

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

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

TEA INDUSTRY AWARD - STATE 2003

Following the Declaration of the General Ruling for Overtime Meal Allowance (matter numbers B/2010/34 and B/2010/38), the Tea Industry 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 Tea Industry Award - State 2003 as at 1 January 2011.

Dated 1 March 2011.

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

TEA INDUSTRY AWARD - STATE 2003

PART 1 - APPLICATION AND OPERATION

1.1 Title

This Award is known as the Tea Industry Award - State 2003.

1.2 Arrangement

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1.3 Date of operation

This Award takes effect from 24 March 2003.

1.4 Coverage

- 1.4.1 This Award applies to all employers and employees engaged in or in connection with or incidental to the cultivation and/or harvesting and/or processing of tea throughout the State of Queensland.
- 1.4.2 As to the employers named in the Schedule to this Award the provisions of the Award are modified in accordance with the requirements of the individual Orders listed in such Schedule.

1.5 Definitions

- 1.5.1 The "Act" is taken to mean the *Industrial Relations Act 1999* as amended or replaced from time to time.
- 1.5.2 "Commission" means the Queensland Industrial Relations Commission.
- 1.5.3 "Leaf/Bin Handler" means and includes employees engaged in the handling and transfer of tea from the picking machines to the drying sheds.
- 1.5.4 "Tea Blender/Maker" means and includes any employee who has completed or is in the process of completing

their training in the occupation of Tea Blender/Maker.

1.5.5 "Tea Picking Machine Operator" means and includes those employees engaged in driving tea picking/harvesting machines.

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

1.6 Parties bound

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

PART 2 - FLEXIBILITY

2.1 Enterprise flexibility

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

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

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

PART 3 - COMMUNICATION, CONSULTATION AND DISPUTE RESOLUTION

3.1 Consultation Committee

3.1.1 To ensure productivity and efficiency in the workplace, a Consultation Committee shall be established and continued, to discuss at workplace level all aspects of the Company's operation, equipment, procedures, and occupational health and safety matters.

3.1.2 The Committee shall be comprised of equal numbers of management and employees from the workplace or a section, plus the Union Organiser shall be invited to attend. The minimum number of employee or management representatives from either an area or the workplace shall be 2.

3.1.3 The Committee shall meet regularly at suitable intervals, such as at the beginning of a season or every 2, 3 or 4 months, or more often if required by a party indicating such in writing to the other parties by giving one week's notice.

3.1.4 The outcome of the Committee discussions shall be displayed on the employee's notice board within 2 days after each meeting.

3.2 Grievance and dispute settling procedure

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

3.2.1 In the event of an employee having a grievance or dispute the employee shall in the first instance attempt to resolve the matter with the immediate supervisor, who shall respond to such request as soon as reasonably practicable under the circumstances. Where the dispute concerns alleged actions of the immediate supervisor the employee(s) may bypass this level in the procedure.

3.2.2 If the grievance or dispute is not resolved under clause 3.2.1, the employee or the employee's representative may refer the matter to the next higher level of management for discussion. Such discussion should, if possible, take place within 24 hours after the request by the employee or the employee's representative.

3.2.3 If the grievance involves allegations of unlawful discrimination by a supervisor the employee may commence the grievance resolution process by reporting the allegations to the next level of management beyond that of the supervisor concerned. If there is no level of management beyond that involved in the allegation the employee may proceed directly to the process outlined at clause 3.2.5.

- 3.2.4 If the grievance or dispute is still unresolved after discussions mentioned in clause 3.2.2, the matter shall, in the case of a member of a Union, be reported to the relevant officer of that Union and the senior management of the employer or the employer's nominated industrial representative. An employee who is not a member of the Union may report the grievance or dispute to senior management or the nominated industrial representative. This should occur as soon as it is evident that discussions under clause 3.2.2 will not result in resolution of the dispute.
- 3.2.5 If, after discussion between the parties, or their nominees mentioned in clause 3.2.4, the dispute remains unresolved after the parties have genuinely attempted to achieve a settlement thereof, then notification of the existence of the dispute is to be given to the Commission in accordance with the provisions of the Act.
- 3.2.6 Whilst all of the above procedure is being followed, normal work shall continue except in the case of a genuine safety issue.
- 3.2.7 The *status quo* existing before the emergence of the grievance or dispute is to continue whilst the above procedure is being followed.
- 3.2.8 All parties to the dispute shall give due consideration to matters raised or any suggestion or recommendation made by the Commission with a view to the prompt settlement of the dispute.
- 3.2.9 Any Order or Decision of the Commission (subject to the parties' right of appeal under the Act) will be final and binding on all parties to the dispute.
- 3.2.10 Discussions at any stage of the procedure shall not be unreasonably delayed by any party, subject to acceptance that some matters may be of such complexity or importance that it may take a reasonable period of time for the appropriate response to be made. If genuine discussions are unreasonably delayed or hindered, it shall be open to any party to give notification of the dispute in accordance with the provisions of the Act.

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

4.1 Casual employment

- 4.1.1 Casual employees means an employee who is engaged as such and who is engaged for less than 40 hours in any one week.
- 4.1.2 Casual employees shall be paid 23% in addition to the rate prescribed for the class of work performed.

4.2 Contract or piecework

Contract work shall be allowed, provided such contract or piecework rate shall be fixed as will enable the average competent employee to earn 30 per cent over the minimum wage fixed by this Award; but in no case shall the employee be paid less than the minimum rate fixed by this Award.

4.3 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)*.

4.4 Two or more classes of work

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

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

4.5 Flexibility of work

- 4.5.1 Employees shall perform work as required by the employer provided that such work is reasonably within the employee's limits of skills, competence and training:

Provided further that employees shall use tools and equipment as required by the employer subject to appropriate training having been given.

- 4.5.2 Any direction issued by the employer pursuant to clause 4.5.1 shall be consistent with the employer's responsibility 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* which includes:

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

4.6.2 Accordingly, in fulfilling their obligations under the grievance and disputes settling procedure in clause 3.2, 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*; or
- (b) an employee, employer or registered organisation, pursuing matters of discrimination, including by application to the Human Rights and Equal Opportunity Commission/Anti-Discrimination Commission Queensland.

4.7 Termination of employment

4.7.1 *Statement of employment*

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

4.7.2 *Termination by employer*

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

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

(b) In addition to the notice in (a) above, employees 45 years old or over and who have completed at least 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.

4.7.3 *Notice of termination by employee*

The notice of termination required to be given by a full-time or part-time employee shall be 2 days. If an employee fails to give notice, the employer shall have the right to withhold monies due to the employee with a maximum amount equal to the amount the employee would have received under clause 4.7.2(d) for a period of notice of 2 days.

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 alternate 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 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.

4.9.2 *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 (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 4.9.3, 'business' includes trade, process, business or occupation and includes a part or subsidiary (which means a corporation that would be taken to be a subsidiary under the Corporations Law, whether or not the Corporations Law applies in the particular case) of any such business and 'transmission' includes transfer, conveyance, assignment or succession whether by agreement or by operation of law and 'transmitted' has a corresponding meaning.

4.9.4 *Time off during notice period*

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

4.9.5 *Notice to Centrelink*

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

4.9.6 *Severance pay*

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

Period of Continuous Service	Severance Pay (weeks' pay)
Less than 1 year	nil
1 year but not more than 2 years	4
More than 2 years but not more than 3 years	6
More than 3 years but not more than 4 years	7
More than 4 years but not more than 5 years	8

More than 5 years but not more than 6 years	9
More than 6 years but not more than 7 years	10
More than 7 years but not more than 8 years	11
More than 8 years but not more than 9 years	12
More than 9 years but not more than 10 years	13
More than 10 years but not more than 11 years	14
More than 11 years but not more than 12 years	15
More than 12 years	16

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

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

4.9.7 *Superannuation benefits*

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

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

4.9.8 *Employee leaving during notice*

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

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

4.9.9 *Alternative employment*

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

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

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

4.9.11 *Employees exempted*

Clause 4.9 shall not apply:

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

4.9.12 *Employers exempted*

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

- (iii) a company where the company or companies has a common Director or common Directors or a common shareholder or common shareholders with another company or companies.

4.9.13 *Exemption where transmission of business*

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

4.9.14 *Incapacity to pay*

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

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

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

PART 5 - WAGES AND WAGE RELATED MATTERS

5.1 Wages rates

5.1.1 The minimum rates of wages payable to the following classes of employees in the Southern Division, Eastern District shall be:

Classification	Award Rate Per Week \$
Tea Blender/Maker -	
During first years experience	588.20
During second years experience	588.20
During third years experience	625.30
Thereafter	664.40
Tea Picking -	
Machine Operator	685.70
Leaf/Bin Handler	664.40
All other employees not elsewhere classified	640.40

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

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

5.1.2 *Divisions and Districts*

- (a) Employees in the Mackay Division shall be paid 90c per week and in the Eastern District of the Northern Division shall be paid \$1.05 per week in addition to the rates prescribed for the Eastern District of the Southern Division.
- (b) Employees in the Western District of the Southern Division shall be paid \$1.05 per week in addition to the rates prescribed for the Eastern District of the Southern Division.
- (c) Employees in the Western District of the Northern Division, shall be paid \$2.20 per week in addition to the rates prescribed for the Eastern District of the Northern Division.

5.2 Allowances

5.2.1 Afternoon and night shift allowances

In addition to the rates of pay prescribed by clause 5.1, employees whilst engaged on afternoon shift and night shift, as established pursuant to clause 6.1, shall be paid an additional penalty rate for each such shift as follows:

- (a) Afternoon Shift 12.5% (or \$9.70 whichever is the greater)
- Night Shift 15% (or \$9.70 whichever is the greater)

For the purposes of clause 5.2.1:

- (i) "Afternoon Shift" means any shift finishing after 6.00 p.m. and at or before midnight;
 - (ii) "Night Shift" means any shift finishing after midnight and at or before 8.00 a.m. or where the majority of hours worked in the shift falls between midnight and 8.00 a.m.; and
- (b) The percentage which is quoted shall be the amount which is payable for each shift in addition to the employee's ordinary time wage rate.
 - (c) No employee shall as a result of clause 5.2.1 suffer any reduction to their current entitlement to shift allowance.

5.3 Payment of wages and payment on termination of employment

5.3.1 Wages shall be paid weekly in the employer's time.

5.3.2 In the case of dismissal of an employee or of an employee leaving the service of the employer after the prescribed notice has been given, the employee shall be paid all wages due within 15 minutes of ceasing work. If such wages are not paid within the time prescribed, waiting time of 8 hours in each 24 hours or part thereof in excess of fifteen minutes, shall be paid for at ordinary rates.

5.3.3 In the event of an employee leaving their employment or being discharged without notice, such employee shall be paid all money due to them within 24 hours of ceasing work or not later than 10.30 a.m. on the next ensuing banking day whichever is the earlier, otherwise waiting time of 8 hours in each 24 hours or part thereof shall be paid for at ordinary rates.

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

6.1 Hours of work

6.1.1 The ordinary working hours of all employees shall not exceed 40 in any one week, or 8 in any one day, and shall be worked over 5 consecutive days in each week, as follows:

- (a) Day work - Commencing not earlier than 6.00 a.m. and ceasing not later than 6.00 p.m. Where the necessity arises, other starting and ceasing times may be mutually arranged between the employer and the District Secretary of The Australian Workers' Union of Employees, Queensland.
- (b) Shift work - The ordinary hours of work of shift workers shall not exceed 8 hours per day and shall be worked as mutually arranged between the employer and the District Secretary of The Australian Workers' Union of Employees, Queensland.

6.2 Meal breaks

6.2.1 Day workers shall be allowed at least one-half hour and not more than one hour for a meal during each day, such meal break shall commence between the 4th and 6th hours after commencing work. The said meal break shall not be counted as time worked.

6.2.2 Shift workers shall be allowed 30 minutes for a meal break for each shift worked, for which no deduction shall

be made.

6.3 Rest pauses

Every employee covered by this Award shall be entitled to a rest pause of 10 minutes' duration in the employer's time and in the first and second half of their daily work. Such rest pauses shall be taken at such times as will not interfere with continuity of work, where continuity is necessary.

6.4 Overtime

6.4.1 All time worked in excess of the ordinary working hours, or before the ordinary starting time or after the ordinary ceasing times for each class of employee shall be considered overtime and paid for as such.

6.4.2 The rate of pay for overtime for other than shift work shall be time and a-half for the first 3 hours on Monday to Friday inclusive, and double time thereafter on any one day.

Employees, other than shift workers, required to work overtime on a Saturday shall be paid at the rate of time and a-half for the first 3 hours, and double time thereafter, with a minimum of 3 hours' work or payment therefor.

All overtime performed by shift workers shall be paid for at the rate of double time.

All work performed on Sundays shall be paid for at the rate of double time, with a minimum of 3 hours' work or payment therefor.

6.4.3 All overtime worked shall be recorded on the day following the day on which such overtime is worked, and payment for such overtime worked shall be claimed, adjusted, and made at the next ensuing date of payment of such employee.

6.4.4 Any employee who is required to continue working for more than one hour after ordinary ceasing time, shall be allowed 30 minutes for crib after the first hour worked, also 45 minutes after each further 4 hours worked, for which no deduction of pay shall be made.

Any employee required to work overtime in accordance with clause 6.4.4 shall be supplied with a meal by the employer, or shall be paid \$12.10 in lieu thereof in respect of each meal break so allowed.

6.4.5 All work done during the recognised meal period shall be paid for at the rate of double time, such payment to continue until the meal period has been taken:

Provided that clause 6.4.4 shall not apply where by mutual arrangement, the time for commencing a meal break is altered by not more than half an hour, to facilitate the loading and despatch of vehicles.

6.5 Week-end and penalty rates

6.5.1 All time worked by employees, not being overtime within the meaning of clause 6.4, shall be paid for at the rate of:

(a) Time and a-half for all time worked between midnight Friday to midnight Saturday;

(b) Double time for all time worked between midnight Saturday and midnight Sunday:

Provided that employees in receipt of week-end penalty rates under clause 6.5.1 shall not be entitled to payment of shift allowance for afternoon and night shift work under clause 5.2.1.

PART 7 - LEAVE OF ABSENCE AND PUBLIC HOLIDAYS

7.1 Annual leave

7.1.1 Every employee covered by this Award shall at the end of each year of their employment be entitled to annual leave on full pay as follows:

(a) Not less than 5 weeks if employed in shift work where 3 shifts per day are worked over a period of 7 days per week;

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

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

- (a) In the case of any and every employee in receipt immediately prior to that leave of ordinary pay at a rate in excess of the ordinary rate; and
- (b) In every other case, at the ordinary rate payable to the employee concerned immediately prior to that leave under this Award.

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 forthwith pay to the employee in addition to all other amounts due their pay, calculated in accordance with clause 7.1.5, for 4 or 5 weeks as the case may be and also their ordinary pay for any public holiday occurring during such period of 4 or 5 weeks.

7.1.4 If the employment of any employees is terminated before the expiration of a full year of employment, such employee shall be paid, in addition to all other amounts due to them, 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.

One month's notice (or such other period as may be agreed) of the commencement of annual leave shall be given by an employee to their employer or by the employer to the employee.

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

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 at the rate payable for work in ordinary time according to the employee's roster or projected roster, including Saturday, Sunday or public holiday shifts.
- (b) Leading hands, etc - Subject to clause 7.1.5(c), leading hand allowances and amounts of a like nature otherwise payable for ordinary time worked shall be included in the wages to be paid to employees during annual leave.
- (c) All employees - Subject to the provisions of clause 7.1.5(d), in no case shall the payment by an employer to an employee be less than the sum of the following amounts:
 - (i) The employee's ordinary wage rate as prescribed by this Award for the period of the annual leave (excluding shift premiums and weekend penalty rates);
 - (ii) Leading hand allowance or amounts of a like nature;
 - (iii) A further amount calculated at the rate of 17 1/2% of the amounts referred to in clauses 7.1.5(c)(i) and 7.5.5(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
 - 4 weeks in any other case.
 - (ii) Employers (and their employees) who are already paying (or receiving) an annual leave bonus, loading or other annual leave payment which is not less favourable to employees.

7.2 **Sick leave**

7.2.1 *Entitlement*

- (a) Every employee, except casuals, pieceworkers, and school-based apprentices and trainees, is entitled to 8 days' sick leave for each completed year of their employment with their employer.
- (b) This entitlement will accrue at the rate of one day's sick leave after each 6 weeks of employment.
- (c) Payment for sick leave will be made based on the ordinary number of hours that 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.

7.2.2 *Employee must give notice*

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

7.2.3 *Evidence supporting a claim*

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

7.2.4 *Accumulated sick leave*

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

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

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

7.2.5 *Workers' compensation*

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

7.3 Bereavement leave

7.3.1 *Full-time employees*

Full-time employees shall, on the death of a member of their immediate family or household in Australia, be entitled to paid bereavement leave up to and including the day of the funeral of such person. Such leave shall be without deduction of pay for a period not exceeding the number of hours worked by the employee in 2 ordinary days of work. Proof of such death is to be furnished by the employee to the satisfaction of the employer.

7.3.2 *Long-term casual employees*

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

7.3.3 "Immediate family" includes:

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

7.3.4 *Unpaid leave*

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

7.4 Long service leave

All employees covered by this Award are entitled to long service leave on full pay under, subject to, and in accordance with, the provisions of Chapter 1, Part 3, sections 42-58 of the Act as amended from time to time.

7.5 Family leave

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

7.5.1 It is to be noted that:

- (a) part-time work can be performed by agreement in the circumstances specified in the Family Leave Award;
- (b) a copy of the Family Leave Award is required to be displayed in accordance with section 697 of the Act.

7.5.2 The Family Leave Award also provides for the terms and conditions of leave associated with:

- (a) Maternity leave
- (b) Parental leave
- (c) Adoption leave
- (d) Special responsibility leave for the care and support of the employee's immediate family or household.

7.6 Public holidays

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

7.6.3 Employees shall be entitled to payment for the public holidays (but not for Easter Saturday except where that day forms part of an ordinary working week) irrespective of the fact no work may be required to be performed on any such day.

7.6.4 Any employee who is required by the employer to work on any of the public holidays, and who fails to do so shall not be entitled to payment for such holidays unless the employee furnishes the employer with a satisfactory excuse for this failure to carry out the request of the employer.

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

7.6.6 For the purpose of this provision, 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.

7.6.7 All time worked on any of the public holidays outside the ordinary starting and ceasing times prescribed by this Award for the day of the week on which such holiday falls shall be paid for at double the rate prescribed by the Award for such time worked outside the ordinary starting and ceasing times on an ordinary working day.

7.6.8 *Stand down*

Any employee, with 2 weeks' or more of continuous service, whose employment has been terminated by the employer or who has been stood down by the employer during the month of December, and who is re-employed in January of the following year, shall be entitled to payment at the ordinary rate payable to that employee when they were dismissed or stood down, for any one or more of the following holidays, namely, Christmas Day, Boxing Day and the 1st January (New Year's Day).

7.7 **Jury service**

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

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

8.1 **Travelling time**

8.1.1 Where, during the employees working hours, an employee is shifted from one job to another, the cost of transportation or fares shall be borne by the employer, and the time so occupied in travelling shall be paid for at ordinary rates.

PART 9 - TRAINING AND RELATED MATTERS

9.1 **Training**

9.1.1 The parties to this Award acknowledge that varying degrees of training are provided to employees in the Tea Industry via both internal on-the-job training and also through external training facilities. To this end, the parties through consultation at all levels shall develop a training program consistent with:

- (a) the current and future skill needs of the Industry;
- (b) the size, structure and nature of the operations of the Industry;
- (c) the need to develop vocational skills relevant to the industry through both industry courses and courses conducted by accredited educational institutions and providers;

9.1.2 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;
- (c) developing co-ordinated training programs designed to cater for the new broadbanded Grading Structure with career-path advancement; and
- (d) removing barriers to the utilisation of skills acquired.

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

AMENITIES

10.1 Accident or sickness

Employees who have commenced work and are unable to continue through sickness or accident not caused by their own misconduct shall be paid for a full day or shift.

10.2 Boiling water

Boiling water shall be provided by the employer during the midday meal hour, and during the rest pauses in the first and second half of the employee's daily work.

10.3 First-aid material

The employer shall keep available a supply of first-aid material.

PART 11 - AWARD COMPLIANCE AND UNION RELATED MATTERS

Preamble

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

11.1 Right of entry

11.1.1 Authorised industrial officer

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

11.1.2 Entry procedure

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

11.1.3 Inspection of records

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

the inspection of their records by an Authorised industrial officer.

11.1.4 *Discussions with employees*

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

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

11.1.5 *Conduct*

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

11.2 Time and wages record

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

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

11.2.2 The time and wages record must also contain:

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

11.2.3 The employer must keep the record for 6 years.

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

11.3 Posting of award

A true copy of this Award shall be displayed by the employer in each establishment in a prominent position, so as to be easily read by the employees.

Schedule

*List of employers with 2nd Tier Orders which to
Varying Degrees Modify the Provisions of this Award*

Employer	Case No.	Date of Order
Tea Estates of Australia Ltd.	B575/89	24.7.89

Dated 30 January 2003

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

Operative Date: 24 March 2003