:

Provided that if all the members of the Orchestra are not present and ready to start at the advertised time, the Call shall be deemed to start only when the Orchestra actually starts playing.

6.2 Intervals, rest periods, etc.

- 6.2.1 When a performance extends in duration to 1 3/4 hours without finishing, an interval of at least 15 minutes (in the case of casual dance Bands an interval of at least 12 minutes) shall be then allowed unless it has been previously allowed during the performance. In both cases such interval shall be regarded as time worked.
- 6.2.2 All Musicians employed at dances shall be allowed an interval of not less than 3 minutes between each dance.

6.3 Setting up time

Where a drummer or electronic instrumentalist is required to move their equipment to and from the place of employment, the employee shall receive, in addition to the normal rate, an allowance equal to 15 minutes of work at the ordinary time rate of pay.

6.4 Overtime and extraordinary rates

- 6.4.1 All time worked on Monday to Saturday inclusive over or outside the prescribed time of any Call, or between 11.45 p.m. and midnight, shall be paid for at one and a-half times the relevant ordinary rate:

Provided that work performed after 12 midnight and before 7 a.m. shall be paid for at double the relevant rate prescribed in clauses 5.1 and 5.2.

- 6.4.2 Any Call in excess of 2 worked on any one day shall be paid for at one and a-half times the relevant rate prescribed in clauses 5.1 and 5.2.

- 6.4.3 Overtime payments shall be made in respect of each 15 minutes or part thereof:

Provided that where the time limit of a Call is exceeded by 5 minutes or less such time shall not be counted.

- 6.4.4 If an employee is directed to appear at a Call which commences within one hour of the conclusion of a Call at which the employee has appeared, the employee shall be paid for such second Call at the overtime rate/s prescribed in clause 6.4 unless there has been a complete change of audience between the 2 Calls.
- 6.4.5 Where an employee is broadcast, telecast, filmed or recorded in or from a theatre or other place of entertainment during the course of such entertainment, the employee will be paid in addition to the original performance the appropriate rate prescribed in clauses 5.1 and 5.2 for each broadcast, telecast, filmed or recorded Call.

6.5 Sundays

All work performed by an employee on a Sunday shall be paid for at double the relevant rate/s prescribed in clauses 5.1 and 5.2 with a minimum payment of 3 hours.

6.6 Refreshments

- 6.6.1 Where any engagement extends to 4 hours or more, and meals are served to patrons on the premises or at the place where the engagement is being carried out, meals of the type served to such patrons shall be provided to each Musician free of charge or, in lieu thereof, the Musician shall be entitled to the sum of \$9.60 in addition to their ordinary rate of pay.
- 6.6.2 When, in addition to the ordinary evening Call, an employee takes part in an intermediate Call commencing at between 4.30 p.m. and 6.30 p.m. the employer shall pay such employee a meal allowance of \$9.60 for the evening meal and shall also provide tea and coffee or the ingredients and facilities to make and serve same.

PART 7 - LEAVE OF ABSENCE AND PUBLIC HOLIDAYS

7.1 Annual leave

- 7.1.1 A period of 4 weeks' annual leave shall be allowed annually to all weekly or part-time employees after 12 months' continuous service (less the period of annual leave). Where any public holiday falls within such period of leave then an additional day shall be added to the period of leave.
- 7.1.2 Annual leave shall be given at a time fixed by the employer within a period not exceeding 3 months from the date when the right to annual leave accrued and after not less than 3 weeks' notice to the employee.
- 7.1.3 In the case of an employee engaged for and taking part in a tour or part of a tour by a theatrical company, annual leave may, at the option of the employer, be given in 2 separate periods but in that event neither period shall be of less than 7 days' duration.

- 7.1.4 An employer may allow annual leave to an employee before the right thereto has accrued due, but where leave is taken in such a case, a further period of annual leave shall not commence to accrue until after the expiration of the 12 months in respect of which annual leave had been taken before it accrued.
- 7.1.5 Before going on leave each employee shall be paid for such period of leave at their customary rate of pay.
- 7.1.6 The annual leave prescribed in clause 7.1.1 shall be allowed and shall be taken and, except as provided in clause 7.1.7, payment shall not be made or accepted in lieu of taking annual leave.
- 7.1.7 If a weekly employee or a part-time employee after 7 days' continuous service in any qualifying 12 monthly period leaves the employment of the employer or if their employment is terminated by the employer, the employee shall be paid, in addition to all other amounts due, an amount equal to 1/12th of the total ordinary pay received by the employee for the period of service being service in respect of which annual leave has not been granted or payment made in lieu.
- 7.1.8 *Calculation of annual leave pay*
- (a) Annual leave pay (including any proportionate payments) shall be no less than the employee's ordinary wage rate as prescribed by clauses 5.1 and 5.2, excluding weekend penalty payments, for the period of the annual leave plus a loading of 17.5%.
- (b) The 17.5% loading shall not apply to:
- (i) any period or periods of annual leave exceeding 4 weeks; or
- (ii) employees who receive an annual leave bonus, loading or other annual leave payment which is not less favourable than clause 7.1.8(a).

7.2 Public holidays

- 7.2.1 An employee who would ordinarily be required to work on a day on which a public holiday falls is entitled to full pay for the time the employee would ordinarily have been required to perform work on that day.
- 7.2.2 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

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

7.2.3 Labour Day

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

7.2.4 Show Day

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

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.

7.2.5 All time worked on any of the holidays mentioned in clauses 7.2.2, 7.2.3 and 7.2.4 outside the ordinary starting and ceasing times for the day of the week on which such holiday falls shall be paid for at double the rate for such time when worked outside the ordinary starting and ceasing times on an ordinary working day.

7.2.6 *Double time and a-half*

For the purposes of clause 7.2, "double time and a-half" means one and one-half day's wages in addition to the appropriate rate of pay prescribed by clauses 5.1 and 5.2, or *pro rata* if there is more or less than a day, and where the rate of pay is a casual hourly one, double time and a-half means an additional 150%.

7.3 Sick leave

7.3.1 *Entitlement*

(a) Every employee, except a casual, is entitled to 76 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 of sick leave for each 5.2 weeks of employment.

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

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

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

7.3.2 *Employee must give notice*

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

7.3.3 *Evidence supporting a claim*

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

7.3.4 *Accumulated sick leave*

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

(i) they are absent from work on unpaid leave granted by their employer;

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

(iii) their employment is terminated because of illness or injury and re-employed by the same employer without having been employed in the interim.

(b) Employees accumulate sick leave entitlements whilst they are absent from work on paid leave granted by their employer.

7.3.5 *Workers' compensation*

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

7.4 Bereavement leave

7.4.1 *Weekly and part-time employees*

Weekly 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.

7.4.2 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 one year immediately before the employee seeks to access an entitlement under clause 7.4.2.

7.4.3 The term "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.

7.4.4 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.

7.5 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 Long service leave

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

7.7 Jury service

- (a) An employee, other than a casual employee, required to attend for jury service during their ordinary working hours shall be reimbursed by the employer an amount equal to the difference between the amount paid in respect of their attendance for such jury service and the ordinary pay the employee would have been paid if the employee was not absent on jury service.
- (b) Alternatively, by agreement, fees (other than meal allowance) received by the employee to attend jury service will be paid to the employer and the employer will continue to pay the employee their ordinary pay for the time the employee was absent on jury service.
- (c) Employees shall notify their employer as soon as practicable of the date upon which they are required to attend for jury service and shall provide their employer with proof of such attendance, the duration of such attendance and the amount received in respect thereof.
- (d) If the employee is not required to serve on a jury for a day or part of a day after attending for jury service and the employee would ordinarily be working for all or part of the remaining day, the employee must, if practicable, present for work at the earliest reasonable opportunity.

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

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

8.1 Travelling allowance and transit

- 8.1.1 First class return air, boat, bus or train transport shall be provided by the employer for all work done by the employee outside a 33 km radius of the city or town in which the employee is domiciled. Should employees provide their own transport, the employee and employer/contractor will negotiate a reasonable amount to reimburse the employee for the use of such vehicle.
- 8.1.2 When travelling by train at night employees shall be provided with sleeping accommodation or, if such sleeping accommodation is not provided, be paid the sum which is charged to the public by the appropriate railway department for such sleeping accommodation.
- 8.1.3 When an employee is travelling by train and meals are supplied, the employee shall be paid an allowance of \$6.00 per day.
- 8.1.4 Where an employee is required to remain away from home overnight the employer shall provide and pay for the lodging and breakfast (bed and breakfast) suitable to the reasonable requirements of the employee. In addition, the employer shall pay to the employee an allowance of \$10.50 per day as an allowance for other meals:

Provided that where in any case the employee reasonably incurs travelling expenses in excess of the allowance prescribed in clause 8.1.4, the employer shall increase the allowance payable to that employee.

- 8.1.5 For the purposes of clause 8.1.4 employees shall be entitled to single room accommodation of modern motel standard. In the event of such accommodation not being available, the employer shall advise the Musicians concerned and the Union prior to the employees' departure.
- 8.1.6 Each employee on tour shall be paid an amount of \$3.00 per week in addition to the other allowances specified in clause 8.1.
- 8.1.7 The employer shall transport, or pay the reasonable costs of transporting, an employee's double bass or drums or other bulky instruments when they are to be used for the purpose of the employee's employment.
- 8.1.8 When an employee is required to travel to and return from, on the same night, an engagement more than 33 km from their place of residence the employee shall, in addition to the cost of transport, receive an amount of \$2.00. Such amount is to be increased by \$1.00 for each 16 km or part thereof in excess of 33 km:

Provided that when the distance each way is more than 66 km the employee shall have the option of claiming the provisions of clause 8.1.4.

- 8.1.9 Where an employer agreed beforehand with an employee to employ the employee throughout a continuous period of at least 13 weeks in one city or town only, and not with a view to the employee working on tour either there or elsewhere, the employee shall be entitled to the allowance under clause 8.1.4 for only 21 days in respect of the stay after the employee's arrival in the said city or town.

Where an employee not engaged with a view to working on tour has been continuously employed by an employer in one city or town for at least 12 months clause 8.1 shall not apply to the employee in respect of the employee's return to the place of engagement.

- 8.1.10 In all casual engagements where the employee is not receiving travelling allowance and is required to leave home more than one hour before the commencement of the engagement the employee shall be paid a sum of \$1.00 additional to the rates prescribed in clause 8.1 and if at the conclusion of an engagement the employee is unable to return home by public conveyance the employer shall be responsible for the transport of the employee to their place of residence.
- 8.1.11 If an employee is required by the employer to travel on a Sunday the employee shall, unless the employee is paid pursuant to clause 6.5 for working on a Sunday, be paid an additional amount of \$2.00.
- 8.1.12 Where a suggestion is made by or for an employer or proposed employer to a person that the latter will be employed by the former in a certain place if the person presents themselves there, and such person does so present and is employed there, such person shall receive from the employer all provisions, allowances and payments which would otherwise be due under clause 8.1.

PART 9 - TRAINING AND RELATED MATTERS

9.1 Training

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

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

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

10.1 Amenities

10.1.1 Where Musicians are regularly employed, a Band room with adequate accommodation and with suitable conveniences shall be provided by the employer.

10.1.2 There shall be a proper entrance to and exit from the orchestra pit, well or Band rostrum.

10.2 Supply of uniforms

Where an employee is required to wear a special uniform other than evening dress, such uniform shall be supplied by the employer. Such uniform must be clean and in good condition and the cost of renovation or other similar costs is to be paid by the employer.

PART 11 - AWARD COMPLIANCE AND UNION RELATED MATTERS

Preamble

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

11.1 Right of entry

11.1.1 Authorised industrial officer

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

11.1.2 Entry procedure

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

11.1.3 Inspection of records

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

11.1.4 *Discussions with employees*

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

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

11.1.5 *Conduct*

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

11.2 Time and wages record

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

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

11.2.2 The time and wages record must also contain:

- (a) the employee's full name and address;
- (b) the employee's date of birth;
- (c) details of sick leave credited or approved, and sick leave payments to the employee;
- (d) the date when the employee became an employee of the employer;
- (e) if appropriate, the date when the employee ceased employment with the employer; and

- (f) if a casual employee's entitlement to long service leave is worked out under section 47 of the Act - the total hours, other than overtime, worked by the employee since the start of the period to which the entitlement relates, worked out to and including 30 June in each year.

11.2.3 The employer must keep the record for 6 years.

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

11.3 Union encouragement

Preamble

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

11.3.1 Documentation to be provided by employer

At the point of engagement, 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.

11.3.2 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.

11.3.3 Deduction of Union fees

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

Dated 23 October 2002.

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

Operative Date: 23 December 2002