

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

*Industrial Relations Act 1999* - s. 130 - award review

**TRAINING WAGE AWARD - STATE 2003**

(Matter A/2010/162)

DEPUTY PRESIDENT SWAN  
DEPUTY PRESIDENT BLOOMFIELD  
COMMISSIONER THOMPSON

18 September 2012

AWARD REVIEW

After reviewing the above Award as required by s. 130 of the *Industrial Relations Act 1999*, this Commission orders that the Award be repealed and the following Award be made as from 31 August 2012.

**TRAINING WAGE AWARD - STATE 2012**

**PART 1 - APPLICATION AND OPERATION**

**1.1 Title**

This Award is known as the Training Wage Award - State 2012.

**1.2 Arrangement**

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### 1.3 Award coverage

- 1.3.1 In respect of all Awards, industrial agreements, certified agreements and enterprise flexibility agreements, the Award applies throughout the State of Queensland to all employers and those of their employees who are employed as Trainees (as defined).
- 1.3.2 Subject to clause 1.3.1, this Award shall not apply to employees who were employed by an employer bound by this Award prior to the date of approval of a Traineeship scheme relevant to the employer, except where agreed between the employer and the relevant Union(s).
- 1.3.3 This Award does not apply to the Apprenticeship system or any training program which applies to the same occupation and achieves essentially the same qualification as an existing apprenticeship, in an Award or Order applying as at 7 November 1997.
- 1.3.4 This Award will not apply to Awards and industrial agreements listed in Schedule 2.
- 1.3.5 This Award does not apply to the *Retail Industry Award - State 2004*.

### 1.4 Objective

- 1.4.1 The objective of this Award is to establish a system of Traineeships which provides Approved Training in conjunction with employment in order to enhance the skill levels and future employment prospects of Trainees, particularly young people, and the long term unemployed. The system is neither designed nor intended for those who are already trained and job ready.
- 1.4.2 It is not intended that existing employees shall be displaced from employment by Trainees.
- 1.4.3 Nothing in this Award shall be taken to replace the prescription of training requirements in the relevant Award.
- 1.4.4 At the conclusion of the Traineeship, this Award ceases to apply to the employment of the Trainee and the relevant Award shall apply to the former Trainee.

### 1.5 Date of operation

This Award takes effect from 31 August 2012.

### 1.6 Definitions

- 1.6.1 "The Act" means the *Industrial Relations Act 1999* as amended or replaced from time to time.
- 1.6.2 "Appropriate State legislation" means that following; *Vocational Education, Training and Employment Act 2000* or any successor legislation.
- 1.6.3 "Approved Training" means training undertaken (both on and off the job) in a Traineeship and shall involve formal instruction, both theoretical and practical, and supervised practice in accordance with a Traineeship Scheme approved by Skills Queensland.
- 1.6.4 "Commission" means the Queensland Industrial Relations Commission.
- 1.6.5 "Parties to a Traineeship Scheme" means the employer organisation and/or the employer and the relevant Union involved in the consultation and negotiation required for the approval of a Traineeship Scheme.
- 1.6.6 "Relevant Award" means an Award, industrial agreement, certified agreement or enterprise flexibility agreement that applies to a Trainee or that would have applied, but for the operation of this Award.
- 1.6.7 "Relevant Union" means a Union party to a relevant Award and which is entitled to enrol the Trainee as a member.
- 1.6.8 "Trainee" means a trainee in accordance with the *Vocational Education, Training and Employment Act 2000*.
- 1.6.9 "Traineeship" means a system of training which has been approved by Skills Queensland and includes those training programs which meet the requirements of a National Training Package developed by a National Industry Training Advisory Board and endorsed by the National Training Framework Committee, which lead to an Australian Qualifications Framework qualification specified by the National Training Package.

- 1.6.10 "Traineeship Scheme" means a Traineeship applicable to a group or class of employees or to an industry or sector of an industry or an enterprise. A Traineeship Scheme shall not be given approval unless consultation and negotiation with the relevant Union(s) upon the terms of the proposed Traineeship Scheme and the Traineeship have occurred. An application for approval of a Traineeship scheme shall identify the relevant Union(s) and demonstrate to the satisfaction of the approving authority that the abovementioned consultation and negotiation have occurred. A Traineeship Scheme shall include a standard format which may be used for a Training Contract.
- 1.6.11 "Training Contract" means an agreement made subject to the *Vocational Education, Training and Employment Act 2000* between an employer and the Trainee for a Traineeship and which is registered with Skills Queensland or under the provisions of the appropriate State or Territory legislation. A Training Contract shall be made in accordance with the relevant approved Traineeship Scheme and shall not operate unless this condition is met.
- 1.6.12 "Year 10" - for the purposes of this Award any person leaving school before completing Year 10 shall be deemed to have completed Year 10.

## **PART 2 - DISPUTE RESOLUTION**

### **2.1 Grievance and dispute settling procedure**

In the event of any dispute arising in connection with any part of this Award the dispute will be processed through the Grievance and Dispute Settling Procedure clause in the relevant/parent Award subject to clause 3.3 (Anti-discrimination).

## **PART 3 - EMPLOYER AND EMPLOYEES' DUTIES, EMPLOYMENT RELATIONSHIP AND RELATED ARRANGEMENTS**

### **3.1 Employment conditions**

- 3.1.1 All terms and conditions of the relevant Award/s that are applicable to the Trainee or would be applicable to the Trainee but for this Award shall apply unless specifically amended by this Award.
- 3.1.2 A Trainee shall be engaged as a full-time employee for a maximum of one year's duration provided that a Trainee shall be subject to a satisfactory probation period as approved by Skills Queensland which may be reduced or extended by Skills Queensland on application by the employer or Trainee. By agreement in writing, and with the consent of Skills Queensland, the relevant employer and the Trainee may amend the duration of the Traineeship and the extent of Approved Training provided that any agreement to amend is in accordance with the relevant Traineeship Scheme.

Where the Trainee completes the minimum training requirements of the Traineeship earlier than the time specified in the Training Contract then the Traineeship may be concluded by in accordance with the provisions of the *Vocational Education, Training and Employment Act 2000*.

- 3.1.3 The Trainee is permitted to be absent from work without loss of continuity of employment and/or wages to attend the training in accordance with the Training Contract.
- 3.1.4 Where the employment of a Trainee by an employer is continued after the completion of the Traineeship period, such Traineeship period shall be counted as service for the purposes of any relevant Award or any other legislative entitlements.
- 3.1.5 A Trainee who fails to either complete the Traineeship or who cannot for any reason be placed in full-time employment with the employer on successful completion of the Traineeship shall not be entitled to any termination, change or redundancy payment or any such like payment.

### **3.2 Training conditions**

- 3.2.1 The Trainee shall attend an Approved Training course or training program prescribed in the Training Contract or as notified to the Trainee by the Training Recognition Council in accredited and relevant Traineeship Schemes.
- 3.2.2 In accordance with the provisions of the *Vocational Education, Training and Employment Act 2000*, a Traineeship shall commence on the date agreed to by the employer and the person who is to become a Trainee and a Training Contract shall be completed by the parties to the Training Contract before the probationary period ends.
- 3.2.3 The employer shall provide a level of supervision in accordance with the Training Contract during the Traineeship period.

3.2.4 The employer agrees that the overall training program will be monitored by officers of Skills Queensland and training records or work books may be utilised as part of this monitoring process.

3.2.5 Training is to be directed at:

- (a) the achievement of key competencies required for successful participation in the workplace (where these have not been achieved) (e.g. literacy, numeracy, problem solving, team work, using technology), and as are proposed to be included in the Australian Qualification Framework (AQF) Level 1 qualification. This could be achieved through foundation competencies which are part of endorsed competencies for an industry or enterprise; and/or
- (b) the achievement of competencies required for successful participation in an industry or enterprise (where there are endorsed national standards these will define these competencies), as are proposed to be included in the AQF Level 2 qualification or above.

### **3.3 Anti-discrimination**

3.3.1 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, relationship status, family responsibilities, pregnancy, parental status, breastfeeding, age, race, impairment, religious belief or religious activity, political belief or activity, trade union activity, lawful sexual activity, gender identity, sexuality 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.

3.3.2 Accordingly, in fulfilling their obligations under the grievance and dispute settling procedure in clause 2.1, 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.

3.3.3 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.

3.3.4 Nothing in clause 3.3 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 organization, pursuing matters of discrimination, including by application to the Australian Human Rights Commission/Anti-Discrimination Commission Queensland.

### **3.4 Existing employees**

3.4.1 In clause 3.4, "existing employee" means a person who has been employed by an employer in a calling, or classification, relevant to the Traineeship for at least 3 months immediately prior to becoming a Trainee with that employer.

3.4.2 Existing employees may participate in Traineeships. An existing employee shall be required to serve any probationary period in accordance with the *Vocational Education, Training and Employment Act 2000*, however, any existing employee who does not complete that probationary period or Traineeship for a reason specified in section 60 of the *Vocational Education, Training and Employment Act 2000*, shall be offered reinstatement.

3.4.3 Where existing employees commence a Traineeship, the employer shall endeavour to minimise any adverse affects on other employees. Additionally, such other employees shall not be displaced from or disadvantaged in the employment by the engagement of new Trainees.

3.4.4 Existing employees shall not suffer a reduction in their ordinary hourly rate of pay by virtue of becoming a Trainee:

Provided that existing employees who were casually engaged prior to becoming employed as a full-time or part-time Trainee shall not be entitled to retain their casual loading.

3.4.5 An existing employee shall maintain continuity of employment despite having entered into a Traineeship.

3.4.6 Existing employees whose Training Contract is completed and subsequently remain in their employer's employ, shall revert to employment at least equal in status to the classification held prior to the commencement of their Training Contract. They shall only advance to an employment level commensurate with their qualification when a vacancy occurs in a position assigned to that level.

#### **PART 4 - WAGES AND WAGE RELATED MATTERS**

##### **4.1 Wages**

4.1.1 The weekly wages payable to Trainees are as provided in clauses 4.1.2, 4.1.3 and 4.1.4.

(a) These wage rates will only apply to Trainees while they are undertaking an approved Traineeship which includes Approved Training as defined in this Award.

(b) The wage rates prescribed by clause 4.1 do not apply to complete trade level training which is covered by the Apprenticeship system.

4.1.2 *Wage Level A* - Where the Approved Training course and work performed are for the purpose of generating skills which have been defined for work at Wage Level A.

##### **Highest Year of Schooling Completed**

<b>School Leaver</b>	<b>Year 10</b>	<b>Year 11</b>	<b>Year 12</b>
	\$	\$	\$
	212.00(50%)*	265.00(33%)*	
	248.00(33%)	303.00(25%)	356.00
plus 1 year out of school	295.00	356.00	414.00
plus 2 years out of school	356.00	414.00	483.00
plus 3 years out of school	414.00	483.00	555.00
plus 4 years out of school	483.00	555.00	
5 years or more out of school	555.00		

4.1.3 *Wage Level B* - Where the Approved Training course and work performed are for the purposes of generating skills which have been defined for work at Wage Level B.

##### **Highest Year of Schooling Completed**

<b>School Leaver</b>	<b>Year 10</b>	<b>Year 11</b>	<b>Year 12</b>
	\$	\$	\$
	212.00(50%)*	265.00(33%)*	
	248.00(33%)	303.00(25%)	346.00
plus 1 year out of school	303.00	346.00	399.00
plus 2 years out of school	346.00	399.00	469.00
plus 3 years out of school	399.00	469.00	537.00
plus 4 years out of school	469.00	537.00	
5 years or more out of school	537.00		

4.1.4 *Wage Level C* - Where the Approved Training course and work performed are for the purposes of generating skills which have been defined for work at Wage Level C.

##### **Highest Year of Schooling Completed**

<b>School Leaver</b>	<b>Year 10</b>	<b>Year 11</b>	<b>Year 12</b>
	\$	\$	\$
	212.00(50%)*	265.00(33%)*	
	248.00(33%)	303.00(25%)	347.00
plus 1 year out of school	306.00	347.00	390.00
plus 2 years out of school	347.00	390.00	438.00
plus 3 years out of school	390.00	438.00	492.00
plus 4 years out of school	438.00	492.00	
5 years or more out of school	492.00		

\* Figures in brackets indicate the average proportion of time spent in approved training to which the associated wage rate is applicable. Where not specifically indicated the average proportion of time spent in structured training which has been taken into account in setting the rate is 20%.

NOTE: The rates of pay in this Award are intended to include the arbitrated wage adjustment payable under the 1 September 2011 Declaration of General Ruling and earlier Safety Net Adjustments and arbitrated wage

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

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

4.1.5 Schedule 1 sets out the approved Training Schemes and their Wage Levels approved by Skills Queensland. This Schedule shall be periodically updated by application by a party to this Award. The Commission shall determine appropriate Wage Level based on the following criteria:

- (a) Any agreement of the parties.
- (b) The nature of the industry.
- (c) The total training plan.
- (d) Recognition that training can be undertaken in stages.
- (e) The exit Wage Level in the relevant Award contemplated by the Traineeship.

In the event that the parties disagree with such determination it shall be open to any party to the Award to seek to have the matter in dispute determined by the Commission.

4.1.6 For the purposes of clause 4.1, "out of school" shall refer only to periods out of school beyond Year 10, and shall be deemed to:

- (a) include any period of schooling beyond Year 10 which was not part of nor contributed to a completed year of schooling;
- (b) include any period during which a Trainee repeats in whole or part a year of schooling beyond Year 10;
- (c) not include any period during a calendar year in which a year of schooling is completed; and
- (d) have effect on an anniversary date being January 1 in each year.

4.1.7 At the conclusion of the Traineeship, this Award ceases to apply to the employment of the Trainee and the relevant Award shall apply to the former Trainee.

## **PART 5 - HOURS OF WORK, BREAKS, OVERTIME, SHIFT WORK, WEEKEND WORK**

### **5.1 Special conditions**

5.1.1 No Trainee shall work overtime or shift work on their own unless consistent with the provisions of the relevant Award.

5.1.2 No Trainee shall work shift work unless the parties to a Traineeship Scheme agree that such shift work makes satisfactory provision for Approved Training. Such training may be applied over a cycle in excess of a week, but must average over the relevant period no less than the amount of training required for non-shift work Trainees.

5.1.3 The Trainee wage shall be the basis for the calculation of overtime and/or shift penalty rates prescribed by the relevant Award, unless otherwise agreed by the parties to a Traineeship Scheme, or unless the relevant Award makes specific provision for a Traineeship to be paid at a higher rate, in which case the higher rate shall apply.

## **PART 6 - AWARD COMPLIANCE AND UNION RELATED MATTERS**

### **6.1 Ancillary matters**

The right of entry and union encouragement clauses contained in the relevant Award shall apply to the parties bound by this Award.

## **SCHEDULE 1 - Traineeship Schemes approved by Skills Queensland**

Note: In some instances the name of the approved Traineeship is followed by the name of the qualification or stream, which is identified by italics.

APPROVED TRAINEESHIPS

WAGE LEVEL

Retail Operations: *Certificate III in Retail Operations*  
Retail Cosmetic Assistant  
Retail Operations: *Certificate II in Retail Operations*  
Food Retailing (McDonalds)

Level A  
Level B  
Level B  
Level B

**Note:**

This Award shall not apply to Trainees where the employer and Trainee are bound by the following industrial instruments.

- Apprentices' and Trainees' Wages and Conditions (Excluding Certain Queensland Government Entities) Order.
- Apprentices' and Trainees' Wages and Conditions (Queensland Government Departments and Certain Government Entities) Order.
- Engineering Award - State
- Retail Industry Interim Award - State

Dated 18 September 2012.

By the Commission,  
[L.S.] G.D.SAVILL,  
Industrial Registrar.

Operative Date: 31 August 2012