

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

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

PORTS CORPORATION EMPLOYEES AWARD - STATE 2003

Following the Declaration of the General Ruling in the 2010 State Wage Case (matter numbers B/2010/20 and B/2010/21), the Ports Corporation Employees Award - State 2003 is hereby reprinted, pursuant to s. 698 of the *Industrial Relations Act 1999*.

I hereby certify that the Award contained herein is a true and correct copy of the Ports Corporation Employees Award - State 2003 as at 1 September 2010.

Dated 1 November 2010.

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

PORTS CORPORATION EMPLOYEES AWARD - STATE 2003

PART 1 - APPLICATION AND OPERATION

1.1 Title

This Award is known as the Ports Corporation Employees Award - State 2003.

1.2 Arrangement

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1.3 Date of operation

This Award takes effect from 14 July 2003.

1.4 Definitions

- 1.4.1 "Act" means the *Industrial Relations Act 1999* as amended or replaced from time to time.
- 1.4.2 "Administration Officer - Level 1" means employee who works under direct supervision and performs routine or repetitive clerical duties, undergoing training for other work. Duties may include data input, word processing and general administrative tasks.
- 1.4.3 "Administration Officer - Level 2" means employee who works under general supervision performing duties which involve the exercise of some initiative and decision making. Duties may include data input, word processing, statistical collection and general accounting duties.
- 1.4.4 "Administration Officer - Level 3" means employee who possesses a high level of skill and exercises a high degree of initiative. Duties may include preparation of lease documents, interpretation of statistical data,

preparation of salaries and accounting duties. Supervision of other employees may be required.

- 1.4.5 "Administration Officer - Level 4" Work at this level may include the preparation of documentation for complex correspondence purposes and for decision by senior officers. Responsibilities may include liaison and co-ordination within and across functions including agency representation and overseeing and co-ordinating the work of other staff assisting in the area.
- 1.4.6 "Area Officer" Under supervision, carries out routine maintenance to port facilities and oversees the movement of cargo within a port as directed. This position is responsible for security of cargo and port facilities.
- 1.4.7 "Area Officer-in-Charge" Responsible for ensuring the smooth and efficient operation of port facilities in remote locations. The officer must be able to work without daily supervision and is responsible for security and maintenance of port facilities and port administration.
- 1.4.8 "Broken Work" means the ordinary hours of duty of a day worker are subject to a break in continuity other than for the purposes of meal breaks of up to a maximum of one hour and rest pauses.
- 1.4.9 "Casual Employee" means an employee other than a "Part-Time" employee as defined in clause 1.4.11 who is engaged as such and is paid on an hourly basis to work less than the ordinary weekly working hours of a full-time employee.
- 1.4.10 "Commission" means the Queensland Industrial Relations Commission.
- 1.4.11 "Part-Time Employee" means an employee other than a "Casual Employee" as defined in clause 1.4.9 who is engaged to work regular hours each week and whose ordinary daily working hours are worked continuously inclusive or exclusive of meal times according to operational requirements.

The total weekly hours of a part-time employee always will be less than the ordinary weekly working hours of a full-time employee.

- 1.4.12 "Port Supervisor" Provides a high level of customer service by ensuring the smooth and efficient operation of port facilities in remote locations. The officer must be able to work unsupervised and show a high level of initiative and decision making. Duties may include supervision of employees, security and maintenance of port assets and port administration including collection and safeguarding of money.
- 1.4.13 "Union" means the Queensland Public Sector Union of Employees or The Australian Workers' Union of Employees, Queensland.

1.5 Coverage

This paid rates Award applies to all employees of the Ports Corporation whose rates of remuneration are fixed by the Award.

1.6 Area of operation

- 1.6.1 For the purpose of this Award, the Divisions and Districts will be as follows:

(a) Divisions -

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

Mackay Division - That portion of the State within the boundaries commencing at the junction of the sea-coast with the 21st parallel or south latitude; then by that parallel of latitude due west to 147 degrees of east longitude; then by the meridian of longitude due south to 22 degrees of south latitude; then by that parallel of latitude due east to the sea-coast; then by the sea-coast northerly to the point of commencement.

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

(b) Districts -

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.

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; then by that meridian of longitude due north to 25 degrees of south latitude; then by that parallel of latitude due west of 147 degrees of east longitude; then by that meridian of longitude due north to the southern boundary of the Mackay Division.

Western District - The remainder of the Southern Division.

1.7 Parties bound

The parties to this Award are:

- (a) the Ports Corporation as the employer;
- (b) employees engaged in terms of the provisions of this Award;
- (c) the Queensland Public Sector Union of Employees and its members; and
- (d) The Australian Workers' Union of Employees, Queensland and its members.

PART 2 - FLEXIBILITY

2.1 Enterprise flexibility

- 2.1.1 As part of a process of improvement in productivity and efficiency, discussion should take place at the Ports Corporation 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 at the Ports Corporation 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 the Ports Corporation and employee/s is contingent upon the agreement being submitted to the Commission in accordance with Chapter 6 of the Act and is to have no force or effect until approval is given.

2.2 Procedures to implement facilitative award provisions

Wherever facilitative provisions appear in this Award which allow for determination of the conditions of employment by agreement between the employer and the Union/s or the employer and the majority of employees affected, the following procedures will apply:

- (a) Facilitative Award provisions may be negotiated between management and employees who are directly affected by such proposals or between management and the union/s depending upon the particular Award provisions.
- (b) Employees may be represented by their local Union delegate/s and will have the right to be represented by their local Union official/s.
- (c) Facilitative Award provisions only will be implemented by agreement.
- (d) In determining the outcome from facilitative provisions, neither party will unreasonably withhold agreement.
- (e) Agreement is defined as obtaining consent of greater than 50% of employees directly affected or of the Union/s depending upon the particular Award provisions.
- (f) Where a provision refers to agreement by the majority of employees affected, all employees directly affected will be consulted as a group.
- (g) Any agreement reached must be documented, and will incorporate a review period.

PART 3 - COMMUNICATION, CONSULTATION AND DISPUTE RESOLUTION

3.1 Employee grievance procedures

- 3.1.1 The objectives of this procedure are to promote the prompt resolution of grievances by consultation, co-operation and discussion; to reduce the level of conflict; and to promote efficiency, effectiveness and equity in the workplace.
- 3.1.2 This procedure applies to all industrial matters within the meaning of the Act.
- 3.1.3 Stage 1: In the first instance the employee will inform their immediate supervisor of the existence of the grievance and the supervisor will attempt to solve the grievance. It is recognised that an employee may exercise the right to consult their Union representative/s during the course of Stage 1.
- 3.1.4 Stage 2: If the grievance remains unresolved, the employee may refer the grievance to the next in line management ("the manager"). The manager will consult with the parties. The employee may exercise the right to consult or be represented by their Union representative/s during the course of Stage 2.
- 3.1.5 Stage 3: If the grievance is still unresolved, the manager will advise the chief executive and the aggrieved employee may submit the matter in writing to the chief executive if they wish to pursue the matter further. If desired by either party, the matter may also be notified to the Union/s.

The Ports Corporation will ensure that:

- (a) the aggrieved employee or their Union representative/s has the opportunity to present all aspects of the grievance;
- (b) the grievance will be investigated in a thorough, fair and impartial manner.

The Ports Corporation may appoint another person to investigate the grievance. The Ports Corporation may consult with the union/s in appointing an investigating officer. The appointed person will be other than the employee's supervisor or manager.

If the matter is notified to the Union/s, the investigating officer will consult with the Union/s during the course of the investigation. The Ports Corporation will advise the employee initiating the grievance, their Union representative and any other employee directly concerned of the determinations made as a result of the investigation of the grievance.

The Ports Corporation may delegate such grievance resolution powers under clause 3.1 to a nominated representative.

- 3.1.6 The procedure is to be completed in accordance with the following timeframes unless the parties agree otherwise:
- | | |
|---------|---|
| Stage 1 | Discussions are to take place between the employee and their supervisor within 24 hours and the procedure should not extend beyond 7 calendar days. |
| Stage 2 | Not to exceed 7 calendar days. |
| Stage 3 | Not to exceed 14 calendar days. |
- 3.1.7 If the grievance is not settled the matter will be referred to the Commission by the employee or the Union/s, as appropriate.
- 3.1.8 Subject to legislation, while the grievance procedure is being followed, normal work is to continue, except in the case of a genuine safety issue. The *status quo* existing before the emergence of a grievance or dispute is to continue while the procedure is being followed. No party will be prejudiced as to the final settlement by the continuation of work.
- 3.1.9 Where the grievance involves allegations of sexual harassment, an employee may commence the procedure at Stage 3.

3.2 Prevention and settlement of disputes

- 3.2.1 The objectives of this procedure are the avoidance and resolution of any disputes over matters covered by this Award, by measures based on the provision of information and explanation, consultation, co-operation and negotiation.
- 3.2.2 Subject to legislation, while the dispute procedure is being followed, normal work is to continue except in the case of a genuine safety issue. The *status quo* existing before the emergence of a dispute is to continue whilst the procedure is being followed. No party will be prejudiced as to the final settlement by the continuation of

work.

- 3.2.3 There is a requirement for management to provide relevant information and explanation and consult with the appropriate employee representatives.
- 3.2.4 In the event of any disagreement between the parties as to the interpretation or implementation of this Award, the following procedures will apply:
- (a) the matter is to be discussed by the employee's Union representative/s and/or the employee/s concerned (where appropriate) and the immediate supervisor in the first instance. The discussion should take place within 24 hours and the procedure should not extend beyond 7 days;
 - (b) if the matter is not resolved as per clause 3.2.4(a), it will be referred by the Union representative/s and/or the employee/s to the appropriate management representative who will arrange a conference of the parties to discuss the matter. This process should not extend beyond 7 days;
 - (c) if the matter remains unresolved it may be referred to the chief executive or nominee for discussion and appropriate action. This process should not exceed 14 days;
 - (d) if the matter is not resolved then it may be referred by either party to the Commission for conciliation.

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

4.1 Contract of employment

- 4.1.1 At the point of engagement of each employee, the Ports Corporation is to specify whether the engagement is full-time, part-time or casual and whether any other conditions such as probation apply.
- 4.1.2 The Ports Corporation will assess an applicant's qualifications, strengths and abilities on initial appointment to an administrative position and determine the pay point relevant to a particular level.

4.2 Employee duties

- 4.2.1 The Ports Corporation may direct an employee to carry out such duties as are within the limits of the employee's skill, competence and training.
- 4.2.2 Employees will be held individually responsible for the following standards of performance:
- achieve programmed production and labour utilisation targets;
 - achieve set levels of quality and carry out quality control tests as required;
 - reduce costs by minimising waste;
 - improve safety performance by eliminating unsafe acts and conditions and participating in safety training programs;
 - maintain housekeeping at acceptable levels including fire prevention;
 - treat Ports Corporation property with due care and report any faults with any equipment or any losses;
 - assist in maintaining the security of Ports Corporation premises and equipment whilst on duty;
 - participating in preventative maintenance for all plant and equipment and assisting as required in carrying out routine maintenance;
 - maintain good employee relations by promoting mutual trust and respect in the work place;
 - observe Ports Corporation policies and legislative obligations particularly those relating to occupational health and safety.

4.3 Disciplinary procedures

The following disciplinary procedure will be adhered to by the Ports Corporation and the employees:

- (a) Employees who exhibit unsatisfactory performance or behaviour will be counselled so that they understand

the standards expected of them and will be offered assistance and guidance in achieving those standards.

- (b) Written reports of such counselling will be made. The employee will be shown the written report and have the opportunity of commenting on its contents either in writing or orally. The report will only be placed on the employee's file where the employee has been given the opportunity of responding to the report.
- (c) Employees whose performance or behaviour is unsatisfactory will be given adequate time to demonstrate a willingness to improve. If at the end of this period, the employee shows no willingness to improve in the opinion of the Ports Corporation, then disciplinary action up to and including dismissal may be taken.
- (d) Nothing in this procedure will limit the right of the Ports Corporation to summarily dismiss an employee for misconduct.

4.4 Probationary employment

- 4.4.1 The appointment of a full-time or part-time employee will be subject to the completion of a 3 month probationary period with an initial review occurring after the completion of a period of 2 months' employment.
- 4.4.2 The Ports Corporation will ensure that a regular system of appraisal is established which will provide an employee with information on their performance during the period of probation and on appropriate remedial steps to improve performance where the performance is considered unsatisfactory.
- 4.4.3 The Ports Corporation may confirm the employee's appointment or terminate the employment prior to the completion of the probationary period.
- 4.4.4 The Ports Corporation may terminate the employment of an employee who is on probation at any time during the probationary period.

4.5 Casual employment

Casual Employees (As defined) - The hourly rate of pay for casual employees will be ascertained by dividing the appropriate fortnightly minimum Award rate for employees of the same class by 76, adding a loading of 23% thereto, and then adding the appropriate Divisional and District parity as prescribed in clause 5.3.1 converted to an hourly basis.

4.6 Part-time employment

Part-Time Employees (As defined) - The rates of remuneration will be ascertained by dividing the appropriate fortnightly minimum Award rate by 76 and multiplying by the regular number of hours worked per fortnight.

4.7 Anti-discrimination

- 4.7.1 It is the intention of the parties to this Award to prevent and eliminate discrimination as defined by the *Anti-Discrimination Act 1991* and the *Industrial Relations Act 1999* as 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.
- 4.7.2 Accordingly, in fulfilling their obligations under either clause 3.1 or 3.2, the parties to the Award must take reasonable steps to ensure that neither the Award provisions nor their operation are directly or indirectly discriminatory in their effects.
- 4.7.3 Under the *Anti-Discrimination Act 1991* it is unlawful to victimise an employee because the employee has made or may make or has been involved in a complaint of unlawful discrimination or harassment.
- 4.7.4 Nothing in clause 4.7 is to be taken to affect:
 - (a) any different treatment (or treatment having different outcomes) which is specifically exempted under the *Anti-Discrimination Act 1991*;
 - (b) an employee, employer or registered organisation, pursuing matters of discrimination, including by application to the Human Rights and Equal Opportunity Commission/Anti-Discrimination Commission Queensland.

4.8 Termination of employment

4.8.1 Statement of employment

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

4.8.2 Termination by employer

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

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

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

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

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

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

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

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

4.8.3 Notice of termination by employee

The notice of termination required to be given by an employee shall be 2 weeks. If an employee fails to give notice, the Ports Corporation 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 4.8.2(d) for a period of notice of 2 weeks. The notice period cannot be counted as annual leave or part thereof.

4.8.4 Time off during notice period

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

4.9 Introduction of changes

4.9.1 Employer's duty to notify

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

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

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

4.9.2 *Employer's duty to consult over change*

- (a) The employer shall consult the employees affected and, where relevant, their Union or Unions about the introduction of the changes, the effects the changes are likely to have on employees (including the number and categories of employees likely to be dismissed, and the time when, or the period over which, the employer intends to carry out the dismissals), and the ways to avoid or minimise the effects of the changes (e.g. by finding alternate employment).
- (b) The consultation must occur as soon as practicable after making the decision referred to in clause 4.9.1.
- (c) For the purpose of such consultation the employer shall provide in writing to the employees concerned and, where relevant, their Union or Unions, all relevant information about the changes including the nature of the changes proposed, the expected effects of the changes on employees, and any other matters likely to affect employees, provided that any employer shall not be required to disclose confidential information, the disclosure of which would be adverse to the employer's interests.

4.10 Redundancy

4.10.1 *Consultation before terminations*

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

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

4.10.2 *Transfer to lower paid duties*

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

4.10.3 *Transmission of business*

- (a) Where a business is, whether before or after the date of insertion of this clause in the Award transmitted from an employer (transmitter) to another employer (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) In clause 4.10.3, 'business' includes trade, process, business or occupation and includes a part or subsidiary (which means a corporation that would be taken to be a subsidiary under the Corporations Law, whether or not the Corporations Law applies in the particular case) of any such business and 'transmission' includes transfer, conveyance, assignment or succession whether by agreement or by operation of law and 'transmitted' has a corresponding meaning.

4.10.4 *Time off during notice period*

- (a) Where a decision has been made to terminate an employee in the circumstances outlined in clause 4.10.1, the employee shall be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment.
- (b) If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee shall, at the request of the employer, be required to produce proof of attendance at an interview or the employee shall not receive payment for the time absent. For this purpose a statutory declaration will be sufficient.

4.10.5 *Notice to Centrelink*

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

4.10.6 *Severance pay*

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

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

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

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

4.10.7 *Superannuation benefits*

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

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

4.10.8 *Employee leaving during notice*

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

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

4.10.9 *Alternative employment*

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

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

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

4.10.11 *Employees exempted*

Clause 4.10 shall not apply:

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

4.10.12 *Employers exempted*

- (a) Subject to an order of the Commission, in a particular redundancy case, clause 4.10 shall not apply to an employer including a company or companies that employ employees working a total of fewer than 550 hours on average per week, excluding overtime, Monday to Sunday. The 550 hours shall be averaged over the previous 12 months.
- (b) A 'company' shall be defined as:
 - (i) a company and the entities it controls; or
 - (ii) a company and its related company or related companies; or
 - (iii) a company where the company or companies has a common Director or common Directors or a common shareholder or common shareholders with another company or companies.

4.10.13 *Exemption where transmission of business*

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

4.10.14 *Incapacity to pay*

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

PART 5 - WAGES AND WAGE RELATED MATTERS

5.1 Wage Rates

5.1.1 The rates of remuneration prescribed by this Award will be paid in accordance with the ranges of salaries provided below:

Position	Level Pay	Award Rate Per Fortnight \$
Area Officer	1	1,393.70
	2	1,424.80
	3	1,452.10
	4	1,483.20
	5	1,520.60
	6	1,554.00
Area Officer-In-Charge	1	1,521.50
	2	1,570.20
	3	1,619.00
	4	1,675.60
	5	1,705.50
	6	1,748.70
Port Supervisor *	1	1,710.20
	2	1,767.10
	3	1,820.00
	4	1,860.20
	5	1,907.60
	6	1,953.80
Administration Officer - Level 1	1	1,265.00
	2	1,296.20
	3	1,327.40
	4	1,362.60
	5	1,393.70
	6	1,424.80
	7	1,452.10
	8	1,483.20
	9	1,520.60
	10	1,554.00
Administration Officer - Level 2	1	1,521.50
	2	1,570.20
	3	1,619.00
	4	1,675.60
	5	1,705.50
	6	1,748.70
Administration Officer - Level 3	1	1,710.20
	2	1,767.10
	3	1,820.00
	4	1,860.20
	5	1,907.60
	6	1,953.80
Administration Officer - Level 4	1	1,904.40
	2	1,963.00
	3	2,027.50
	4	2,072.10
	5	2,116.70
	6	2,161.20

* For this classification the rate is all-in except for emergency duties of significant duration. Allowance for overtime, call-outs and on-call is included in the all-in rate.

The rates of pay in this Award are intended to include the arbitrated wage adjustment payable under the 1 September 2010 Declaration of General Ruling and earlier Safety Net Adjustments and arbitrated wage

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

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

5.1.2 The criteria for progression within the range of a position will be subject to satisfactory performance as determined by the Ports Corporation.

The criteria for progression to other positions will be dependent upon appointment to a vacant position and based on the principles of equity and merit.

5.2 Payment of wages

Except where otherwise mutually agreed between the Ports Corporation and the majority of employees, payment of wages will be made by fortnightly electronic funds transfer into a nominated bank, credit union or building society to be available on the agreed payday.

5.3 Allowances

5.3.1 Divisional and District Parities

In addition to the rates of wages set out in clause 5.1.1 for the Southern Division, Eastern District, the following amounts will be paid to employees to whom this Award applies employed in the Divisions and Districts as follows:

	Adults 21years of age and over Per Week \$
Northern Division, Eastern District	1.05
Northern Division, Western District	3.25
Mackay Division	0.90
Southern Division, Western District	1.05

5.3.2 Meals or meal allowances

An employee who is called upon to continue work after the usual ceasing time will, after working more than 2 hours after the usual ceasing time, be supplied with a reasonable meal at the employer's expense, or be paid \$9.60 in lieu thereof.

5.3.3 Travelling allowances

All reasonable travelling, accommodation and meal expenses incurred by employees in the discharge of their duties will be met by the Ports Corporation.

5.3.4 Thursday Island

An allowance of \$30 per fortnight will be paid to all permanent employees engaged by the Ports Corporation on Thursday Island.

5.3.5 On-call allowance

An employee instructed by the employer or a duly appointed employee to be available on call outside the ordinary working hours for duty, will be paid, in addition to the ordinary rate of pay, an allowance in accordance with the following scale:

- (a) where the employee is on call through the whole of a Saturday, Sunday or a public holiday - \$20.02 in respect of such instances;
- (b) where the employee is on call during the night only of a Saturday, Sunday or a public holiday - \$13.03 per night; and
- (c) where the employee is on call on any other night - \$10.25 per night.

For the purposes of clause 5.3.5 "night" will be deemed to consist of those hours falling between 7.00 p.m. and 6.00 a.m. or mainly between such hours.

- (d) Monday to Friday - In the event of an employee on call being recalled to perform duty, such employee will be paid for the time worked, such time to be calculated as from home and back to home with a minimum payment of 2 hours at the prescribed overtime rate.
- (e) Saturday and Sunday and public holidays - An employee performing overtime work on recall on Saturday, Sunday or a public holiday will be paid for such overtime at the appropriate overtime rate with a minimum of 2 hours, in respect of overtime worked on a Saturday or Sunday and 4 hours in respect of overtime worked on a public holiday. All payments are to be calculated as from home and back to home.
- (f) In the event of an employee on call being requested by the employer or the employer's authorised delegate, to provide advice (without the need to return to the facility), the employee will be paid at the prescribed overtime rate for the actual time worked up to a maximum of 2 hours on any one day.

The employee will be responsible for the recording of such requests which will require subsequent verification by the employer.

- (g) Any overtime payable will be in addition to the on-call allowance.
- (h) Where an employee is recalled to perform work during an off duty period such employee will be provided with transport to and from the employee's home, or be refunded the cost of such transport.

5.4 Superannuation

5.4.1 Contributions

- (a) The Ports Corporation will pay to the trustee of the approved fund, in respect of each eligible employee, an amount equal to 9% of the employee's ordinary time earnings.

Where the Ports Corporation has already been making occupational superannuation contributions of at least 3% into an approved Fund prior 25 October, 1993 then the continuation of such contributions will be deemed as compliance with the requirements of this paragraph.

- (b) The Ports Corporation will remit to the trustee of QSUPER or other approved fund, whichever is applicable, all payments due in respect of eligible employees, immediately after the conclusion of each calendar month or at such other times and in such other manner as may be agreed in writing between the employer and the trustee.
- (c) Absence from work - Contributions will 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 the Ports Corporation will not 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. In the case of workers' compensation, the Ports Corporation will contribute, in accordance with the provisions of clause 5.4.1(a), whenever the employee is receiving by way of workers compensation an amount of money no less than the Award rate of pay.
- (d) Other contributions - Nothing in clause 5.4 will preclude an employee from making contributions to a fund in accordance with the provisions thereof.
- (e) Cessation of contributions - An employer will 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.

5.4.2 Definitions

In clause 5.4 the following definitions apply:

- (a) "Approved fund" means QSUPER or other fund which has been approved under the provisions of the Commonwealth legislation for occupational superannuation funds..
- (b) (i) "Eligible employee" means any employee who has been employed by the Ports Corporation 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 will then be made in accordance with clause 5.4.1 effective from the commencement of that qualifying period.
- (ii) Each eligible employee will become a member of the approved fund.

- (c) "Ordinary time earnings" means the actual ordinary rate of pay the employee receives (including any overaward payment) for ordinary hours of work. The term includes any overaward payment as well as casual rates received for ordinary hours of work. Ordinary time earnings will not include overtime, higher duties allowances, 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.

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

6.1 Hours of work

6.1.1 Except as may otherwise be mutually agreed upon between the employer and the majority of employees and subject to clause 6.2 (Implementation of hours of work), and to the exceptions hereinafter provided, the ordinary hours of work will be an average of 38 per week, to be worked on one of the following basis:

- (a) 38 hours within a work cycle not exceeding 7 consecutive days; or
- (b) 76 hours within a work cycle not exceeding 14 consecutive days; or
- (c) 114 hours within a work cycle not exceeding 21 consecutive days; or
- (d) 152 hours within a work cycle not exceeding 28 consecutive days.

6.1.2 The ordinary hours of work prescribed in clause 6.1.1 will not exceed 10 hours on any day.

Where the ordinary working hours are to exceed 8 on any day, the arrangement of hours will be subject to the agreements of the employer and the majority of employees.

6.1.3 The ordinary hours of work prescribed may be worked on not more than 5 consecutive days in the week, Monday to Sunday inclusive, subject to the following:

- (a) All ordinary hours worked on a Saturday will be paid at the rate of time and a-half.
- (b) All ordinary hours worked on Sundays will be paid for at the rate of time and three-quarters.

6.1.4 The ordinary starting and finishing times of employees, may be changed or staggered, subject to the agreement of the employer and the majority of employees.

6.1.5 Employees are required to observe the nominated starting and finishing times for the working day, including designated breaks to maximise available working time. Preparation for work and cleaning up of the employee's person will be in the employee's time.

6.2 Implementation of hours of work

6.2.1 The 38 hour week will be implemented on one of the following basis, most suitable to the employer, after 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 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.

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

6.2.2 Subject to clause 6.1.2, employees may agree that the ordinary hours of work are to exceed 8 on any day, thus enabling more than one work day to be taken off during a particular work cycle.

6.2.3 Notwithstanding any consultative procedures or processes undertaken, and notwithstanding any lack of agreement by employees, the employer will have the right to make the final determination as to the method by which the 38 hour week is implemented or worked from time to time.

6.2.4 Notwithstanding any other provision in clause 6.2, 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 will be taken within 12 calendar months of the date on which the first rostered day off was accrued. Consent to accrue rostered days off will not be unreasonably withheld by either party.

- 6.2.5 When the ordinary work cycle provides for a rostered day off, the rostered day off will not fall on a public holiday, but will be on the ordinary working day immediately before or immediately after the public holiday, or deferred in accordance with clause 6.2.4.

6.3 Overtime

- 6.3.1 All time worked outside of the ordinary working hours each day will, except as hereinafter provided, be paid for at the rate of time and a-half for the first 3 hours, and double time thereafter.
- 6.3.2 If employees are called upon to work overtime commencing on Saturday they will be paid at the rate of time and a-half for the first 3 hours and double time thereafter, with a minimum of 2 hours' work or payment therefore.
- 6.3.3 All overtime worked on Sundays will be paid at the rate of double time, with a minimum of 2 hours' work or payment therefore.

6.4 Call back

An employee, other than port supervisors, recalled to work overtime after leaving the employer's business premises (whether notified before or after leaving the premises) will be paid for a minimum of 2 hours' work at the appropriate rate for each time so recalled.

Except in the case of unforeseen circumstances arising, the employee will not be required to work the full 2 hours if the job the employee was recalled to perform is completed within a shorter period.

Clause 6.4 will not apply in cases where it is customary for an employee to return to the employer's premises to perform a specific job outside their ordinary working hours or where the overtime is continuous (subject to a reasonable meal break) with the completion or commencement of ordinary working time.

Payment at the appropriate overtime rate will be calculated from time of leaving home to commence that work until the employee returns home from that work.

Where employees are called out between midnight and 6.00 a.m. they will be paid at the rate of double time for all time so worked up to the ordinary starting time Monday to Friday and up to 7.00 a.m. on Saturday with a minimum payment as for 3 hours' work at that rate.

6.5 Rest period after overtime

An employee who works so much overtime between the termination of ordinary work on one day and the commencement of ordinary work on the next day that the employee has not had at least 10 consecutive hours off duty between those times will be released after completion of the overtime until the employee has had 10 consecutive hours off duty without loss of pay for ordinary working time occurring during the absence.

If on the instructions of the employer an employee resumes or continues work without having had such 10 consecutive hours off duty, the employee will be paid double rates until released from duty for such period. The employee will then be entitled to be absent until the employee has had 10 consecutive hours off duty without loss of pay for ordinary working time occurring during each absence.

The provisions of clause 6.5 will not apply where an employee is recalled to work overtime and works not more than 2 hours' overtime.

6.6 Meal breaks

- 6.6.1 All employees (including part-time and casual employees) whether day workers or shift workers who work for more than 5 continuous ordinary hours on any day will be allowed a minimum of 30 minutes for a meal break to be taken between the third and sixth hour from commencement of duty.

This meal break will be taken at such time as will not interfere with continuity of work where continuity is necessary, and where practical will be taken at a regular time each day.

All work done during the recognised meal period will be paid for at the rate of double time, such payment to continue until a meal period has commenced. Such meal period will be of a 30 minute duration.

- 6.6.2 Any employee who, without notification on the previous day or earlier, is required to continue working for more

than 2 hours after the ordinary ceasing time or one hour if overtime continues past 6.00 p.m. will be allowed 30 minutes for a meal after the first hour worked and 30 minutes after each further 4 hours worked. If the employee works through the 30 minute meal break the employee will be paid an additional 30 minutes at ordinary time.

6.7 Rest pauses

Where practicable, all employees (including part-time and casual) who work at least 6 continuous ordinary hours will be entitled to a pause(s) totalling 20 minutes per day to be taken at times to suit operational requirements as determined by the employer.

Where an employee works at least 4 continuous ordinary hours the entitlement will be 10 minutes.

For the purpose of clause 6.7 the taking of a meal break as prescribed in clause 6.6 does not interrupt the continuity of ordinary hours worked.

PART 7 - LEAVE OF ABSENCE AND PUBLIC HOLIDAYS

7.1 Annual leave

7.1.1 Annual leave entitlement

All employees (other than casual employees) covered by this Award will accumulate annual leave at the rate of 12.667 hours for each completed month of employment. However, in the case of part-time employees, such entitlement will be on a *pro rata* basis calculated on the hours worked per month.

Employees located on Thursday Island (other than casual employees) will be entitled to accumulate leave at a rate of 15.834 hours for each completed month of employment.

During annual leave an employee will not derive any additional benefit for rostered days off falling within a period of annual leave.

7.1.2 Payment for annual leave

Annual leave will be paid for by the employer in advance.

In the case where an employee immediately prior to the taking of annual leave is in receipt of a base rate of pay in excess of the ordinary rate, the annual leave will be paid at that excess rate. In all other cases annual leave will be payable at the ordinary rate applicable.

It is not lawful for the employer to give or for the employee to receive payment in lieu of annual leave.

7.1.3 Annual leave loading

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

- (a) All employees - Subject to 7.1.3(b), in no case will the payment by the employer to an employee be less than the sum of the following amounts:
 - (i) the employee's ordinary wage rate as prescribed by this Award for the period of the annual leave (excluding shift premiums and week-end penalty rates);
 - (ii) a further amount calculated at the rate of 17.5% of the amounts referred to in 7.1.3(a)(i).
- (b) Clause 7.1.3(a) will not apply to:
 - (i) any periods of annual leave exceeding the accumulative leave entitlement calculated in clause 7.1.1;
 - (ii) the employer (and employees) where the employer is already paying (or the employees are receiving) an annual leave bonus, loading or other annual leave payment which is not less favourable to employees.

7.1.4 Time of taking annual leave

The taking of accumulated leave will be on a basis mutually agreed to between the employer and the employee.

7.1.5 Annual leave exclusive of public holidays

Annual leave will be exclusive of any public holidays which may occur during the period of that annual leave.

7.1.6 *Annual leave to be taken*

Annual leave for any employee cannot accumulate beyond an amount equal to 24 months entitlement. Amounts which would have so accumulated will be added to sick leave accrual.

7.1.7 *Proportionate annual leave on termination*

If the employment of any employee (other than a casual employee) is terminated before the expiration of a full year of employment, such employee will be paid in addition to all other amounts due, an amount equal to the employee's accrued annual leave entitlement. This payment should be no less than 1/12th of the ordinary pay for the period of employment.

7.2 Sick leave

7.2.1 *Sick leave entitlement*

An employee will be entitled to 76 ordinary hours of sick leave for each completed year of service.

7.2.2 In respect of any completed period of employment of less than one year an employee will become entitled to 7.6 ordinary hours sick leave for each 36 calendar days of such period.

7.2.3 *Sick leave accumulation*

Sick leave will be cumulative, but unless the employer and employee otherwise agree, no employee will be entitled to receive, and the employer will not be bound to make, payment for more than 13 weeks' absence from work through illness in any one year.

7.2.4 *Calculation of continuous service for sick leave*

The continuity of employment of an employee with the Ports Corporation for sick leave accumulation purposes will be deemed to be not broken by any of the following:

- (a) absence from work on leave granted by the Ports Corporation;
- (b) the employee having been dismissed or stood down by the Ports Corporation, or the employee terminating their employment with the Ports Corporation, for any period not exceeding 3 months and the employee is re-employed by the Ports Corporation.

7.2.5 *Sick leave when service is broken*

In determining service for the purpose of calculation of sick leave entitlements the following will not be recognised:

- (a) absences on leave without pay for any period in excess of 3 months;
- (b) absences on sick leave without pay in excess of 9 working days;
- (c) absences from work without pay for which an employee is entitled to receive Workers' Compensation under the *WorkCover Queensland Act 1996* for any period in excess of 3 months.

7.2.6 *Notification and proof of sickness*

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

7.2.7 An employee is required to produce a certificate from a duly qualified medical practitioner specifying the nature of the employee's illness and the period or approximate period during which the employee will be unable to work, or other evidence of illness to the satisfaction of the employer.

7.2.8 The employer may dispense with the medical certificate where the absence does not exceed 2 consecutive working days.

7.3 Bereavement leave

7.3.1 An employee (other than a casual) on the death of a member of their immediate family or household in Australia is entitled to paid bereavement leave for the purpose of attending the funeral without deduction of pay for a period not exceeding the number of hours worked by the employee in 2 ordinary days of work. Such leave may

be constituted by the following:

- (a) the day of the funeral; and
- (b) either:
 - (i) the day before the funeral; or
 - (ii) where necessary because of travel arrangements, the day after the funeral.

Proof of such death is to be furnished by the employee to the satisfaction of the employer.

7.3.2 *Long-term casual employees*

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

7.3.3 "Immediate family" includes:

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

7.3.4 *Unpaid leave*

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

7.3.5 An employee will be entitled to a maximum of 2 days leave without loss of pay on each occasion and on the production of satisfactory evidence of the death outside of Australia of a member of the employee's immediate family as defined in clause 7.3.3 to attend the funeral.

7.4 Long service leave

Employees engaged under this Award will be entitled to long service leave at the rate prescribed by the relevant Directive issued under section 34 of the *Public Service Act 1996*.

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 Special Leave

7.6.1 All employees (other than casuals) will be entitled to the undermentioned provisions of Parts A and C of the relevant Directive issued under section 34 of the *Public Service Act 1996*:

- Floods, cyclones, etc.

- Reserve forces training.
- Emergency management courses.
- Attendance at emergencies.
- Pre-retirement seminars.
- Election leave.

7.6.2 All employees (other than casuals) will be entitled to adoption leave on the same conditions as are prescribed by the relevant Directive issued under section 34 of the *Public Service Act 1996*.

7.7 Public holidays

7.7.1 Prescribed public holidays

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.

7.7.2 Labour Day

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

Where an employee actually works on Labour Day, the employee will be paid in addition, a payment for the time actually worked between the normal starting and finishing times at one and a-half times the ordinary rate prescribed for the work with a minimum of 4 hours.

7.7.3 Annual show

All work done by employees in a district specified from time to time by the Minister by notification published in the 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, will be paid for at the rate of double time and a-half the employee's ordinary rate with a minimum payment of 4 hours.

7.7.4 Double time and a-half

For the purposes of clause 7.7, where the rate of wages is a weekly rate, "double time and a half" means one and one-half day's wages in addition to the prescribed weekly rate, or *pro rata* if there is more or less than a day.

7.7.5 Public holidays - penalty rates

All time worked on any of the holidays listed in clauses 7.7.1 to 7.7.3 inclusive, outside the ordinary starting and ceasing times prescribed by this Award for the day of the week on which a holiday falls will be paid for at double the rate prescribed by clause 6.3 of this Award for such time when worked outside the ordinary starting and ceasing times on an ordinary working day.

7.7.6 Substituted public holidays

Where there is agreement between the majority of employees concerned and the employer, and subject to statutory limitations, other ordinary working days may be substituted for the statutory holidays specified in clauses 7.7.1 to 7.7.3 inclusive.

Where any employee is subsequently required to work on a substituted day, the employee will be paid the rate applicable for the holiday that has been substituted.

7.8 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

No provisions inserted in this Award relevant to this Part.

PART 9 - TRAINING AND RELATED MATTERS

9.1 Training, learning and development

The parties to this Award recognise that in order to increase efficiency and productivity a greater commitment to learning and development is required.

Accordingly, the parties are committed to developing a more highly skilled and flexible workforce and providing employees with career opportunities through appropriate training to acquire additional skills and knowledge for the performance of their duties.

The Ports Corporation will develop a learning and development strategy consistent with:

- (a) the current and future needs of the Ports Corporation;
- (b) the size, structure and nature of the Ports Corporation's operations;
- (c) the need to develop vocational skills relevant to the Ports Corporation through courses conducted wherever possible by accredited educational institutions and providers.

Learning and development may be both on-the-job or off-the-job and either internal or external to the Ports Corporation.

Learning and development provided should assist employees in obtaining knowledge and skills recognised by the Australian National Training Authority (ANTA).

All learning and development should, where practicable, be directed at enabling employees to enhance skills relevant to duties to be performed. Employees will be expected to attend scheduled learning and development activities.

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

10.1 Clothing equipment and tools

The Ports Corporation will provide all tools, protective clothing, safety boots, equipment and materials necessary for employees to carry out their duties. All employees will undertake to wear the appropriate protective clothing and

follow safety procedures in the discharge of their duties.

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 Posting of Award

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

11.4 Union encouragement

11.4.1 The Corporation recognises the right of individuals to join a Union and will encourage that membership. However, it is also recognised that Union membership remains at the discretion of individuals.

11.4.2 Induction materials will be provided to all employees at or soon after the point of engagement. Information on the relevant Union(s) including applications for union membership (if supplied by the relevant unions) will be included in induction materials.

11.4.3 Union representative(s) will be provided with the opportunity to discuss Union membership with new employees.

11.4.4 Where requested by Unions, the Corporation will provide payroll deduction facilities for union subscriptions.

Dated 6 May 2003.

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

Operative Date 14 July 2003