

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

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

**OPTICAL MANUFACTURING INDUSTRY EMPLOYEES' AWARD - STATE 2003**

Pursuant to s. 698 of the *Industrial Relations Act 1999* Optical Manufacturing Industry Employees' Award - State 2003 with all amendments as at 10 December 2009, is hereby reprinted.

I hereby certify that the Award contained herein is a true and correct copy of the Optical Manufacturing Industry Employees' Award - State 2003 as at 10 December 2009.

Dated 10 December 2009.

G.D. Savill  
Industrial Registrar

**OPTICAL MANUFACTURING INDUSTRY EMPLOYEES' AWARD - STATE 2003**

**PART 1 - APPLICATION AND OPERATION**

**1.1 Title**

This Award is known as the Optical Manufacturing Industry Employees' Award - State 2003.

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### **1.3 Award coverage**

This Award shall apply to employees engaged in or in connection with the manufacture or repair of spectacles, optical lenses or optical instruments and to their employers throughout the State of Queensland.

### **1.4 Area of operation**

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

#### **1.4.1 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.

#### 1.4.2 *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.

### 1.5 **Date of operation**

This Award takes effect from 23 June 2003.

### 1.6 **Parties bound**

This Award is legally binding upon the employees as prescribed by clause 1.3 and their employers, and the Union and its members.

### 1.7 **Definitions**

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

1.7.2 "Commission" means the Queensland Industrial Relations Commission.

1.7.3 "Union" means and the Australian Liquor, Hospitality and Miscellaneous Workers Union, Queensland 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 **Consultation**

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 plant or enterprise, the employer, the employees and their relevant industrial organisations commit

themselves to establishing a consultative mechanism and procedures appropriate to the size, structure, and needs of that plant or enterprise. Measures raised by the employer, employees or Union for consideration consistent with the objectives of clause 3.1.1 shall be processed through the consultative mechanism 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 the 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 (other than casual 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 4.2); and
- (c) Casual (as prescribed in clause 4.3).

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

Part-time employees may be engaged on the following terms:

- 4.2.1 A part-time employee means a weekly employee who is engaged with fixed starting and ceasing times, to work on predetermined days of the week for a regular number of hours, being more than 10 but less than 32 hours per week, such hours to be worked on not more than 5 days of the week within the ordinary hours prescribed in clause 6.1 (Hours of work). Except as hereinafter provided, all conditions provided for permanent full-time employees shall apply to part-time employees.
- 4.2.2 An employer is required to roster a part-time employee for a minimum of 3 consecutive hours on any shift.
- 4.2.3 Part-time employees shall be paid an hourly rate equal to 1/38th of the weekly rate prescribed by this Award for the classification under which they are engaged.
- 4.2.4 A part-time employees who works in excess of the ordinary daily or weekly hours prescribed in the contract of employment shall be paid overtime in accordance with clause 6.6 (Overtime).
- 4.2.5 Part-time employees shall be entitled to receive *pro rata* entitlements to annual leave, public holidays, sick leave, bereavement leave and long service leave in accordance with the clauses contained in this Award.

Where a public holiday falls on a day on which a part-time employee is normally rostered to work, that employee shall be paid at the appropriate rate for the number of hours so rostered.

- 4.2.6 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 such 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 clauses relevant to part-time employment.
- 4.2.7 An employee who does not meet the definition of a regular part-time employee and who is not a full-time employee will be paid as a casual employee in accordance with clause 4.3 of this Award.

### **4.3 Casual employment**

- 4.3.1 A casual employer means an employee who is engaged by the hour and who may leave the employer's service or be discharged without notice.
- 4.3.2 The rate of payment to casual employees shall be 1/38th of the appropriate weekly wage for the class of work they are engaged upon plus a 23% loading.
- 4.3.3 A casual employee shall be engaged for a minimum period of 2 hours' work or receive a minimum payment of 2 hours per engagement.

### **4.4 Trainees**

Trainees are engaged under this Award, except as amended from time to time by the Order for *Apprentices' and Trainees' Wages and Conditions (Excluding Certain Queensland Government Entities)*.

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

- 4.5.1 An employer may direct an employee to carry out such duties as are reasonably within the limits of the employee's skill, competence and training.
- 4.5.2 An employer may direct an employee to carry out such duties and use such tools and equipment as may be required:

Provided that the employee has been properly trained in the use of such tools and equipment (where relevant).

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

### **4.6 Anti-discrimination**

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

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

(b) sexual harassment; and

(c) racial and religious vilification.

4.6.2 Accordingly, in fulfilling their obligations under the grievance and 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.

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

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

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

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

#### **4.7 Termination of employment**

##### *4.7.1 Statement of employment*

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

##### *4.7.2 Termination by employer*

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

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

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

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

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

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

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

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

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

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

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

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

## **4.8 Introduction of changes**

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

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

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

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

- (a) The employer shall consult the employees affected and, where relevant, their Union or Unions about the introduction of the changes, the effects the changes are likely to have on employees (including the number and categories of employees likely to be dismissed, and the time when, or the period over which, the employer intends to carry out the dismissals), and the ways to avoid or minimise the effects of the changes (e.g. by finding alternative employment).
- (b) The consultation must occur as soon as practicable after making the decision referred to in clause 4.8.1.
- (c) For the purpose of such consultation the employer shall provide in writing to the employees concerned and, where relevant, their Union or Unions, all relevant information about the changes including the nature of the changes proposed, the expected effects of the changes on employees, and any other matters likely to affect employees, provided that any employer shall not be required to disclose confidential information, the disclosure of which would be adverse to the employer's interests.

## **4.9 Redundancy**

### *4.9.1 Consultation before terminations*

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

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

### *4.9.2 Transfer to lower paid duties*

- (a) Where an employee is transferred to lower paid duties for reasons set out clause 4.9.1 the employee shall be entitled to the same period of notice of transfer as the employee would have been entitled to if the employee's employment had been terminated under clause 4.7.
- (b) The employer may, at the employer's option, make payment in lieu thereof of an amount equal to the difference between the former amounts the employer would have been liable to pay and the new lower

amount the employer is liable to pay the employee for the number of weeks of notice still owing.

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

#### 4.9.3 *Transmission of business*

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

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

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

#### 4.9.5 *Notice to Centrelink*

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

#### 4.9.6 *Severance pay*

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

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

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

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

#### 4.9.7 *Superannuation benefits*

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

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

#### 4.9.8 *Employee leaving during notice*

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

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

#### 4.9.9 *Alternative employment*

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

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

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

#### 4.9.11 *Employees exempted*

Clause 4.9 shall not apply:

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

#### 4.9.12 *Employers exempted*

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

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

- (a) The provisions of clause 4.9.6 are not applicable where a business is before or after the date of the insertion of this clause into the Award, transmitted from an employer (transmitter) 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 transmitter, and any prior transmitter, 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 transmitter; and
- (B) which recognises the period of continuous service which the employee had with the transmitter and any prior transmitter to be continuous service of the employee with the transmittee.
- (b) The Commission may amend clause 4.9.13(a)(ii) if it is satisfied that it would operate unfairly in a particular case, or in the instance of contrived arrangements.

#### 4.9.14 *Incapacity to pay*

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

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

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

### **4.11 Mixed functions**

An employee who is required to perform work on any day for which a higher rate of pay is prescribed in clause 5.3 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.

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

### **5.1 Classification definitions**

- 5.1.1 "Mechanical Optician Grade I" means an employee holding the appropriate Trade Certificate who is capable and required to perform additional duties above those of a Tradesperson.
- 5.1.2 "Mechanical Optician Grade II" means an employee who holds the appropriate Trade Certificate.
- 5.1.3 "Optical Employee Grade I" means a non-trades employee who may perform the range of tasks as outline in clause 5.2.3
- 5.1.4 "Optical Employee Grade II" means a non-trades employee who may perform the additional range of tasks as outlined in clause 5.2.4 and who has completed 3 months of service with their employer.
- 5.1.5 "Optical Employee Grade III" means a non-trades employee who may perform the tasks as outlined in clause 5.2.5 and who has not yet completed 3 months of service with their employer.
- 5.1.6 "Trade Certificate" means the gaining of trades person status, formalised through a TAFE. College and by the issuing of a Certificate.
- 5.1.7 "Junior employee" means an un-apprenticed employee who has not yet attained the age of 21 years.

### **5.2 Employees classification structure**

#### 5.2.1 *Mechanical Optician Grade I* - (relativity to Mechanical Optician Grade II - 105%)

Agreed levels of additional skills/tasks capable of being undertaken by a Tradesperson. These tasks would include the following:

- quality control;
- supervision and training of employees;

- basic machine fault finding and rectification;
- job prescription problem solving, in both theoretical and practical application.

A Tradesperson engaged in the manufacture of spectacles, contact or corneal lenses and is capable of doing all of the processes involved in the making of such lenses and/or spectacles.

A Tradesperson engaged in the manufacture and/or repair of Optical precision instruments and/or lenses.

5.2.2 *Mechanical Optician Grade II* - An employee who holds the appropriate Trade Certificate and who is not required to perform added duties associated with that of a Mechanical Optician Grade I.

5.2.3 *Optical Employee Grade I* - (relativity to Mechanical Optician Grade II - 92.4%)

An employee who is under general supervision and who is required to perform the following tasks in a prescription workshop:

- blocking up of blanks or lenses;
- lens generation;
- cylindrical lens fining;
- cylindrical lens polishing;
- hand roughing of second side of semi-finished blanks;
- operation of Automatic edging stones;
- tinting of CR-39 plastic lenses.

5.2.4 *Optical Employee Grade II* - (relativity to Mechanical Optician grade II - 87.4%)

An employee who has completed 3 months of service. This employee works under routine supervision and may be required to perform the following additional tasks in a RX Workshop:

- spherical fining of lenses (Machine or hand fining);
- spherical polishing of lenses (Machine or hand polishing);
- roughing in of blanks (first side only);
- engaged in the mass manufacture of bifocal blanks;
- engaged in the manufacture of plastic and/or metal spectacle frames or mountings or sunglasses.

5.2.5 *Optical Employee Grade III* - (relativity to Mechanical Optician Grade II - 82%);

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

- cleaning/painting/taping of blanks or lenses;
- An employee commencing with an employer - (Entry point) and who is under direct supervision.
- An employee who has not yet completed 3 months of service and who has been given a general understanding of the following principles:
  - Occupational Health and Safety;
  - Equal Employment Opportunity;
  - lap selection;
  - attaching fining and/or polishing pads;
  - attaching adhesive pads on lenses prior to automatic edging.

### 5.3 Wages

5.3.1 The minimum weekly wage to be paid to employees in the Eastern District of the Southern Division shall be as follows:

Classification	Award Rate Per Week
	\$
Mechanical Opticians Grade I	682.90
Mechanical Opticians Grade II	662.00
Optical Employee Grade I	628.30*
Optical Employee Grade II	607.40
Optical Employee Grade III	584.90

\* Excess Payments - Employees employed in the classification of Optical Employee Grade I shall receive an excess payment of \$4.60 per week. Such amount is not to be adjusted.

The rates of pay in this Award are intended to include the arbitrated wage adjustment payable under the 1 September 2009 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.

5.3.2 *Leading hands:*

	Per Week
	\$
(a) In charge of not less than 2 employees and not more than 10 employees	21.30
(b) In charge of not less than 10 employees and not more than 20 employees	32.40
(c) In charge of more than 20 employees	42.40

5.3.3 *Juniors:*

(a) Un-apprenticed juniors shall be paid the following percentages of the total rate of pay prescribed by clause 5.3:

15 and Under 16 years	45%
16 and Under 17 years	50%
17 and Under 18 years	55%
18 and Under 19 years	65%
19 and Under 20 years	75%
20 and Under 21 years	85%

(Such rates shall be calculated to the nearest 10 cents with any result of 5 cents or more being taken to the next highest 10 cent multiple).

(b) Notwithstanding clause 5.3.3(a), un-apprenticed juniors engaged in the manufacture of contact lenses shall be paid the adult rate.

5.3.4 *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	Adults	Juniors	Juniors
Per Hour	Per Week	Per Hour	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

#### 5.4 Occupational superannuation

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

##### 5.4.2 Contributions

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

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

(b) 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 5.4 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 5.4.

##### 5.4.3 Definitions

(a) "Approved fund" means a fund (as defined in clause 5.4.3(c)) approved for the purposes of clause 5.4 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 5.4. 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 5.4.2 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 5.4 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.

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

- (a) Sunsuper; or The Martin Wells Pty. Ltd. Employees Superannuation Plan;
- (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 5.4.2 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.

5.4.5 *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 5.4.
- (b) Notwithstanding that the Commission determines that a particular fund does not meet the requirements of clause 5.4, 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 5.4.2 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 5.4, the onus of proof shall rest upon the employer.

5.4.6 *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 5.4.4(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 5.4.4(f) shall have the right by majority decision to choose to have the contributions specified in clause 5.4.2 paid into a fund as provided for elsewhere in clause 5.4.4 in lieu of the established fund to which clause 5.4.4(f) has application.
- (c) The initial selection of a fund recognised in clause 5.4.4 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.

#### 5.4.7 *Enrolment*

- (a) Each employer to whom clause 5.4 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 5.4.4;
  - (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 5.4 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 5.4.2.
- (c) Where an employer has complied with the requirements of clause 5.4.7(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 5.4.
  - (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 5.4.7(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 5.4.7(c)(i) and 5.4.7(c)(iii).
- (d) Where an employer fails to provide an eligible employee with an application form/s in accordance with clause 5.4.7(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 5.4.7(c) shall apply.

#### 5.4.8 *Unpaid contributions*

Subject to Chapter 11, Part 2, Division 5 of the Act and to clause 5.4.5, 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 5.4.2 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 5.4.5,

had they been paid on the due dates.

The making of such contributions satisfies the requirements of clause 5.4 excepting that resort to clause 5.4.8 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.

#### 5.4.9 Exemptions

- (a) An employer may apply to the Commission for exemption from all or any of the provisions of clause 5.4 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.

### 5.5 Allowances

5.5.1 *First aid* - Wherever employees provided for in this Award are employed, there shall be kept an adequate supply of first aid material; such material to be supplied by the employer and readily accessible to the employees in case of accident.

An employee who has been trained to render first aid and who is the current holder of appropriate first aid qualifications, such as a certificate from the St John's Ambulance or a similar body, shall be paid an allowance of \$12.80 per week if the employee is appointed by the employer to perform first aid duty.

5.5.2 *Laundry allowance* - Employees who wear and launder their dustcoats or overalls shall be paid an allowance of \$2.00 per week. This allowance is to cover laundering once a week only.

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

### 6.1 Hours of work

#### 6.1.1 Day workers:

- (a) Subject to clause 6.2 (Implementation of 38 Hour Week), and subject to the exceptions after provided, the ordinary hours of work shall be an average of 38 per week, to be worked on one of the following basis:
  - (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 hour within a work cycle not exceeding 28 consecutive days.
- (b) The ordinary hours of work prescribed for employees shall be worked continuously except for meal breaks. Ordinary hours shall be worked on any 5 consecutive days in the week between 7.00 a.m. and 7.00 p.m. Monday to Sunday inclusive subject to the following:
  - (i) Ordinary hours worked on a Saturday or Sunday shall be paid at the rate of time and a-half for all work on Saturdays and double time for all work on Sundays:

Provided that in retail outlets employees working on Saturday or Sunday shall be paid at the rate of time and a-half for Saturday and double time for Sunday.
  - (ii) Any arrangement of hours which includes a Saturday or Sunday as ordinary hours shall be subject to agreement between the employer and the majority of employees concerned.
  - (iii) In any arrangement of hours which includes a Saturday or Sunday as ordinary hours, the Union shall be notified in writing within 14 days of commencement of work under such arrangement.
  - (iv) Employees working in retail outlets may be required to work ordinary hours until 9.00 p.m. on late night trading nights. Employees working ordinary hours between the hours of 7.00 p.m. and 9.00 p.m. shall be paid at the rate of time and a-quarter for all hours so worked.
- (c) The ordinary hours of work prescribed shall not exceed 10 hours on any day:

Provided that where the ordinary working hours are to exceed 8 on any day, the arrangement of hours shall

be subject to the agreement of the employer and the majority of employees concerned:

Provided further that where any arrangement of ordinary hours exceeds 8 on any day, the relevant industrial organisation of employees shall be notified in writing within 14 days of commencement of work under such arrangement.

- (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 *Shift workers:*

- (a) Definitions - An employee whose ordinary hours fall wholly or mainly outside the spread of hours prescribed by clause 6.1.1(b) of this Award shall be deemed to be a shift worker:

Provided that an employee shall not be deemed to be a shift worker in circumstances where shifts are in operation for less than a full working week.

- (b) Penalty - Shift workers shall receive a shift allowance of 15% in addition to their ordinary rate of pay.
- (c) Hours of work - The ordinary working hours of shift workers shall be agreed between the employer and the majority of the employees concerned and shall not exceed an average of 38 per week to be worked in accordance with a roster prescribed by clause 6.1.1(a).
- (d) Change of roster - Except by agreement between the employer and the employee, the employer must give at least one week's notice of change of roster.
- (e) Crib breaks - Shift workers shall be 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 commencement of shift.

## **6.2 Implementation of 38 hour week**

6.2.1 The 38 hour week shall be implemented on one of the following bases, most suitable to the particular business, after the consultation with, and giving reasonable consideration to the wishes of the employees concerned:

- (a) by employees working less than 8 ordinary hours each day; or
- (b) by employees working less than 8 ordinary hours on one or more days each work cycle; or
- (c) by fixing one or more work days on which all employees will be off during a particular work cycle; or
- (d) 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.

6.2.2 Subject to clause 6.1.1(c) employees may agree that the ordinary hours of work are to exceed 8 on day, thus enabling more than one work day to be taken off during a particular work cycle.

6.2.3 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, the accrued rostered days off shall be taken within 12 calendar months of the date on which the first rostered day off was accrued. Consent to accrue rostered days off shall not be unreasonably withheld by either party.

6.2.4 Different methods of implementation of the 38 hour week may apply to individual employees, groups or sections of employees in the business concerned.

## **6.3 Meal breaks**

6.3.1 Employees shall receive at least one-half hour and not more than one hour for a meal 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 by clause 6.3.1 is worked, it shall be paid for at the rate of double time and such double time payment shall continue until such time as the employee finishes work or is allowed their customary meal break for which no deduction of pay shall be made.

## **6.4 Rest pauses**

6.4.1 Every employee covered by this Award shall be entitled to a rest pause of 10 minutes' duration in the employer's time in the first and second half of the working day. Such rest pauses shall be taken at such times as will not

interfere with the continuity of work where continuity is necessary:

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

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

## **6.5 Rostered days off**

6.5.1 Where a rostered day off falls on a public holiday as prescribed in clause 7.6 of this Award, the employee and the employer shall agree to an alternative day off in lieu thereof.

6.5.2 All employees will be given a fair spread of rostered days off, from Monday to Friday.

6.5.3 An employee shall be advised by the employer at least 7 days in advance of entitlement to a rostered day off.

6.5.4 In the event that an employee is rostered off duty on a day which coincides with pay day, such employee shall be paid not later than the working day immediately following pay day.

6.5.5 All time worked on an employee's rostered day off shall 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 mutually 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.

## **6.6 Overtime**

6.6.1 All work performed outside of or in excess of the hours prescribed in clause 6.1 of this Award shall be deemed to be overtime. Such overtime shall be paid for at the rate of time and one-half for the first 3 hours and double time thereafter:

Provided that all overtime worked on Sundays shall be paid for at the rate of double time:

Provided further that the minimum payment for Saturday overtime is for 2 hours and on Sunday 4 hours.

6.6.2 An employee, who is required to continue work after the usual ceasing time shall be supplied with a reasonable meal at the employer's expense, or be paid \$9.60 in lieu thereof, after more than 2 hours, or after more than one hour if overtime continues beyond 6.00 p.m.

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

### **7.1 Annual leave**

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

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

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

- (a) in the case of any and every employee in receipt immediately prior to that leave of ordinary wages at a rate in excess of the ordinary wages payable under clause 5.3, at that excess rate; and
- (b) in every other case, at the ordinary time rate of pay payable under clause 5.3 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 5.3 for the period of the annual leave (excluding shift premiums and weekend penalty rates);
  - (ii) leading hand allowance prescribed in clause 5.3.2;
  - (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:
  - (i) any period or periods of annual leave:
    - exceeding 5 weeks in the case of employees employed in a calling where 3 shifts per day are worked over a period of 7 days per week; or
    - exceeding 4 weeks in any other case; or
  - (ii) employers who are already paying an annual leave bonus, loading or other annual leave payment which is not less favourable to employees.

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

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

7.1.8 An employee on annual leave shall be rostered off one day in each 4 week cycle and such rostered day off shall be exclusive of any annual leave entitlement.

**7.2 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.

**7.3 Family leave**

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

7.3.1 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.

7.3.2 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.

## **7.4 Bereavement leave**

### *7.4.1 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.

### *7.4.2 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 1 year immediately before the employee seeks to access an entitlement under clause 7.4.2.

### *7.4.3 "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.

### *7.4.4 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 Sick leave**

### *7.5.1 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 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.

### *7.5.2 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.

### *7.5.3 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.

#### 7.5.4 *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.

#### 7.5.5 *Workers' compensation*

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

### **7.6 Public holidays**

7.6.1 All work done by any employee on:

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

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

#### 7.6.2 *Labour Day*

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

#### 7.6.3 *Annual show*

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

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

#### 7.6.4 *Double time and a-half*

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

#### 7.6.5 *Stand down*

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

#### 7.6.6 *Employees who do not work Monday to Friday of each week*

- (a) A full-time employee shall be entitled to either payment for each of the abovementioned public holidays or a substituted day's leave.
- (b) A part-time employee shall be entitled to either payment for each of the abovementioned public holidays or a substituted day's leave provided that that part-time employee would have been ordinarily rostered to work 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 shall be entitled to payment for the public holiday or a substituted day's leave.
- (d) Where Christmas day falls on a Saturday or Sunday and the public holiday is observed on another day an employee required to work on Christmas day (i.e. 25 December) shall be paid at the rate of double time.
- (e) Nothing in clause 7.6.6 confers a right to any employee to payment for a public holiday as well as a substituted day in lieu.

## **7.7 Jury service**

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

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

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

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

### **9.1 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 Supply of towels and tools**

10.1.1 Clean towels shall be supplied by the employer at least once a week.

10.1.2 All tools of trade necessary to carry out the work shall be supplied by the employer.

10.1.3 The employer shall supply to each employee engaged in hand edging a pair of properly fitted safety glasses.

## **10.2 Protective clothing**

Where employees are required to work under conditions which endanger their personal clothing they shall be provided with protective clothing appropriate to the type of work performed, in the form of dust coats - the employer to provide a maximum of 2 dust coats per annum per employee:

Provided that in circumstances where the employee omits or refuses to wear such protective clothing, the employer shall not be required to provide same.

## **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 Union encouragement**

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

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

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

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

### 11.3.2 *Union delegates*

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

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

### 11.3.3 *Deduction of union fees*

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

## **11.4 Award posting**

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

## **11.5 Trade Union training leave**

11.5.1 A Union delegate or duly elected or appointed Union representative shall, 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 or specific training courses approved by the Union. The scope, content and level of such courses or seminars shall 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 11.5.1.

11.5.2 Any written application by a Union seeking release of a delegate or representative to attend a course shall 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.

11.5.3 For the purposes of clause 11.5 'ordinary pay' means the ordinary time earnings paid to the employee exclusive of any allowances, penalty rates or travelling time and fares.

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

(a) The employee must have at least 12 months' continuous service with the employer prior to such leave being granted and be the elected Union delegate/representative.

(b) 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

(c) Where an employer has more than one place of employment in Queensland then the maximum number of employees entitled to attend a course at the same time shall be 2. This shall not prevent an employer from agreeing to release additional employees.

(d) The granting of such leave shall be subject to the convenience of the employer so that the operations of the Enterprise will not be adversely affected.

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 shall be processed in accordance with clause 3.2, Grievance and dispute settling procedure, contained in this Award.

- (e) 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.
- (f) 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 day off in a 19 day month working arrangement, or with any other concessional leave.
- (g) Such paid leave will not affect other leave granted to employees under this Award.
- (h) On completion of the course the employee shall, 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.

Dated 22 April 2003.

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

Operative Date: 23 June 2003