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NEW SOUTH WALES  
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(1671)

SERIAL C4877

## **WASTE RECYCLING AND PROCESSING CORPORATION (SALARIES AND CONDITIONS OF EMPLOYMENT 2006) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales, Industrial Organisation of Employees.

(No. IRC 1977 of 2006)

Before The Honourable Justice Schmidt

18 May 2006

### **AWARD**

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#### PART A

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## 2. Title

This Award shall be known as the Waste Recycling and Processing Corporation (Salaries and Conditions of Employment 2006) Award.

## 3. Definitions

"Accident Pay" means a weekly amount equal to the difference between workers' compensation payments and the staff member's normal rate of pay.

"Act" means the *Waste Recycling and Processing Corporation Act 2001*.

"Approval" means the appropriate approval given by a staff member of the Corporation with the appropriate and legitimate delegated authority by the Corporation to do so.

"At the convenience of" means the operational requirements permit the staff member's release from duty or that satisfactory arrangements are able to be made for the performance of the staff member's duties during the absence.

"Birth" includes Stillbirth.

"Call Back (Return to Duty)" means those occasions when a staff member is directed to return to duty outside the staff member's ordinary hours or outside the bandwidth in the case of a staff member working under a flexible Hours of Work scheme.

"Casual staff member" means a person engaged on a day-to-day basis and paid accordingly.

"Casual rate" means the appropriate rate payable in respect of a motor vehicle maintained by the staff member for private purposes but which the staff member may elect to use with the approval of the Chief Executive Officer or nominee for occasional travel on official business, subject to the allowance paid for such travel not exceeding the cost of travel by public or other available transport.

"Chief Executive Officer or nominee" means the CEO or their nominee of the Corporation, or nominee, with delegated authorities under the Act.

"Contract hours for the day" for a full time staff member, means one fifth of the full time contract hours, as defined in this award. For a part time staff member, contract hours for the day means the hours usually worked on the day.

"Corporation " means the Waste Recycling and Processing Corporation, as established under the Act.

"Corporation" and "Employer" shall mean the Corporation.

"Daily span of hours" means, for a staff member required to work standard hours, the full time standard hours defined in this award. For a staff member required to work flexible hours, the "daily span of hours" means the hours which normally fall within the bandwidth of the scheme applicable to the staff member and which do not attract payment for overtime, unless otherwise prescribed in this award.

"Examination Leave" means time allowed off from normal duties granted on full pay to staff members undertaking examinations in an approved part time course.

"Expected date of birth" means a date specified by a Medical Practitioner to be the date on which the Medical Practitioner expects the staff member to give birth as a result of pregnancy, in relation to a female staff member who is pregnant, or, in the case of adoption, to the date that the staff member takes custody of the child concerned.

"Flexible working hours credit" means the time exceeding the contract hours for a settlement period and includes any time carried over from a previous settlement period or periods.

"Flexible working hours debit" means the contract hours not worked by a staff member and not covered by approved leave during the settlement period, as well as any debit carried over from the previous settlement period or periods.

"Flexible working hours scheme" means the scheme outlined in Flexible Working Hours clause of this award which enables staff members, subject to operational requirements, to select their starting and finishing times.

"Flexible Work Practices, Policy and Guidelines" means the document negotiated between the Public Employment Office, Unions NSW (formerly the Labor Council of New South Wales) and affiliated unions which enables staff members to rearrange their work pattern.

"Flex leave" means a period of leave available to be taken by a staff member as specified in subclause (o) of the Flexible Working Hours clause in this award.

"Full day" means the standard full time contract hours for the day, i.e., seven or eight hours depending on the classification of the staff member.

"Full pay" or "half pay" means the staff member's ordinary rate of pay or half the ordinary rate of pay respectively.

"Full-time contract hours" means the standard weekly hours, that is, 35 hours per week, required to be worked as at the date of this award.

"Half day" means half the standard contract hours for the day.

"Joint Consultative Committee" means the formal committee established between the Corporation and the unions for the purpose of consulting on Workplace matters.

"Local Arrangement" means an agreement reached at the organisational level between the Chief Executive Officer or nominee and the relevant trade union in terms of the Local Arrangements clause in this award.

"Normal hours of duty" means:

for a staff member working standard hours - the fixed hours of duty, with an hour for lunch, worked in the absence of flexible working hours;

for a staff member working under a flexible working hours scheme or local arrangement negotiated under the Local Arrangements clause in this award - the hours of duty the Chief Executive Officer or nominee requires a staff member to work within the bandwidth specified under the flexible working hours scheme or local arrangement.

"Normal work" means, for the purposes of the Grievance and Dispute Settling Procedures clause of this award, the work carried out in accordance with the staff member's position or job description at the location where the staff member was employed, at the time the grievance or dispute was notified by the staff member.

"On duty" means the time required to be worked for the Corporation.

For the purposes of the Trade Union Activities clause of this Award, "on duty" means the time off with pay given by the Corporation to the accredited Trade Union delegate to enable the delegate to carry out legitimate Trade Union activities during ordinary work hours without being required to lodge an application for leave.

"Official business rate" means the appropriate rate of allowance payable for the use of a private motor vehicle where no other transport is available and such use is directed by the Chief Executive Officer or nominee agreed to by the staff member or where the staff member is unable to use other transport due to a disability.

"Ordinary hours" means the ordinary hours worked by staff members in an ordinary working day or week to a maximum of 35 hours per week.

"Ordinary rate of pay" means the sum ascertained by dividing the basic annual salary by 260.8929 to give you a daily rate, then dividing this figure by the number of ordinary hours specified for that position.

"Overtime" means as defined in the overtime clause in this award.

"Part-time Course" shall mean a course undertaken concurrently with employment and shall include courses involving face to face or oral instruction and those conducted externally to the institution through correspondence study.

"Part-time Staff member" means a permanent or temporary staff member whose agreed hours are less than full time hours.

"Staff Development and Training" shall mean short educational and professional training courses, conducted by either the Corporation or an external institution or body.

"Standard Hours" shall be as per the office hours specified in this award unless otherwise determined by the Chief Executive Officer or nominee.

"Study Accumulation" shall mean the aggregation of short periods of study time granted for private study purposes.

"Study Time" shall mean time allowed off from normal duties granted on full pay to staff members who are studying in approved part-time courses.

"Time-in-Lieu" means paid time taken off work during ordinary hours, in lieu of payment for overtime worked.

"Union" or "Trade Union" means Public Service Association and Professional Officers Association Amalgamated Union of New South Wales and/or the Association of Professional Engineers Managers and Scientists Australia having regard to their respective coverage.

#### **4. Parties to the Award**

This Award is made between the Corporation and the Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales (PSA) and The Association of Professional Engineers, Scientists and Managers, Australia (APESMA).

#### **5. Statement of Intent**

- (a) The Parties are committed to the development of professional and proactive work practices to provide the framework for the Corporation to be a successful business in a highly competitive commercial market.
- (b) The continuing development of an organisational culture that supports consultation, co-operation and participation in workplace relations matters by the parties will be an important factor in the organisation's ability to respond to market pressures and changes.

#### **6. Coverage**

- (a) This Award shall cover all staff members employed by the Corporation, except those staff members who may, at the time of the making of this award, be otherwise covered by the Lidcombe Castlereagh Waste Management Centre Enterprise Award 1997, or as otherwise specified in this award.
- (b) This Award shall not cover consultants, contractors, senior executive staff on individual employment contracts or staff engaged on work experience or accredited traineeships.

#### **7. Rates of Pay**

- (a) The rates of pay shall be those as prescribed in Table 1 - Salaries, of Part B, Monetary Rates.
- (b) The salaries in the Reviewed Award made 24 November 2005 in Matter No. IRC 4147 of 2005 were operative from the first full pay period to commence on or after:
  - (i) 4% increase from 1 July 2004;
  - (ii) 4% increase from 1 July 2005.
- (c) The salaries in this award shall be increased in terms of the agreement reached in (d) from the first pay period to commence on or after:
  - (i) 4% increase from 1 July 2006;
  - (ii) 4% increase from 1 July 2007.
- (d) The salary increases in subclauses (b) and (c) are based on the commitment of the parties to continued reform for the duration of this award with improvements in efficiencies and cost savings being jointly monitored through the JCC.

#### **8. Payment of Salaries**

Salaries shall be paid to all staff members of the Corporation on a fortnightly basis through Electronic Funds Transfer unless otherwise agreed.

#### **9. Local Award Arrangements**

- (a) Local Award Arrangements may be negotiated between the Chief Executive Officer or nominee and the unions in respect of the whole Corporation or part of the Corporation.



- (b) All Local Award Arrangements or variations negotiated between the Chief Executive Officer or nominee and the relevant union(s) must be contained in a formal document, such as a co-lateral agreement, memorandum of understanding, and a variation to this award or enterprise agreement.
- (c) Subject to the provisions of subclause (b) of this clause, nothing in this clause shall prevent the negotiation of local arrangements between the Chief Executive Officer or nominee and the relevant union(s) in respect of the provisions contained in the Flexible Work Practices clause of this Award, where the conditions of employment of any group are such that the application of the work hours arrangements would not be practicable.

#### **10. Working Hours**

- (a) The working hours of staff and the manner of their recording, shall be as determined from time to time by the Corporation. Such direction will include the definition of full time contract hours.
- (b) The staff member in charge of a division or branch of the Corporation will be responsible to the Chief Executive Officer or nominee for the proper observance of hours of work and for the proper recording of such attendance.
- (c) The Corporation may require a staff member to perform duty beyond the hours determined under subclause (a) of this clause but only if it is reasonable for the staff member to be required to do so.

A staff member may refuse to work additional hours in circumstances where the working of such hours would result in the staff member working unreasonable hours. In determining what is unreasonable, the following factors shall be taken into account:

- (1) the staff member's prior commitments outside the workplace, particularly the staff member's family and carer responsibilities, community obligations or study arrangements,
  - (2) any risk to staff member health and safety,
  - (3) the urgency of the work required to be performed during additional hours, the impact on the operational commitments of the organisation and the effect on client services,
  - (4) the notice (if any) given by the Chief Executive Officer or nominee regarding the working of the additional hours, and by the staff member of their intention to refuse the working of additional hours, or
  - (5) any other relevant matter.
- (d) The application of hours of work is subject to the provisions of this clause.
  - (e) The ordinary hours may be standard or flexible and may be worked on a full time or part-time basis.
  - (f) The Corporation shall ensure that all staff members employed are informed of the hours of duty required to be worked and of their rights and responsibilities in respect of such hours of duty.
  - (g) The normal hours of work shall be 35 hours per week unless otherwise determined by the Chief Executive Officer or nominee in accordance with subclause (a) of this clause.

#### **11. Morning and Afternoon Breaks**

Staff members may take a 10 minute morning break, provided that the Discharge of public business is not affected and, where practicable, they do so out of the view of the public contact areas. Staff members may also take a 10 minute afternoon break, subject to the same conditions as apply to the morning break.

## 12. Meal Breaks

Meal breaks must be given to and taken by staff members. No staff member shall be required to work continuously for more than 5 hours without a meal break, provided that:-

- (1) where the prescribed break is more than 30 minutes, the break may be reduced to not less than 30 minutes if the staff member agrees. If the staff member requests to reduce the break to not less than 30 minutes, the reduction must be operationally convenient; and
- (2) where the nature of the work of a staff member or a group of staff members is such that it is not possible for a meal break to be taken after not more than 5 hours, local arrangements may be negotiated between the Corporation and the relevant trade union to provide for payment of a penalty.

## 13. Variation of Hours

If the Corporation is satisfied that a staff member is unable to comply with the general hours operating in the organisation because of limited transport facilities, urgent personal reasons, community or family reasons, the Chief Executive Officer or nominee may vary the staff member's hours of attendance on a one off, short or long-term basis, subject to the following:

- (1) the variation does not adversely affect the operational requirements;
- (2) there is no reduction in the total number of daily hours to be worked;
- (3) the variation is not more than an hour from the commencement or finish of the span of usual commencing and finishing time;
- (4) a lunch break of one hour is available to the staff member, unless the staff member elects to reduce the break to not less than 30 minutes;
- (5) no overtime or meal allowance payments are made to the staff member, as a result of an agreement to vary the hours;
- (6) ongoing arrangements are documented; and
- (7) the relevant trade union is consulted, as appropriate, on any implications of the proposed variation of hours for the work area.

## 14. Natural Emergencies and Major Transport Disruptions

A staff member prevented from attending work at a normal work location by a natural emergency or by a major transport disruption may:

- (1) Apply to vary the working hours as provided in the Variation of Hours clause of this award and/or
- (2) negotiate an alternative working location with the Corporation; and/or
- (3) take available family and community service leave and/or flex leave, recreation or extended leave or leave without pay to cover the period concerned.

## 15. Assistance With Transport

The extent of any assistance by the Corporation with transport of a staff member between the workplace and residence or part of the distance involved, shall be determined by the Chief Executive Officer or nominee according to the provisions contained in the Provision of Transport in Conjunction with Working of Overtime clause of this award.

### **16. Notification of Absence from Duty**

- (a) If a staff member is to be absent from duty, other than on authorised leave, the staff member must notify the supervisor, or must arrange for the supervisor to be notified, as soon as possible, of the reason for the absence.
- (b) If a staff member is absent from duty without authorised leave and does not provide an explanation of the absence to the satisfaction of the appropriate Chief Executive Officer or nominee, the amount representing the period of absence shall be deducted from the staff member's pay.

### **17. Public Holidays**

- (a) Unless directed to attend for duty by the Chief Executive Officer or nominee, a staff member is entitled to be absent from duty on any day which is:
  - (1) a public holiday throughout the State; or
  - (2) a local holiday in that part of the State at or from which the staff member performs duty; or
  - (3) a day between Boxing Day and New Year's Day determined by the Chief Executive Officer or nominee as a public service holiday.
- (b) A staff member, who is required by the Chief Executive Officer or nominee to work on a local holiday may be granted time off in lieu on an hour for hour basis for the time worked on a local holiday.
- (c) If a local holiday falls during a staff member's absence on leave, the staff member is not to be credited with the holiday.

### **18. Standard Working Hours**

- (a) Standard hours are set and regular with an hour for lunch and, if worked by the staff member under a flexible working hours scheme, would equal the contract hours required to be worked under the scheme. Standard hours could be full time or part-time.
- (b) Urgent Personal Business - Where a staff member requires to undertake urgent personal business, appropriate leave or time off may be granted by the Chief Executive Officer or nominee. Where time off has been granted, such time shall be made up as set out in subclause (d) of this clause.
- (c) Late Attendance - If a staff member is late for work, such staff member must either take appropriate leave or, if the Chief Executive Officer or nominee approves, make the time up in accordance with subclause (d) of this clause.
- (d) Making up of Time - The time off taken in circumstances outlined in subclauses (b) and (c) of this clause must be made up at the earliest opportunity. The time may be made up on the same day or on a day or days agreed to between the staff member and the Chief Executive Officer or nominee.

### **19. Flexible Working Hours**

- (a) Unless local arrangements have been negotiated as provided in the Local Arrangements clause of this award, a flexible working hours scheme in terms of this subclause may operate in the Corporation or a section of the Corporation, subject to operational requirements, as determined by the Chief Executive Officer or nominee.
- (b) Where the operational requirements allow, the working of flexible hours under a flexible working hours scheme operating in the Corporation shall be extended to a staff member working under a part time work arrangement. Except for provisions contained in subclauses (j) and (l) of this clause, all other provisions under this subclause shall be applied pro rata to a staff member working under a part time work arrangement.

- (c) Exclusions - Flexible working hours shall not apply to staff members who work:
- permanent standard hours; or
  - according to a shift roster.
- (d) Attendance - A staff member's attendance outside the hours of a standard day but within the bandwidth shall be subject to the availability of work.
- (e) Bandwidth - The bandwidth shall be between the hours of 7.00 am and 6.00 pm Monday to Friday, unless a different time span has been negotiated under a local arrangement in terms of the Local Arrangements clause of this award.
- Within the bandwidth, no more than 10.5 hours may be credited in any one day.
- (f) Coretime - The coretime shall be between the hours of 9.30 am and 3.30 pm Monday to Friday, excluding the lunch break, unless other arrangements have been negotiated under a local arrangement in terms of the Local Arrangements clause of this award.
- Coretime may be varied by special arrangement with Managers to 1000 to 1500 hours.
- (g) Lunch break - The standard lunch period shall be 1 hour. With the approval of the supervisor, the lunch period may be extended by the staff member up to 2 and 1/2 hours or reduced to not less than 30 minutes within the span of hours determined by the Chief Executive Officer or nominee. Where a local arrangement has been negotiated in terms of the Local Arrangements clause of this award, the lunch break shall be taken in accordance with such local arrangement.
- (h) Settlement period - Unless a local arrangement has been negotiated in terms of the Local Arrangements clause of this award, the settlement period shall be 3 calendar months i.e. 1 January to 31 March.
- (1) For time recording purposes the settlement period and flex leave must coincide.
  - (2) Where exceptional circumstances apply, e.g., prolonged transport strikes, adverse weather conditions and the like, the Chief Executive Officer or nominee may extend the affected settlement period.
- (i) Contract hours - The contract hours for a settlement period shall be calculated by multiplying the staff member's weekly contract hours by the number of weeks in a settlement period.
- (j) Flexible working hours credit - A staff member may carry a maximum of 10 hours credit into the next period. Time accumulated in excess of 10 hours at the end of a settlement period shall be forfeited. Local arrangements in terms of the Local Arrangements clause of this award may be negotiated in respect of the carry over of the maximum flexible hours credit and the banking of any accumulated time.
- (k) The Corporation shall ensure that a staff member does not constantly forfeit excess credit hours at the conclusion of settlement periods as a result of reasonable requests for flex leave being refused or the staff member being directed by the supervisor to work long hours within the bandwidth.
- (l) Flexible Working Hours Debit - The following provisions shall apply to the carry over of flexible working hours debits, unless a local arrangement has been negotiated in terms of the Local Arrangements clause of this award:
- (1) A debit of up to 10 hours at the end of a settlement period may be carried over into the next period;
  - (2) Where the debit exceeds 10 hours, the excess will be debited as leave without pay, unless the staff member elects to be granted available recreation or extended leave to offset the excess.

- (3) Any debit of hours outstanding on a staff member's last day of duty is to be deducted from any unpaid salary or the monetary value of accrued recreation/extended leave.
- (m) Cessation of duty - A staff member may receive payment for a flex day accrued and remaining untaken or not forfeited on the last day of service:
- (1) where the staff member's services terminate without a period of notice for reasons other than misconduct; or
  - (2) where an application for flex leave which would have eliminated the accumulated day or days was made during the period of notice of retirement or resignation and was refused; or
  - (3) in such other circumstances as have been negotiated between the Chief Executive Officer or nominee and the relevant trade union(s) under a local arrangement in terms of the Local Arrangements clause of this award.
- (n) Statement of Intent
- (1) This agreement aims to improve organisational performance and flexibility for all employees. Achievement of these objectives will ensure that there is an appropriate balance between work and personal commitments. The parties recognise that this will occur if all employees and their supervisors understand and accept the spirit of the agreement, as well as its operation, and respect the needs of the organisation and individual employees.
  - (2) The flexible working arrangement applies to all staff (excepting those covered by an existing Industrial Agreement) and operates in conjunction with the following principles by:
    - (i) The arrangements described below commit all employees to ensuring that operational and client service requirements are met.
    - (ii) Actual working hours and patterns of work will be decided by mutual agreement between the employee and their supervisor.
  - (3) Decisions regarding working hours and patterns of work will be made by taking into account:
    - (i) organisational requirements of WSN Environmental Solutions.
    - (ii) the personal commitments/needs of the individual.
- (o) Flex leave - Subject to operational requirements, four days may be taken each Settlement Period provided:
- (1) a maximum of 2 flexidays may be taken together.
  - (2) a maximum of 13 flexidays per annum applies. This period is calculated from 1 July to 30 June.
- Flex leave may be taken on consecutive working days. Half-day absences may be combined with other periods of authorised leave. Local arrangements in respect of the taking of flex leave may be negotiated in terms the Local Arrangements clause of this award.
- (p) Absence during coretime - Where a staff member needs to take a short period of authorised leave within coretime, other than flex leave, the quantum of leave to be granted shall be determined according to the provisions contained in the Absence from Work clause of this award.

- (q) Standard hours - Notwithstanding the provisions of this clause, the Chief Executive Officer or nominee may direct the staff member to work standard hours and not flexible hours:
- (1) where the Chief Executive Officer or nominee decides that the working of flexible hours by a staff member or members does not suit the operational requirements of the Corporation or section of the Corporation, the relevant union shall be consulted, where appropriate; or
  - (2) as remedial action in respect of a staff member who has been found to have deliberately and persistently breached the flexible working hours scheme.
- (r) Easter concession - Staff members who work under a flexible working hours scheme may be granted, subject to the convenience of the Corporation, an additional half day's flexleave on the Thursday preceding the Good Friday public holiday.
- (s) Any grievances arising from this flexible working hours agreement shall be resolved using the existing Grievance Resolution Procedures in this award.

### **20. Overtime Relating to Work Hours**

Officers shall be eligible for overtime if:

- (1) they are directed to do so before or after the agreed Bandwidth by a supervisor; or
- (2) they are directed to work beyond 8 hours (excluding a meal break) on a particular day. Any overtime worked must be confirmed later in writing on the overtime claim form and signed by a supervisor.

### **21. Non-Compliance**

In the event of any persistent failure by a staff member to comply with the hours of duty required to be worked, the Chief Executive Officer or nominee, shall investigate such non-compliance as soon as it comes to notice and shall take appropriate remedial action according to the Corporation's Managing Unsatisfactory Performance and Misconduct Policy and Guidelines.

### **22. Creating and Filling Positions**

- (a) The Chief Executive Officer or nominee shall create and abolish positions as required to meet the business needs of the organisation in accordance with the Act.
- (b) The Chief Executive Officer or nominee may classify and grade positions using accredited job evaluation methodology.
- (c) The filling of positions shall be in accordance with the principles of Equal Employment Opportunity (EEO) and Merit Selection.
- (d) All appointments are subject to the approval of the Chief Executive Officer or nominee.

### **23. Part Time Employment**

- (a) The Corporation may employ persons on a part time basis.
- (b) A part time staff member for all purposes of the Award, is entitled to the same terms and conditions as a full time staff member, provided that in all cases entitlement is determined on a pro rata basis.
- (c) The number of hours worked per week shall be mutually agreed between the staff member concerned and the Chief Executive Officer or nominee or their nominee.
- (d) Once the hours are agreed upon, any time worked at the direction of the Chief Executive Officer or nominee in excess of the hours of a full time position shall be deemed to be overtime and the overtime provisions of this Award shall apply

- (e) Part time employment shall not work to the detriment of full time staff members and no full time staff member shall be required to work part time.
- (f) A person who is initially employed to work part time may elect to work full time at any time subject to the Corporation convenience and the availability of work for the classification and grade of the position.
- (g) A full time person who elects to work part time for a set period will be guaranteed the right of return to full time work at the end of the period provided that this is specified and negotiated at the outset.
- (h) Full time staff members who elect to work part time and who have not specified that they wish to return to full time work may elect to return to work full time subject to the Corporation convenience.

#### **24. Job Share Arrangements**

- (a) Job Share is a voluntary arrangement in which one job is shared amongst part-time staff members.
- (b) Staff members may job share under this Award where the Chief Executive Officer or nominee approves it.
- (c) Job Share arrangements are required to be formalised in the same way the part time work arrangements are outlined in an agreement - This agreement shall be called a job share agreement.
- (d) Job Sharers perform the role of one job and the workload and performance expectations should be similar to what would be expected if one staff member were performing the job.

#### **25. Temporary Staff Member**

- (a) The Chief Executive Officer or nominee or nominee may, if of the opinion that it is necessary to do so, employ temporarily a person who has appropriate qualifications to carry out work in the Corporation.
- (b) The salary, terms and conditions of employment for a temporary staff member shall be prescribed in a letter of offer that outlines the period of temporary employment or for the duration of completion of a project.
- (c) Notwithstanding (b) above, the Chief Executive Officer or nominee may dispense with the services of a temporary staff member at any time in accordance with the terms of engagement.
- (d) The Corporation may appoint a long-term temporary staff member to a permanent position with the approval of the Chief Executive Officer or nominee.
- (e) For the purposes of subclause (d), a long-term temporary staff member is a temporary staff member whose employment as such a staff member falls within a continuous employment period of at least 2 years.
- (f) A recommendation for the appointment of a long-term temporary staff member to a staff member's position may be made only if each of the following requirements is satisfied:
  - (1) The duties of the position concerned must be substantially the same as the duties performed by the staff member at the time of the staff member's initial employment on merit.
  - (2) The rate of salary or wages proposed to be payable to the holder of the position concerned at the time of appointment must not exceed the maximum rate payable for WSN Officer Level 12.
  - (3) The Chief Executive Officer or nominee must be satisfied that on-going work is available in respect of the staff member.
  - (4) The Chief Executive Officer or nominee must be satisfied that the staff member has the relevant skills, qualifications, experience, work performance standards and personal qualities to enable the staff member to perform the duties of the position concerned,

- (5) The staff member must (initially or at some later stage) have been employed as a temporary staff member in some form of open competition involving the selection of the staff member as the person who, in the opinion of the then Chief Executive Officer or nominee, had the greatest merit among candidates for appointment.

## **26. Overtime**

The payment of overtime shall at all times only be made where a staff member is either directed or approved to work overtime. Unauthorised overtime will not be paid.

## **27. Overtime - General**

- (a) A staff member may be directed by the Chief Executive Officer or nominee to work overtime, provided it is reasonable for the staff member to be required to do so.
- (b) A staff member may refuse to work overtime in circumstances where the working of such overtime would result in the staff member working unreasonable hours.
- (c) In determining what is unreasonable the following factors shall be taken into account:
  - (1) the staff member's prior commitments outside the workplace, particularly the staff member's family and carer responsibilities, community obligations or study arrangements,.
  - (2) any risk to staff member health and safety,
  - (3) the urgency of the work required to be performed during overtime, the impact on the operational commitments of the organisation and the effect on client services,
  - (4) the notice (if any) given by the Chief Executive Officer or nominee regarding the working of the overtime, and by the staff member of their intention to refuse overtime, or
  - (5) any other relevant matter.
- (d) Payment for overtime shall be made only where the staff member works authorised (i.e. approved or directed) overtime.
- (e) Payment of such overtime shall be calculated on base salary in accordance with the Salaries Schedule in this Award (not the salary including any annualised allowance).
- (f) Payment for overtime worked and/or on-call (standby) allowance shall not be made under this clause if the staff member is eligible, under any other industrial instrument, to:
  - (1) compensation specifically provided for overtime and/or on-call (standby) allowance; or
  - (2) be paid an allowance for overtime and/or on-call (standby) allowance; or
  - (3) a rate of salary, which has been determined as inclusive of overtime and/or on-call (standby) allowance.

## **28. Overtime Worked By Day Workers**

- (a) The provisions of this sub-clause shall not apply to:
  - (1) Staff members covered by formal local arrangements in respect of overtime negotiated between the Corporation and the Union;
  - (2) Staff members to whom overtime provisions apply under another industrial instrument;
  - (3) Staff members whose salary includes compensation for overtime;



- (4) Staff members who receive an allowance in lieu of overtime such as the annualised allowance payable under this Award; and
  - (5) Duty Officers, State Emergency Services during flood alerts on weekends and public holidays except as provided in the Compensation for Additional Hours Worked by Duty Officer, State Emergency Services clause of this clause.
- (b) Rates - Overtime shall be paid at the following rates:
- (1) Weekdays (Monday to Friday inclusive):

At the rate of time and one-half for the first two hours and at the rate of double time thereafter for all directed overtime worked outside the staff member's ordinary hours of duty, unless local arrangements negotiated in terms of the Local Arrangements clause of this Award apply;
  - (2) Saturday:

All overtime worked on a Saturday at the rate of time and one-half for the first two hours and at the rate of double time thereafter.
  - (3) Sundays:

All overtime worked on a Sunday at the rate of double time.
  - (4) Public Holidays:

All overtime worked on a public holiday at the rate of double time and one half.
- (c) If a staff member is absent from duty on any working day during any week in which overtime has been worked the time so lost may be deducted from the total amount of overtime worked during the week unless the staff member has been granted leave of absence or the absence has been caused by circumstances beyond the staff member's control.
- (d) A staff member who works overtime on a Saturday, Sunday or public holiday, shall be paid a minimum payment as for four (4) hours work at the appropriate rate.
- (e) Rest Periods:
- (1) A staff member who works overtime shall be entitled to be absent until eight (8) consecutive hours have elapsed.
  - (2) Where a staff member, at the direction of the supervisor, resumes or continues work without having had eight (8) consecutive hours off duty then such staff member shall be paid at the appropriate overtime rate until released from duty.
  - (3) The staff member shall then be entitled to eight (8) consecutive hours off duty and shall be paid for the ordinary working time occurring during the absence.

### **29. Recall to Duty**

- (a) A staff member recalled to work overtime after leaving the employer's premises shall be paid for a minimum of four (4) hours work at the appropriate overtime rates.
- (b) The staff member shall not be required to work the full four (4) hours if the job can be completed within a shorter period.
- (c) When a staff member returns to the place of work on a number of occasions in the same day and the first or subsequent minimum pay period overlap into the next call out period, payment shall be calculated from the commencement of the first recall until either the end of duty or four (4) hours from the

commencement of the last recall, whichever is the greater. Such time shall be calculated as one continuous period.

- (d) When a staff member returns to the place of work on a second or subsequent occasion and a period of four (4) hours has elapsed since the staff member was last recalled, overtime shall only be paid for the actual time worked in the first and subsequent periods with the minimum payment provision only being applied to the last recall on the day.
- (e) A recall to duty commences when the staff member starts work and terminates when the work is completed. A recall to duty does not include time spent travelling to and from the place at which work is to be undertaken.
- (f) A staff member recalled to duty within four (4) hours of the commencement of usual hours of duty shall be paid at the appropriate overtime rate from the time of recall to the time of commencement of such normal work.
- (g) This subclause shall not apply in cases where it is customary for a staff member to return to the Corporation's premises to perform a specific job outside the staff member's ordinary hours of duty, or where overtime is continuous with the completion or commencement of ordinary hours of duty. Overtime worked in these circumstances shall not attract the minimum payment of four (4) hours unless the actual time worked is four (4) or more hours.

### **30. On Call (Stand-By)**

- (a) When a staff member is directed to be on call or on stand-by for a possible recall to duty, payment of an on call allowance shall be made.
- (b) Where a rate of on call allowance has not already been determined for the staff member as at the date of the making of this Award, the rate shown in Item 6 of Table 2, Allowances of Part B Monetary Rates shall be made for the duration of on call (stand-by).

### **31. Overtime Meal Breaks**

- (a) Staff members not working under the flexible working hours arrangements:

A staff member required to work overtime on weekdays for an hour and a half or more after the staff member's ordinary hours of duty on weekdays, shall be allowed 30 minutes for a meal and thereafter, 30 minutes for a meal after every five hours of overtime worked.

- (b) Staff member working under the flexible working hours arrangements:

A staff member required to work overtime on weekdays beyond 6.00 p.m. and until or beyond eight and a half hours after commencing duty plus the time taken for lunch, shall be allowed 30 minutes for a meal and thereafter, 30 minutes for a meal after every five hours of overtime worked.

- (c) Staff Members Generally:

A staff member required to work overtime on a Saturday, Sunday or Public Holiday shall be allowed 30 minutes for a meal after every five hours of overtime worked. A staff member who is unable to take a meal break and who works for more than five hours shall be given a meal break at the earliest opportunity.

### **32. Overtime Meal Allowances**

- (a) If an adequate meal is not provided by the Corporation, a meal allowance shall be paid by the Corporation at the appropriate rate specified in Item 9 of Table 2 - Allowances Part B, Monetary Rates, provided the Chief Executive Officer or nominee is satisfied that:

- (1) the time worked is directed overtime;

- (2) the staff member properly and reasonably incurred expenditure in obtaining the meal in respect of which the allowance is sought;
  - (3) where the staff member was able to cease duty for at least 30 minutes before or during the working of overtime to take the meal, the staff member did so; and
  - (4) overtime is not being paid in respect of the time taken for a meal break.
- (b) Notwithstanding the above provisions, nothing in this clause shall prevent the Chief Executive Officer or nominee and the Union from negotiating different meal provisions under a local arrangement.

### **33. Rate of Payment for Overtime**

A staff member whose salary, or salary and allowance in the nature of salary, exceeds the maximum rate for WSN Officer Grade 8, as varied from time to time, shall be paid for working directed overtime at the maximum rate for WSN Officer Grade 8 plus \$1.00, unless the Chief Executive Officer or nominee approves payment for directed overtime at the staff member's salary or, where applicable, salary and allowance in the nature of salary.

### **34. Payment for Overtime Or Leave in Lieu**

- (a) The Chief Executive Officer or nominee shall grant compensation for directed overtime worked either by payment at the appropriate rate or, if the staff member so elects, by the grant of leave in lieu in accordance with subclause (b) of this clause.
- (b) The following provisions shall apply to the leave in lieu:
- (1) The staff member shall advise the supervisor before the overtime is worked or as soon as practicable on completion of overtime, that the staff member intends to take leave in lieu of payment;
  - (2) The leave shall be calculated at the same rate as would have applied to the payment of overtime in terms of this clause.
  - (3) The leave must be taken at the convenience of the Corporation, except when leave in lieu is being taken to look after a sick family member. In such cases, the conditions set out in the Sick Leave to Care for a Family Member clause apply.
  - (4) The leave shall be taken in multiples of a quarter day, unless debiting of leave in hours or in fractions of an hour has been approved by the Chief Executive Officer or nominee;
  - (5) Leave in lieu accrued in respect of overtime worked on days other than public holidays, shall be given by the Corporation and taken by the staff member within three months of accrual unless alternate local arrangements have been negotiated between the Chief Executive Officer or nominee and the Union.
  - (6) At the staff member's election, leave in lieu accrued in respect of overtime worked on a public holiday may be added to the staff member's annual leave credits and may be taken in conjunction with annual leave; and
  - (7) A staff member shall be paid for the balance of any overtime entitlement not taken as leave in lieu.

### **35. Compensation for Additional Hours Worked By Duty Officer, State Emergency Services**

The time spent at home as Duty Officer, State Emergency Services during flood alerts on weekends and public holidays, shall be compensated by: -

- (a) payment at the rate of one third of one day's pay for each tour of duty; or

- (b) if so desired by the staff member concerned, the granting of time off in lieu of payment calculated in accordance with the Payment for overtime or leave in lieu clause in this award.

### 36. Calculation of Overtime

- (a) Overtime shall not be paid if the total period of overtime worked is less than a quarter of an hour.
- (b) The formula for the calculation of overtime at ordinary rates for staff members employed on a five (5) day basis shall be:

$$\frac{\text{Annual salary}}{1} \quad \times \quad \frac{5}{260.8929} \quad \times \quad \frac{1}{\text{No of ordinary hours of work per week}}$$

- (c) The formula for the calculation of overtime at ordinary rates for staff members employed on a seven (7) day basis shall be:

$$\frac{\text{Annual salary}}{1} \quad \times \quad \frac{7}{365.25} \quad \times \quad \frac{1}{\text{No of ordinary hours of work per week}}$$

- (d) To determine time and one half, double time or double time and one half, the hourly rate at ordinary time shall be multiplied by 3/2, 2/1 or 5/2 respectively, calculated to the nearest cent.
- (e) Overtime is not payable for time spent travelling.

### 37. Review of Overtime Meal Allowances

- (a) The rates of overtime meal allowances shall be adjusted in accordance with the provisions contained in the Review of Allowances Payable clause in terms of this Award.
- (b) Where an allowance payable under the Overtime Meal Allowances clause of this Award is insufficient to reimburse the staff member the cost of a meal, properly and reasonably incurred, the Chief Executive Officer or nominee shall approve payment of actual expenses.
- (c) Where the meal was not purchased, payment of a meal allowance shall not be made.
- (d) Receipts shall be provided to the Chief Executive Officer or nominee in support of any claims for additional expenses or when the staff member is required to substantiate the claim.

### 38. Higher Duties and Acting Allowances

Where at the direction of the Chief Executive Officer or nominee a staff member relieves in a higher duties position, they shall be entitled to a higher duties allowance in accordance with the provisions of the Corporation's Higher Duties - Policy and Provisions

### 39. Public Holidays

- (a) Staff members shall be entitled to the following public holidays without loss of pay. New Year's Day, Australia Day, Good Friday, Easter Sunday, Easter Monday, Labour Day, Anzac Day, Queen's Birthday, Christmas Day, Boxing Day, Public Service holiday and any other day or days which are proclaimed as public holidays throughout the State of New South Wales.
- (b) For the purpose of this subclause:
- (1) Where Christmas Day falls on a Saturday or a Sunday the following Monday or Tuesday shall be observed as a public holiday; and

- (2) Where Boxing Day falls on a Saturday or Sunday, the following Monday or Tuesday shall be observed as a public holiday; and
  - (3) When New Year's Day falls on a Saturday or on a Sunday, the following Monday shall be observed as New Year's Day and the said Saturday and/or Sunday shall be deemed not to be holidays.
- (c) Other days may be added to any of the above mentioned public holidays at the employer's discretion, for example where a staff member is of another religious denomination or ethnic background.
  - (d) The NSW Public Service Holiday shall be enjoyed as a holiday and shall be held on a day as determined by the Chief Executive Officer or nominee.

#### **40. First Aid Allowance**

- (a) A staff member appointed as a First Aid Officer shall be paid a first aid allowance at the rate appropriate to the qualifications held by such staff member as specified in Item 8 of Table 2 - Allowances of Part B Monetary Rates.
- (b) The First Aid Allowance shall not be paid during extended leave or any other continuous period of leave, which exceeds four weeks.
- (c) When the First Aid Officer is absent on leave for one week or more and another qualified staff member is selected to relieve in the First Aid Officer's position, such staff member shall be paid a pro rata first aid allowance for assuming the duties of a First Aid Officer.
- (d) Standard First Aid Kits shall be provided and maintained by the Corporation (or insurer as appropriate) in accordance with the Occupational Health & Safety Act 2000 or Regulation.
- (e) In the event of any serious accident happening to any staff member or casual staff member whilst on duty, at no cost to the staff member, shall provide appropriate emergency transport facilities to the nearest hospital or doctor.

#### **41. Travelling Compensation - Excess Travelling Time**

- (a) A staff member directed by the Chief Executive Officer or nominee to travel on official business outside the usual hours of duty is entitled to apply and to be compensated for such time either by:
  - (1) payment calculated in accordance with the provisions contained in this clause; or
  - (2) taking equivalent time off in lieu to be granted for excess time spent in travelling on official business (subject to operational convenience).
- (b) Compensation under paragraphs (1) or (2) of this subclause, shall be subject to the following conditions:
  - (1) on a non-working day - all time spent travelling on official business;
  - (2) on a working day - subject to the provisions of subclause (e) of this clause, all additional time spent travelling before or after the staff member's normal hours of duty.

provided the period for which compensation is being sought is more than a half an hour on any one-day.

- (c) No compensation for travelling time shall be given in respect of travel between 11.00 pm on any one day and 7.30 am on the following day where the staff member has travelled overnight and sleeping facilities have been provided for the staff member.
- (d) Compensation for travelling time shall be granted only in respect of the time that might reasonably have been taken by the use of the most practical and economic means of transport.

- (e) Compensation for excess travelling time shall exclude the following:
- (1) Time normally taken for the periodic journey from home to headquarters and return;
  - (2) Any periods of excess travel of less than 30 minutes on any one day;
  - (3) Travel to new headquarters on permanent transfer, if special leave has been granted for the day or days on which travel is to be undertaken;
  - (4) Time from 11.00 pm on one day to 7.30 am on the following day if sleeping facilities have been provided.
  - (5) Travel not undertaken by the most practical available route;
  - (6) Any travel undertaken by a member of staff whose salary includes an "all incidents of employment" component;
  - (7) Travel overseas.
- (f) Rate of Payment: Payment for travelling time calculated in terms of this clause shall be at the staff member's ordinary rate of pay on an hourly basis calculated as follows:
- $$\frac{\text{Annual salary}}{1} \times \frac{5}{260.8929} \times \frac{1}{\text{Normal hours of work}}$$
- (g) The rate of payment for travel or waiting time on a non-working day shall be the same as that applying to a working day.
- (h) Staff members whose salary is in excess of the maximum rate for the equivalent of WSN Officer Grade 5 shall be paid travelling time or waiting time calculated at the maximum rate for WSN Officer Grade 5 plus \$1.00 per annum, as adjusted from time to time.
- (i) Time off in lieu or payment for excess travelling time or waiting time will not be granted or made for more than eight hours in any period of 24 consecutive hours (unless there are exceptional circumstances approved by the Chief Executive Officer or nominee).

#### 42. Waiting Time

When a staff member travelling on official business is required to wait for transport in order to commence a journey to another location or to return home or headquarters and such time is outside the normal hours of duty, the waiting time shall be treated and compensated for in the same manner as excess travelling time pursuant to the Excess Travelling Time clause in this Award.

#### 43. Travelling Allowances - General

- (a) The Chief Executive Officer or nominee shall require staff members to obtain an authorisation for all official travel prior to incurring any travel expense.
- (b) Any authorised official travel and associated expenses, properly and reasonably incurred by a staff member required to perform duty at a location other than their normal headquarters shall be met by the Corporation.
- (c) Where available at a particular centre or location, the overnight accommodation to be occupied by staff members who travel on official business shall be the middle of the range standard, referred to generally as three star or three-diamond standard of accommodation.
- (d) Where payment of a proportionate amount of an allowance applies in terms of this clause, the amount payable shall be the appropriate proportion of the daily rate. Any fraction of an hour shall be rounded off to the nearest half-hour.

#### 44. Meal Expenses on One Way Journeys

A staff member who is authorised by the Chief Executive Officer or nominee to undertake a one day journey on official business which does not require the staff member to obtain overnight accommodation, shall be paid the appropriate rate of allowance set out in Table 2 - Allowances of Part B Monetary Rates for:

- (a) Breakfast when required to commence travel at or before 6.00 a.m. and at least 1 hour before the prescribed starting time;
- (b) An evening meal when required to travel until or beyond 7.00 p.m.; and
- (c) Lunch when required to travel a total distance on the day of at least 100 kilometres and, as a result, is located at a distance of at least 50 kilometres from the staff member's normal headquarters at the time of taking the normal lunch break.

#### 45. Travelling Allowances When Staying in Non Government Accommodation

- (1) A staff member who is required by the Chief Executive Officer or nominee to work from a temporary work location shall be compensated for accommodation, meal and incidental expenses properly and reasonably incurred during the time actually spent away from the staff member's residence in order to perform the work.
- (2) For the first 35 days, the payment shall be either:
  - (a) the appropriate rate of allowance specified in Item 2 of Table 2 - Allowances of Part B Monetary Rates for every period of 24 hours absence by the staff member' from their residence; and  
  
actual meal expenses properly and reasonably incurred (excluding morning and afternoon teas) for any residual part day travel; or
  - (b) if the staff member elects, actual expenses, properly and reasonably incurred for the whole trip on official business (excluding morning and afternoon teas) together with an incidental expenses allowance set out in Item 2 of Table 2 - Allowances of Part B Monetary Rates.
- (3) Payment of the appropriate allowance for an absence of less than 24 hours may be made only where the staff member satisfies the Chief Executive Officer or nominee that, despite the period of absence being of less than 24 hours' duration, expenditure for accommodation and three meals has been incurred.
- (4) Where a staff member is unable to so satisfy the Chief Executive Officer or nominee, the allowance payable for part days of travel shall be limited to the expenses incurred during such part day travel.
- (5) After the first 35 days - If a staff member is required by the Chief Executive Officer or nominee to work in the same temporary work location for more than 35 days, such staff member shall be paid the appropriate rate of allowance as specified in Item 2 of Table 2- Allowances of Part B Monetary Rates.
- (6) Long term arrangements - As an alternative to the provisions after the first 35 days set out in subparagraph (5) above, the Corporation could make alternative arrangements for meeting the additional living expenses, properly and reasonably incurred by a staff member working from a temporary work location.
- (7) The return of a staff member to their home at weekends, on rostered days off or during short periods of leave while working from a temporary work location shall not constitute a break in the temporary work arrangement.

#### 46. Travelling Allowances When Staying in Government Accommodation

- (a) When a staff member working from a temporary work location is provided with accommodation by the Government, the staff member shall be entitled to claim the incidental expenses allowance set out in Item 3 of Table 2 - Allowances of Part B Monetary Rates for the same period.

- (b) If meals are not provided by the Government at the temporary work location, the staff member shall be entitled to claim also the reimbursement of any meal expenses properly and reasonably incurred during the time spent at the temporary work location.

#### **47. Restrictions on Payment of Travelling Allowances**

An allowance under the Travelling Allowance when staying in Non Government Accommodation clause or Travelling Allowances when staying in Government Accommodation clause is not payable in respect of:

- (1) Any period during which the staff member returns to their residence at weekends or public holidays, commencing with the time of arrival at that residence and ending at the time of departure from the residence;
- (2) Any period of leave, except with the approval of the Chief Executive Officer or nominee or as otherwise provided by this subclause; or
- (3) Any other period during which the staff member is absent from the staff member's temporary work location otherwise than on official duty.
- (4) Notwithstanding subclauses (1), (2) or (3) of this clause, a staff member in receipt of an allowance under the Travelling Allowance when staying in Non Government Accommodation clause or Travelling Allowances when staying in Government Accommodation clause of this Award who is granted special leave to return to their residence at a weekend, shall be entitled to an allowance under the Travelling Allowance when staying in Non Government Accommodation clause in respect of the necessary period of travel for the journey from the temporary work location to the staff member's residence; and for the return journey from the staff member's residence to the temporary work location, but is not entitled to any allowance under this subclause, or any other allowance, in respect of the same period.
- (5) Notwithstanding subclauses (1), (2) or (3) of this clause, a staff member in receipt of an allowance under this subclause who, on ceasing to perform duty at or from a temporary work location, leaves that location shall be entitled to an allowance in accordance with the Travelling Allowance when staying in Non Government Accommodation clause of this Award in respect of the necessary period of travel to return to the staff member's residence or to take up duty at another temporary work location, but is not entitled to any other allowance in respect of the same period.

#### **48. Increase Or Reduction in Payment of Travelling Allowance**

Where the Chief Executive Officer or nominee is satisfied that a travelling allowance is:

- (a) Insufficient to adequately reimburse the staff member for expenses properly and reasonably incurred, a further amount may be paid to reimburse the staff member for the additional expenses incurred; or
- (b) In excess of the amount which would adequately reimburse the staff member for expenses properly and reasonably incurred,

the Chief Executive Officer or nominee may reduce the allowance to an amount, which would reimburse the staff member for expenses incurred properly and reasonably.

#### **49. Production of Receipts**

Payment of any actual expenses shall be subject to the production of receipts, unless the Chief Executive Officer or nominee is prepared to accept other evidence from the staff member.

#### **50. Travelling Distance**

- (a) The need to obtain overnight accommodation shall be determined by the Chief Executive Officer or nominee having regard to the safety of the staff member or members travelling on official business and local conditions applicable in the area.



- (b) Where staff members are required to attend conferences or seminars, which involve evening sessions, or staff members are required to make an early start at work in a location away from their normal workplace, overnight accommodation shall be appropriately granted by the Chief Executive Officer or nominee.

#### **51. Allowance Payable for Use of Private Motor Vehicle**

- (a) The Chief Executive Officer or nominee may authorise a staff member to use a private motor vehicle for work where:
- (1) such use will result in greater efficiency or involve the Corporation in less expense than if travel were undertaken by other means; or
  - (2) where the staff member is unable to use other means of transport due to a disability.
- (a) There shall be different classes of allowance payable for the use of a private motor vehicle for work. The appropriate rate of the "casual rate" of allowance or the "official business rate" of allowance, as defined in the Definitions clause of this Award, shall be paid depending on the circumstances and the purpose for which the vehicle is used.
- (b) The staff member must have in force in respect of a motor vehicle used for work, in addition to any policy required to be effected or maintained under the *Motor Vehicles (Third Party Insurance) Act, 1942*, a comprehensive motor vehicle insurance policy to an amount and in a form approved by the Chief Executive Officer or nominee.
- (c) A staff member who, with the approval of the Chief Executive Officer or nominee, uses a private motor vehicle for work shall be paid an appropriate rate of allowance specified in Item 4 of Table 2 - Allowances of Part B Monetary Rates for the use of such private motor vehicle.
- (d) Expenses such as tolls etc. shall be refunded to staff members where the charge was incurred during approved work related travel.
- (e) Where a staff member tows a trailer or horse-float during travel resulting from approved work activities while using a private vehicle, the staff member shall be entitled to an additional allowance as prescribed in Item 5 of Table 2 - Allowances of Part B Monetary Rates.
- (f) Except as otherwise specified in this Award, a staff member shall bear the cost of ordinary daily travel by private motor vehicle between the staff member's residence and headquarters.

#### **52. Compensation for Loss Or Damage to Private Property**

- (a) Where damage to or loss of the staff member's private property occurs in the course of employment, a claim may be lodged under the *Workers Compensation Act, 1987* and/or under any insurance policy of the Corporation covering the damage to or loss of the personal property of the staff member.
- (b) If a claim under subclause (a) of this subclause is rejected by the insurer, the Chief Executive Officer or nominee may compensate a staff member for the damage to or loss of private property, if such damage or loss:
- (1) is due to the negligence of the Corporation, another staff member, or both, in the performance of their duties; or
  - (2) is caused by a defect in a staff member's material or equipment; or
  - (3) results from a staff member's protection of or attempt to protect Corporation property from loss or damage.

- (c) Compensation in terms of subclause (b) of this clause shall be limited to the amount necessary to repair the damaged item. Where the item cannot be repaired or is lost, the Chief Executive Officer or nominee may pay the cost of a replacement item, provided the item is identical to or only marginally different from the damaged or lost item and the claim is supported by satisfactory evidence as to the price of the replaced item.
- (d) For the purpose of this subclause, personal property means a staff member's clothes, spectacles, hearing aid, tools of trade or similar items, which are ordinarily required for the performance of the staff member's duties.
- (e) Compensation for the damage sustained shall be made by the Corporation where, in the course of work, clothing or items such as spectacles, hearing aids, etc, are damaged or destroyed by natural disasters or by theft or vandalism.
- (f) Where staff members have tools of trade that are registered with the Corporation the conditions under this clause will apply.

### **53. Leave - General Provisions**

- (a) The provisions contained in this clause apply to all staff members other than those to whom arrangements apply under another industrial instrument or under a local arrangement negotiated between the Chief Executive Officer or nominee or their nominee and the relevant union in terms of the Local Arrangements clause of this Award.
- (b) Unless otherwise specified, part-time staff members will receive the conditions of this clause on a pro rata basis, calculated according to the number of hours worked per week.
- (c) Where paid and unpaid leave available to be granted in terms of this Award, paid leave shall be taken before unpaid leave.

### **54. Absence from Work**

- (a) A staff member must not be absent from work unless reasonable cause is shown.
- (b) If a staff member is to be absent from duty because of illness or other emergency, the staff member shall notify or arrange for another person to notify the Chief Executive Officer or nominee as soon as possible of the staff member's absence and the reason for the absence.
- (c) If a satisfactory explanation for the absence is not provided, the staff member will be regarded as absent from duty without authorised leave and the Chief Executive Officer or nominee shall deduct from the pay of the staff member the amount equivalent to the period of the absence.
- (d) The minimum period of leave available to be granted shall be a quarter day, unless local arrangements negotiated in the workplace allow for a lesser period to be taken.
- (e) Nothing in this clause affects any proceedings for a breach of discipline against a staff member who is absent from duty without authorised leave.

### **55. Applying for Leave**

- (a) An application by a staff member for leave under this clause shall be made to and dealt with by the Chief Executive Officer or nominee.
- (b) The Chief Executive Officer or nominee shall deal with the application for leave according to the wishes of the staff member if the operational requirements of the Corporation permit this to be done.

**56. Adoption Leave**

- (a) A staff member adopting a child and who will be the primary care giver shall be entitled to be granted adoption leave:
- (1) for a period of up to 12 months if the child has not commenced school at the date of the taking of custody; or
  - (2) for such period, not exceeding 12 months on a full-time basis, as the Chief Executive Officer or nominee may determine, if the child has commenced school at the date of the taking of custody.
- (b) A staff member who has been granted adoption leave may, with the permission of the Chief Executive Officer or nominee, take leave:
- (1) full-time for a period not exceeding 12 months; or
  - (2) part-time over a period not exceeding 2 years; or
  - (3) partly full-time and partly part-time over a proportionate period of up to 2 years.
- (c) Adoption leave shall commence on the date that the staff member takes custody of the child concerned, whether that date is before or after the date on which a court makes an order for the adoption of the child by the staff member.
- (d) A staff member who resumes duty immediately on the expiration of adoption leave shall:
- (1) if the position occupied by the staff member immediately before the commencement of that leave still exists be entitled to be placed in that position; or
  - (2) if the position so occupied by the staff member has ceased to exist, but there are other positions available that the staff member is qualified for and is capable of performing, the staff member shall be appointed, to a position of the same grade and classification as the staff member's former position.
- (e) A staff member who will be the primary care giver from the date of taking custody of the adopted child and who:
- (1) applied for adoption leave within the time and in the manner determined by the Chief Executive Officer or nominee; and
  - (2) prior to the commencement of adoption leave, completed not less than 40 weeks' continuous service,
- shall be entitled to payment at their ordinary rate of pay for a period of 14 weeks of adoption leave or the period of adoption leave taken, whichever is the lesser period.
- Payment for the adoption leave may be made at full pay, half pay or as a lump sum.
- (f) Except as provided in subclause (e) of this clause, adoption leave shall be granted without pay.
- (g) Special Adoption Leave:
- (1) A staff member shall be entitled to special adoption leave without pay for up to 2 days to attend interviews or examinations for the purposes of adoption.
  - (2) Special adoption leave may be taken as a charge against recreation leave, extended leave, family and community service leave or local arrangements as negotiated.

**57. Extended Leave**

- (a) It is the intention of the parties to continue to apply the relevant provisions of Schedule 3 of the *Public Sector Employment and Management Act 2002* in relation to the accrual and taking of extended leave.
- (b) It is the intention of the parties to remove any exclusion of this award from the *Public Sector Employment and Management Amendment (Extended Leave) Act 2005*.
- (c) Staff shall have access to pro-rata extended leave after 7 years service;
- (d) Staff shall be allowed to take a period of extended leave at double pay, i.e. a staff member may use their entitlement to 2 months extended leave by taking 1 months leave and receiving 2 months pay for that 1 month period; and.
- (e) Public holidays that fall whilst a staff member is on a period of extended leave will be paid and not debited from a staff members leave entitlement.

**58. Family and Community Service Leave**

- (a) The Chief Executive Officer or nominee shall, in the case of emergencies or in personal or domestic circumstances, grant to a staff member some or all of the available family and community service leave on full pay.
- (b) Such cases may include but not be limited to the following:-
  - (1) Compassionate grounds - such as the death or illness of a close member of the family or a member of the staff member's household;
  - (2) Accommodation matters up to one day - such as attendance at court as defendant in an eviction action, arranging accommodation, or when required to remove furniture and effects;
  - (3) Emergency or weather conditions - such as when flood, fire or snow etc. threaten property and/or prevent a staff member from reporting for duty;
  - (4) Other personal circumstances - such as citizenship ceremonies, parent/teacher interviews or attending child's school for other reasons;
- (c) Attendance at court by a staff member to answer a charge for a criminal offence, if the Chief Executive Officer or nominee considers the granting of family and community service leave to be appropriate in a particular case;
- (d) Staff members who are selected to represent Australia or the State as competitors in major amateur sport (other than Olympic or Commonwealth Games);
- (e) Staff who hold office in Local Government other than as a Mayor of a Municipal Council, President of a Shire Council or Chairperson of a County Council, to attend meetings, conferences or other duties associated with that office where those duties necessitate absence during normal working hours.
- (f) The maximum amount of family and community service leave on full pay which may, subject to this award, be granted to a staff member shall be the greater of the leave provided in paragraph (1) or (2) of this subclause.
  - (1) 2½ of the staff member's working days in the first year of service and, on completion of the first year's service, 5 of the staff member's working days in any period of 2 years; or
  - (2) After the completion of 2 years' continuous service, the available family and community service leave is determined by allowing 1 day's leave for each completed year of service less the total amount of short leave or family and community service leave previously granted to the staff member.

- (g) If available family and community service leave is exhausted as a result of natural disasters, the Chief Executive Officer or nominee shall consider applications for additional family and community service leave, if some other emergency arises.
- (h) On the death of a person defined in subclause (c) of clause 68, Sick Leave to Care for a Sick Family Member, additional paid family and community service leave of up to 2 days may be granted on a discrete, per occasion basis to a staff member.
- (i) In cases of illness of a family member for whose care and support the staff member is responsible, paid sick leave in accordance with subclause (c) of clause 68, Sick Leave to Care for a Family Member, shall be granted when paid family and community service leave has been exhausted.

#### **59. Leave Without Pay**

- (a) The Chief Executive Officer or nominee may grant leave without pay to a staff member if good and sufficient reason is shown.
- (b) Leave without pay may be granted on a full-time or a part-time basis.
- (c) Where a staff member is granted leave without pay for a period not exceeding 10 consecutive working days, the staff member shall be paid for any proclaimed public holidays falling during such leave without pay.
- (d) Where a staff member is granted leave without pay, which, when aggregated, does not exceed 5 working days in a period of twelve (12) months, such leave shall count as service for incremental progression and accrual of recreation leave.
- (e) A staff member, who has been granted leave without pay, shall not engage in private employment of any kind during the period of leave without pay, unless prior approval has been obtained from the Chief Executive Officer or nominee.
- (f) A staff member shall not be required to exhaust accrued paid leave before proceeding on leave without pay but, if the staff member elects to combine all or part of accrued paid leave with leave without pay, the paid leave shall be taken before leave without pay.
- (g) No paid leave shall be granted during a period of leave without pay.

#### **60. Maternity Leave**

- (a) A staff member who is pregnant shall, subject to this clause, be entitled to be granted maternity leave as follows:
  - (1) for a period up to 9 weeks prior to the expected date of birth; and
  - (2) for a further period of up to 12 months after the actual date of birth.
- (b) A staff member who has been granted maternity leave may, with the permission of the Chief Executive Officer or nominee, take leave after the actual date of birth:
  - (1) full-time for a period of up to 12 months; or
  - (2) part-time for a period of up to 2 years; or
  - (3) as a combination of full-time and part-time over a proportionate period of up to 2 years.
- (c) A staff member who has been granted maternity leave and whose child is stillborn may elect to take available sick leave instead of maternity leave.

- (d) A staff member who resumes duty before her child's first birthday or on the expiration of 12 months from the date of birth of her child shall be entitled to resume duty in the position occupied by her immediately before the commencement of maternity leave, if the position still exists.
- (e) If the position occupied by the staff member immediately prior to the taking of maternity leave has ceased to exist, but there are other positions available that the staff member is qualified for and is capable of performing, the staff member shall be appointed to a position of the same grade and classification as the staff member's former position.
- (f) A staff member who:
- (1) applied for maternity leave within the time and in the manner determined by the Chief Executive Officer or nominee; and
  - (2) prior to the expected date of birth, completed not less than 40 weeks' continuous service,
- shall be paid at her ordinary rate of pay for a period not exceeding 14 weeks or the period of maternity leave taken, whichever is the lesser period.
- Payment for the maternity leave may be made at full pay, half pay or as a lump sum.
- (g) Except as provided in sub-clause (f) of this clause, maternity leave shall be granted without pay.
- (h) The Chief Executive Officer or nominee shall consider, where possible and appropriate, an application to transfer to safer duties of a pregnant staff member either before and/or after the birth of an unborn or a newborn child on a case-by-case basis.

#### **61. Military Leave**

- (a) During the period of 12 months commencing on 1 July each year, the Chief Executive Officer or nominee may grant to a staff member who is a volunteer part-time member of the Defence Forces, military leave on full pay to undertake compulsory annual training and to attend schools, classes or courses of instruction conducted by the staff member's unit.
- (b) Up to 24 working days military leave per year may be granted by the Chief Executive Officer or nominee to members of the Naval and Military Reserves and up to 28 working days per year to members of the Air Force Reserve for the activities specified in subclause (a) of this clause.
- (c) At the expiration of military leave, the staff member shall furnish to the Chief Executive Officer or nominee a certificate of attendance signed by the commanding officer or other responsible officer.

#### **62. Observance of Essential Religious Or Cultural Obligations**

- (a) A staff member of:
- (1) any religious faith who seeks leave for the purpose of observing essential religious obligations of that faith; or
  - (2) any ethnic or cultural background who seeks leave for the purpose of observing any essential cultural obligations,
- may be granted recreation/extended leave to credit, leave without pay, or negotiate local arrangements to do so.
- (b) Provided adequate notice as to the need for leave is given by the staff member to the Corporation and it is operationally convenient to release the staff member from duty, the Chief Executive Officer or nominee must grant the leave applied for by the staff member in terms of this subclause.

- (c) A staff member of any religious faith who seeks time off during daily working hours to attend to essential religious obligations of that faith, shall be granted such time off by the Chief Executive Officer or nominee, subject to:
- (1) adequate notice being given by the staff member;
  - (2) prior approval being obtained by the staff member; and
  - (3) the time off being made up in the manner approved by the Chief Executive Officer or nominee.
- (d) Notwithstanding the provisions of subclauses (a), (b) and (c) of this clause, arrangements may be negotiated between the Corporation and the Relevant union in terms of the Local Award Arrangements clause in this Award to provide greater flexibility for staff members for the observance of essential religious or cultural obligations.

### 63. Parental Leave

Parental leave is available to male and female staff members who apply for leave to look after their child or children.

- (a) Parental leave applies as follows:
- (1) Short Parental Leave:  
An unbroken period of up to one week at the time of the birth of the child or other termination of the spouse's or partner's pregnancy or, in the case of adoption, from the date of taking custody of the child or children;
  - (2) Extended Parental Leave:  
For a period not exceeding 12 months, less any short parental leave already taken by the staff member as provided for in paragraph (1) of this subclause.
- (b) Extended parental leave may commence at any time up to 2 years from the date of birth of the child or the taking of custody of the child.
- (c) A staff member who has been granted parental leave may, with the permission of the Chief Executive Officer or nominee take such leave:
- (1) full-time for a period not exceeding 12 months; or
  - (2) part-time over a period not exceeding 2 years; or
  - (3) partly full-time and partly part-time over a proportionate period of up to 2 years.
- (d) A staff member who resumes duty immediately on expiration of parental leave shall:
- (1) if the position occupied by the staff member immediately before the commencement of that leave still exists be entitled to be placed in that position; or
  - (2) if the position occupied by the staff member has ceased to exist, but there are other positions available that the staff member is qualified for and is capable of performing, the staff member shall be appointed, to a position of the same grade and classification as the staff member's former position.
- (e) A staff member who:
- (1) applied for parental leave within the time and in the manner determined by the Chief Executive Officer or nominee, and

- (2) prior to the expected date of birth or adoption completed not less than 40 weeks' continuous service,

shall be paid at their ordinary rate of pay for a period not exceeding 1 week on full pay or 2 weeks at half pay or the period of parental leave taken, whichever is the lesser period.

The period of paid leave does not extend the current entitlement of up to 12 months leave, but is part of it.

- (f) Except as provided in subclause (e), parental leave shall be granted without pay.
- (g) A staff member may elect to take accrued recreation or extended leave in respect of some or all of the period of parental leave.

#### **64. Recreation Leave**

##### (a) Accrual

- (1) Except where stated otherwise in this Award, paid recreation leave for full time staff members and recreation leave for staff members working part time, accrues at the rate of 20 working days per year.
- (2) Staff members working part time shall accrue paid recreation leave on a pro rata basis, which will be determined on the average weekly hours worked per leave year.
- (3) Recreation leave accrues from day to day.

##### (b) Limits on Accumulation and Direction to Take Leave

- (1) At least two (2) consecutive weeks of recreation leave shall be taken by a staff member every 12 months, except by agreement with the Chief Executive Officer or nominee in special circumstances.
- (2) Where the operational requirements permit, the application for leave shall be dealt with by the Chief Executive Officer or nominee according to the wishes of the staff member.
- (3) The Chief Executive Officer or nominee shall notify the staff member in writing when accrued recreation leave reaches 6 weeks or its hourly equivalent and at the same time may direct a staff member to take at least 2 weeks recreation leave within 3 months of the notification at a time convenient to the Corporation.
- (4) The Chief Executive Officer or nominee shall notify the staff member in writing when accrued recreation leave reaches 8 weeks or its hourly equivalent and direct the staff member to take at least 2 weeks recreation leave within 6 weeks of the notification. Such leave is to be taken at a time convenient to the Corporation.

##### (c) Conservation of Leave

If the Chief Executive Officer or nominee is satisfied that a staff member is prevented by operational or personal reasons from taking sufficient recreation leave to reduce the accrued leave below an acceptable level of between 4 and 6 weeks or its hourly equivalent, the Chief Executive Officer or nominee shall:

- (1) specify in writing the period of time during which the excess shall be conserved; and
- (2) on the expiration of the period during which conservation of leave applies, grant sufficient leave to the staff member at a mutually convenient time to enable the accrued leave to be reduced to an acceptable level below the 8 weeks' limit.



- (3) The Chief Executive Officer or nominee will inform a staff member in writing on a regular basis of the staff member's recreation leave accrual.

(d) Miscellaneous

- (1) Unless a local arrangement has been negotiated between the Chief Executive Officer or nominee and the Relevant union, recreation leave is not to be granted for a period less than a quarter day or in other than multiples of a quarter day.
- (2) Recreation leave for which a staff member is eligible on cessation of employment is to be calculated to a quarter day (fractions less than a quarter being rounded up).
- (3) Recreation leave does not accrue to a staff member in respect of any period of absence from duty without leave or without pay, except as specified in paragraph (4) of this subclause.
- (4) Recreation leave accrues during any period of leave without pay granted on account of incapacity for which compensation has been authorised to be paid under the Workers Compensation Act 1987; or any period of sick leave without pay or any other approved leave without pay, not exceeding 5 full time working days, or their part time equivalent, in any period of 12 months.
- (5) The proportionate deduction to be made in respect of the accrual of recreation leave on account of any period of absence referred to in paragraph (4) of this subclause shall be calculated to an exact quarter-day (fractions less than a quarter being rounded down).
- (6) Recreation leave accrues at half its normal accrual rate during periods of extended leave on half pay.
- (7) On cessation of employment, a staff member is entitled to be paid, the monetary value of accrued recreation leave, which remains untaken.
- (8) A staff member to whom paragraph (7) of this subclause applies may elect to take all or part of accrued recreation leave which remains untaken at cessation of active duty as leave or as a lump sum payment; or as a combination of leave and lump sum payment.

(e) Death:

Where a staff member dies, the monetary value of recreation leave accrued and remaining untaken as at the date of death, shall be paid to the staff member's nominated beneficiary.

(f) Where no beneficiary has been nominated

Where no beneficiary has been nominated, the monetary value of recreation leave is to be paid as follows:

- (1) to the widow or widower of the staff member; or
- (2) if there is no widow or widower, to the children of the staff member or, if there is a guardian of any children entitled under this subclause, to that guardian for the children's maintenance, education and advancement; or
- (3) if there is no such widow, widower or children, to the person who, in the opinion of the Chief Executive Officer or nominee was, at the time of the staff member's death, a dependent relative of the staff member; or
- (4) if there is no person entitled under paragraphs (1) or (2) or (3) of this subclause to receive the monetary value of any leave not taken or not completed by a staff member or which would have accrued to the staff member, the payment shall be made to the personal representative of the staff member.

**65. Annual Leave Loading**

## (a) General

- (1) Unless more favourable conditions apply to a staff member under another industrial instrument, a staff member, other than a trainee who is paid by allowance, is entitled to be paid an annual leave loading as set out in this subclause.
- (2) Subject to the provisions set out in sub-clauses (b) to (e) of this clause, leave loading shall be 17½% on the monetary value of up to 4 weeks' recreation leave accrued in a leave year.

## (b) Loading on additional leave accrued

- (1) Where additional leave is accrued by a staff member as compensation for work performed regularly on Sundays and/or Public Holidays, the annual leave loading shall be calculated on the actual leave accrued or on five weeks, whichever is the higher.
- (2) If stationed in an area of the State of New South Wales which attracts a higher rate of annual leave accrual, the annual leave loading shall continue to be paid on a maximum of 4 weeks leave.

## (c) Maximum Loading

Unless otherwise provided in an Award or Agreement under which the staff member is paid, the annual leave loading payable shall not exceed the amount which would have been payable to a staff member in receipt of salary equivalent to the maximum salary for a WSN Officer Grade 12 under this Award.

## (d) Leave year

- (1) For the calculation of the annual leave loading, the leave year shall commence on 1 December each year and shall end on 30 November of the following year.

## (e) Payment of annual leave loading

From 1 December 2002, annual leave loading has been annualised and is being paid as part of the fortnightly salary of a staff member.

**66. Sick Leave**

## (a) If the Chief Executive Officer or nominee is satisfied that a staff member is unable to perform duty because of the staff member's illness or the illness of his/her family member, the Chief Executive Officer or nominee:

- (1) shall grant to the staff member sick leave on full pay; and
- (2) may grant to the staff member, sick leave without pay if the absence of the staff member exceeds the entitlement of the staff member under this Award to sick leave on full pay.

## (b) Entitlements:

- (1) Sick leave on full pay accrues to a staff member at the rate of 15 days each calendar year. Any leave accrued and not utilised accumulates.
- (2) Sick leave on full pay accrues at the beginning of the calendar year. If a staff member is appointed after 1 January, sick leave on full pay accrues on a proportionate basis for the year in which employment commences.
- (3) Sick leave without pay shall count as service for the accrual of recreation leave and paid sick leave. In all other respects sick leave without pay shall be treated in the same manner as leave without pay.

- (4) When determining the amount of sick leave accrued, sick leave granted on less than full pay shall be converted to its full pay equivalent.
- (5) Paid sick leave shall not be granted during a period of unpaid leave.
- (c) Payment during the initial 3 months of service:
  - (1) Paid sick leave which may be granted to a staff member, other than a seasonal or relief staff member, in the first 3 months of service shall be limited to 5 days' paid sick leave, unless the Chief Executive Officer or nominee approves otherwise.
  - (2) Paid sick leave in excess of 5 days granted in the first 3 months of service shall be supported by a satisfactory medical certificate.
- (d) Seasonal or Relief Staff:

No paid sick leave shall be granted to temporary staff members who are employed as seasonal or relief staff for a period of less than 3 months.

#### **67. Sick Leave - Requirements for Medical Certificate**

- (a) A staff member absent from duty for more than 3 consecutive working days because of illness must furnish a medical certificate to the Chief Executive Officer or nominee in respect of the absence.
- (b) A staff member shall be put on notice in advance if required by the Chief Executive Officer or nominee to furnish a medical certificate in respect of an absence from duty for 3 consecutive working days or less because of illness.
- (c) If there is any concern about the reason shown on the medical certificate, the Chief Executive Officer or nominee, after discussion with the staff member, may refer the medical certificate and the staff member's application for leave to the Corporation's or the Government Medical Officer for advice.
- (d) The nature of the leave to be granted to a staff member shall be determined by the Chief Executive Officer or nominee on the advice of the Corporation or Government Medical Officer.
- (e) If sick leave applied for is not granted, the Chief Executive Officer or nominee must, as far as practicable, take into account the wishes of the staff member when determining the nature of the leave to be granted.
- (f) A staff member may elect to have an application for sick leave dealt with confidentially by the Corporation or Government Medical Officer in accordance with the Corporation policy on confidentiality, as applies from time to time.
- (g) If a staff member who is absent on recreation leave or extended leave, furnishes to the Chief Executive Officer or nominee a satisfactory medical certificate in respect of an illness which occurred during the leave, the Chief Executive Officer or nominee may, subject to the provisions of this clause, grant sick leave to the staff member as follows:
  - (1) in respect of recreation leave, the period set out in the medical certificate;
  - (2) in respect of extended leave, the period set out in the medical certificate if such period is 5 working days or more.
- (h) Subclause (g) above applies to all staff members other than those on leave prior to resignation or termination of services, unless the resignation or termination of services amounts to a retirement.
- (i) The reference in this clause to a medical certificate shall apply, as appropriate, to the certificates of up to one week provided by a registered dentist, optometrist, chiropractor, osteopath, physiotherapist, oral and

maxillo facial surgeon or, at the Chief Executive Officer or nominee's discretion, another registered health services provider.

- (j) Where the absence exceeds one week, and unless the health provider listed above is also a registered medical practitioner, applications for any further sick leave must be supported by a medical certificate from a registered medical practitioner.

### **68. Sick Leave to Care for a Family Member**

When family and community service leave provided for in the Sick Leave clause of this Award is exhausted, a staff member with responsibilities in relation to a category of person set out in subclause (c) of this clause who needs the staff member's care and support, may elect to use available paid sick leave, subject to the conditions specified in this subclause, to provide such care and support when a family member is ill.

- (a) The sick leave shall initially be taken from the current leave year's entitlement followed, if necessary, by the sick leave accumulated over the previous 3 years. In special circumstances, the Chief Executive Officer or nominee may grant additional sick leave from the sick leave accumulated during the staff member's eligible service.
- (b) If required by the Chief Executive Officer or nominee, the staff member must establish by production of a medical certificate or statutory declaration, the illness of the person concerned.
- (c) The entitlement to use sick leave in accordance with this subclause is subject to:
- (1) the staff member being responsible for the care and support of the person concerned; and
  - (2) the person concerned being:
    - (i) a spouse of the staff member; or
    - (ii) a de-facto spouse being a person of the opposite sex to the staff member who lives with the staff member as her husband or his wife on a bona fide domestic basis although not legally married to that staff member; or
    - (iii) a child or an adult child (including an adopted child, a step child, a foster child or an ex-nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the staff member or of spouse or of de-facto spouse of the staff member; or
    - (iv) a same sex partner who lives with the staff member as the de-facto partner of that staff member on a bona fide domestic basis; or a relative of the staff member who is a member of the same household, where for the purposes of this definition:

"relative" means a person related by blood, marriage, affinity or Aboriginal kinship structures;

"affinity" means a relationship that one spouse or partner has to the relatives of the other; and

"household" means a family group living in the same domestic dwelling.

### **69. Sick Leave - Workers' Compensation**

- (a) The Chief Executive Officer Or Nominee Shall Advise Each Staff Member of the Rights under the *Workers Compensation Act 1987*, as Amended from Time to Time, and Shall Give Such Assistance and Advice, as Necessary, in the Lodging of Any Claim.

- (b) A staff member who is or becomes unable to attend for duty or to continue on duty in circumstances, which may give the staff member a right to claim compensation under the *Workers Compensation Act 1987*, shall be required to lodge a claim for any such compensation.
- (c) Where, due to the illness or injury, the staff member is unable to lodge such a claim in person, the Chief Executive Officer or nominee shall assist the staff member or the representative of the staff member, as required, to lodge a claim for any such compensation.
- (d) The Chief Executive Officer or nominee will ensure that, once received by the Corporation, a staff member's worker's compensation claim is lodged by the Corporation with the workers' compensation insurer within the statutory period prescribed in the *Workers Compensation Act 1987*.
- (e) Pending the determination of that claim and on production of an acceptable medical certificate, the Chief Executive Officer or nominee shall grant sick leave on full pay for which the staff member is eligible followed, if necessary, by sick leave without pay or, at the staff member's election by accrued recreation leave or extended leave.
- (f) If liability for the workers compensation claim is accepted, then an equivalent period of any sick leave taken by the staff member pending acceptance of the claim shall be restored to the credit of the staff member.
- (g) A staff member who continues to receive compensation after the completion of the period of 26 weeks referred to in section 36 of the *Workers Compensation Act 1987* may use any accrued and untaken sick leave to make up the difference between the amount of compensation payable under that Act and the staff member's ordinary rate of pay. Sick leave utilised in this way shall be debited against the staff member.
- (h) If a staff member notifies the Chief Executive Officer or nominee that he or she does not intend to make a claim for any such compensation, the Chief Executive Officer or nominee shall consider the reasons for the staff member's decision and shall determine whether, in the circumstances, it is appropriate to grant sick leave in respect of any such absence.
- (i) A staff member may be required to submit to a medical examination under the *Workers Compensation Act 1987* in relation to a claim for compensation under that Act.
- (j) If a staff member refuses to submit to a medical examination without an acceptable reason, the staff member shall not be granted available sick leave on full pay until the examination has occurred and a medical certificate is issued indicating that the staff member is not fit to resume employment.
- (k) If the Chief Executive Officer or nominee provides the staff member with employment which meets the terms and conditions specified in the medical certificate issued under the *Workers Compensation Act 1987* and, without good reason, the staff member fails, to resume or perform such duties, the staff member shall be ineligible for all payments in accordance with this clause from the date of the refusal or failure.
- (l) No further sick leave shall be granted on full pay if there is a commutation of weekly payments of compensation by the payment of a lump sum pursuant to section 51 of the *Workers Compensation Act 1987*.
- (m) Nothing in this clause prevents a staff member from appealing a decision or taking action under other legislation made in respect of:
  - (1) the staff member's claim for workers' compensation;
  - (2) the conduct of a medical examination by a Government or other Medical Officer;
  - (3) a medical certificate issued by the examining Government or other Medical Officer; or

- (4) action taken by the Chief Executive Officer or nominee either under the Workers Compensation Act 1987 or any other relevant legislation in relation to a claim for workers' compensation, medical examination or medical certificate.

#### **70. Sick Leave - Claims Other Than Workers' Compensation**

- (a) If the circumstances of any injury to or illness of a staff member give rise to a claim for damages or to compensation, other than compensation under the *Workers Compensation Act 1987*, sick leave on full pay may, subject to and in accordance with this clause, be granted to the staff member on completion of an acceptable undertaking that:
  - (1) any such claim, if made, will include a claim for the value of any period of paid sick leave granted by the Corporation to the staff member; and
  - (2) in the event that the staff member receives or recovers damages or compensation pursuant to that claim for loss of salary or wages during any such period of sick leave, the staff member will repay to the Corporation the monetary value of any such period of sick leave.
- (b) Sick leave on full pay shall not be granted to a staff member who refuses or fails to complete an undertaking, except in cases where the Chief Executive Officer or nominee is satisfied that the refusal or failure is unavoidable.
- (c) On repayment to the Corporation of the monetary value of sick leave granted to the staff member, sick leave equivalent to that repayment and calculated at the staff member's ordinary rate of pay, shall be restored to the credit of the staff member.

#### **71. Special Leave With Full Pay**

- (a) Jury Service:
  - (1) A staff member shall, as soon as possible, notify the Chief Executive Officer or nominee of the details of any jury summons served on the staff member.
  - (2) A staff member who, during any period when required to be on duty, attends a court in answer to a jury summons shall, upon return to duty after discharge from jury service, furnish to the Chief Executive Officer or nominee a certificate of attendance issued by the Sheriff or by the Registrar of the court giving particulars of attendances by the staff member during any such period and the details of any payment or payments made to the staff member under section 72 of the *Jury Act 1977* in respect of any such period.
  - (3) When a certificate of attendance on jury service is received in respect of any period during which a staff member was required to be on duty, the Chief Executive Officer or nominee shall grant, in respect of any such period for which the staff member has been paid out-of-pocket expenses only, special leave on full pay. In any other case, the Chief Executive Officer or nominee shall grant, at the sole election of the staff member, available recreation leave on full pay, agreed settlement day leave or leave without pay.

- (b) Witness at Court - Official Capacity:

When a staff member is subpoenaed or called as a witness in an official capacity, the staff member shall be regarded as being on duty.

- (1) salary and any expenses properly and reasonably incurred by the staff member in connection with the staff member's appearance at Court, as a witness in an official capacity shall be paid by the Corporation.

(c) Witness at Court - Other than in Official Capacity - Crown Witness:

A staff member who is subpoenaed or called as a witness by the Crown (whether in right of the Commonwealth or in right of any State or Territory of the Commonwealth) shall:

- (1) be granted, for the whole of the period necessary to attend as such a witness, special leave on full pay; and
- (2) pay into the Treasury of the State of New South Wales all money paid to the staff member under or in respect of any such subpoena or call other than any such money so paid in respect of reimbursement of necessary expenses properly incurred in answer to that subpoena or call.
- (3) Relevant union Witness - a staff member called by the relevant union to give evidence before an Industrial Tribunal or in another jurisdiction, shall be granted special leave by the Corporation for the required period.

(d) Called as a witness in a private capacity:

A staff member who is subpoenaed or called as a witness in a private capacity shall, for the whole of the period necessary to attend as such a witness, be granted at the staff member's election, available recreation leave on full pay or leave without pay.

(e) Examinations:

Special leave on full pay up to a maximum of 5 days in any one year shall be granted to staff members for the purpose of attending at any examination approved by the Chief Executive Officer or nominee.

- (1) Special leave granted to attend examinations should include leave for any necessary travel to or from the place at which the examination is held.

(f) Special Leave - Union Activities

Special leave on full pay may be granted to staff members who are accredited trade union delegates to undertake trade union activities as provided for in the Trade Union Activities Attracting Special Leave clause of this award.

(g) Return Home When Temporarily Living Away from Home:

Sufficient special leave, as set out in this subclause, shall be granted to a staff member who is temporarily living away from home as a result of work requirements. Such staff member shall be granted sufficient special leave once a month before or after a weekend or a long weekend or, in the case of a shift worker, before or after rostered days off, to return home to spend two days and two nights with the family. If the staff member wishes to return home more often, such staff member may be granted recreation leave, extended leave, negotiate local arrangements, or leave without pay, if the operational requirements allow.

(h) National Aborigines and Islander Day of Commemoration

A staff member who identifies as an Aborigine or a Torres Strait Islander may be granted up to one day's special leave per year to enable the staff member to participate in the National Aborigines and Islander Day of Commemoration celebrations.

(i) Special Leave - Other Purposes:

Special leave on full pay may be granted to staff members by the Chief Executive Officer or nominee for other purposes, subject to the conditions specified in the Corporation Human Resources Handbook at the time the leave is taken.

**72. Personal and Professional Development and Training Activities**

- (a) For the purpose of this clause, the following shall be regarded as staff personal and professional development and training activities:
- (1) all developmental courses conducted by an approved provider and all courses conducted by or in association with the Corporation;
  - (2) short educational and training courses conducted by generally recognised public or private educational bodies; and
  - (3) conferences, conventions, seminars, or similar activities conducted by professional, learned or other generally recognised societies, including Federal or State Government bodies or approved for attendance by the Corporation.
- (b) For the purposes of this subclause, the following shall not be regarded as staff development and training activities:
- (1) activities for which study assistance is appropriate;
  - (2) activities to which other provisions of this Award apply (e.g., courses conducted by the Relevant union); and
  - (3) activities, which are of no specific relevance to the Corporation.
- (c) Attendance of a staff member at activities considered by the Chief Executive Officer or nominee to be:
- (1) essential for the efficient operation of the Corporation; or
  - (2) developmental and of benefit to the Corporation.
  - (3) in the best interests of the staff member and the Corporation if done by way of a block release bearing in mind staffing and other requirements of the section;
- shall be regarded as on duty for the purpose of payment of salary if a staff member attends such an activity during normal working hours.
- (d) The following provisions shall apply, as appropriate, to the activities considered to be essential for the efficient operation of the Corporation referred to in (c) above:
- (1) recognition that the staff members are performing normal duties during the course;
  - (2) adjustment for the hours so worked under the working hours arrangements;
  - (3) payment of course fees;
  - (4) payment or reimbursement of all actual necessary expenses or payment of allowances in accordance with this Award, provided that the expenses involved do not form part of the course and have not been included in the course fees; and
  - (5) payment of overtime where the activity could not be conducted during the staff member's normal hours and the Chief Executive Officer or nominee is satisfied that the approval to attend constitutes a direction to work overtime under the Overtime clause in this Award.
- (e) The following provisions shall apply, as appropriate, to the activities considered to be development and of benefit to the Corporation:
- (1) recognition of the staff member as being on duty during normal working hours whilst attending the activity;



- (2) payment of course fees;
- (3) reimbursement of any actual necessary expenses incurred by the staff member for travel costs, meals and accommodation, provided that the expenses have not been paid as part of the course fee; and
- (4) such other conditions as may be considered appropriate by the Chief Executive Officer or nominee given the circumstances of attending at the activity, such as compensatory leave for excess travel or payment of travelling expenses.

### 73. Study Time

- (a) The Chief Executive Officer or nominee shall have the power to grant or refuse study time.
- (b) Where the Chief Executive Officer or nominee approves the grant of study time, the grant shall be subject to:
  - (1) The course being a course relevant to the Corporation;
  - (2) The time being taken at the convenience of the Corporation; and

Study time for staff members accrues on the basis of half an hour for each hour of lecture/tutorial attendance involved in the corresponding face-to-face course, up to a maximum grant of 4 hours per week.

- (c) Study time may be granted to both full and part-time staff members.

Part-time staff members however shall be entitled to a pro-rata allocation of study leave to that of a full-time staff member.

- (d) Study time may be used for:
  - (1) attending compulsory lectures, tutorials, residential schools, field days etc., where these are held during working hours; and/or
  - (2) necessary travel during working hours to attend lectures, tutorials etc., held during or outside working hours; and/or private study; and/or accumulation, subject to the conditions specified in subclauses (f) to (j) of this clause in this Award.
- (e) Staff members requiring study time must nominate the type(s) of study time preferred at the time of application and prior to the proposed commencement of the academic period. The types of study time are as follows:
  - (1) Face-to-Face - Staff members may elect to take weekly and/or accrued study time, subject to the provisions for its grant.
  - (2) Correspondence - Staff members may elect to take weekly and/or accrued study time, or time off to attend compulsory residential schools.
  - (3) Accumulation - Staff members may choose to accumulate part or all of their study time as provided in subclauses (f) to (i) of this clause in this Award.
- (f) Accumulated study time may be taken in any manner or at any time, subject to operational requirements of the Corporation.

- (g) Where at the commencement of an academic year/semester a staff member elects to accrue study time and that staff member has consequently foregone the opportunity of taking weekly study time, the accrued period of time off may be taken at a time convenient to the staff member and Corporation bearing in mind the academic requirements.

- (h) Staff members attempting courses which provide for annual examinations, may vary the election as to accrual, made at the commencement of an academic year, effective from 1st July in that year.
- (i) Where a staff member is employed after the commencement of the academic year, weekly study leave may be granted with the option of electing to accrue study leave from 1st July in the year of entry on duty or from the next academic year, whichever is the sooner.
- (j) Staff members studying in semester based courses may vary their election as to accrual or otherwise from semester to semester.
- (k) Correspondence Courses - Study time for staff members studying by correspondence accrues on the basis of half an hour for each hour of lecture/tutorial attendance involved in the corresponding face-to-face course, up to a maximum grant of 4 hours per week.

Where there is no corresponding face-to-face course, the training institution should be asked to indicate what the attendance requirements would be if such a course existed.

- (l) Correspondence students may elect to take weekly study time and/or may accrue study time and take such accrued time when required to attend compulsory residential schools.
- (m) Repeated subjects - Study time shall not be granted for repeated subjects.
- (n) Expendable grant - Study time if not taken at the nominated time shall be forfeited.

If the inability to take study time occurs as a result of a genuine emergency at work, study time for that week may be granted on another day during the same week.

- (o) Examination Leave - Examination leave shall be granted as special leave for all courses of study approved in accordance with this clause.
- (p) The period granted as examination leave shall include:
  - (1) time actually involved in the examination;
  - (2) necessary travelling time, in addition to examination leave, but is limited to a maximum of 5 days in any one-year.

Examination leave is not available where an examination is conducted within the normal class timetable during the term/semester and study time has been granted to the staff member.

- (q) The examination leave shall not be granted for deferred examinations and in respect of repeat studies.

#### **74. Study Leave**

- (a) Study leave for full-time study is granted to assist those staff members who win scholarships / fellowships/awards or who wish to undertake full-time study and/or study tours. Study leave may be granted for studies at any level, including undergraduate study.
- (b) All staff members are eligible to apply and no prior service requirements are necessary.
- (c) Study leave shall be granted without pay, except where the Chief Executive Officer or nominee approves financial assistance.
- (d) The extent of financial assistance to be provided shall be determined by the Chief Executive Officer or nominee according to the relevance of the study to the workplace and may be granted up to the amount equal to full salary.

- (e) Where financial assistance is approved by the Chief Executive Officer or nominee for all or part of the study leave period, the period shall count as service for all purposes in the same proportion as the quantum of financial assistance bears to full salary of the staff member.
- (f) Scholarships for Part-Time Study - In addition to the study time/study leave provisions under this subclause, the Corporation may choose to identify courses or educational programmes of particular relevance or value and establish a Corporation scholarship to encourage participation in these courses or programmes.

The conditions under which such scholarships are provided should be consistent with the provisions of this clause.

#### **75. Trade Union Activities Regarded as on Duty**

A trade union delegate will be released from the performance of normal Corporation duties when required to undertake any of the activities specified below. While undertaking such activities the trade union delegate will be regarded as being on duty and will not be required to apply for leave:

- (a) Attendance at meetings of the workplace's Occupational Health and Safety Committee and participation in all official activities relating to the functions and responsibilities of elected Occupational Health and Safety Committee members at a place of work as provided for in the *Occupational Health and Safety Act 2000* and the Regulations;
- (b) Attendance at meetings with workplace management or workplace management representatives;
- (c) A reasonable period of preparation time, before -
  - (1) meetings with management;
  - (2) disciplinary or grievance meetings when a trade union member requires the presence of a trade union delegate; and
  - (3) any other meeting with management,
 by agreement with management, where operational requirements allow the taking of such time;
- (d) Giving evidence in court on behalf of the employer;
- (e) Appearing as a witness before the Government and Related Employees Appeal Tribunal;
- (f) Representing their trade union at the Government and Related Employees Appeal Tribunal as an advocate or as a Tribunal Member;
- (g) Presenting information on the trade union and trade union activities at induction sessions for new staff members of the Corporation; and
- (h) Distributing official trade union publications or other authorised material at the workplace, provided that a minimum of 24 hours notice is given to workplace management, unless otherwise agreed between the parties. Distribution time is to be kept to a minimum and is to be undertaken at a time convenient to the workplace.

#### **76. Trade Union Activities Regarded as Special Leave**

The granting of special leave with pay will apply to the following activities undertaken by a trade union delegate, as specified below: -

- (a) annual or biennial conferences of the delegate's union;
- (b) meetings of the union's Executive, Committee of Management or Councils;

- (c) annual conference of Unions NSW (formerly the Labor Council of NSW) and the biennial Congress of the Australian Council of Trade Unions;
- (d) attendance at meetings called by Unions NSW (formerly the Labor Council of NSW) involving a public sector trade union, which requires attendance of a delegate;
- (f) giving evidence before an Industrial Tribunal as a witness for the trade union;
- (g) reasonable travelling time to and from conferences or meetings to which the provisions of clauses 75, 76 and 77 of this award apply.

#### **77. Trade Union Training Courses**

The following training courses will attract the grant of special leave as specified below:-

- (a) accredited Occupational Health and Safety (OH&S) courses and any other accredited OH&S training for OH&S Committee members. The provider(s) of accredited OH&S training courses and the conditions on which special leave for such courses will be granted, shall be negotiated between the Chief Executive Officer or nominee and the relevant trade union under a local arrangement pursuant to the Local Award Arrangements clause of this award.
- (b) courses organised and conducted by the Trade Union Education Foundation or by the member's trade union or a training provider nominated by the member's trade union. A maximum of 12 working days in any period of 2 years applies to this training and is subject to:
  - (1) the operating requirements of the workplace permitting the grant of leave and the absence not requiring employment of relief staff;
  - (2) payment being at the base rate, i.e. excluding extraneous payments such as shift allowances/penalty rates, overtime, etc;
  - (3) all travelling and associated expenses being met by the staff member or his/her union;
  - (4) attendance being confirmed in writing by the member's trade union or a nominated training provider.

#### **78. Conditions Applying to on Loan Arrangements**

Subject to the operational requirements of the workplace, on loan arrangements will apply to the following activities:

- (a) meetings interstate or in NSW of a Federal nature to which a representative or member has been nominated or elected by the union: -
  - (1) as an Executive Member; or
  - (2) a member of a Federal Council; or
  - (3) vocational or industry committee.
- (b) briefing counsel on behalf of the union;
- (c) assisting union officials with preparation of cases or any other activity outside their normal workplace at which the delegate is required to represent the interests of their trade union;
- (d) country tours undertaken by a member of the executive or Council of the trade union;
- (e) taking up of full time duties with the trade union if elected to the office of President, General Secretary or to another full time position with the trade union.

- (f) financial arrangements - The following financial arrangements apply to the occasions when a staff member is placed "on loan" to his/her trade union:-
- (1) the Corporation will continue to pay the delegate or an authorised union representative whose services are on loan to their trade union;
  - (2) the Corporation will seek reimbursement from the trade union at regular intervals of all salary and associated on costs, including superannuation, as specified by the NSW Treasury from time to time.
  - (3) Agreement with the trade union on the financial arrangements must be reached before the on loan arrangement commences and must be documented in a manner negotiated between the Chief Executive Officer or nominee and the trade union.
- (g) Recognition of "on loan" arrangement as service - On loan arrangements negotiated in terms of this clause are to be regarded as service for the accrual of all leave and for incremental progression.
- (h) Limitation - On loan arrangements may apply to full-time or part-time staff members and are to be kept to the minimum time required. Where the trade union needs to extend an on loan arrangement, the trade union shall approach the Chief Executive Officer or nominee in writing for an extension of time well in advance of the expiration of the current period of on loan arrangement.
- (i) Where the Chief Executive Officer or nominee and the relevant trade union cannot agree on the on loan arrangement, an agreed third party shall be used to assist in the matter.

#### **79. Period of Notice for Trade Union Activities**

The Chief Executive Officer or nominee must be notified in writing by the trade union or, where appropriate, by the accredited delegate as soon as the date and/or time of the meeting, conference or other accredited activity is known.

#### **80. Access to Facilities By Trade Union Delegates**

The workplace shall provide accredited delegates with reasonable access to the following facilities for authorised union activities:

- (a) telephone, facsimile and, where available, E-mail facilities;
- (b) a notice board for material authorised by the union or access to staff notice boards for material authorised by the union;
- (c) workplace conference or meeting facilities, where available, for meetings with member(s), as negotiated between local management and the relevant trade union.

#### **81. Responsibilities of the Trade Union Delegate**

Responsibilities of the trade union delegate are to:

- (a) establish accreditation as a delegate with the union and provide proof of accreditation to the workplace;
- (b) participate in the workplace consultative processes, as appropriate;
- (c) follow the dispute settling procedure applicable in the workplace
- (d) provide sufficient notice to the immediate supervisor of any proposed absence on authorised union business;
- (e) account for all time spent on authorised union business;
- (f) when special leave is required, to apply for special leave in advance;

- (g) distribute union literature/membership forms, under local arrangements negotiated between the Chief Executive Officer or nominee and the relevant trade union; and
- (h) use any facilities provided by the workplace properly and reasonably as negotiated at organisational level.

### **82. Responsibilities of the Trade Union**

Responsibilities of the Trade Union are to:

- (a) provide written advice to the Chief Executive Officer or nominee about a Trade Union activity to be undertaken by an accredited delegate and, if requested, to provide written confirmation to the workplace management of the delegate's attendance/participation in the activity;
- (b) meet all travelling, accommodation and any other costs incurred by the accredited delegate, except as provided in subclause (c) of clause 83;
- (c) pay promptly any monies owing to the workplace under a negotiated on loan arrangement;
- (d) provide proof of identity when visiting a workplace in an official capacity, if requested to do so by management;
- (e) apply to the Chief Executive Officer or nominee well in advance of any proposed extension to the "on loan" arrangement; and
- (f) assist the workplace management in ensuring that time taken by the union delegate is accounted for and any facilities provided by the employer are used reasonably and properly.
- (g) advise employer of any leave taken by the trade union delegate during the on loan arrangement.

### **83. Responsibilities of Workplace Management**

Where time is required for union activities in accordance with this clause the responsibilities of the workplace management are to:

- (a) release the accredited delegate from duty for the duration of the union activity, as appropriate, and, where necessary, to allow for sufficient travelling time during the ordinary working hours;
- (b) advise the workplace delegate of the date of the next induction session for new staff members in sufficient time to enable the trade union to arrange representation at the session;
- (c) meet the travel and/or accommodation costs properly and reasonably incurred in respect of meetings called by the workplace management;
- (d) where possible, to provide relief in the position occupied by the delegate in the workplace, while the delegate is undertaking union responsibilities to assist with the business of workplace management;
- (e) re-credit any other leave applied for on the day to which special leave or release from duty subsequently applies;
- (f) where a union activity provided under this clause needs to be undertaken on the trade union delegate's rostered day off or during an approved period of flex leave, to apply the provisions of subclause (e) of this clause.
- (g) to continue to pay salary during an "on loan" arrangement negotiated with the relevant union and to obtain reimbursement of salary and on-costs from the union at regular intervals, or as otherwise agreed between the parties if long term arrangements apply;

- (h) to verify with the union the time spent by a union delegate or delegates on union business, if required; and
- (i) if the time and/or the facilities allowed for union activities are thought to be used unreasonably and/or improperly, to consult with the trade union before taking any remedial action.

#### **84. Right of Entry Provisions**

The right of entry provisions shall be as prescribed under the *Occupational Health and Safety Act 2000* and the *Industrial Relations Act 1996*.

#### **85. Travelling and Other Costs of Trade Union Delegates**

- (a) Except as specified in subclause (c) of clause 83, Responsibilities of Workplace Management of this award, all travel and other costs incurred by accredited union delegates in the course of trade union activities will be paid by their union.
- (b) In respect of meetings called by the workplace management in terms of subclause (c) of clause 83, Responsibilities of Workplace Management of this award, the payment of travel and/or accommodation costs, properly and reasonably incurred, is to be made, as appropriate, on the same conditions as apply under the Allowances clause of this award.
- (c) No overtime, leave in lieu, shift penalties or any other additional costs will be claimable by a staff member from the Corporation, in respect of union activities covered by special leave or on duty activities provided for in this clause.
- (d) The on loan arrangements shall apply strictly as negotiated and no extra claims in respect of the period of on loan shall be made on the Corporation by the Trade Union or the staff member.

#### **86. Industrial Action**

- (a) Provisions of the *Industrial Relations Act 1996* shall apply to the right of union members to take lawful industrial action.
- (b) There will be no victimisation of staff members prior to, during or following such industrial action.

#### **87. Consultation and Technological Change**

- (a) There shall be effective means of consultation, as set out in the Consultative Arrangements Policy and Guidelines document, on matters of mutual interest and concern, both formal and informal, between management and the trade unions represented in the Corporation.
- (b) The Corporation shall consult with the relevant trade union prior to the introduction of any technological change.

#### **88. Deduction of Union Membership Fees**

- (a) The union shall provide the employer with a schedule setting out union fortnightly membership fees payable by members of the union in accordance with the union's rules.
- (b) The union shall advise the employer of any change to the amount of fortnightly membership fees made under its rules. Any variation to the schedule of union fortnightly membership fees payable shall be provided to the employer at least one month in advance of the variation taking effect.
- (c) Subject to (a) and (b) above, the employer shall deduct union fortnightly membership fees from the pay of any staff member who is a member of the union in accordance with the union's rules, provided that the staff member has authorised the employer to make such deductions.

- (d) Monies so deducted from staff member's pay shall be forwarded regularly to the union together with all necessary information to enable the union to reconcile and credit subscriptions to staff members' union membership accounts.
- (e) Unless other arrangements are agreed to by the employer and the union, all union membership fees shall be deducted on a fortnightly basis.
- (f) Where a staff member has already authorised the deduction of union membership fees from his or her pay prior to this clause taking effect, nothing in this clause shall be read as requiring the staff member to make a fresh authorisation in order for such deductions to continue."

### **89. Protective Clothing**

- (a) This clause only applies where a staff member is not already eligible for an allowance under another industrial instrument or an annualised allowance under this Award.

- (1) Uniform, etc. provided by the Corporation:

A staff member who is required or authorised by the Chief Executive Officer or nominee to wear a uniform, protective clothing or other specialised clothing in connection with the performance of official duties shall be provided by the Corporation with such clothing and shall be paid an allowance at the rate specified in Item 7 of Table 2, Part B Monetary Rates for laundering the uniform or protective clothing.

- (2) Uniform, etc. provided by the staff member:

Subject to prior approval, where the uniform, protective clothing or other specialised clothing is provided by the staff member, such staff member shall be reimbursed the cost of the uniform, protective clothing or other specialised clothing.

### **90. Flexible Work Practices**

- (a) Nothing in this Award shall affect the hours of duty of a staff member who is covered by a written flexible working hours agreement negotiated under a Flexible Work Practices, Policy and Guidelines.
- (b) Flexible working hours agreements negotiated in terms of the NSW Government Flexible Work Practices, Policy and Guidelines after the effective date of this Award shall be subject to the conditions specified in this Award and in consultation with the Union.

### **91A. Salary Sacrifice for Superannuation**

- (a) A staff member may elect, subject to the agreement of the Corporation, to sacrifice a portion of the salary payable to additional employer superannuation contributions. Such election must be made prior to the commencement of the period of service to which the earnings relate. The amount sacrificed must not exceed fifty (50) percent of the salary payable or fifty (50) percent of the current applicable superannuable salary, whichever is the lesser. In this clause "superannuable salary" means the staff member's salary as notified from time to time, to the NSW public sector superannuation trustee corporations.
- (b) Where the staff member has elected to sacrifice a portion of that payable salary to additional employer superannuation contributions:
  - (i) subject to Australian Taxation law, the sacrificed portion of salary will reduce the salary subject to appropriate PAYG taxation deductions by the amount of that sacrificed portion, and
  - (ii) any allowance, penalty rate, payment for unused entitlements, weekly worker's compensation or other payment, other than any payments for leave taken in service, to which a staff member is entitled under this Award or any applicable Award, Act or statute which is expressed to be determined by reference to a staff member's salary, shall be calculated by reference to the salary



which would have applied to the staff member in the absence of any salary sacrifice to superannuation made under this Award.

- (c) The staff member may elect to have the portion of payable salary which is sacrificed to additional employer superannuation contributions:
  - (i) Paid into the superannuation scheme established under the *First State Superannuation Act 1992* as optional employer contributions, or
  - (ii) Subject to the Corporation's agreement, paid into a private sector complying superannuation scheme as employer superannuation contributions.
- (d) Where a staff member elects to salary sacrifice in terms of the relevant Clause above, the Corporation will pay the sacrificed amount into the relevant superannuation fund.
- (e) Where the staff member is a member of a superannuation scheme established under:
  - (i) The *Police Regulation (Superannuation) Act 1906*;
  - (ii) The *Superannuation Act 1916*;
  - (iii) The *State Authorities (Superannuation) Act 1987*;
  - (iv) The *State Authorities Non-contributory Superannuation Act 1987*; or
  - (v) The *First State Superannuation Act 1992*.

The Corporation must ensure that the amount of any additional employer superannuation contributions specified in the relevant sub-clause above is included in the staff member's superannuable salary which is notified to the NSW public sector superannuation trustee corporations.

- (f) Where, prior to electing to sacrifice a portion of his/her salary to superannuation, a staff member had entered into an agreement with the Corporation to have superannuation contributions made to a superannuation fund other than a fund established under legislation listed in sub-clause (d) above, the Corporation will continue to base contributions to that fund on the salary payable to the same extent as applied before the staff member sacrificed portion of that salary to superannuation.
- (g) This clause applies even though the superannuation contributions made by the Corporation may be in excess of superannuation guarantee requirements after the salary sacrifice is implemented.

#### **91B. Salary Sacrifice - General**

- (a) A staff member may, subject to the agreement of the Corporation, sacrifice a portion of the salary for purposes other than superannuation where approved by the Corporation.
- (b) Any agreement shall be cost neutral to the Corporation.

#### **92. Probation**

- (a) All new staff members appointed to positions with the Corporation shall in the first instance, be appointed on a probationary basis for a period of up to three months.
- (b) The probation period may be varied, extended for a further period to a total of six months, or waived at the discretion of the Chief Executive Officer or nominee.
- (c) Under normal circumstances the probationary period may only be extended on a one off basis.

### 93. Performance Management

The work performance of a staff member shall be managed in accordance with the Corporation's Performance Management and Development System, Policy and Procedures.

### 94. Managing Unsatisfactory Performance Or Misconduct

- (a) Where the work performance of a staff member is evaluated as being unsatisfactory after appropriate counselling, or where through misconduct the Corporation Policies, Procedures or Code of Ethics and Conduct are breached, appropriate action shall be taken in accordance with the Corporation's Managing Unsatisfactory Performance or Misconduct Policy.
- (b) Nothing in this clause limits the rights of the Corporation to summarily dismiss a staff member for serious and wilful misconduct.

### 95. Grievance and Dispute Resolution Procedures

- (a) All grievances and disputes relating to the provisions of this Award shall initially be dealt with as close to the source as possible, with graduated steps for further attempts at resolution at higher levels of authority within the Corporation if required.
- (b) A staff member is required to notify in writing their immediate Supervisor as to the substance of the grievance, dispute or difficulty, request a meeting to discuss the matter, and if possible, state the remedy sought.
- (c) Where the grievance or dispute involves confidential or other sensitive material (including issues of harassment or discrimination under the *Anti-Discrimination Act 1977*) that makes it impractical for the staff member to advise their immediate Supervisor, the notification may occur to the next appropriate level of management.
- (d) The immediate Supervisor, or other appropriate officer, shall convene a meeting in order to resolve the grievance, dispute or difficulty within two (2) working days, or as soon as practicable, of the matter being brought to attention.
- (e) If the matter remains unresolved with the immediate Supervisor, the staff member may request to meet the appropriate person at the next level of management in order to resolve the matter.
- (f) The person at the next level of management shall respond within two (2) working days, or as soon as practicable.
- (g) The staff member may pursue this sequence of reference to successive levels of management until the matter is referred to the Chief Executive Officer.
- (h) Either party may request a mutually agreed mediator to assist in the resolution of the matter.
- (i) If the matter remains unresolved, the Chief Executive Officer shall provide a written response to the staff member and any other party involved in the grievance, dispute or difficulty, concerning action to be taken, or the reason for not taking action, in relation to the matter.
- (j) A staff member, at any stage, may request to be represented by their Union or Agent.
- (k) The staff member or the Union or agent on their behalf or the Chief Executive Officer may refer the matter to the New South Wales Industrial Relations Commission if the matter is unresolved following the use of these procedures.
- (l) The staff member, Union, Agent and Corporation shall agree to be bound by any order or determination by the New South Wales Industrial Relations Commission in relation to the dispute.

- (m) Whilst the procedures outlined in subclauses (a) to (l) of this clause are being followed, normal work undertaken prior to notification of the dispute or difficulty shall continue unless otherwise agreed between the parties, or, in the case involving occupational health and safety, if practicable, normal work shall proceed in a manner which avoids any risk to the health and safety of any staff member or member of the public.

#### **96. Redundancy**

Where a staff member is made redundant, or accepts an offer of voluntary redundancy, the entitlements and services available shall be as prescribed by the Corporation's Managing Displaced Staff Policy.

#### **97. Anti-Discrimination**

- (a) It is the intention of the parties bound by this award to seek to achieve the object in section 3(f) of the *Industrial Relations Act 1996* to prevent and eliminate discrimination in the workplace. This includes discrimination on the grounds of race, sex, marital status, disability, homosexuality, transgender identity, and age and responsibilities as a carer.
- (b) It follows that in fulfilling their obligations under the dispute resolution procedure prescribed by this Award the parties have obligations to take all reasonable steps to ensure that the operation of the provisions of this Award are not directly or indirectly discriminatory in their effects. It will be consistent with the fulfilment of these obligations for the parties to make application to vary any provision of the Award, which, by its terms or operation, has a direct or indirect discriminatory effect.
- (c) Under the *Anti-Discrimination Act 1977*, it is unlawful to victimise a staff member because the staff member has made or may make or has been involved in a complaint of unlawful discrimination or harassment.
- (d) Nothing in this clause is to be taken to affect:
- (1) any conduct or act which is specifically exempted from anti - discrimination legislation;
  - (2) offering or providing junior rates of pay to persons under 21 years of age;
  - (3) any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*;
  - (4) a party to this Award from pursuing matters of unlawful discrimination in any State or federal jurisdiction.
- (e) This clause does not create legal rights or obligations in addition to those imposed upon the parties by the legislation referred to in this clause.

#### **NOTES -**

- (1) Employers and staff members may also be subject to Commonwealth anti-discrimination legislation.
- (2) Section 56(d) of the *Anti-Discrimination Act 1977* provides:

"Nothing in the Act affects ... any other act or practice of a body established to propagate religion that conforms to the doctrines of that religion or is necessary to avoid injury to the religious susceptibilities of the adherents of that religion.

#### **98. Savings and Transitional**

No staff member shall be disadvantaged by the introduction of this award.

### 99. No Extra Claims

This award is premised on the basis that there will be no new salaries or condition claims arising from negotiation of productivity and efficiency improvements covered by this award and during the term of the award i.e., the outcome of this award covers all work value.

### 100. Relationship to Other Awards

- (a) This award may be reviewed in light of any variation to the Crown Employees (Public Service Conditions of Employment) Award 2006, or an award replacing it, in so far as it may affect clauses referred to in that award by this award.
- (b) Where there may be inconsistencies between this award and the Crown Employees (Public Service Conditions of Employment) Award 2006, the arrangements in this award shall prevail.

### 101. Review of Allowances Payable in Terms of This Award

The adjustment of Allowances contained in this Award shall be reviewed and adjusted in line with the review and adjustment of the corresponding allowances in the Crown Employees (Public Service Conditions of Employment) Award 2006 in so far as they relate to the relevant clauses in this Award.

### 102. Family Provisions

- (a) Refer to the *Industrial Relations Act 1996* (NSW). The following provisions shall also apply in addition to those set out in the *Industrial Relations Act 1996* (NSW).
- (b) Right to request
  - (1) An employee entitled to parental leave may request the employer to allow the employee:
    - (i) to extend the period of simultaneous unpaid parental leave use up to a maximum of eight weeks;
    - (ii) to extend the period of unpaid parental leave for a further continuous period of leave not exceeding 12 months;
    - (iii) to return from a period of parental leave on a part-time basis until the child reaches school age;

to assist the employee in reconciling work and parental responsibilities.

- (2) The employer shall consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the employer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.
- (3) Employee's request and the employer's decision to be in writing  
The employee's request and the employer's decision made under subparagraphs (b)(1)(ii) and (b)(1)(iii) must be recorded in writing.
- (4) Request to return to work part-time

Where an employee wishes to make a request under subparagraph (b)(1)(iii), such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the employee is due to return to work from parental leave.

- (c) Communication during parental leave
- (1) Where an employee is on parental leave and a definite decision has been made to introduce significant change at the workplace, the employer shall take reasonable steps to:
    - (i) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave; and
    - (ii) provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave.
  - (2) The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.
  - (3) The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with paragraph (c)(1).

### **103. Secure Employment - Occupational Health and Safety**

- (a) For the purposes of this subclause, the following definitions shall apply:
- (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
  - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
- (b) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
- (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
  - (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
  - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (c) Nothing in this clause is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.

## (d) Disputes Regarding the Application of this Clause

Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to clause 95, Grievance and Dispute Resolution Procedures, of this award.

**104. Duration**

This award rescinds and replaces the Waste Recycling and Processing Corporation (Salaries and Conditions of Employment 2005) Award made in accordance with the s19 Award Review by Deputy President Harrison on 24 November 2005 as published on 3 February 2006 in (356 IG 987).

This award shall take effect from 24 March 2006 and shall remain in force until 30 June 2008.

**PART B****MONETARY RATES****Table 1 - Salaries**

Salary rates apply from the first full pay period to commence on or after the dates specified:

	Year	1 Jul 2004 (\$ per annum)	1 Jul 2005 (\$ per annum)	1 Jul 2006 (\$ per annum)	1 Jul 2007 (\$ per annum)
Administrative & Clerical WSN Officer General Scale	1	24,373	25,348	26,362	27,416
	2	29,480	30,659	31,885	33,160
	3	31,772	33,043	34,365	35,739
	4	32,640	33,946	35,304	36,716
	5	34,022	35,383	36,798	38,270
	6	34,638	36,024	37,465	38,964
	7	35,496	36,916	38,393	39,929
	8	36,809	38,281	39,812	41,405
	9	38,142	39,668	41,255	42,905
	10	39,552	41,134	42,779	44,490
WSN Officer Grade 1	1	41,731	43,400	45,136	46,941
	2	42,958	44,676	46,463	48,322
WSN Officer Grade 2	1	44,155	45,921	47,758	49,668
	2	45,366	47,181	49,068	51,031
WSN Officer Grade 3	1	46,653	48,519	50,460	52,478
	2	48,059	49,981	51,980	54,059
WSN Officer Grade 4	1	49,561	51,543	53,605	55,749
	2	51,083	53,126	55,251	57,461
WSN Officer Grade 5	1	55,072	57,275	59,566	61,949
	2	56,809	59,081	61,444	63,902
WSN Officer Grade 6	1	59,035	61,396	63,852	66,406
	2	60,765	63,196	65,724	68,353
WSN Officer Grade 7	1	62,586	65,089	67,693	70,401
	2	64,457	67,035	69,716	72,505
WSN Officer Grade 8	1	67,143	69,829	72,622	75,527
	2	69,278	72,049	74,931	77,928
WSN Officer Grade 9	1	71,343	74,197	77,165	80,252
	2	73,347	76,281	79,332	82,505
WSN Officer Grade 10	1	76,344	79,398	82,574	85,877
	2	78,618	81,763	85,034	88,435
WSN Officer Grade 11	1	82,514	85,815	89,248	92,818
	2	86,014	89,455	93,033	96,754
WSN Officer Grade 12	1	91,400	95,056	98,858	102,812
	2	95,426	99,243	103,213	107,342

Senior Officer					
WSN Senior Officer Level 1	1	106,778	111,049	115,491	120,111
	2	115,054	119,656	124,442	129,420
WSN Senior Officer Level 2	1	117,002	121,682	126,549	131,611
	2	125,250	130,260	135,470	140,889
WSN Senior Officer Level 3	1	129,443	134,621	140,006	145,606
	2	142,090	147,774	153,685	159,832

**Table 2 - Allowances**

Item No	Clause No	Description	Amount \$
		Capital cities and high cost country centres (see list in item 2)	
1	33	Breakfast	18.90
1	33	Dinner	36.40
1	33	Lunch	21.15
		Tier 2 (see list in item 2) and other country centres	
1	33	Breakfast	16.85
1	33	Dinner	33.30
1	33	Lunch	19.30
2	45(2)(a)	Capital Cities	Per day
		Adelaide	222.00
		Brisbane	226.00
		Canberra	199.00
		Darwin	219.00
		Hobart	195.00
		Melbourne	241.00
		Perth	209.00
		Sydney	248.00
2	45(2)(a)	High cost country centres	Per day
		Alice Springs	182.00
		Ballarat (Vic)	188.00
		Broome (WA)	220.00
		Burnie (Tas)	184.50
		Carnarvon (WA)	186.00
		Christmas Island	211.00
		Dampier (WA)	189.00
		Devonport (Tas)	190.00
		Exmouth (WA)	186.00
		Gold Coast (Qld)	197.00
		Halls Creek (WA)	194.50
		Horn Island (Qld)	200.00
		Jabiru (NT)	296.00
		Kalgoorlie (WA)	186.00
		Karratha (WA)	243.00
		Kununurra (WA)	210.00
		Launceston (Tas)	186.00
		Maitland (NSW)	183.00
		Newcastle (NSW)	199.00
		Newman (WA)	208.00
		Norfolk Island	191.00

2	45(2)(a)	Pt Hedland (WA)	208.00
		Queenstown (TAS)	186.50
		Thursday Island (Qld)	231.00
		Weipa (Qld)	216.00
		Wilpena (SA)	194.00
		Wollongong (NSW)	191.00
		Yulara (NT)	373.00
		Tier 2 country centres	Per day
		Ararat (Vic)	170.00
		Bathurst (NSW)	170.00
		Bendigo (Vic)	170.00
		Bordertown (SA)	170.00
		Broken Hill (NSW)	170.00
		Bunbury (WA)	170.00
		Cairns (Qld)	170.00
		Castlemaine (Vic)	170.00
		Cocos (Keeling) Islands	170.00
		Geelong (Vic)	170.00
		Mount Gambier (SA)	170.00
Mount Isa (Qld)	170.00		
Northam (WA)	170.00		
Orange (NSW)	170.00		
Port Lincoln (SA)	170.00		
Portland (Vic)	170.00		
Wagga Wagga (NSW)	170.00		
Warnambool (Vic)	170.00		
2	45(2)(a)	Other country centres	158.00
	45(2)(b)	Incidental expenses when claiming actual expenses - all locations	14.55
	45(5)	Daily allowance payable after 35 days and up to 6 months in the same location - all locations	50% of the appropriate location rate
3	46	Government accommodation- Incidental expenses	14.55 per day
		Camping Allowance	Per night
		Established camp	24.00
		Non established camp	31.80
		Additional allowance for staff members who camp in excess of 40 nights per year	7.60
		Composite allowance	114.60 per day
4	51 (c)	Use of private motor vehicle Official business	Cents per kilometre
		Engine capacity- over 2700cc	79.1
		1600cc to 2700cc	73.6
		under 1600cc	52.7



		Casual rate	
		Engine capacity- Over 2700cc	28.1
		1600cc-2700cc	26.1
		under 1600cc	22.0
		Motor cycle allowance	
		Normal business	34.7
		During transport disruptions	17.4
5	51(e)	Towing trailer or horse float	10.2
		Transport allowance	
		Engine capacity- Over 1600cc	33.7
		1600cc and under	28.2
		Camping Equipment Allowance	Per night 23.70
		Bedding and sleeping bag	3.95
		Remote areas -	Per annum
		With dependants	
		- Grade A	1,522
		- Grade B	2,018
		- Grade C	2,695
		Without dependants	
		- Grade A	1,061
		- Grade B	1,415
		- Grade C	1,888
		Assistance to staff members stationed in a remote area when travelling on recreation leave	
		By private motor vehicle	Appropriate casual rate up to a maximum of 2850 kms less \$37.50
		Other transport - With dependants	Actual reasonable Expenses in excess of \$37.50 and up to \$251.20
		Other transport - Without dependants	Actual reasonable Expenses in excess \$37.50 and up to \$124.05
		Rail travel	Actual fare less \$37.50
		Insurance cover	Up to \$A1,173.00
		Exchanges	Actual cost
		Room at home used as office	693.00 per annum
6	30(b)	On-call allowance	67 cents per hour
		Flying allowance	14.40 per hour

7	89(a)(1)	Laundry allowance	3.65 per week
		Garage and carport allowance	Per annum
		Garage allowance	491.00
		Carport allowance	109.00
		Community Language Allowance Scheme	Per annum
		Base Level Rate	958.00
		Higher Level Rate	1,438.00
8	40(a)	First aid allowance	Per annum
		Holders of basic qualifications	615.00
		Holders of current occupational first aid certificate	926.00
		Overtime meal allowances	
9	32(a)	Breakfast	21.10
9	32(a)	Lunch	21.10
9	32(a)	Dinner	21.10
9	32(a)	Supper	8.30

M. SCHMIDT *J*


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(1856)

SERIAL C4346

## **CROWN EMPLOYEES (TEACHERS IN TAFE AND RELATED EMPLOYEES) SALARIES AND CONDITIONS AWARD 2006**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by New South Wales Department of Education and Training.

(No. IRC 6698 of 2005)

Before Commissioner Macdonald

17 January 2006

### **AWARD**

#### **1. Arrangement**

Clause No.	Subject Matter
20.	Accumulating Program
23.	Additional One Week
18.	Administrative Duties
16.	Allocation of Duties
5.	Allowances
44.	Anti-discrimination
46.	Area, Incidence and Duration
14.	Attendance - Teachers and Counsellors
19.	Averaging
32.	Calculation of Service
12.	Compensation for Travel on TAFE Business
36.	Contract Teachers (OTEN)
13.	Contribution to Institute Output Requirements
4.	Deduction of Union Membership Fees
11.	Deferred Salary Scheme
2.	Dictionary
42.	Dispute Resolution Procedures
15.	Duties of Teachers
17.	Duties Related to Teaching
24.	Evening Work – Counsellors
26.	Excess Teaching Hours
45.	Goods and Services Tax
38.	Industrial Rights
9.	Initial Appointments
31.	Leave for Teachers and Related Employees
34.	Multi-skilling
43.	No Further Claims
40.	Pilot Schemes
41.	Principles of Restructuring
30.	Professional Development - Education Officers, Related Employees and Counsellors
21.	Professional Development – Teachers
37.	Provision for Positions which Are Hard To Fill
28.	Qualifications for Appointment
39.	Quality Improvement Program
3.	Salaries
8.	Salary Packaging
6.	Salary Progression and Maintenance
27.	Sunday Work/Night Work

- 22. TAFE Year
- 7. Teacher Quality
- 10. Teaching in More Than One Location
- 25. Time Credit
- 33. Training and Development
- 29. Working Conditions - Education Officers and Related Employees
- 35. Working Conditions - Part time Casual Teachers, Coordinators and Counsellors

#### SCHEDULES

- Schedule 1 - Common Incremental Salary Scale
- Schedule 2 - Allowances
- Schedule 3 - Locality Allowances
- Schedule 4 - Salary Scales - Promotion Classifications
- Schedule 5 - Excess Travel and Compensation for Travel on Official Business
- Schedule 6 - Strategies for Maximising Annual Student Hours in TAFE
- Schedule 7 - Rates of Pay - Part time Casual Teachers, Coordinators and Counsellors in TAFE and Contract Teachers (OTEN)

## 2. Dictionary

- 2.1 "Adult Literacy Officer" means a teacher employed as such.
- 2.2 "Advanced Skills Counsellor" means a counsellor employed as such.
- 2.3 "Award" means the Crown Employees (Teachers in TAFE and Related Employees) Salaries and Conditions Award 2006.
- 2.4 "Approved Program" means a teaching program taught across the Standard Educational and or TAFE year. A teaching program consists of a standard or an averaging or an accumulating program.
- 2.5 "Australian Qualifications Framework (AQF)" means the policy framework that defines all qualifications recognised nationally in post-compulsory education and training within Australia. The AQF comprises titles and guidelines which define each qualification, together with principles and protocols covering articulation and issuance of qualifications and Statements of Attainment.
- 2.6 "BMET" means the training course known as the Basic Methods of External Teaching, which is the three unit distance mode course that sensitises the contract teacher to the situation of the student working in open/distance mode.
- 2.7 "College/campus/institute" means a TAFE establishment or other centre where instruction is provided by TAFE and includes any place designated as part of, or as an annexe to, such college/campus/institute.
- 2.8 "Contract Teacher" means a teacher employed to mark and provide feedback on work submitted by students enrolled in OTEN and paid per unit of work marked.
- 2.9 "Contract Teaching Duties" means those duties contained in clause 36, Contract Teachers (OTEN).
- 2.10 "Coordination" in clause 35, Working Conditions - Part Time Casual Teachers, Coordinators and Counsellors in TAFE, means educational coordination of programs, courses or subjects or the provision of services by part time casual coordinators.
- 2.11 "Counsellor" means an officer or temporary employee employed to provide counselling services to students.

- 2.12 "Degree" means a course of study in a higher education institution leading to a degree as described in the Australian Qualifications Framework as at 1 January 1995.
- 2.13 "Department" means the Department of Education and Training.
- 2.14 "Diploma" means a course of study in a higher education institution leading to a diploma as described in the Australian Qualifications Framework as at 1 January 1995.
- 2.15 "Duties Other Than Teaching" in clause 35, Working Conditions - Part Time Casual Teachers, Coordinators and Counsellors, means duties other than teaching and coordination except as provided in subclause 35.10 of the said clause 35.
- 2.16 "Education Officer (TAFE)" means an officer appointed as such who has an appropriate degree from a higher education institution and appropriate vocational and/or industrial experience.
- 2.17 "Employee" means a person employed in a classification covered by this Award on a permanent, temporary, casual, part time casual or contract basis.
- 2.18 "Equivalent" when referring to qualifications means those qualifications deemed by the employer to be equivalent to specified qualifications.
- 2.19 "Excess Teaching Hours" means the actual teaching hours in excess of a teacher's standard weekly teaching component or annual teaching component, as appropriate, that a teacher is required to teach.
- 2.20 "Federation" means the New South Wales Teachers Federation.
- 2.21 "General Secretary" means the General Secretary of the Federation.
- 2.22 "Graduate" means a person who has obtained a degree from a higher education institution or possesses qualifications determined by the employer to be equivalent to such a degree.
- 2.23 "Graduate Diploma" means a course of study in a higher education institution leading to a graduate diploma as described in the Australian Qualifications Framework as at 1 January 1995.
- 2.24 "Head Teacher" means all persons employed within this classification, including those referred to in subclause 3.8.
- 2.25 "Higher Education Institution" means a university or other tertiary institution recognised by the employer which offers degrees, diplomas or teacher education courses.
- 2.26 "Institute" means any grouping of TAFE campuses or places where TAFE provides education, training, administrative and other services from time to time as specified by the Managing Director.
- 2.27 "Institute Director" means all persons employed within this classification.
- 2.28 "Institute Manager" means all persons permanently or temporarily employed within this classification.
- 2.29 "Industrial Relations Commission" means the Industrial Relations Commission of New South Wales, established by the *Industrial Relations Act 1996*.
- 2.30 "Managing Director" means the Managing Director of TAFE.
- 2.31 "Officer" means and includes all persons permanently employed in TAFE and who, on the date of commencement of the Award, were occupying one of the positions covered by the Award or who, after that date, are appointed to one of these positions.
- 2.32 "OTEN" means the Open Training and Education Network.

- 2.33 "Part time Casual Coordinator" means a coordinator engaged on an hourly basis to coordinate special programs or other activities.
- 2.34 "Part time Casual Counsellor" means a counsellor engaged on an hourly basis to provide counselling services to students.
- 2.35 "Part time Casual Teacher" means a teacher engaged to teach on an hourly basis. It is the employer's intention that no Part time Casual Teacher shall be engaged to deliver the equivalent of a full time teaching program for 12 or more weeks in a semester except where a Temporary Teacher is not able to be employed following recruitment action.
- 2.36 "Parties" means the Crown in the right of the State of New South Wales and the Federation.
- 2.37 "Service" means continuous service, unless otherwise specified in the Award.
- 2.38 "Special Programs" means those programs administered by TAFE which are designated to promote access of special groups of students to TAFE's courses.
- 2.39 "Special Program Coordinator" means an officer or temporary employee appointed to a position as Institute media coordinator, consultant for students with a disability, Aboriginal coordinator, labour market program coordinator, outreach coordinator or Institute multicultural education coordinator in Institutes.
- 2.40 "Standard Educational Year" means that period of approximately 41 weeks falling within a calendar year determined as such by the Managing Director.
- 2.41 "TAFE" means the Technical and Further Education Commission, i.e. the TAFE Commission.
- 2.42 "TAFE Commission Act" means the Technical and Further Education Commission Act 1990.
- 2.43 "Teacher" means a person or officer employed permanently or temporarily in a full time or part time teaching position.
- 2.44 "Temporary Employee" means and includes all persons employed on a temporary basis, other than on a casual or part time casual basis or as a contract teacher (OTEN).
- 2.45 "Temporary Teacher" means an officer, or temporary employee employed on a full time or part time basis to teach for defined period. A Temporary Teacher engaged on a part time basis is entitled to pro rata salary and conditions of a Temporary Teacher engaged on a full time basis.
- 2.46 "TAFE Year" means a period of 50 weeks, excluding the two week period surrounding Christmas/New Year, during which educational programs may be conducted.
- 2.47 "Teacher in Training" means a person employed as a teacher who is undertaking a course of teacher education which has been prescribed by the employer as a compulsory course for that teacher to undertake.
- 2.48 "Trained Teacher" means a teacher who has satisfactorily completed a prescribed course of training at a higher education institution, or such other course or courses which the employer determines as satisfying requirements for classification as a teacher.

### 3. Salaries

- 3.1 Salaries under this Award incorporate the following increases for the first pay period commencing on or after the specified date.
- 3.1.1 For teachers up to/including step 12, an increase of 3% from 1 January 2006, an additional increase of 3% from 1 January 2007 and a further increase of 3% from 1 January 2008.

- 3.1.2 For teachers on step 13, an increase of 4.5% from 1 January 2006, an additional increase of 4.5% from 1 January 2007 and a further increase of 4% from 1 January 2008.
- 3.1.3 For promotions positions, an increase of 4% from 1 January 2006, an additional increase of 4% from 1 January 2007 and a further increase of 4% from 1 January 2008.
- 3.2 Allowances under this Award will be increased by 4% each year from the first pay period commencing on or after 1 January 2006, 1 January 2007 and 1 January 2008.
- 3.3 Any further increases in salaries and allowances under a replacement industrial instrument shall not be available until after 1 January 2009.
- 3.4 Subject to satisfying the conditions prescribed by this Award, the salaries of the following officers and temporary employees shall be paid in accordance with Schedules 1 and 4.

Classification	Schedule
Teachers, education officers (TAFE), counsellors, adult literacy officers, assistant outreach coordinators.	Schedule 1
Promotion classifications salary scales.	Schedule 4

- 3.5 Except as otherwise provided under the Department's salary packaging scheme as set out in clause 8, Salary Packaging, employees in Schedules 1 and 4 must be paid at an annual salary level not less than that for the appropriate classification.
- 3.6 Minimum salaries on commencement of employment and maximum salaries under the common incremental salary scale in Schedule 1 are set out in the table below:

Classification	Minimum starting salary	Maximum salary
Teachers, counsellors, education officers, adult literacy officers and assistant outreach coordinators	Step 10*	Step 13
Teachers in training	Step 10*	No more than one step beyond the step paid on initial appointment

\*For starting salaries above the minimum starting salary for a teacher refer to the TAFE Policy - Teachers Commencing Salary (TAFE Gazette No. 32, 24 September 2003) or its replacement.

- 3.7 Subject to clause 6, Salary Progression and Maintenance and clause 32 Calculation of Service, officers and temporary employees shall progress without change to their incremental date by way of annual increments to Step 13 on the common incremental salary scale as set out in Schedule 1.
- 3.8 Teachers who were classified as head teacher or senior head teacher as at 26 January 1997 continue to receive the salary increases at the appropriate step for these classifications as set out in Schedule 4 for as long as they hold that classification.
- 3.9 A counsellor who is classified as an advanced skills counsellor shall retain the head teacher band 1 salary while they continue to occupy that position.

#### 4. Deduction of Union Membership Fees

- 4.1 The union shall provide the employer with a schedule setting out union fortnightly membership fees payable by members of the union in accordance with the union's rules.

- 4.2 The union shall advise the employer of any change to the amount of fortnightly membership fees made under its rules. Any variation to the schedule of union fortnightly membership fees payable shall be provided to the employer at least one month in advance of the variation taking effect.
- 4.3 Subject to (4.1) and (4.2) above, the employer shall deduct union fortnightly membership fees from the pay of any employee who is a member of the union in accordance with the union's rules, provided that the employee has authorised the employer to make such deductions.
- 4.4 Monies so deducted from employees' pay shall be forwarded regularly to the union together with all necessary information to enable the union to reconcile and credit subscriptions to employees' union membership accounts.
- 4.5 Unless other arrangements are agreed to by the employer and the union, all union membership fees shall be deducted on a fortnightly basis.
- 4.6 Where an employee has already authorised the deduction of union membership fees from his or her pay prior to this clause taking effect, nothing in this clause shall be read as requiring the employee to make a fresh authorisation in order for such deductions to continue.

### **5. Allowances**

- 5.1 An additional responsibility allowance shall be paid in accordance with this clause and Schedule 2 when:
- 5.1.1 a teacher is required to accept additional responsibilities of a supervisory or administrative character and the circumstances do not warrant the appointment of a head teacher;
- 5.1.2 a counsellor is nominated by the employer in any institute or campus as counsellor in charge.
- 5.2 An education officer (TAFE) who:
- 5.2.1 has completed 12 months service at the salary prescribed on the maximum of the common incremental salary scale; and
- 5.2.2 has demonstrated to the satisfaction of the employer by the work performed, its quality and the results achieved, that the aptitude and abilities of the officer warrant additional payment;
- shall be paid an allowance which is the difference between step 13 and Head Teacher Band 1, renewable each period of two years, to ensure a remuneration equivalent to the salary level of head teacher band 1 as set out in Schedule 4 .
- 5.3 Locality and related allowances shall be paid in accordance with in Schedule 3.

### **6. Salary Progression and Maintenance**

- 6.1 An officer shall be entitled to progress along or be maintained on the common incremental salary scale or the salary level for a promotions position after each 12 months of service subject to the officer demonstrating by means of an annual review, continuing efficiency in teaching practice, satisfactory performance and professional growth.
- 6.2 Any teacher who does not satisfy the teacher training requirements as determined by the employer shall not progress more than one step along the common incremental salary scale above the salary step paid on initial appointment.

### **7. Teacher Quality**

- 7.1 To provide feedback on an officer or temporary employee's performance, each officer or temporary employee's institute director or nominee shall ensure that the teacher's performance is appraised by



annual review. This appraisal implemented from the beginning of term four, 2000 continues in force as follows:

- 7.1.1 The officer or temporary employee's institute director or nominee shall be responsible for annually reviewing the performance and development of the officer or temporary employee undertaking their work.
- 7.1.2 For officers and temporary employees, the TAFE Teachers and Related Employees Annual Review Policy (TAFE Gazette No. 32, 10 October 2001) or its replacement shall apply.
- 7.1.3 The annual review for teachers shall be reported by way of the new teacher assessment review form implemented under the Crown Employees (Teachers in Schools and TAFE and Related Employees) Salaries and Conditions Award (327 I.G.582).
- 7.1.4 The parties agree to negotiate on variations, if any, to the policies and procedures in place at the commencement date of the Award relevant to annual review of teacher performance.

### **8. Salary Packaging**

- 8.1 Officers may participate in the Department's salary packaging scheme.
- 8.2 Salary packaging does not apply to temporary teachers.

### **9. Initial Appointments**

- 9.1 The initial appointment of all officers shall be for a minimum probationary period of one year. Confirmation of an officer's permanent appointment shall depend on completion of a satisfactory annual review pursuant to clause 6, Salary Progression and Maintenance and in the case of teachers, upon satisfactory completion of teacher training requirements.
- 9.2 All initial appointments shall be on the basis of merit.

### **10. Teaching in More Than One Location**

- 10.1 Teachers may be programmed to teach in more than one location including schools.
  - 10.1.1 Where this occurs there shall be full consultation with the affected teacher or teachers, including sufficient notice and any specific needs of the affected teacher or teachers shall be taken into account.
  - 10.1.2 The travelling compensation provisions at Schedule 5, Excess Travel and Compensation for Travel on Official Business and, as appropriate, time credit provisions at clause 25, Time Credit shall apply to teachers programmed to teach in more than one location.

### **11. Deferred Salary Scheme**

- 11.1 Officers may seek to join the Department's deferred salary scheme.
- 11.2 Successful applicants may defer twenty per cent of their salary for the first four years and be paid the deferred salary in the fifth year.

### **12. Compensation for Travel on TAFE Business**

- 12.1 Where an employee is required and authorised to travel on TAFE business in the performance of their duties, compensation for travel shall be determined in accordance with the provisions of Schedule 5 Excess Travel and Compensation for Travel on Official Business.

### 13. Contribution to Institute Output Requirements

- 13.1 Teachers, adult literacy officers, head teachers and special program coordinators in TAFE shall contribute to the achievement of Institute output requirements as measured in Annual Student Hours (ASH). Institutes maintain their commitment to providing educationally and vocationally disadvantaged groups with access to technical and further educational services, including a range of appropriate specialised services, in line with the objectives of the *TAFE Commission Act 1990*.
- 13.2 The strategies detailed in Schedule 6 shall be implemented in TAFE in order to maximise Annual Student Hours.
- 13.3 The parties agree to consult on any variations to State and Commonwealth funding authority requirements in relation to the use of ASH as a measure of institute output.

### 14. Attendance - Teachers and Counsellors

- 14.1 The standard attendance hours of:
- 14.1.1 teachers, head teachers, special program coordinators and adult literacy officers, shall be 30 hours per week;
- 14.1.2 counsellors, advanced skills counsellors and senior counsellors, shall be 35 hours per week.
- 14.2 The daily span of working hours in colleges/campuses for officers and employees under this Award is between 6.00am and 10.00pm on Monday to Saturday, inclusive. Teaching and related duties hours worked by teachers should, unless otherwise unavoidable or by agreement between a teacher and their immediate manager, be continuous.
- 14.3 All full time officers shall be required to attend college five days per week on Monday to Friday, inclusive. However, where the course program requires, teachers, head teachers, special program coordinators, adult literacy officers, counsellors, senior counsellors and advanced skills counsellors:
- 14.3.1 may be required to work on any five days from Monday to Saturday inclusive as part of their normal program, although they may meet weekly attendance requirements in four days per week;
- 14.3.2 who are required as part of their normal program to work on a Saturday shall, if they so request, be entitled to have two consecutive days off in the following week.

### 15. Duties of Teachers

- 15.1 For the purpose of this clause teacher includes, head teachers, special program coordinators and adult literacy officers.
- 15.2 Teachers perform a broad range of duties that include the following activities:

Direct Teaching Activities	Duties Related to Teaching
<p>Direct teaching activities include but are not limited to:</p> <ul style="list-style-type: none"> <li>- face to face teaching in any environment or setting, including but not limited to: <ul style="list-style-type: none"> <li>- classrooms,</li> <li>- workshops,</li> <li>- industry</li> <li>- in the field;</li> </ul> </li> <li>- distance mode and online;</li> </ul>	<p>Duties related to teaching include but are not limited to:</p> <ul style="list-style-type: none"> <li>preparation;</li> <li>marking;</li> <li>support and advice to clients;</li> <li>enrolment and administration;</li> <li>course, curriculum and program development and review;</li> <li>industry and community liaison and promotion;</li> <li>training and professional development;</li> <li>development of learning materials;</li> </ul>

- workplace training and assessment.	research; attendance at staff meetings; recognition of prior learning; workplace consultancy and advisory services; skills analysis and audit; work placement coordination and supervision; leading approved staff development activities; student selection; course coordination as specified in curriculum documents.
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- 15.3 Head teachers also perform administrative duties and special program coordinators and adult literacy officers perform administrative and coordination duties.

### 16. Allocation of Duties

- 16.1 The direct teaching or counselling component of:
- 16.1.1 full time teachers shall be 20 hours per week;
- 16.1.2 head teachers shall be ten or 14 hours per week as determined by the employer;
- 16.1.3 adult literacy officers shall be nine hours per week;
- 16.1.4 counsellors and advanced skills counsellors shall be 20 hours per week;
- 16.1.5 senior counsellors shall be 14 hours per week;
- 16.1.6 special program coordinators and assistant outreach coordinators shall be six hours per week or 216 hours per annum;
- provided that all teachers, special program coordinators and adult literacy officers are entitled, pursuant to clause 21, Professional Development - Teachers, to a reduction in their direct teaching time by the requisite amount of professional development time.
- 16.2 Teachers shall be required to teach 19 hours per week direct teaching including face to face teaching in any environment or setting including, but not limited to, classrooms, workshops, industry, in the field, by distance mode and online, and including workplace training and assessment.
- 16.3 Only at the discretion of the institute director (or nominee) shall any reduction in the teaching load be permitted. If any such reduction is permitted, the teacher shall not be paid for excess teaching hours, except as otherwise approved by the institute director.
- 16.4 Those teachers whose classes finish prior to the end of the TAFE Year, semester or term due to final examination shall continue to perform other duties. Such duties are to be agreed between the teacher and their immediate manager.
- 16.5 The annual hour equivalents of the direct teaching activities, related duties, administrative and coordination duties and annual weeks of attendance of teachers, adult literacy officers, head teachers and special program coordinators shall be as follows:

Classification	Direct teaching (annual equivalent hours) #	Related duties - during teaching weeks (annual equivalent hours)	Related duties hours during the five non teaching weeks (annual equivalent hours)	Admin duties (annual equivalent hours)	Co-ordination & Admin duties (annual equivalent hours) Φ	Total annual hours	Annual weeks of attendance
Teachers	720	360	150	-	-	1230	41
Adult literacy officers	324	216	150	-	540	1230	41
Special program coordinators other than consultants for students with a disability Assistant Outreach Coordinators	216	108	150	-	786	1260	42
Special program coordinators Consultants for students with a disability	216	108	150	-	756	1230	41
Head teachers band 1	504	252	150	324	-	1230	41
Head teachers band 2*	360	180	150	540	-	1230	41

\* Includes head teachers band 1 supervising > 150 weighted hours per week

# Includes 36 hours professional development.

Φ Coordination and Administrative duties for adult literacy officers and special program coordinators

### 17. Duties Related to Teaching

- 17.1 For the purpose of this clause teacher includes head teacher, adult literacy officer and special program coordinator.
- 17.2 In addition to direct teaching activities teachers shall be entitled to attend to duties related to teaching for 30 minutes for each hour of teaching that forms part of their approved program, except that adult literacy officers shall be entitled to six hours of related duties time for each week of teaching.
- 17.3 Where a teacher is given a teaching release, each hour of teaching release shall involve a 30 minute reduction in the teacher's related duties time.
- 17.4 Duties related to teaching shall also be undertaken during the five non teaching weeks per annum.

- 17.5 Teachers shall continue, in consultation with their immediate manager, to determine duties that shall be conducted during related duties time.

### **18. Administrative Duties**

- 18.1 The administrative component of a head teacher shall be:

18.1.1 nine hours per week for a head teacher band 1 supervising up to 150 weighted teaching hours per week;

18.1.2 15 hours per week for a head teacher band 1 supervising more than 150 weighted teaching hours per week; and

18.1.3 15 hours per week for a head teacher band 2.

### **19. Averaging**

- 19.1 For the purpose of this clause, teacher includes head teacher.

- 19.2 Teachers and their supervisors may agree to average the teacher's direct teaching component as set out in subclause 16.1 of clause 16, Allocation of Duties, over fixed periods of up to one year determined in advance to enable appropriate patterns of work to meet student needs in accordance with the following provisions.

19.2.1 Teachers may, within the fixed averaging period be allocated teaching up to five hours above their direct teaching component, provided that the direct teaching component is to balance over the averaging period.

19.2.2 The direct teaching component to related duties ratio is to be maintained but may be averaged over the fixed averaging period, provided that the standard attendance of 30 hours per week is met.

19.2.3 Within the fixed averaging period, any direct teaching undertaken which exceeds five hours above the teacher's weekly direct teaching component as set out in subclause 16.1 of the said clause 16, Allocation of Duties, shall be paid in accordance with clause 26, Excess Teaching Hours.

19.2.4 Any teaching undertaken, which exceeds at the end of the fixed averaging period a teacher's direct teaching component, shall be paid as excess hours. Excess teaching hours claimed in accordance with paragraph 19.2.3 of this subclause cannot be included in determining teaching hours for the purpose of this paragraph.

19.2.5 Except for hours accrued in accordance with the said paragraph 19.2.3, where an averaging teaching program is worked, payment for excess hours will be determined and paid at the end of the fixed averaging period or semester whichever is the lesser in accordance with clause 26, Excess Teaching Hours.

- 19.3 A teacher may average their direct teaching component over periods of less than one year consistent with subclause 19.2 of this clause.

- 19.4 The administrative component of a head teacher's approved program must be worked as a consistent number of hours on a weekly basis within any year. Averaging of the administrative component of the standard attendance hours is not permitted.

### **20. Accumulating Program**

- 20.1 For the purpose of this subclause, teacher includes head teachers.

- 20.2 By agreement between the teachers and their immediate manager, and subject to TAFE's needs, teachers may elect to teach up to a maximum of five hours above their direct teaching component over one term or up to twelve weeks.
- 20.3 Teachers may not be directed to teach an accumulating program.
- 20.4 Regular or repetitive use of accumulating programs for periods over twelve weeks should be avoided. Where the need arises, accumulating hours beyond that period is also voluntary.
- 20.5 When an accumulating program is chosen, teachers may elect on a once per term basis to accumulate hours or be paid fortnightly for the teaching hours above twenty.
- 20.6 Where teachers elect to accumulate hours, they may be paid at the end of the term or accrue excess hours into the next term.
- 20.7 Where an election to accumulate hours is made, teachers in consultation with their immediate manager should, in the context of a pre planned program, determine in advance when the time in lieu is to be taken.
- 20.8 If payment is elected, it shall be in accordance with clause 26, Excess Teaching Hours.
- 20.9 By the end of the TAFE year all excess hours must be taken as time in lieu or paid out.
- 20.10 The teaching component to related duties ratio of 2:1 is to be maintained for the first 20 hours of teaching.
- 20.11 Teachers shall be required to attend for 41 weeks per annum unless accumulated hours have been banked to be taken as time in lieu.

### **21. Professional Development - Teachers**

- 21.1 For the purposes of this clause, teacher includes head teachers, special program coordinators and adult literacy officers.
- 21.2 Discussions are to occur between the teacher and their appropriate head teacher/supervisor for an agreed professional development plan that meets the development needs of the teacher and the section/faculty/unit. The plan will be developed as part of the Annual Teacher Review process and will guide the professional development plan over the year.
- 21.3 An approved program for all teachers shall include professional development on the following basis:
- 21.3.1 teachers undertaking teacher training shall have two hours per teaching week professional development in their first two years of service;
- 21.3.2 teachers who are teacher trained on recruitment shall have two hours professional development per teaching week in their first year of service; and
- 21.3.3 all other teachers shall have one hour of professional development per teaching week and may elect to use their professional development time on a weekly basis or to accrue this time over a period of up to twelve weeks.
- 21.4 The parties shall encourage teachers to accumulate their professional development time up to a maximum of twelve hours. This shall facilitate teachers engaging in more meaningful accredited professional development programs. This shall not prevent teachers electing to take their professional development time on a weekly basis.
- 21.5 The related duties time which would normally accrue to the hour(s) of teaching replaced by professional development shall continue to be used for teaching related duties.

- 21.6 The professional development allocation, which is provided by agreement between the parties, is in recognition of the potential value of professional development and:
- 21.6.1 is available for professional experience;
  - 21.6.2 is available for self initiated activities;
  - 21.6.3 shall be in addition to other professional development time/activities already provided by the employer; and
  - 21.6.4 teachers are encouraged to share their experiences with other teachers.

## 22. TAFE Year

- 22.1 For the purpose of this clause, teacher includes head teacher.
- 22.2 Institutes shall operate for a period of 50 weeks in a calendar year. There shall be a two week close down period in colleges/campuses over the Christmas and New Year period. The dates of the close down period shall be determined by the Managing Director or delegate.
- 22.3 Teachers working TAFE Year programs shall undertake teaching duties for 36 weeks, non-teaching duties for five weeks and are to receive the same number of public holidays and vacation days in the TAFE Year as teachers who are working the standard educational year.
- 22.4 Teachers may not be directed to teach more than twelve consecutive weeks without taking a vacation break or may not elect to teach more than eighteen consecutive weeks without taking a vacation break.
- 22.5 Staffing of courses delivered outside the standard educational year shall be based on an essentially consultative procedure.
- 22.6 Managers of the relevant sections shall:
- 22.6.1 at the first instance, seek volunteers from within the college/campus to teach the course. If suitably qualified full time teachers from within the college/campus are available and they wish to make alternative vacation arrangements, the college/campus should introduce an equitable system of selecting volunteer teachers on a rotation basis;
  - 22.6.2 if no suitable full time teachers within the college/campus are available, then offers to teach courses may be extended to full time teachers at other colleges/campuses;
  - 22.6.3 failing the above, an offer could then be made to suitable part time casual teachers;
  - 22.6.4 in the event that all of the above avenues are exhausted, an institute manager may direct a full time teacher to undertake the program, provided that a teacher directed to teach in a TAFE Year program in the midsummer vacation shall not be directed to teach a TAFE Year program in the following midsummer vacation.
- 22.7 Deferred vacation leave shall be arranged on an agreed basis between the teacher and the college management, taking into account the educational programs in the college/campus, particularly in the first two weeks of the standard educational year, and the needs of the teacher.
- 22.8 Deferred vacation leave shall be taken, whenever possible, in full weekly blocks, each beginning Monday and ending on Friday.
- 22.9 Deferred vacation leave is to be cleared within twelve months of the conclusion of the TAFE Year activity and cannot be accumulated and carried over into subsequent years.

- 22.10 The TAFE Year provisions shall apply to teachers who are required to attend college/campus for student selection, programming, enrolment and other duties which can only be done outside the standard educational year and which are essential to the functioning of the section.
- 22.11 Teachers who work up to three days in one block outside the standard educational year may elect, once per TAFE Year, to be paid for this work in lieu of taking vacation leave. Where a teacher elects to be so paid, such payment shall be made at the rate for excess teaching as per clause 26, Excess Teaching Hours.

### 23. Additional One Week

- 23.1 For the purpose of this clause teacher includes head teacher.
- 23.2 By agreement between teachers and their immediate manager, teachers may elect to attend up to one week of their agreed non attendance period to meet TAFE's needs.
- 23.3 Teachers may elect to be paid for this work or to accumulate their hours.
- 23.4 Where an election for payment is made, then such payment shall be at the rate prescribed at clause 26 Excess Teaching Hours for excess teaching hours or at the part time casual duties other than teaching rate for related duties.
- 23.5 Where teachers elect to accumulate, such hours shall contribute to their bank of hours.
- 23.6 Where teaching duties are undertaken, the hours shall accumulate as part of their total teaching bank of hours.
- 23.7 Where related duties are undertaken, these hours shall accumulate as part of the related duties bank of hours.
- 23.8 Teachers, in consultation with their immediate manager, should consider the provisions of clause 22 TAFE Year, and this clause.
- 23.9 Teachers may only attend one additional week per TAFE Year, whether the provisions of the said clause 22 TAFE Year, or this clause are applied.
- 23.10 Where teachers are directed to undertake duties in a vacation period, after the provisions of subclause 22.6 of clause 22 TAFE Year have been followed, then only the provisions of clause 22 TAFE Year shall apply.
- 23.11 Where teachers volunteer to undertake duties in the vacation period, then either the provisions of clause 22 TAFE Year or the provisions of this clause shall apply.

### 24. Evening Work - Counsellors

- 24.1 For the purpose of this clause, counsellor includes senior counsellors and advanced skills counsellors.
- 24.2 Counsellors required to perform part of their counselling program after 5.30pm as part of their normal program shall be paid at a rate of 1.25 times their hourly salary rate.
- 24.3 The formula for calculating the hourly salary rates for a counsellor shall be:

$$\frac{\text{Annual Salary}}{260.8929} \times \frac{5}{1} \times \frac{1}{35}$$

### 25. Time Credit

- 25.1 For the purposes of this clause, teacher includes head teacher and adult literacy officer.



25.2 Teachers who are required to perform direct teaching activities between 6.00am and 7.30am Monday to Friday, 5.30pm and 10.00pm Monday to Friday and 6.00am and 10.00pm on Saturday as part of their approved program and not part of excess teaching hours, shall have their direct teaching activities reduced by one hour for every four hours of such teaching or pro rata, provided that:

25.2.1 where, as a consequence of the operation of this subclause, a teacher's teaching load is reduced by their attendance, the said teaching load shall be reduced by an equivalent time but the teacher's total related duties time shall remain unaltered;

25.2.2 subject to the provisions of clause 19, Averaging, where, as a consequence of the operation of this subclause, a teacher's direct teaching load is reduced, direct teaching hours above the reduced load shall be deemed to be excess and paid at the appropriate rate according to clause 26, Excess Teaching Hours, for the time at which the hours are taught.

(i) A teacher may choose to accumulate the excess teaching hours in accordance with the provisions of clause 20, Accumulating Program.

25.3 Teachers who are required to work during the hours prescribed at subclause 25.2, other than direct teaching, including the following circumstances:

25.3.1 Related duties (excluding meal breaks) which in one continuous period of time, extend beyond 5.30pm and 10.00pm or after 6.00am and 7.30am Monday to Friday and or between 6.00am and 10.00pm Saturday, where a teacher is required to teach two teaching sessions that are part of their approved program;

25.3.2 where head teachers are directed to perform supervisory duties;

25.3.3 enrolment duties;

as part of their approved program and not as part of excess teaching hours, shall be paid at a rate of 1.25 times the hourly rate for the teacher so engaged. The formula for calculating the hourly rate of the teacher shall be:

$$\frac{\text{Annual Salary}}{1} \times \frac{5}{260.8929} \times \frac{1}{30}$$

**26. Excess Teaching Hours**

26.1 For the purpose of this clause, teacher includes head teacher and adult literacy officer.

26.2 Subject to the provisions in clause 19, Averaging, excess teaching hours worked between 7.30 am and 5.30 pm Monday to Friday shall be paid at a rate equivalent to the part time casual teaching duties rate of pay. This rate shall be known as the excess teaching rate.

26.3 The formula for calculating the excess teaching hourly rate for hours described in subclause 26.2 shall be:

$$\frac{\text{Maximum TAFE Teacher Salary}}{1} \times \frac{5}{260.8929} \times \frac{1}{30} \times 1.3475$$

26.4 Subject to the provisions in clause 19, Averaging, excess teaching hours between 6.00am and 7.30am, Monday to Friday, 5.30pm and 10.00pm, Monday to Friday and 6.00am and 10.00pm Saturday, shall be credited on the basis of five hours for every four hours worked, or pro rata, and the hours so derived shall be paid according to this clause.

26.5 Emergency Hours -

26.5.1 Emergency excess teaching hours occur when an unplanned absence of a teacher leads to another teacher being given less than 24 hours notice to take a class.

- 26.5.2 Payment for emergency excess teaching hours shall be made fortnightly at the appropriate rate for the hours worked.
- 26.5.3 Emergency excess teaching hours cannot be included in determining the direct teaching hours of an averaging program.
- 26.6 The parties agree that the use of excess teaching hours shall be discouraged.

### 27. Sunday Work/Night Work

- 27.1 For the purpose of this clause teacher includes head teacher and adult literacy officer.
- 27.2 That part of an approved program required to be worked on Sunday or on other days between the hours of 10.00pm and 6.00 am shall be paid at the rate of double the hourly rate of the teacher.
- 27.3 The formula for calculating the hourly rate shall be:

$$\frac{\text{Annual Salary}}{1} \times \frac{5}{260.8929} \times \frac{1}{27}$$

### 28. Qualifications for Appointment

- 28.1 Except where the employer determines that special circumstances exist in relation to a particular person which warrant that person's appointment with a lesser qualification or a shorter duration of vocational experience, the minimum qualifications for appointment to positions are as follows:
- 28.1.1 Education officer - appropriate degree or diploma at AQF level or equivalent and appropriate vocational and or industrial experience.
- 28.1.2 Teacher - appropriate technical or professional qualifications plus from two to five years, as appropriate, vocational and or industrial experience.
- 28.1.3 Counsellor - appropriate degree from a higher education institution and at least three years study in psychology or other such study as the employer deems appropriate, plus two years appropriate vocational experience.

### 29. Working Conditions - Education Officers and Related Employees

- 29.1 This clause sets out the general conditions of employment for the following classifications - education officer, senior education officer, chief education officer, principal education officer, curriculum manager, industry specialist, principal officer, quality assurance coordinator, cluster manager, program manager, Manager Education and Training Resource Centre.
- 29.2 They shall:
- 29.2.1 be employed on a 35 hours per week basis and may average their working hours, provided they work 420 hours every twelve weeks;
- 29.2.2 be entitled to professional development/study time as per clause 30, Professional Development - Education Officers, Related Employees and Counsellors.
- 29.3 In the context of a pre planned program, managers and their employees shall negotiate their working arrangements, including their daily span of hours, so as to meet TAFE's and the individual's needs. Possible working arrangements include:
- 29.3.1 the taking of part, single or multiple days as time in lieu;
- 29.3.2 taking time in lieu before 420 hours have been accumulated;

- 29.3.3 working a standard 35 hour week.
- 29.4 Up to a maximum of one week (35 hours) may be carried forward from one twelve week period to the next.
- 29.5 Where employees do not work the required 420 hours over the twelve week period, then an annual leave debit shall be made to cover the shortfall.
- 29.6 Where agreed working arrangements need to be reviewed this shall also be negotiated between employees and their manager.
- 29.7 The band of hours for employees not located in colleges/campuses shall be from 7.30am to 9.00pm Monday to Friday.
- 29.8 The band of hours for employees located in colleges/campuses shall be from 6.00am to 10.00pm Monday to Saturday.
- 29.9 All full time employees located in colleges/campuses shall be required to attend five days per week unless the taking of time in lieu has been agreed.

### **30. Professional Development - Education Officers, Related Employees and Counsellors**

- 30.1 Permanent and temporary education officers, related employees and counsellors shall have a professional development program as follows:
- 30.1.1 retention of their existing study time - for those employed as at 31 January 1994; or
- 30.1.2 ten working days per annum which may be accumulated over six years up to a maximum of 60 working days to undertake professional experience, work or study inside or outside the TAFE system which is of demonstrated value to TAFE and/or the professional development of the employee. This time may be taken in minimum periods of one half day per week as negotiated with their immediate manager. The absence requires the approval of the employer and is subject to the operating needs of the unit.
- 30.2 Permanent and temporary cluster managers, manager education and training resource centre, principal education officers, program managers, curriculum managers, quality assurance coordinators, chief education officers and senior education officers shall have a professional development program as follows:
- 30.2.1 ten working days per annum, which may be accumulated over two years up to a maximum of 20 working days to undertake professional experience, work or study inside or outside the TAFE system which is of demonstrated value to TAFE and/or to the employee's current and medium term professional development needs. The professional development activity is negotiated with and must be approved by the line manager in advance. This time may be taken in minimum periods of one half day per week subject to the operating needs of the institute or unit. This does not preclude access to other professional development opportunities provided by the employer.
- 30.2.2 Related employees as per clause 30.2 undertaking courses of study who require different arrangements to those in subclause 30.2.1 may apply to the employer for special consideration. The employer shall consider these requests on a case-by-case basis.
- 30.2.3 Where the employer requires professional development, the employer will meet the compulsory fees involved. Where the professional development opportunity is voluntary the employer may, at its discretion, refund all or part of the compulsory fees incurred by the related employees as per clause 30.2.

- 30.2.4 Related employees as per clause 30.2 employed as at 3 June 2005 with an existing balance of professional development time of up to 60 days may utilize this time as provided for in subclause 30.2.1 of this agreement. Following utilisation of this balance, professional development time will accrue on the basis provided for in subclause 30.2.1 of this agreement.
- 30.2.5 Related employees as per sub clause 30.2 who have accumulated 20 working days, but due to operational arrangements, are unable to take them within the two year period shall by negotiation and agreement with the line manager retain the balance of professional development time in excess of 20 working days. The employee shall have six months after the next date of accrual in which to utilise the excess balance. This will not affect the accrual of additional professional development days as per sub clause 30.2.1.

### 31. Leave for Teachers and Related Employees

- 31.1 In addition to the leave entitlements provided by this subclause, TAFE teachers and related employees are also entitled to adoption, maternity and parental leave in accordance with the *TAFE NSW Adoption, Maternity and Parental Leave Procedures*.
- 31.2 Annual Recreation Leave - All officers and temporary employees shall be entitled to a minimum of 20 days recreation leave or pro rata where employed for periods less than the equivalent full time.
- 31.3 Annual Leave Loading - All officers and temporary employees shall be paid a loading of 17.5 per cent of their wage/salary for each week of the four weeks minimum annual leave as provided for in subclause 31.1 for each twelve months of service, or pro rata, on the basis of the employee's ordinary salary rate.
- 31.4 Annual Leave and Agreed Weeks of Non Attendance - teachers, counsellors and special program coordinators:
- 31.4.1 Except where provision is otherwise made in this Award, all leave in excess of four weeks shall be deemed to be in lieu of additional work and overtime.
- 31.4.2 In lieu of the provisions under the *Annual Holidays Act 1944*, unless otherwise required by the employer, officers and temporary employees in the following classifications shall not be required to attend their workplace for the number of weeks as set out in the following schedule:

Salary Group	Classification	Annual Leave Weeks	Agreed Weeks of Non Attendance
Common Salary Scale	Teacher	4	7
	Adult Literacy Officer	4	7
	Counsellor	4	3
	Advanced Skills Counsellor	4	3
	Assistant Outreach Co-ordinator	4	6
Promotion Salary Scales	Head Teacher	4	7
	Special Program Coordinators	4	6
	Consultants for students with a disability	4	7
	Senior Counsellor	4	3

### 31.5 Sick Leave -

- 31.5.1 All officers and temporary employees shall be entitled to fifteen days per annum with the unused component of the annual entitlement being fully cumulative or pro rata where employed for periods less than the equivalent full time.
- 31.5.2 Employees employed on teaching conditions who, as at 31 January 1994, were entitled to 22 days on full pay and 22 days on half pay in any twelve month period shall retain their previously accumulated sick leave entitlement.

- 31.5.3 Special sick leave shall continue to be available.
- 31.5.4 Additional Sick Leave - the provisions of this subclause shall only apply to officers and temporary employees employed on teaching conditions.
- (i) The maximum grant of additional sick leave during the first two years of service is fifteen days.
  - (ii) Additional sick leave provided under this subclause is available at any stage during the employee's first two years of service but shall only be granted in circumstances where:
    - (a) there is no current concern regarding the employee's use of sick leave as contained in paragraph 31.4.1 of this subclause;
    - (b) all sick leave entitlements as contained in paragraph 31.4.1 have been exhausted.
- 31.6 Extended Leave -
- 31.6.1 Officers and full time temporary employees shall be entitled to extended leave of 44 working days on full pay or 88 working days on half pay after completing ten years of service and a further eleven working days for each completed year of service after ten years.
- 31.6.2 Extended leave entitlements as a result of service prior to 31 January 1994 shall be saved as accumulated under the pre-existing provisions applying to the employee concerned.
- 31.7 Family and Community Service Leave -
- 31.7.1 The maximum amount of family and community service leave that may be granted to full time officers and temporary employees is:
- (i) during the first twelve months of service - three working days;
  - (ii) after completion of twelve months service - six working days in any two year period;
  - (iii) after completion of two years service - nine working days in any three year period.
- 31.8 Personal/Carer's Leave -
- 31.8.1 Use of Sick Leave -
- (i) Where family and community service leave is exhausted an officer or temporary employee with responsibilities in relation to a class of person set out in subparagraph (iii) (b) below who needs that employee's care and support shall be entitled to use, in accordance with this subclause, any current or accrued sick leave entitlement provided for in sick leave provisions of this agreement or absences to provide care and support for such persons when they are ill. Leave may be taken for part of a day.
  - (ii) That employee shall if required, establish either by production of a medical certificate or statutory declaration the illness of the person concerned and that the illness is such as to require care by another person. In normal circumstances, an employee must not take personal carer's leave under this subclause where another person has taken leave to care for the same person.
  - (iii) The entitlement to use sick leave in accordance with this subclause is subject to:
    - (a) the employee being responsible for the care of the person concerned; and

- (b) the person concerned being:
- (1) a spouse of the employee; or
  - (2) a de facto spouse who, in relation to a person, is a person of the opposite sex to the first mentioned person who lives with the first mentioned person as the husband or wife of that person on a bona fide domestic basis although not legally married to that person; or
  - (3) a child or an adult child (including an adopted child, a stepchild, a foster child or an ex nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the employee or spouse or de facto spouse of the employee; or
  - (4) a same sex partner who lives with the employee as the de facto partner of that employee on a bona fide domestic basis; or
  - (5) a relative of the employee who is a member of the same household where, for the purposes of this section:

"relative" means a person related by blood, marriage, affinity or Aboriginal kinship structures;

"affinity" means a relationship that one spouse, because of marriage, has to blood relatives of the other; and

"household" means a family group living in the same domestic dwelling.

- (iv) An employee shall, wherever practicable, give the employer or nominee notice, prior to the absence, of the intention to take leave, the name of the person requiring care and that person's relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the employee to give prior notice of absence, the employee shall notify the employer or nominee of such absence at the first opportunity on the day of absence.

#### 31.8.2 Unpaid Leave for Family Purposes -

- (i) An officer or temporary employee may elect, with the consent of the employer or nominee, to take unpaid leave for purpose of providing care and support to a member of a class of person set out in subparagraph 31.8.1 (iii) (b) who is ill.

#### 31.8.3 Annual Leave -

- (i) An officer or temporary employee may elect, with the consent of the employer or nominee and subject to the *Annual Holidays Act 1944*, to take annual leave not exceeding ten days in single-day periods or part thereof in any calendar year at a time or times agreed by the parties.
- (ii) Access to annual leave, as prescribed in subparagraph (i) of this paragraph, shall be exclusive of any shut down period provided for elsewhere under this agreement.
- (iii) The employee and employer or nominee may agree to defer payment of the annual leave loading in respect of single-day absences until at least five consecutive annual leave days are taken.
- (iv) An officer or a temporary employee may elect with the employer's agreement to take annual leave at any time within a period of 24 months from the date at which it falls due.

## 31.8.4 Time Off in Lieu of Payment for Overtime -

- (i) An officer or temporary employee may elect, with the consent of the employer, to take time off in lieu of payment of overtime at a time or times agreed with the employer within twelve months of the said election.
- (ii) Overtime taken as time off during ordinary time hours shall be taken at the ordinary time rate, that is, an hour for each hour worked.
- (iii) If, having elected to take time as leave in accordance with subparagraph (i) of this paragraph, the leave is not taken for whatever reason, payment for time accrued at overtime rates shall be made at the expiry of the twelve month period or on termination.
- (iv) Where no election is made in accordance with the said subparagraph (i), the employee shall be paid overtime rates in accordance with the award.

## 31.8.5 Make-up Time -

- (i) An officer or temporary employee may elect, with the consent of the employer or nominee to work "make-up time", under which the employee takes time off ordinary hours and works those hours at a later time during the spread of ordinary hours provided in the agreement, at the ordinary rate of pay.

## 31.8.6 Rostered Days Off -

- (i) An officer or temporary employee may elect, with the consent of the employer or nominee, to take a rostered day off at any time.
- (ii) An employee may elect, with the consent of the employer or nominee, to take rostered days off in part day amounts.
- (iii) An employee may elect, with the consent of the employer or nominee, to accrue some or all rostered days off for the purpose of creating a bank to be drawn upon at a time mutually agreed between the employer or nominee and the employee, or subject to reasonable notice by the employee or the employer or nominee.
- (iv) This subclause is subject to the employer or nominee informing each union which is party to the agreement and which has members employed at the particular enterprise of its intention to introduce an enterprise system of RDO flexibility, and providing a reasonable opportunity for the union to participate in negotiations.

## 31.8.7 Bereavement Leave -

- (i) An officer or temporary employee shall be entitled to up to two days bereavement leave without deduction of pay on each occasion of the death of a person prescribed in subparagraph 31.8.1 (iii) (b) of this subclause, provided that for the purpose of bereavement leave, the employee need not have been responsible for the care of the person concerned.
- (ii) The employee must notify the employer or nominee as soon as practicable of the intention to take bereavement leave and shall, if required by the employer or nominee provide to the satisfaction of the employer or nominee proof of death.
- (iii) An employee shall not be entitled to bereavement leave under this clause during any period in respect of which the employee has been granted other leave.
- (iv) Bereavement leave may be taken in conjunction with other leave available under this clause. In determining such a request the employer or nominee shall give consideration to the circumstances of the employee and the reasonable operational requirements of TAFE.

### **32. Calculation of Service**

- 32.1 In calculating the years of service for the purpose of this Award the following periods shall not be taken into account:
- 32.1.1 any leave of absence without pay exceeding five days in any year of service;
  - 32.1.2 any unauthorised absences;
  - 32.1.3 any time period during which an employee is not eligible to progress by reason of failure to satisfy any condition attaching to salary progression under this Award.

### **33. Training and Development**

- 33.1 The parties confirm a commitment to training and development for all education employees. Employees recognise their obligation to maintain and update their skills. The employer recognises its obligations to provide employees with opportunities to maintain and update their skills.
- 33.2 It is the aim of the parties to this Award that employees shall be provided with opportunities for training and development so that they will form a highly skilled, competent and committed workforce, experiencing job satisfaction and providing the highest quality service.
- 33.3 The parties agree that, wherever possible, training and development shall be designed to articulate with approved and accredited courses.
- 33.4 The employer shall facilitate the professional development, skills enhancement and career development opportunities of employees and improve effectiveness through a range of activities, including:
- work-based learning;
  - return to industry;
  - job rotation;
  - transfers;
  - secondment;
  - project team participation;
  - job design and redesign;
  - provision of training relevant to the needs of the individual and the requirements of the organisation.

### **34. Multi-Skilling**

- 34.1 Subject to appropriate qualifications, training and taking into account a teacher's long term career path opportunities, the employer may transfer teachers to teach their approved program in part or in whole in another location or discipline other than the one to which they currently belong.
- 34.2 Teachers transferred pursuant to subclause 34.1 of this clause shall have a right to a review of their position each year in consultation with relevant TAFE officers.

### **35. Working Conditions - Part Time Casual Teachers, Coordinators and Counsellors**

- 35.1 This clause sets out the general conditions of employment for part time casual teachers, coordinators and counsellors. In addition to the leave entitlements provided by this subclause, part time casual teachers and coordinators are also entitled to adoption, maternity and parental leave in accordance with the TAFE NSW Adoption, Maternity and Parental Leave Procedures.



- 35.2 Subject to satisfying the conditions prescribed by this Award, the hourly rate of pay inclusive of all incidents of employment, excluding entitlements under the *Long Service Leave Act 1955* and including duties in subclause 35.7 of this clause, of part time casual teachers and coordinators shall be as set out in Schedule 7.
- 35.3 Full time teachers and the rates for part time casual teaching, coordination/consultancy and duties other than teaching are linked by a formula based for administrative convenience on the ratios of the hourly rate of a full time teacher on the maximum salary of the common incremental salary scale contained in Schedule 1.
- 35.4 The formula for calculating the hourly rate for full time teachers is:

$$\frac{\text{Maximum Teacher Salary}}{1} \times \frac{5}{260.8929} \times \frac{1}{30}$$

- 35.5 The ratios calculated in accordance with subclause 35.3 are:

Ratio	
Teaching Duties	1.3475
Coordination/Consultancy Duties	1.2667
Duties Other Than Teaching	1.0638

- 35.6 Part time casual teachers who teach within a correctional centre shall be entitled to an environmental allowance of an additional amount per hour as set out in Schedule 2 on the rates contained in Schedule 7 for each hour so taught within the correctional centre.

35.7 Duties -

- 35.7.1 The rate paid for part time casual teachers is for the duties on which part time casual teachers are engaged during the hours for which they have been authorised to undertake direct teaching activities and performance of related duties including:

attendance in the classroom before the commencement and after the completion of class;

setting and marking of class tests;

assessing and marking students' practical work;

preparing special lectures and lecture demonstrations;

completing records and returns;

setting and marking assignments;

initial recording of results;

familiarisation with the syllabus;

organisation of lesson plan;

preparation of lesson notes, and teaching aids;

making copies of notes; and

preparation for practical work, drawing and practical exercises.

## 35.8 Sick Leave -

35.8.1 Part time casual teachers and coordinators shall be entitled to sick leave as follows:

- (i) In any calendar year a part time casual teacher or coordinator shall be entitled to accrue and then use sick leave as set out in subparagraphs (ii) to (viii) below.
- (ii) After having completed 468 hours of service during any calendar year, a part time casual teacher or coordinator shall have accrued paid sick leave of three weeks per annum pro rata to the average number of hours per week worked by the teacher or coordinator in that calendar year. The part time casual teacher or coordinator shall accrue a number of hours sick leave on an annual basis equal to the number of hours service in a calendar year divided by twelve.
- (iii) Provided that a part time casual teacher or coordinator who has completed 468 hours service in a calendar year but does not have accumulated sick leave entitlement from preceding years shall have an hourly sick leave entitlement equal to the number of hours service, at the date of taking leave, multiplied by three and divided by the number of weeks worked by that date.
- (iv) The maximum amount of accumulated sick leave in any calendar year shall be 60 hours.
- (v) At the commencement of each calendar year, a part time casual teacher or coordinator shall be credited with unused sick leave accrued in the preceding calendar year.
- (vi) A part time casual teacher or coordinator who has an accrued sick leave entitlement and who, because of personal illness, is unable to attend or perform duty on any day when engaged or scheduled to attend, shall be entitled to be paid sick leave at the rate applicable to those duties.
- (vii) Where a part time casual teacher's or coordinator's application for sick leave exceeds three consecutive program days or as otherwise required by the employer, the part time casual teacher or coordinator shall produce a satisfactory medical certificate from a qualified medical practitioner stating the nature of the illness and the time which, in the doctor's opinion, must elapse before the applicant can resume duty.
- (viii) Where a part time casual teacher or coordinator is also engaged in any other full time employment and is entitled thereunder to sick leave benefits in respect to a period of employment which is concurrent with any period(s) of employment as a part time casual teacher or coordinator they shall not be entitled to any sick leave benefits under this Award.

35.8.2 Part time casual teachers and coordinators who have a sick leave entitlement pursuant to clause 35.8.1 shall be entitled to use that entitlement for personal/carer's and bereavement leave purposes in accordance with subclause 31.7 Personal/Carer's Leave.

## 35.9 Hard to Fill Country Locations -

35.9.1 When a part time casual teaching, coordination and or counselling position has been advertised twice in the press and no selection has been made, appropriate travel and subsistence allowances pursuant to the *Crown Employees (Public Service Conditions of Employment 2002) Award* published 21 March 2003 (338 I.G. 837) as varied, or its successor shall be paid to part time casuals who, upon request by the employer, work in a remote location other than the location to which they are otherwise engaged.

## 35.10 Payment for Related Duties

35.10.1 Part time casual teachers teaching 10 or more hours in a week in any one Institute shall be entitled to payment for related duties, provided that they attend to perform the related

duties. Such related duties shall be paid at the teaching duties rate according to the following table:

Teaching Duties Hours	Related Duties Hours
19 hours or more per week	6 hours 20 minutes
18 hours	6 hours
17 hours	5 hours 40 minutes
16 hours	5 hours 20 minutes
15 hours	5 hours
12 to less than 15 hours	3 hours
10 to less than 12 hours	1 hour

35.10.2 Payment for related duties paid to part time casual teachers teaching 10 hours or more a week are for duties associated with the part time casual teacher's teaching section as well as for duties related to the part time casual teacher's direct teaching activities set out in subclause 35.7.

35.10.3 The apportionment of the related duties to be undertaken and the required attendance shall be by agreement between the part time casual teacher and their supervisor/s and become part of the teacher's approved program. Where practical, attendance is to be arranged so that the teacher can attend staff meetings, professional development and other related duties on the day/s the teacher is programmed to teach. Split shifts are not to be included as part of a part time casual teacher's approved program unless requested by the part time casual teacher.

#### 35.11 Training and Development -

35.11.1 Where a part time casual teacher, coordinator or counsellor is approved to attend a staff development activity which coincides with normal duties, such part time casuals shall be paid at the rate applicable to their duty program for the length of that duty program whilst so engaged on staff development activities.

35.11.2 Allowances and reimbursement of out-of-pocket expenses pursuant to the Crown Employees (Public Service Conditions of Employment 2002) Award published 21 March 2003 (338 I.G. 837) as varied, or its successor, for motor vehicle allowances shall be made on the following bases, provided that such travel is by the most economical means.

35.11.3 If participants attend courses where they are required to be away from their homes overnight, they shall be entitled to:

- (i) provision of the cost of rail travel or use of car with payment at casual rates; and
- (ii) payment of incidental expenses necessarily incurred in travelling.

35.11.4 If participants attend courses where they are not required to be away from their homes overnight, they shall be entitled to:

- (i) travelling costs as per subparagraph 35.11.3 (i) and
- (ii) meal allowances, when meals are not provided by the employer.

#### 35.12 Class Cancellation -

35.12.1 Where a part time casual teacher reports for duty on any day on the basis of a request by an authorised officer and then is advised that their services are not required or receive less than two hours notice of cancellation, the teacher shall be entitled to receive payment for the scheduled duties.

## 35.13 Attendance at Staff Meetings -

- 35.13.1 Part time casual teachers and coordinators who are approved to attend staff meetings shall be paid at the rate specified for duties other than teaching for attendance at the meetings.
- 35.13.2 A minimum one hour is payable for each meeting attendance.
- 35.13.3 Approval for attendance in excess of two hours for each meeting shall be at the discretion of the officer at the level above the part time casual's supervisor.

## 35.14 Public Holiday Pay -

- 35.14.1 When a public holiday occurs on the day when part time casual teachers and coordinators are normally required to be on duty, they shall be paid for that day's normally programmed hours if they were:
- (i) On their normal duty day immediately preceding the public holiday, irrespective of whether that day was the class day one week earlier or some additional class day between those two days; and
  - (ii) On their normal duty day immediately following the public holiday, irrespective of whether that day was the class day one week later or some additional class day between those days.
- 35.14.2 Part time casual teachers and coordinators engaged as substitutes for other part time casual teachers and coordinators shall be paid only if the normal part time casual teachers or coordinators do not qualify under paragraph 35.14.1 of this subclause.
- 35.14.3 Part time casual teachers who teach during a vacation period are entitled to be paid for public holidays falling within the vacation period pursuant to this clause.

## 35.15 Payment of Interview Expenses -

- 35.15.1 Part time casual teachers, coordinators and counsellors applying for full time TAFE positions are entitled to the following provisions:
- (i) When a part time casual is called for interview for a full time position, then the employer shall meet the applicant's reasonable expenses for travel and subsistence as contained in the Interview Expenses policy contained in the TAFE Commission Gazette of 10 August 1994, as amended from time to time.
  - (ii) The payment of expenses shall be a matter for discussion and agreement prior to interview, bearing in mind due economy.
  - (iii) Travel arrangements shall be discussed when interviews are arranged.

## 35.16 Recognition of Previous TAFE Part time Casual Service -

- 35.16.1 Part time casual teachers, coordinators and counsellors who are subsequently appointed to full time TAFE positions are eligible to have such part time casual TAFE service recognised for extended (long service) leave purposes, provided their service merged without break into full time service.
- 35.16.2 To calculate their entitlement, the following formula is used:

$$\frac{\text{Number of hours worked per week as a part time casual}}{\text{Number of hours worked per week by full time staff in that classification}} \times \text{Period of part time casual employment}$$

## 35.17 Agreed Leave -

## 35.17.1 Declared Emergencies -

- (i) Part time casual teachers and coordinators who, in a declared emergency, volunteer to assist the emergency services or who are members of volunteer emergency organisations which are required to assist during a declared emergency are to be granted leave with payment where it coincides with teaching duty. There is no limit on the duration of such leave.
- (ii) On resumption of duty, proof of attendance certified by an authorised representative of the emergency service shall be provided.
- (iii) Agreed leave for a further one day for rest purposes may be granted prior to the resumption of duty.

## 35.17.2 Jury Duty -

- (i) Part time Casual Teachers and Coordinators Responsibility -
  - (a) A part time casual teacher or coordinator, who attends a court in answer to a jury summons on a day when they would otherwise be on duty, may elect to receive payment for jury expenses or receive leave, whichever is most advantageous to the part time casual.
  - (b) To obtain leave, a part time casual teacher or coordinator must furnish to the appropriate supervisor any certificate of attendance issued by the Sheriff or by the Registrar of the court giving particulars of attendances by the part time casual teacher or coordinator during any such period and the details of any payment or payments made to the part time casual teacher or coordinator under Section 72 of the *Jury Act 1977*, in respect of any such period.
  - (c) A part time casual teacher or coordinator must, as soon as possible, notify the appropriate supervising officer of the details of any jury summons served.
- (ii) Employer's Responsibility -
  - (a) The appropriate supervising officer shall, in respect of any period during which a part time casual teacher or coordinator was required to be on duty:
    - (1) upon receipt of any such certificate of attendance grant, in respect of any such period for which the part time casual teacher or coordinator has been paid out-of-pocket expenses only, agreed leave on full pay; or
    - (2) in any other case grant, at the sole election of the part time casual teacher or coordinator, agreed leave without pay.

## 35.18 Access to Facilities -

- 35.18.1 The institute shall ensure that the facilities are available to all part time casual employees. Subject only to the needs for security and safety, teaching materials, working areas and equipment, resource and reference materials and technical and administrative employees shall be readily accessible by part time casual employees before, during and following their scheduled duty periods.

## 35.19 Statement of Service -

- 35.19.1 The employer shall maintain a record of service detailing hours paid during the period of engagement of all part time casuals.

35.19.2 The record of service prior to the introduction of the Lattice Human Resources Management System shall be established from the employer's records supplemented by part time casuals submitting records/statutory declarations of this service.

35.19.3 This record of service will be updated and made available to each part time casual as a Statement of Service:

- (i) On request by the part time casual concerned; or
- (ii) On termination of the part time casual's employment.

#### 35.20 Induction -

35.20.1 A part time casual teacher, on initial engagement, shall be paid up to two hours at the duties other than teaching rate for attendance at a formal induction program.

#### 35.21 Part time Casual Counsellors -

35.21.1 Part time casual counsellors shall be entitled to an hourly rate of pay as set out in Schedule 7. The hourly rate of pay is linked by a formula to step 10 of the common incremental salary scale. The formula is as follows:

$$\frac{\text{Step 10 Common Salary Scale}}{1} \times \frac{5}{260.8929} \times \frac{1.5}{35}$$

35.21.2 The hourly rate of pay calculated in paragraph 35.21.1 is inclusive of all incidence of employment, including sick leave in subclause 35.8, public holiday pay in subclause 35.14 and agreed leave in subclause 35.17 except for entitlements under the *Long Service Leave Act 1955*.

#### 35.22 Temporary Appointment Opportunities -

35.22.1 Part time casual teachers, counsellors and coordinators are eligible to apply for temporary appointment to positions (other than full time teaching, permanent teaching and promotional teaching positions) advertised within the TAFE Gazette.

### 36. Contract Teachers (OTEN)

36.1 This clause establishes the general conditions of employment, including hourly rates of pay, which are specific to contract teachers employed at OTEN.

36.2 In addition to the qualifications for appointment the Basic Method of External Teaching (BMET) is the pre entry requirement.

#### 36.3 Rates of Pay -

36.3.1 There shall be a single contract teaching rate. The rate of pay for contract teachers is linked to the hourly teaching duties rate for part time casual teachers as follows:

$$\text{Teaching Duties Rate for Part time Casual Teachers} \times \frac{2}{3} \times \frac{25}{60} = \$ \text{ per unit}$$

36.3.2 This formula reflects the parties' agreement that the marking of each unit of work shall be allocated 25 minutes.

36.3.3 The rates of pay for contract teachers (OTEN) are set out in Schedule 7. These rates are inclusive of all incidence of employment except for long service leave as provided under the *Long Service Leave Act 1955*.

### **37. Provision for Positions which Are Hard to Fill**

- 37.1 This clause does not apply to part time casual teachers and contract teachers (OTEN).
- 37.2 A position will be regarded as "hard to fill" when it has been advertised once throughout TAFE and twice throughout New South Wales in the major press and no appointment has been made.
- 37.3 When a position has been identified as "hard to fill" in accordance with subclause 37.2, the employer will review the position in order to ensure that the current position description and accountabilities appropriately reflect the nature of the position. Where appropriate, job redesign will follow and the new position will be advertised in the normal manner.
- 37.4 Where job redesign has not been deemed to be appropriate, Institute Directors and managers may offer an allowance of up to ten per cent of the maximum salary of the position when it is next advertised.
- 37.5 The allowance will be paid to the selected applicant for as long as they remain in the advertised position.

### **38. Industrial Rights**

- 38.1 Federation Representatives -
- 38.1.1 An accredited Federation representative at the place in which they are employed shall, upon notification thereof to their employer, be recognised as an accredited Federation representative.
- 38.1.2 An accredited Federation representative shall be allowed the necessary time during working hours to interview the employer or their representative on matters affecting employees.
- 38.1.3 An accredited Federation representative shall be allowed a reasonable period of time during working hours to interview a duly accredited Federation official.
- 38.2 Consultative and Other Committee Work -
- 38.2.1 Where an employee is required by the employer, nominated by the Federation or otherwise selected by other employees to participate in work based consultative or like committees, the employer shall provide such employees with paid leave to attend to such matters.
- 38.2.2 In addition, where such committees unanimously agree to undertake a particular project consistent with their terms of reference, the employer shall provide sufficient paid time to enable the employee to undertake the project.

### **39. Quality Improvement Program**

- 39.1 The parties are committed to encouraging officers at all levels to take responsibility for the continuous improvement of all processes, products and services of TAFE.
- 39.2 The parties will actively participate in the development and implementation of the agreed quality improvement program throughout TAFE and will contribute to the program's success.

### **40. Pilot Schemes**

- 40.1 The parties agree to pilot innovative ways to meet customer needs; to jointly develop performance indicators for these schemes; to jointly monitor and measure the success of these schemes using these indicators; and to implement those initiatives which they have agreed are a success.
- 40.2 The parties agree that, before pilot schemes are introduced, the Federation and affected officers involved must be consulted and agree to their trial.

#### 41. Principles of Restructuring

- 41.1 The parties agree to the following basic principles in the restructuring of work units:
- 41.1.1 officers will be consulted at the first opportunity;
  - 41.1.2 the Federation is notified and discussions held regarding the restructure;
  - 41.1.3 where new structures are being considered, a broad outline of the structure with basic functions of each position will be developed;
  - 41.1.4 the process involves ongoing consultation with officers and the Federation;
  - 41.1.5 job analysis will be conducted on the new positions;
  - 41.1.6 resulting position descriptions will be discussed with affected officers and the Federation;
  - 41.1.7 job evaluation of positions is undertaken;
  - 41.1.8 staffing of positions occurs in terms of redeployment, potential redeployment, transfer, staff selection and direct appointment, except where a position can clearly be identified as an upgraded position with an incumbent.

#### 42. Dispute Resolution Procedures

42. Subject to the provisions of the *Industrial Relations Act* 1996, the following procedures shall apply:
- 42.1.1 Should any dispute (including a question or difficulty) arise as to matters occurring in a particular workplace, then the employee and or the Federation's workplace representative shall raise the matter with the appropriate supervisor as soon as practicable.
  - 42.1.2 The supervisor shall discuss the matter with the employee and or the Federation's workplace representative within two working days with a view to resolving the matter or by negotiating an agreed method and time frame for proceeding.
  - 42.1.3 Should the above procedure be unsuccessful in producing resolution of the dispute or should the matter be of a nature which involves multiple workplaces, then the employee and or the Federation may raise the matter with an appropriate officer at the institute level with a view to resolving the dispute, or by negotiating an agreed method and time frame for proceeding.
  - 42.1.4 Where the procedures in paragraph 42.1.3 do not lead to resolution of the dispute, the matter shall be referred to the General Manager, Industrial Relations and Employment Services of the Department and the General Secretary of the Federation. They or their nominees shall discuss the dispute with a view to resolving the matter or by negotiating an agreed method and time frame for proceeding.
- 42.2 Should the above procedures not lead to a resolution, then either party may make application to the Industrial Relations Commission of New South Wales.

#### 43. No Further Claims

- 43 Except as provided by the *Industrial Relations Act* 1996, prior to December 2008, there shall be no further claims by the parties to this Award for changes to salaries, rates of pay, allowances, or conditions of employment in relation to matters expressly contained in this Award.



#### 44. Anti-Discrimination

- 44.1 It is the intention of the parties bound by this Award to seek to achieve the object in section 3(f) of the *Industrial Relations Act 1996* to prevent and eliminate discrimination in the workplace. This includes discrimination on the grounds of race, sex, marital status, disability, homosexuality, transgender identity, age and responsibilities as a carer.
- 44.2 It follows that in fulfilling their obligations under the dispute resolution procedures prescribed under clause 42, the parties have obligations to take all reasonable steps to ensure that the operation of the provisions of this Award are not directly or indirectly discriminatory in their effects. It shall be consistent with the fulfilment of these obligations for the parties to make application to vary any provision of the Award which, by its terms or operation, has a direct or indirect discriminatory effect.
- 44.3 Under the *Anti-Discrimination Act 1977*, 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.
- 44.4 Nothing in this clause is to be taken to affect:
- 44.4.1 any conduct or act which is specifically exempted from anti-discrimination legislation;
- 44.4.2 offering or providing junior rates of pay to persons under 21 years of age;
- 44.4.3 any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*; and
- 44.4.4 a party to this Award from pursuing matters of unlawful discrimination in any state or federal jurisdiction.
- 44.5 This clause does not create legal rights or obligations in addition to those imposed upon the parties by the legislation referred to in this clause.

#### 45. Goods and Services Tax

45. The parties shall monitor the overall impact of the Commonwealth Government's goods and services tax through the term of the Award. In the event that the Industrial Relations Commission makes a State decision (as defined by section 49 of the *Industrial Relations Act 1996*) having regard to the impact on wages of the goods and services tax, the Federation reserves the right to make application to the Industrial Relations Commission in relation to that decision.

#### 46. Area, Incidence and Duration

- 46.1 This Award covers all teachers and related employees in TAFE, the classifications of which are set out in Schedules 1, 4 and 7 inclusive. This Award does not cover teachers and related employees in TAFE Children's Centres, Bradfield College and educational staff employed at the TAFE NSW – Riverina Institute National Aerospace Training Centre of Excellence (NATCOE) based at the RAAF base Wagga Wagga.
- 46.2 This Award replaces the *Crown Employees (Teachers in Schools and TAFE and Related Employees) Salaries and Conditions Award 2004* published 15 July 2005 (352 I.G. 465) as varied in respect of all provisions relating to TAFE teachers and related employees.
- 46.3 The *Crown Employees (Teachers in Schools and TAFE and Related Employees) Salaries and Conditions Award 2004* (352 I.G. 465) was rescinded with effect from 31 December 2005.
- 46.4 This Award commences on and from 1 January 2006 and shall remain in force until 31 December 2008.

**SCHEDULE 1****Common Incremental Salary Scale**

The following salary scale applies to: teachers; education officers (TAFE); counsellors; adult literacy officers, and assistant outreach coordinators:

<b>Current salary steps</b>	<b>Salary From the first pay period to commence on or after 1.1.2006</b>	<b>Salary From the first pay period to commence on or after 1.1.2007</b>	<b>Salary From the first pay period to commence on or after 1.1.2008</b>
Increase	4.5%	4.5%	4%
Step 13	69,334	72,454	75,352
Increase	3%	3%	3%
Step 12	64,798	66,742	68,744
Step 11	62,341	64,211	66,137
Step 10	59,888	61,685	63,536

**SCHEDULE 2****Allowances**

<b>Additional Responsibility Allowances</b>	<b>Rates From the first pay period to commence on or after 1.1.2006</b>	<b>Rates From the first pay period to commence on or after 1.1.2007</b>	<b>Rates From the first pay period to commence on or after 1.1.2008</b>
Increase	4%	4%	4%
Teacher nominated as teacher in charge	3,128	3,253	3,383
Counsellor nominated as counsellor in charge	1,390	1,446	1,504
Part time casual teachers teaching within a correctional centre (per hour)	1.36	1.41	1.47

**SCHEDULE 3****Locality Allowances****1. Definitions**

1.1 For the purposes of this schedule:

- 1.1.1 "Dependent child" means, unless otherwise defined in the Award, a child of which a teacher is a parent and who is resident with and wholly maintained by such teacher and either is under the age of sixteen years or is a full time student under the age of eighteen years or is completing their school studies up to and including Year 12.
- 1.1.2 "Dependent partner" means a person who is resident with and substantially reliant upon a teacher for their financial support, being either the teacher's spouse or a person whom the employer is satisfied is cohabiting otherwise than in marriage with the teacher in a permanent de facto and bona fide domestic relationship.
- 1.1.3 "Duly qualified" means a practitioner practising in Australia who, by training, skill and experience, is competent to diagnose, advise with regard to, and or treat the condition in relation to which relevant medical or dental assistance, as the case may be, is reasonably sought.

- 1.1.4 "Married couple" means and shall include a teacher and their spouse or a person whom the employer is satisfied is cohabiting otherwise than in marriage in a permanent de facto and bona fide domestic relationship.
- 1.1.5 "Practitioner" means a legally qualified and lawfully practising medical practitioner or, as appropriate, a legally qualified and lawfully practising dentist and includes a duly qualified and lawfully practising physiotherapist to whom a teacher or a dependent spouse, partner or child of a teacher has been referred for treatment by a legally qualified medical practitioner.
- 1.1.6 "Reimbursable expenses" means, for the purposes of Part E of this schedule:
- (i) Actual travel costs in excess of the amounts specified in subparagraph (iv) of this paragraph in any one instance reasonably incurred in transporting a teacher and or a dependent partner and or dependent child of a teacher from his or her place of residence to a place at which a duly qualified practitioner is consulted.
  - (ii) Travel charges in excess of the amounts specified in subparagraph (iv) of this paragraph in any one instance made by a duly qualified practitioner reasonably summoned to a teacher or a dependent partner or dependent child of a teacher at or near the place of residence of the teacher.
  - (iii) The actual cost of accommodation not being hospital or nursing accommodation reasonably and necessarily incurred by a teacher or a dependent partner or dependent child of a teacher in connection with the attendance of that person away from their place of residence at a place at which a duly qualified practitioner is consulted.
  - (iv) For the purposes of subparagraphs (i) and (ii) of this paragraph, the amounts which travel costs and charges must exceed are as follows:

<b>From the first pay period to commence on or after 1.1.2006</b>	<b>From the first pay period to commence on or after 1.1.2007</b>	<b>From the first pay period to commence on or after 1.1.2008</b>
\$	\$	\$
25	26	27

- 1.1.7 "Campus" shall include any college, campus, branch, annex, centre or other establishment to which a teacher is appointed.
- 1.1.8 "Single teacher" means and shall include a widow, widower, divorcee or teacher living separately and apart from their spouse.
- 1.1.9 "Travel costs" means, for the purposes of Part E of this schedule, the actual return transport costs payable in respect of the means of conveyance most appropriate to the circumstances and, in relation to a motor vehicle owned by a teacher or a dependent partner of a teacher, an amount calculated for the total distance travelled at the casual rate determined from time to time by the employer provided, however, that transport costs shall not in any circumstances exceed a sum which would be applicable to any return trip over a distance greater than that to and from the place of residence of the relevant teacher and the GPO at Sydney.
- 1.1.10 "Teacher" for the purpose of this schedule means a permanent or temporary employee covered by this Award.

## 2. Part A - Allowances - Climatic Disability -

- 2.1 Subject to clause 7 of this schedule, a teacher appointed to a campus located in the Western Division of New South Wales upon or to the west of a line starting from a point on the right bank of the Murray River opposite Swan Hill (Victoria), and thence by straight lines passing through the following towns or localities in the order stated, viz., Conargo, Coleambally, Hay, Rankins Springs, Marsden, Condobolin,

Peak Hill, Nevertire, Gulargambone, Coonabarabran, Wee Waa, Moree, Warialda, Ashford and Bonshaw, shall be paid an allowance at the rates prescribed in subclause 2.4 below.

- 2.2 Subject to clause 7 of this schedule, a teacher appointed to a campus within a zone of New South Wales established by the 0 Degrees Celsius July Average Minimum Temperature Isotherm as contained in the Climatic Atlas of Australia, June 1974 as amended, and published by the Bureau of Meteorology, shall be paid an allowance at the rates prescribed in subclause 2.4 below.
- 2.3 The allowances prescribed in subclauses 2.1 and 2.2 of this Part may be extended, excluded or otherwise varied by the employer to take into account any special circumstances.
- 2.4 Allowances under subclauses 2.1 and 2.2 are as follows:

Subclause No.	Climatic Allowances	Rates From the first pay period to commence on or after 1.1.2006	Rates From the first pay period to commence on or after 1.1.2007	Rates From the first pay period to commence on or after 1.1.2008
<b>Per annum \$</b>				
Increase		4%	4%	4%
2.1	Teacher without dependent partner	965	1,004	1,044
	Teacher with dependent partner	1,141	1,187	1,234
2.2	Teacher without dependent partner	488	508	528
	Teacher with dependent partner*	651	677	704

\* The dependent partner rate is one third greater than the rate for a teacher without a dependent partner.

### 3. Part B - Allowances - Isolation from Socio Economic Goods and Services -

- 3.1 A teacher appointed to a campus included in Appendix A of this schedule shall be paid the following allowances -

Group	Rates From the first pay period to commence on or after 1.1.2006	Rates From the first pay period to commence on or after 1.1.2007	Rates From the first pay period to commence on or after 1.1.2008
<b>Per annum</b>			
Increase	4%	4%	4%
1	3,170	3,297	3,429
2	2,852	2,966	3,085
3	2,534	2,635	2,740
4	2,219	2,308	2,400
5	1,901	1,977	2,056
6	1,587	1,650	1,716
7	1,269	1,320	1,373
8	953	991	1,031
9	638	664	691
10	317	330	343

- 3.2 A teacher with a dependent partner shall receive double the allowance prescribed in subclause 3.1 of this clause.

3.3 Subject to clause 7 of this schedule, a teacher entitled to an allowance under subclause 3.1 of this clause and with a dependent child or children shall be paid the following additional allowances -

Group	1st dependent child		
	Rates From the first pay period to commence on or after 1.1.2006	Rates From the first pay period to commence on or after 1.1.2007	Rates From the first pay period to commence on or after 1.1.2008
	Per annum \$		
Increase	4%	4%	4%
Group 1	379	394	410
Group 2	331	344	358
Group 3	280	291	303
Group 4	230	239	249
Groups 5 and 6	183	190	198

Group	2nd and subsequent dependent child		
	Rates From the first pay period to commence on or after 1.1.2006	Rates From the first pay period to commence on or after 1.1.2007	Rates From the first pay period to commence on or after 1.1.2008
	Per annum \$		
Increase	4%	4%	4%
Group 1	255	265	276
Group 2	210	218	227
Group 3	157	163	170
Group 4	111	115	120
Groups 5 and 6	60	62	64

#### 4. Part C - Allowances - Motor Vehicle -

Subject to clause 7 of this schedule, a teacher appointed to a campus included in Appendix A of this schedule shall be paid the following allowances -

Group	Rates From the first pay period to commence on or after 1.1.2006	Rates From the first pay period to commence on or after 1.1.2007	Rates From the first pay period to commence on or after 1.1.2008
	Per annum \$		
Increase	4%	4%	4%
Groups 1, 2 and 3	1,704	1,772	1,843
Groups 4, 5 and 6	854	888	924

#### 5. Part D - Allowances - Vacation Travel Expense - Subject to Clause 7 of This Schedule.

5.1 A teacher, when proceeding on vacation leave, shall be entitled in any calendar year to the payment of certain travel expenses on the following occasions:

5.1.1 if appointed to a campus included in Appendix A of this schedule and in:

- (i) Groups 1 and 2 - three vacation journeys;
- (ii) Groups 3, 4, 5 and 6 - two vacation journeys;
- (iii) Group 7 - one vacation journey; or

5.1.2 if appointed to a campus covered by Determination 21 of the Determinations made pursuant to section 25 of the *Teaching Service Act 1980*, one vacation journey; and or

5.1.3 if appointed to a campus located more than 720 kilometres from Sydney by the nearest practicable route and other than a school or campus referred to in paragraph 5.1.1 of this subclause, one or more journey(s) if, given the circumstances of the campus location, the employer considers it to be warranted.

Provided always that the provisions of paragraphs 5.1.1, 5.1.2 and 5.1.3 shall not apply to a teacher with less than three years' service who, at the date of their engagement for service, was resident in the relevant area.

5.2 A teacher eligible for the payment of travelling expenses under subclause 5.1 shall have those travelling expenses calculated according to the formula for reimbursement set out in Determination 21 referred to in paragraph 5.1.2 of subclause 5.1 of this clause, except that the amount of overnight expenses shall be as set out in subclause 5.3 below, subject to the conditions contained in the aforementioned Determination. Provided that the use of a teacher's own car shall not require the approval of the employer.

5.3 For the purposes of subclause 5.2, the amount of overnight expenses are as follows:

<b>From the first pay period to commence on or after 1.1.2006</b>	<b>From the first pay period to commence on or after 1.1.2007</b>	<b>From the first pay period to commence on or after 1.1.2008</b>
<b>\$</b>	<b>\$</b>	<b>\$</b>
31	32	33

#### **6. Part E - Reimbursement of Certain Expenses Related to Medical Or Dental Treatment.**

6.1 The provisions of subclauses 6.2, 6.3, 6.4, 6.5 and 6.6 of this clause apply only to a teacher who is appointed to a campus included in Appendix A of this schedule, but do not apply to a teacher -

6.1.1 who for the time being is on maternity leave; or

6.1.2 who is married to a spouse or has a partner normally resident in the locality, unless such spouse or partner is normally and usually dependent upon the teacher as a consequence of illness, incapacity or other reasonable inability to earn an income sufficient to support themselves and or his or her child or children, as the case may be.

6.2 Where a teacher reasonably incurs reimbursable expense, the amount thereof shall be paid to that teacher upon written application made to the employer.

6.2.1 A teacher shall not be disentitled to such payment merely by reason of the fact that the reimbursable expense incurred was in relation to the attendance by or upon a duly qualified practitioner who was not the nearest duly qualified practitioner available at the relevant time if special circumstances in the particular case render it desirable that the services of some other duly qualified practitioner be sought.

6.2.2 In any instance in which it is necessary for the teacher or the partner of the teacher or some other attendant to accompany the person in respect of whom reimbursable expense is incurred then, upon written application by the teacher to the employer, the additional travel and accommodation costs reasonably and actually incurred shall be paid to the teacher.

6.3 A teacher who claims payment of reimbursable expenses shall provide such evidence in substantiation of the claim as the employer may reasonably require.

6.4 The employer shall be entitled to refuse payment of any claim where it appears that the expense arose as a direct consequence of the serious and wilful misconduct or gross negligence of the person in respect of whom the expense was incurred.

- 6.5 A teacher shall, in respect of any occurrence which gives rise to the incurring of reimbursable expense, take all reasonable steps to recover any insurance, contributory fund, workers' compensation or other benefits or common law damages as may lawfully be payable in respect thereof and any sum actually recovered in respect of items of reimbursable expense under this Schedule shall be brought to credit as against the employer's liability for the same. If any such sum shall be recovered subsequently to payment by the Managing Director of reimbursable expense to a teacher, that teacher shall make an appropriate repayment. The employer shall not be entitled to withhold payment of reimbursable expense merely upon the ground that it or some portion of it may be recoverable at some time in the future from a third party.
- 6.6 The employer may, by notice in writing, require any teacher to effect and keep on foot a policy of insurance or membership of a medical fund to cover that teacher's liability for items of the nature of reimbursable expense under this schedule.
- 6.6.1 In any such case, the employer shall reimburse to the teacher the amount by which any premium or contribution incurred in so doing exceeds the following amounts:

<b>From the first pay period to commence on or after 1.1.2006</b>	<b>From the first pay period to commence on or after 1.1.2007</b>	<b>From the first pay period to commence on or after 1.1.2008</b>
\$	\$	\$
25	26	27

- 6.6.2 If a teacher fails to comply with a requirement made by the employer under this subclause, such teacher shall not be entitled to claim any reimbursable expense which, but for their failure, would have been recouped to that teacher as a result of the relevant insurance or membership.
- 6.7 When a teacher is necessarily absent from duty for the purpose of securing advice and or treatment from a duly qualified practitioner for such teacher or dependent partner or child of such teacher, any period of such absence involved in travelling to or from the place of residence of the teacher to the place at which the advice or treatment is obtained shall not be debited against any sick leave credit to which that teacher is entitled. Provided that this clause shall be without prejudice to the right of the employer in their discretion to temporarily appoint the teacher to a campus nearer to the place of consultation or treatment where they may deem it desirable so to do.
- 6.8 The employer shall be entitled to decline payment of reimbursable expense to a teacher in any instance in which such expense relates to a non urgent elective consultation or treatment which might reasonably have been sought during a vacation period whilst the teacher or their relevant dependent partner, child or children (as the case may be) had, in the normal course, travelled to a location at which the type of consultation or treatment could be obtained.

#### **7. Part F - Payment of Allowances According to Marital Status (Payment of Allowances Regardless of Marital Status)**

- 7.1 Subject to subclause 7.2 of this clause, where a married couple consists of two teachers who are otherwise eligible for payment of an allowance under this schedule then, in the case of an allowance under:
- 7.1.1 subclause 2.1 or 2.2 of clause 2 of this schedule, each teacher shall only be entitled to one half of the allowance provided therein for a teacher with a dependent partner;
- 7.1.2 subclause 3.3 of clause 3 of this schedule, each teacher shall only be entitled to one half of the allowance provided therein for a teacher with a dependent child or children;
- 7.1.3 clause 4 of this schedule, each teacher shall only be entitled to one half of the motor vehicle allowance applicable to a single teacher;
- 7.1.4 clause 5 of this schedule, each teacher shall only be entitled to one half of the vacation travel allowance; and

- 7.1.5 subclause 6.2 of clause 6 of this schedule, each teacher shall not qualify for reimbursement of expenses in so far as the teacher's partner qualifies for and claims reimbursement as a teacher.
- 7.2 Where a married couple includes a teacher entitled to allowances under the agreement and a person entitled to a similar allowance pursuant to the *Crown Employees (Public Service Conditions of Employment) Award 2002* published 21 March 2003 (338 I.G. 837) as varied, or its successor, the teacher shall only receive the difference between that allowance and the married couple or dependent allowances under this schedule.

### 8. Part G - Locality Allowance Committee -

- 8.1 A Locality Allowance Committee shall be established for the purpose of -
- 8.1.1 investigating all matters in dispute and reporting and making recommendations thereon to the employer and the Federation;
- 8.1.2 recommending the inclusion or deletion of campuses to be covered by the provisions of clause 3 of this schedule; and
- 8.1.3 recommending the appropriate groupings and alteration of existing groupings of campuses within clause 3 of this schedule.
- 8.2 The Locality Allowance Committee shall -
- 8.2.1 consist of an equal number of representatives nominated by the employer, and the Federation;
- 8.2.2 elect its own chairperson, who shall not have a casting vote;
- 8.2.3 be permitted to act in the absence of any member, provided more than one half of the members are present; and
- 8.2.4 by its creation and operation not affect the exercise of the powers and functions of any tribunal constituted under the *Industrial Relations Act 1996*.

## APPENDIX A

### ALLOWANCE FOR ISOLATION FROM SOCIO ECONOMIC GOODS AND SERVICES

#### Groupings of Campuses

Group 1	Menindee Centre TAFE , Wilcannia TAFE
Group 2	Goodooga TAFE, Lightning Ridge Centre TAFE
Group 3	Brewarrina TAFE
Group 4	Bourke TAFE
Group 5	Boggabilla TAFE
Group 6	Cobar TAFE, Coomealla TAFE, Dunedoo TAFE Nyngan TAFE , Warren TAFE



**SCHEDULE 4****Salary Scales - Promotion Classifications**

<b>Classification</b>	<b>Rates From the first pay period to commence on or after 1.1.2006</b>	<b>Rates From the first pay period to commence on or after 1.1.2007</b>	<b>Rates From the first pay period to commence on or after 1.1.2008</b>
	<b>Per annum \$</b>		
Increase	4%	4%	4%
Cluster Manager and Manager, Education and Training Resource Centre	111,498	115,958	120,596
Principal Education Officer and Program Manager and Curriculum Manager	103,890	108,046	112,368
Quality Assurance Coordinator	97,889	101,805	105,877
Chief Education Officer	92,727	96,436	100,293
Senior Education Officer and Senior Counsellor			
Step 2	85,259	88,669	92,216
Step 1	83,199	86,527	89,988
Senior Head Teacher (old classification)			
Step 2	85,259	88,669	92,216
Step 1	83,199	86,527	89,988
Head Teacher			
Band 2	83,199	86,527	89,988
Band 1	76,574	79,637	82,822
Head Teacher (old classification)			
Step 2	79,709	82,897	86,213
Step 1	76,574	79,637	82,822
Special Program coordinator			
Step 2	79,709	82,897	86,213
Step 1	76,574	79,637	82,822

**SCHEDULE 5****Excess Travel and Compensation for Travel on Official Business****1. Definitions -**

1.1 For the purpose of this Schedule:

1.1.1 "Excess Travel" means, for the purpose of subclause 3.3, those distances:

- (i) when travelling from home to work and vice versa, that distance in excess of the distance between the teacher's home and headquarters;
- (ii) on any day where the teacher is required during the day to travel from one college, campus or other workplace to another.

1.1.2 "Headquarters" means that college/campus nominated by the employer or nominee for the teacher, or that college/campus where the major part of the teacher's approved program is performed.

1.1.3 “Teacher” means all persons employed permanently or temporarily in teaching positions, including head teachers, special program coordinators, counsellors, adult literacy officers, and persons employed as part time casual teachers.

1.1.4 “Teaching Program” means the teacher’s approved program. This includes direct teaching and other duties as well as approved releases (eg for prescribed course of teacher education) and would normally be the program as approved by the teacher’s supervisor

## **2. Introduction -**

2.1 Except where authorised, teachers are responsible for meeting costs incurred in travel between their residence and usual place of work.

2.2 Teachers may be authorised to use their private vehicle for travel on official business in the performance of their normal duties where other modes of travel are unsuitable or unavailable.

2.3 The use of a teacher’s private motor vehicle on official business is not mandatory.

## **3. Excess Travel Time -**

3.1 When a teacher, in order to perform their teaching program is required to travel outside the teacher’s duty hours:

from the teacher’s home to a college, campus or other workplace; and/or

from a college, campus or other workplace to the teacher’s home; and/or

between colleges, campuses or other workplaces on any one day; and/or

between parts of a college, campus or other workplace which are at different sites; and/or

between colleges, campuses, institutes or other workplaces and any annexes of a college, campus, institute or other workplace which are at different sites,

and where the teacher is not granted by mutual arrangement between the teacher and TAFE time off the teaching duties equal to and in lieu of the actual time spent in excess travelling, the teacher shall be paid for excess time occupied in travelling, in accordance with this Schedule but subject to the following conditions:

3.1.1 There shall be deducted from the teacher’s travelling time on any one day the time normally taken for the periodic journey from home to headquarters and return.

3.1.2 Periods of less than fifteen minutes on any one day shall be disregarded.

3.1.3 Travelling time shall not include any period of travel between:

(i) 11.00pm on any one day and 7.30am on the following day when the teacher has travelled overnight and accommodation has been provided for the teacher; or

(ii) 11.00pm on any one day and 6.00am on the following day for a teacher who is required to perform teaching duties between 6.00am and 7.30am as part of their teaching program when the teacher has travelled overnight and accommodation has been provided for the teacher.

3.1.4 Travelling time shall be calculated by reference to the time that might reasonably have been taken by the use of the most practical and economic means of transport.

3.1.5 No time spent in performing duties shall be counted as travelling time.

3.2 Payment for excess travelling time shall be at the teacher's ordinary rate of pay on an hourly basis, calculated as follows:

3.2.1 For full time teachers:

$$\text{Annual salary} \quad \times \quad \frac{5}{260.8929} \quad \times \quad \frac{1}{30}$$

3.2.2 For part time casual teachers:

Duties Other Than Teaching (DOTT) rate

3.3 Payment for Excess Travel -

3.3.1 All travelling costs reasonably incurred because of excess travel for the use of a private motor vehicle shall be paid on the basis of cents per kilometre at two rates as set out in clause 9 of this schedule for:

- (i) up to 8,000 km per annum;
- (ii) over 8,000 km per annum.

3.3.2 For the purposes of payment under this subclause, excess travel on any day where the teacher is required during the day to travel from one college, campus or other workplace to another, shall be determined in accordance with the provisions of subclauses 3.3.1 to 3.3.8 inclusive.

3.3.3 On days when a teacher is required to travel on official business and travels to and from home, whether or not the teacher visits headquarters, a deduction shall be made from the total distance travelled from home to home as follows:

Distance Home to Headquarters (One Way) Km	Deduction Km
1	1
2	2
3	3
4	4
5	5
6	6
7	7
8	8
9	9
10	10
11-29	10
30 or more	10 plus 2 km for each km above 29 km from home to headquarters.

3.3.4 Provided that when the above deduction in subclause 3.3.3 has been effected, the teacher shall add to the number of kilometres claimed the kilometres shown in the following schedule:

Home to Headquarters (One Way) Kilometres	Add Kilometres
29-35	1
36-40	2
41-45	3
46-50	4
51-55	5

56-60	6
61-65	7
66 and over	8

- 3.3.5 This daily deduction discounts the normal one way distance travelled from home to headquarters for which teachers shall not be paid.
- 3.3.6 Where a teacher is on duty at their headquarters on a particular day and the teacher elects to travel to the headquarters in their private motor vehicle, no payment shall be made for such travel.
- (i) If, on such a day, the teacher is directed to travel from their headquarters in an emergency situation, the teacher may be granted approval to use their own motor vehicle and claim the normal kilometre rate for the distance from headquarters to the emergency centre and return.
- (ii) Where a teacher has approval to use their private motor vehicle on official business and is directed to have the vehicle at headquarters on each day, or particular days, in order to have available a ready means of transport, payment shall be made for the distance from home to headquarters and return for each day of duty the car is required to be available (on official business), less the daily deduction.
- 3.3.7 A claim for travel allowance cannot be made where the headquarters and another centre visited are on the same or adjacent sites where less than fifteen minutes travel between the sites is required.
- 3.3.8 The daily deduction is not applied where a teacher is required to use their private motor vehicle from their home after working hours on official business or when the teacher is required to stay away from home overnight on official business.

#### 4. Waiting Time -

- 4.1 Where a teacher qualifies for payment in accordance with this Schedule for excess time occupied in travelling and necessary waiting time occurs, such waiting time shall be treated as travelling time subject to the following conditions:
- 4.1.1 Where there is no overnight stay with accommodation at a centre away from home or headquarters one hour shall be deducted from the necessary waiting time between the time of arrival at the centre and the commencement of duty and one hour shall be deducted from the necessary waiting time between the time of ceasing duty and the time of departure for home or headquarters or another centre.
- 4.1.2 Where overnight accommodation is provided at a centre any time from the completion of arrival at the centre until departure for home or headquarters or another centre shall not count as travelling time except that:
- (i) where duty is performed on the day of such departure any necessary waiting time (less one hour) from completion of such duty until departure shall be counted;
- (ii) where no duty is performed on the day of such departure necessary waiting time (less one hour) after 9.00am until such departure shall be counted,
- and provided further that where accommodation as mentioned in subclause 3.1.3 above is provided waiting time after 11.00pm shall not be counted.

### **5. Official Business Rate -**

- 5.1 The official business rate is payable where the use of a teacher's private motor vehicle on official business is authorised and the teacher is required to travel on official business using their motor vehicle on a regular basis of at least once per week throughout the TAFE year or travel a minimum of 400 kilometres during the TAFE year, except where:
- 5.1.1 an official vehicle is available;
- 5.1.2 for all or specific days of travel, public transport is obviously available, suitable, and does not result in a loss of the teacher's professional time and/or restriction in the performance of the teacher's duties and professional responsibilities.
- 5.2 Where a teacher commences duty other than at the start of the TAFE year the minimum period of 400 kilometres to be travelled, as provided by subclause 5.1 above, shall be adjusted proportionately.
- 5.3 The rate paid is that specified at clause 9 of this schedule.

### **6. Casual Rate -**

- 6.1 The casual rate is payable to teachers who are authorised to use their private motor vehicle to travel on official business intermittently as opposed to regular use (as provided by clause 5 of this Schedule) for which the official business rate is paid, except where:
- 6.1.1 an official vehicle is available;
- 6.1.2 for all or specific days of travel, public transport is obviously available, suitable, and does not result in a loss of the teacher's professional time and/or restriction in the performance of the teacher's duties and professional responsibilities.
- 6.2 Circumstances where teachers, who are not authorised for reimbursement of travel expenses at the official business rate, may be given approval to use their private vehicle on official business at the casual rate include travel to attend staff development courses, selection committee interviews, GREAT appeals and hearings.
- 6.3 The rate paid is that specified in clause 9 of this Schedule.

### **7. Payment of 2700 Cc Or More Motor Vehicle Rate -**

- 7.1 Where the teacher's normal duties are performed within the Sydney Region (as defined by the Department Planning) the maximum per kilometre rate payable shall be the 1600 to 2700 cc rate.
- 7.2 Where the official travel, in whole or in part, is outside the Sydney Region, consideration shall be given to payment of the over 2700 cc rate in respect of a vehicle with an engine capacity above 2700 cc. Such consideration shall be related to the total annual distance travelled by the teacher on official business, the terrain and other factors advanced by the teacher as relevant.
- 7.3 Provided that the provisions of subclauses 7.1 and 7.2 above shall not apply to teachers who have an existing approval for payment of the over 2700 cc rate arising from clause 4 (b) (i) of Industrial Agreement 7036 of 1983.

### **8. Daily Deduction -**

- 8.1 On days when a teacher is required to travel on official business and travels to and from home, whether or not the teacher visits headquarters, a deduction shall be made from the total distance travelled from home to home as follows:

Distance Home to Headquarters (One Way)	Deduction
Kilometres	Kilometres
1	1
2	2
3	3
4	4
5	5
6	6
7	7
8	8
9	9
10	10
11-29	10
30 or more	10 plus 2 km for each km above 29 km from home to headquarters.

- 8.2 Provided that when the above deduction in subclause 8.1 has been effected, the teacher shall add to the number of kilometres claimed the kilometres shown in the following schedule:

Home to Headquarters (One Way)	Add
Kilometres	Kilometres
29-35	1
36-40	2
41-45	3
46-50	4
51-55	5
56-60	6
61-65	7
66 and over	8

- 8.3 This daily deduction discounts the normal one way distance travelled from home to headquarters for which teachers shall not be paid.
- 8.4 Where a teacher is on duty at their headquarters on a particular day and the teacher elects to travel to the headquarters in their private motor vehicle, no payment shall be made for such travel.
- 8.4.1 If, on such a day, the teacher is directed to travel from their headquarters in an emergency situation, the teacher may be granted approval to use their own motor vehicle and claim the normal kilometre rate for the distance from headquarters to the emergency centre and return.
- 8.4.2 Where a teacher has approval to use their private motor vehicle on official business and is directed to have the vehicle at headquarters on each day, or particular days, in order to have available a ready means of transport, payment shall be made for the distance from home to headquarters and return for each day of duty the car is required to be available (on official business), less the daily deduction.
- 8.5 A claim for travel allowance cannot be made where the headquarters and another centre visited are on the same or adjacent sites where less than fifteen minutes, travel between the sites is required.
- 8.6 The daily deduction is not applied where a teacher is required to use their private motor vehicle from their home after working hours on official business or when the teacher is required to stay away from home overnight on official business.

**9. Official Business and Casual Rates -**

Clause of Schedule which applies	Rate/Vehicle Engine Capacity	Cents Per Km	
		0 - 8,000 km per annum	8,001 km or more per annum
5	Official Business Rate		
	below 1600 cc	50.6	21.1
	1600 - 2700 cc	70.6	25.0
	above 2700 cc	75.9	27.0
6	Casual Rate		
	below 1600 cc	21.1	
	1600 - 2700 cc	25.0	
	above 2700 cc	27.0	

Provided that these rates shall be adjusted in accordance with the rates pursuant to the *Crown Employees (Public Service Conditions of Employment 2002) Award* published 21 March 2003 (338 I.G. 837), as varied, or its successor as amended from time to time or in accordance with the rates as approved from time to time by the Director-General of the Premier's Department.

**SCHEDULE 6****Strategies for Maximising Annual Student Hours in TAFE**

1. Annual Student Hours (Ash) Shall be Maximised By Utilising a Range of Strategies. If Requested, Consultation Shall Occur at the Local Level Between the Teaching Section and Their Line Manager Regarding Educational Soundness, Access and Equity, Appropriate Resources and Occupational Health and Safety.
2. Such strategies include:
  - 2.1 Ensuring that all available student places are filled.
  - 2.2 Continual or "topping up" of enrolments as students meet module outcomes or units of competence and move out of the class. This shall result in an increased output of students.
  - 2.3 Continual or "topping up" of enrolments to replace enrolled students who have not commenced the course, or who have officially withdrawn from modules or who have been absent from class without notice for four consecutive weeks.
  - 2.4 Enrolment of students in modules to undertake the additional training and education required to achieve competency against the module outcome or unit of competence following successful assessment for Recognition.
  - 2.5 Establishing quality partnerships with industry which may result in a proportion of the program being workplace training and assessment, conducted by TAFE approved industry personnel in accordance with an agreed quality assurance process.
  - 2.6 Utilising a variety of delivery modes that are appropriate to the particular learning situation, including the needs of students.
  - 2.7 Core enrolment times shall continue to occur at the start of each semester. These shall be supplemented by continual or "topping up" of enrolments as outlined above.
  - 2.8 Extending enrolments and commencements beyond the core enrolment times at the start of each semester and staggering enrolments and commencement times across the full year.

- 2.9 Teachers and head teachers shall employ best practice in student administration by ensuring that all activities for which they are responsible are correctly recorded and credited including the completion of enrolment adjustment forms.
- 2.10 Enrolling in the initial enrolment period up to an additional three students over and above the student teacher ratios in a subject/module, where the subject/module has a history of attrition, based on institute data.

### SCHEDULE 7

#### Rates of pay – Part time Casual Teachers, Coordinators and Counsellors and Contract Teachers (OTEN)

	Salary From the first pay period to commence on or after 1.1.2006	Salary From the first pay period to commence on or after 1.1.2007	Salary From the first pay period to commence on or after 1.1.2008
	<b>Per hour \$</b>		
Teaching Duties	59.68	62.37	64.86
Co-ordination/Consultancy Duties	56.11	58.63	60.98
Duties Other Than Teaching (DOTT)	47.12	49.24	51.21
Part time Casual Counsellors	49.19	50.67	52.19
	Open Training and Education Network Contract Teachers Per Unit (\$)		
Contract Teaching Duties	16.58	17.33	18.02

A. W. MACDONALD, Commissioner.

Printed by the authority of the Industrial Registrar.



**BORAL EMU PLAINS QUARRY (STATE) AWARD 2006**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Boral Construction Materials Group Limited.

(No. IRC 1242 of 2006)

Before The Honourable Justice Walton, Vice-President

15 March 2006

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## **PART A**

### **1. New Award**

#### **1.1. Preamble**

This award has been amended and remade following the introduction of the Tolling Agreement between Boral Resources (NSW) Pty Ltd and Hanson Ltd and in the knowledge that a similar tolling agreement may be entered into with Readymix.

The Tolling Agreement means that Emu Plains will now produce quarried materials for Hanson Ltd.

The impact of the Tolling Agreement has been discussed at length with you and the consultative committee.

From these discussions we and the union acknowledge that:

- (a) we and the union will use our best endeavours to meet the production demands of the quarry (subject to relevant safety and fatigue management requirements) without the use of two full production shifts; but
- (b) if the production demands of the quarry cannot be met we and the union will use our best endeavours to satisfactorily introduce two full production shifts.

#### **1.2 Commitment**

We and the union acknowledge that the Emu award will:

- (a) introduce new practices and methods of working;
- (b) result in changes to the way we work that are different from the past; and
- (c) be fully implemented in an atmosphere of mutual co-operation.

## **2. Dictionary**

### **2.1 Definitions**

In this award the following words in the left-hand column of the dictionary shall have the meaning given to them by the right hand column of the dictionary:

Boral	Boral Construction Materials Group Limited;
You	an employee employed by Boral at the quarry;
Us	see "we";
Your	belonging to you;
We	also "us" and "our" refers to you and to Boral;
Start Date	the day when the Industrial Relations Commission of NSW makes this award;
Union	the Australian Workers' Union NSW;
Wife, Husband	shall include de facto wife or husband;
Father, mother	shall include foster-father or mother and stepfather or mother;

Afternoon Shift	means any shift finishing after 6.00pm and at or before midnight and shall receive a shift penalty of thirty three and one third percent;
Night Shift	means any shift finishing subsequent to midnight and at or before 8.00am and shall receive a shift penalty of thirty three and one third percent;
Weeks pay	means the ordinary time weekly rate of pay;
Significant effects	include termination of employment, major changes in the composition, operation or size of Boral's workforce or in the skills required; the elimination or diminution of job opportunities, promotion opportunities or job tenure; the alteration of hours of work; the need for retraining or transfer of you 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);
Technological change notice	means 3 months notice of termination or payment in lieu of such notice;
Quarry	means the Emu Plains quarry owned and operated by Boral Resources (NSW) Pty Ltd;
Leading Hand	when you are required to supervise or direct or be in charge of other employees. There is no requirement to appoint leading hands merely because groups of employees work together. Leading hand is an appointment at the absolute discretion of management;
Primary skill	the skill you have listed in Schedule A which you would, subject to this award, primarily use;
Vacant primary skill	when someone with a primary skill leaves the quarry permanently and their primary skill becomes vacant and subject to this award, available for you to transfer to;
Standard	National Competency Standard as contextualised to the quarry;
Medical certificate	documentation provided by a registered medical practitioner proving that you are incapable of attending work due to a medically diagnosed condition;
Emu award	Boral Emu Plains Quarry (State) Award;
External auditor	a reputable and qualified auditor who is not an employee of Boral or a company related to Boral within the meaning of the Corporations Law;
Ordinary time weekly rate of pay	the weekly rate of pay you receive for working ordinary hours of work ascertained from this award inclusive of any all purpose allowances;
Salaried employees	any employee (who has actually worked as a salaried employee at a site within the Metropolitan Division for the majority of the preceding 12 months) who does not have their terms of employment covered by an award and is not remunerated on a 'total cost' basis;
Metropolitan Division	the operations of Boral Resources (NSW) Pty Ltd comprising the Emu Plains, Prospect, Peat's Ridge and Dunmore quarries and any other quarry or similar site operated by them from time to time and the Drill and Blast Team;
Percentage salary increase	the percentage before being adjusted to take into account a salaried employee's 'compa ratio' (and excluding any regrading variations);

An award	an award of the Australian Industrial Relations Commission or the Industrial Relations Commission of New South Wales;
Gross earnings	the total amount earned exclusive of any expense related allowances;
General wage increase	any increase granted by the Industrial Relations Commission of New South Wales in accordance with section 50 or 51 of the Act;
Act	the <i>Industrial Relations Act 1996</i> ;
Miscellaneous work	manual labouring, shovelling, hosing, greasing and fuelling; and
Federal Act	the <i>Workplace Relations Act 1996</i> .

### **3. Parties and Application**

#### 3.1 Application

This award shall apply to and is binding on you, Boral and the Union.

#### 3.2 Replacement

This award rescinds and replaces the Boral Emu Plains Quarry (State) Award published 15 July 2005 (352 I.G. 386) in totality.

#### 3.3 Supercession

This award supersedes and replaces all previous agreements, understandings and practices between the parties to the making of this award and Boral and you, except those set out in Schedule B, D, E, F, G and H to this award.

#### 3.4 Commencement and Nominal Term

This award shall take effect on and from 15 March 2006 and shall have a nominal term of three years.

### **4. Contract of Employment**

#### 4.1 Weekly Employment

Subject to this clause you will be employed as a weekly employee.

#### 4.2 Probation

From your commencement date you will be employed on probation for a period of three months.

#### 4.3 Resignation

You may terminate your employment by giving Boral one week's notice or by paying to Boral an amount of money equivalent to one week's pay.

#### 4.4 Boral Termination Option

Except when terminating your employment for reasons of technology related redundancy, for which technological change notice applies, if Boral terminates your employment, they must give you notice in accordance with section 170CM of the Federal Act.

#### 4.5 Part Time Employment

Where agreed you may be employed as a part-time employee and:

- (a) you will be paid per hour one thirty eighth of a week's pay for the level you have been accredited to for the hours you work;
- (b) you will be entitled to payments in respect of annual leave, public holidays and sick leave on a proportionate basis;
- (c) you will work a constant number of ordinary hours which shall average less than thirty-eight but not less than sixteen hours per week;
- (d) you will be paid overtime rates if you commence work prior to your usual starting time or finish work after your usual ceasing time;
- (e) you and all other part time employees in the quarry cannot exceed 20% of all of Boral's employees in the quarry unless the consultative committee agree; and
- (f) before being so employed Boral must have consulted with the consultative committee about your employment.

#### 4.6 Casual Employment

Where agreed you may be engaged as a casual and:

- (a) you will be paid per hour one-thirty-eighth of a week's pay for the work which you perform plus 15 percent at the rate set out in Table 1 for a Level 1 Operator and when assessed as competent a Level 2 Operator;
- (b) you must not be employed as such for more than ninety consecutive days;
- (c) the following clauses of this award shall not apply to you, 4.1, 4.2, 4.3, 4.4, 4.5, 6, 10, 11, 13.2, 13.3, 13.4, 13.5, 22.1, 22.2, 25, 27, 28, 29, 30 and 38; and
- (d) your engagement may be terminated by you or Boral by one days notice or payment in lieu.

Notation: casuals also receive one-twelfth of their ordinary earnings in lieu of annual leave.

#### 4.7 Change In The Nature Of Your Contract Of Employment

To avoid doubt, the nature of your contract of employment; weekly, part-time, casual, may only be changed if you genuinely agree.

### **5. Consultation**

#### 5.1 The Committee

We must each do all that is reasonably needed to form, maintain and operate a consultative committee comprising Boral representatives and your representatives.

#### 5.2 Sub-Committees

The consultative committee may form (and dissolve) a sub-committee to deal with a stated issue or issues and may act through that sub-committee.



### 5.3 Proceedings

All procedures of the consultative committee are to be determined by the consultative committee. All procedures of any sub-committee of a consultative committee are to be determined by the consultative committee, and to the extent that the consultative committee does not determine them, by the sub-committee itself.

### 5.4 Functions

Boral must use its best efforts to ensure that the Boral representatives, and you must use your best efforts to ensure that your representatives, each do whatever is necessary to ensure that the consultative committee performs the functions set out in this award, and performs those functions properly and speedily.

### 5.5 Powers

The consultative committee and any sub-committee are empowered to discuss, debate and make recommendations on any subject matter referred to it by you or Boral. To avoid any doubt, subject to any express provision of this award, Boral can decide to accept or reject any such recommendation.

## 6. Redundancy

### 6.1 Preservation of Employment

Where practicable and having regard to the needs of the quarry, we:

- (a) will co-operate to preserve existing employment and enhance future employment opportunities generally; and
- (b) recognise that this is best achieved when we co-operate to ensure that what can be done is done, to produce sustainable improvements in the competitive performance of the quarry.

### 6.2 Selection

When redundancies are to occur, Boral will:

- (a) call for volunteers; and
- (b) accept volunteers unless to do so will leave the quarry without the necessary skills to operate satisfactorily, then

if there are insufficient volunteers those to be made redundant will be selected by Boral by reference to their:

- (c) skills;
- (d) experience;
- (e) training; and
- (f) performance.

And:

having undertaken such an assessment, if it is necessary to make redundant individuals that are comparatively equal in terms of the assessment [unless some other pressing domestic issue is raised by the individuals concerned] if you have the shortest period of service you will be retrenched first.

### 6.3 Introduction of Change

Where Boral has made a definite decision to introduce major changes in production, program, organisation, structure or technology that are likely to have significant effects on you, Boral shall consult with the consultative committee about the changes and discuss the introduction of the changes, the effects the changes are likely to have on you, measures to avert or mitigate the adverse affects of such changes on you and shall give prompt consideration to matters raised by you before any redundancies are affected.

### 6.4 Redundancy Pay

If, following a decision made by Boral in accordance with clause 6.3 Boral decides that your position in the quarry is redundant then Boral must pay you:

(a) If you are under 45 years of age

Less than 1 year's service	Nil,
1 year and less than 2 years	4 weeks' pay
2 years and less than 3 years	7 weeks' pay
3 years and less than 4 years	10 weeks' pay
4 years and less than 5 years	12 weeks' pay
5 years and less than 6 years	14 weeks' pay
6 years and less than 7 years	16 weeks' pay

and thereafter two weeks pay per year of service up to a maximum payment of 52 weeks' pay.

(b) If you are 45 years of age or over

Less than 1 year's service	Nil
1 year and less than 2 years	5 weeks' pay
2 years and less than 3 years	8.75 weeks' pay
3 years and less than 4 years	12.5 weeks' pay
4 years and less than 5 years	15 weeks' pay
5 years and less than 6 years	17.5 weeks' pay
6 years and less than 7 years	20 weeks' pay

and thereafter two weeks pay per year of service up to a maximum payment of 52 weeks' pay.

### 6.5 Resignation During Notice of Redundancy

If your position in the quarry is made redundant you may terminate your employment during the period of notice and still receive any monies arising from clause 6.4.

## 7. Disputes Procedure

### 7.1 Steps

The following steps shall apply in the following order for resolution of a dispute. For each step, the next step may be taken if the dispute has not been resolved within a reasonable time:

- (a) consultation between you and a representative of Boral at the quarry;
- (b) consultation between you and the quarry manager;
- (c) consultation involving the consultative committee;
- (d) consultation between you and a senior manager of Boral;

- (e) reference of the matter to the Industrial Relations Commission of NSW for conciliation/arbitration no later than 48 hours after the step in (a) above unless otherwise agreed; and

## 7.2 Continuation of Normal Work

While the procedure above is being followed and until the matter is resolved work must continue normally.

## 8. Classifications

### 8.1 Levels

You shall be classified into one of the levels set out below:

- (a) Level 1 Operator: A Level 1 Operator is an employee who has not yet acquired any skills and is undertaking basic competency and operator training to progress to Level 2 Operator;
- (b) Level 2 Operator: A Level 2 Operator is an employee who has acquired the basic competency skill and one (1) skill other than the Miscellaneous Support Equipment skill;
- (c) Level 3 Operator: A Level 3 Operator is an employee who has acquired the basic competency skill and two (2) other skills not including the Miscellaneous Support Equipment skill;
- (d) Level 4 Operator: A Level 4 Operator is an employee who has acquired the basic competency skill and three (3) other skills;
- (e) Level 5 Operator: A Level 5 Operator is an employee who has acquired the basic competency skill and four (4) other skills;
- (f) Level 6 Operator: A Level 6 Operator is an employee who has acquired the basic competency skill and five (5) other skills;
- (g) Level 7 Operator: A Level 7 Operator is an employee who has acquired the basic competency skill and six (6) other skills; or
- (h) Level 8 Operator: A Level 8 Operator is an employee who has acquired the basic competency skill and seven (7) other skills.

### 8.2 Skills

For the purposes of clause 8.1 the skills are:

- (a) Basic Competency Skill (requiring all following units)
- |                          |                                     |
|--------------------------|-------------------------------------|
| NMITAB units: MNQGEN210A | Work Safely                         |
| MNQGEN200A               | Conduct local risk control          |
| MNQGEN240A               | Communicate in the workplace        |
| MNQGEN230A               | Contribute to site quality outcomes |
| Quarry units             | Miscellaneous Work                  |
- (b) Wash Plant Operation Skill (requiring all following units)
- |                              |  |
|------------------------------|--|
| NMITAB units: MNQOPS223A -12 | Conduct sand wash plant operations         |
|                              | Conduct Minor Repairs and Maintenance      |
| MNQOPS225A -                 | Operate programmable logic control systems |
| MNQOPS262A                   | Operate Medium Vehicles - table top truck  |
| Quarry units                 | Miscellaneous Work;                        |

- (c) Crushing Plant Operation Skill (requiring all following units)  
 NMITAB units: MNQOPS321A  
 12  
 MNQOPS225A  
 MNQOPS262A  
 Quarry units
- Conduct crushing & screening  
 Conduct Minor Repairs and Maintenance  
 Operate Programmable Logic Control Systems  
 Operate Medium Vehicles - table top truck  
 Miscellaneous Work
- (d) Front End Loader Operation Skill (requiring all following units)  
 NMITAB units: MNQOPS231A  
 MNQOPS331A -  
 MNQOPS339A -  
 MNQOPS262A  
 28  
 Quarry units;
- Service & handover front end loaders  
 Conduct face loader operations  
 Conduct Sales Loader Operations  
 Operate Medium Vehicles - table top truck  
 Service Quarry Plant, Vehicles and Equipment  
 Miscellaneous Work
- (e) Excavator Operation Skill (requiring all following units)  
 NMITAB units MNQOPS232A  
 MNQOPS332A -  
 MNQOPS262A  
 28  
 Quarry units
- Service & handover hydraulic Shovel/excavators  
 Conduct hydraulic shovel/Excavator Operations  
 Operate Medium Vehicles- tabletop truck and/or service truck  
 Service Quarry Plant, Vehicles and Equipment  
 Miscellaneous Work;
- (f) Haul Truck Operation (Bin truck, Water truck, Off Road Haul truck) Skill (requiring all following units)  
 NMITAB units MNQOPS233A  
 MNQOPS333A  
 MNQOPS237A -  
 MNQOPS262A -  
 28  
 Quarry units
- Service & handover haul trucks  
 Conduct Haul Truck Operations  
 Conduct bulk water truck operations  
 Operate Medium Vehicles  
 Service Quarry Plant, Vehicles and Equipment  
 Miscellaneous Work;
- (g) Heavy Road Operations Skill (requiring all following units)  
 NMITAB units 12  
 13  
 26  
 28  
 Quarry units
- Conduct Minor Repairs and Maintenance  
 Stockpile, Load and Dispatch Product  
 Operate medium Vehicles - On road tipper (within the confines of the quarry), all terrain articulated dump truck, table top truck and  
 Service Quarry Plant, Vehicles and service truck Equipment  
 Miscellaneous Work;
- (h) Weighbridge Operation Skill (requiring all following units)  
 NMITAB units: 12  
 MNQGEN351A  
 Quarry units
- Conduct Minor Repairs and Maintenance  
 Conduct Weighbridge Operations  
 Miscellaneous Work;

- |     |  |   |
|-----|--|---|
| (i) | Laboratory Skill (requiring all following units)<br>NMITAB units 12<br><br>MNQGEN 231A<br>MNQGEN 332A<br>Quarry units  | Conduct Minor Repairs and Maintenance<br>Conduct Sampling Operations<br>Conduct site Laboratory Operations<br>Miscellaneous Work  |
| (j) | Miscellaneous Support Equipment (Mobile Crane and Dogger) Skill (requiring all following units)<br>NMITAB units: 12<br><br>MNCG1041A<br>MNCG1043A<br>MNCG1040A<br>Quarry units | Conduct Minor Repairs and Maintenance<br>Conduct non slewing crane operations<br>Conduct dogging operations<br>Operate Gantry Crane<br>Miscellaneous Work   |
| (k) | Miscellaneous Support Equipment (Other than Mobile Crane) Skill (requiring all following units)<br>NMITAB units: 12<br><br>27<br><br>Quarry units                              | Conduct Minor Repairs and Maintenance<br>Miscellaneous Support Equipment for any two items, such as Dogger, Elevated Work Platform, forklift, tractor, small wheel loader, backhoe etc<br>Miscellaneous Work; |
| (l) | Service Quarry Plant Vehicles and Equipment Skill - (requiring all of the following units)<br>NMITAB units: 12<br><br>MNQOPS262A<br><br>28<br><br>Quarry units:                | Conduct Minor Repairs and Maintenance<br>Operate Medium Vehicles - Table top truck and fuel truck<br>Service Quarry Plant, Vehicles and Equipment (all mobile equipment)<br>Miscellaneous Work;               |

### 8.3 Rates Of Pay

Subject to clause 46, the weekly ordinary time rate of pay to be paid to you (for the appropriate level arising from clause 8.1) is as set out in Table 1 of this award.

## 9. Training

### 9.1 Training Program To Be Established

Boral shall organise a training interview between you and the quarry manager to agree on a training program for you that is consistent with the operational needs of the quarry.

### 9.2 Training Program

Your training program should identify:

- (a) a new skill, in addition to those already recognised, to gain recognition in;
- (b) the process by which you will gain such recognition (on the job, off the job, mentor program, etc);
- (c) an indicative timetable for gaining such recognition; and

- (d) the process by which you will work to maintain the skills you have already recognised.

## 10. Progression

### 10.1 Provisional Accreditation and Reclassification

- (a) You may request to be assessed to determine whether the new skill identified in your training program can be performed to the Standard during, at the completion of or after the completion of your training program.
- (b) If the quarry manager, shift supervisor and the quarry trainer-assessor agree (utilising the form set out in schedule "I") that you are ready to be assessed then you shall be:
- (i) provisionally accredited with that new skill and shall be provisionally reclassified into the relevant classification in clause 8.1; and
  - (ii) paid in accordance with the rates of pay in Table 1 of this award for that classification within 7 working days.

### 10.2 Progression Assessment

Boral shall use its reasonable endeavours to assess you to determine whether the new skill identified in the training program can be performed to the Standard within two weeks of being provisionally reclassified in accordance with clause 10.1.

### 10.3 Assessor And Appeal

- (a) A qualified assessor will undertake your assessment.
- (b) If you disagree with the assessment of an assessor in relation to any skill, you can request that you be assessed again by a neutral assessor (some one not employed by Boral) to be selected by you from the NMITAB register whose decision shall be final.

### 10.4 New Skill Recognition

Should the assessment in clause 10.2, demonstrate that you can reliably perform the new skill to the Standard then that new skill shall be recognised through the Construction Materials Group Recognition Scheme.

### 10.5 Progression To New Classifications In Clause 8.1

Having had a new skill recognised through the process in clause 10.6, you shall have your provisional reclassification confirmed. To avoid any doubt, upon having your provisional reclassification confirmed you shall continue to be paid in accordance with the rates of pay in Table 1 of this award for that classification.

### 10.6 Failure To Gain Recognition

Should you fail to perform the new skill to the Standard then you and Boral will revise the training program established in accordance with clause 9.2 to be undertaken within the following thirty days.

### 10.7 Reassessment To Gain Recognition

At the completion of the revised training program in clause 10.6 or earlier by agreement between Boral and you, you shall be reassessed to determine whether the skill identified in the revised training program can be performed to the Standard. To avoid any doubt, clause 10.3, 10.4 and 10.5 shall apply to any such reassessment.

**10.8 Further Failure To Gain Recognition**

Should you fail to perform to the Standard in accordance with clause 10.7, then:

- (a) the steps in clauses 10.6 and 10.7 may be repeated until agreed otherwise by you and Boral; and
- (b) (despite anything else in this clause) you shall be reclassified to the relevant classification that you were in before having the new skill provisionally accredited in accordance with clause 10.1 until the reassessment demonstrates that you can reliably perform the new skill to the Standard then that new skill shall be recognised through the Construction Materials Group Recognition Scheme.

**10.9 Level While Training**

To avoid doubt, while you are training to gain recognition for a new skill you shall continue to be classified and paid in accordance with your then, current classification and rate.

**10.10 Payment For Training**

Training undertaken in accordance with your training program may be either on or off the job, provided that if training is undertaken during ordinary working hours it shall be paid as such.

**10.11 Course Fees**

Boral shall pay for the cost of all-training courses and training course material and textbooks.

**11. Team Leader and Assessor Skills****11.1 Team Leader And Assessor Skills Competencies**

The team leader and assessor skills are:

- |     |                   |  |
|-----|-------------------|--|
| (a) | Team Leader Unit: | Boral Front Line Supervisor Competency         |
|     | NMITAB unit: 9C   | Participate in, Lead and Facilitate Work Teams |
| (b) | Assessor          |  |
|     | NMITAB units: 7   | Workplace Trainer                              |
|     | 8                 | Workplace Assessor                             |

**11.2 To Become A Team Leader Or Assessor**

Despite anything else contained in this award, you can only train to acquire the team leader or assessor skill in 11.1 above, after having been offered such opportunity by Boral who may make or not make such offer at its complete discretion.

**11.3 Use Of Team Leader And Assessor Skills**

Upon having the team leader or assessor skill recognised in accordance with clause 10, a team leader or assessor will be appointed, by Boral, to such a role when such a role is available.

**12. Recognition, Reassessment and Redundant Skills****12.1 Timing Of Reassessment**

Boral may at any time reassess you to determine whether you can still perform the skills you have been accredited with to the Standard.

### 12.2 Failure Of A Reassessment

Should you fail to perform a skill to the Standard through the reassessment process in clause 12.1 you shall be provided with an agreed amount of training as a matter of priority and reassessed by an assessor within a month (or earlier by agreement) to determine whether the skill can be performed to the Standard.

### 12.3 Further Failure And Reclassification To A Lower Level

Should you still fail to perform a skill to the Standard through the reassessment process in clause 12.2 you shall no longer receive recognition for that skill and you shall be reclassified into the relevant (lower) classification in clause 8.1. Upon being so reclassified, and not until, you shall be paid in accordance with the rates of pay in Table 1 of this award for that (lower) classification.

### 12.4 Assessor And Appeal

To avoid doubt clause 10.2 and 10.3 shall apply to the process in clauses 12.2 and 12.3.

### 12.5 Redundant Skills

If a skill becomes redundant and is no longer required to be performed at all in the quarry (most likely through a change in technology) you will remain on the same classification level and paid as such until you acquire further skills to advance beyond your current classification (i.e. acquire two skills to advance).

## 13. Work Practices

### 13.1 Using Skills As Directed

Subject to clause 13.2, you must fully utilise the skills you have had recognised in accordance with clause 10 as and when directed by Boral.

### 13.2 Rotation From Primary Skill

Boral may direct you to perform a skill other than your primary skill:

- (a) sufficiently to make your best efforts to maintain your skills;
- (b) to meet any unplanned operational requirements of the quarry; or
- (c) to cover other employees who are:
  - (i) absent from the quarry; or
  - (ii) undertaking rotation themselves consistent with their training program, and

to avoid any doubt, should there be any dispute about whether you or another person are to perform a skill other than your primary skill the contest shall be resolved in accordance with paragraphs (a), (b) and (c) of clause 13.4.

### 13.3 Ascertaining A Primary Skill

If and only if you were employed at the quarry before the start date:

- (a) you may nominate a primary skill and that primary skill shall be set out in Schedule A to this award; and
- (b) you may change your nominated primary skill in accordance with clause 13.4.



#### 13.4 Change To Nominated Primary Skill

When there is a vacant primary skill and you already have a primary skill (set out in Schedule A) you may request Boral to change your primary skill to the vacant primary skill. If more than one person with a primary skill makes such a request then the contest will be resolved:

- (a) firstly be choosing those persons who are accredited as competent in that skill ahead of those who are not; then if not resolved
- (b) by choosing those persons who can change to the vacant skill without disrupting the satisfactory operation of the quarry ahead of those persons who cannot change to the vacant skill without disrupting the satisfactory operation of the quarry; and then if not resolved
- (c) by choosing the person with the longest service at the quarry.

#### 13.5 To Avoid Doubt

To avoid doubt, if no one with a primary skill requests to change their primary skill to the vacant primary skill it shall no longer be a primary skill and shall be performed as directed by Boral in accordance with clause 13.1.

### **14. Payment of Wages**

#### 14.1 Electronic Funds Transfer

Wages shall be paid weekly by means of electronic funds transfer to an account in a recognised financial institution.

#### 14.2 Late Pay

When your wages are not in your nominated account on the designated pay day the quarry manager if requested to do so by the you, must provide your wages to you in cash by conclusion of the next day's shift.

### **15. Tools**

#### 15.1 Supply of Tools

All tools required by you shall be provided free of charge by Boral.

### **16. First Aid**

#### 16.1 Certificate

- (a) If you are appointed by Boral:
  - (i) to perform first-aid duties you shall be paid an allowance as set out in Item 5 of Table 2 of Part B per day; and
  - (ii) as a first aid attendant you shall be paid an allowance as set out in Item 12 of Table 2 of Part B per day in lieu of the allowance set out in clause 16.1 (a) (i).
- (b) To avoid any doubt:
  - (i) A first aid attendant must hold an occupational first aid certificate and shall maintain the first aid room, assist in the completion of paper work associated with the administering of first aid, maintain first aid kits and administer first aid.
  - (ii) If you are appointed to perform first aid you must hold a current first aid certificate.

- (iii) Just because you hold a first aid certificate or occupational first aid certificate does not mean that you will be appointed by Boral in accordance with clause 16.1 (a).

### **17. Temporary Transfer**

#### 17.1 Transfer Terms

If you agree, Boral may temporarily transfer you to work somewhere other than at the quarry. When this occurs we must agree on the terms of the transfer including payment (if any) of travelling time, accommodation etc.

### **18. Hours of Work**

#### 18.1 Average Week

Subject to this Award you must work an average of 38 ordinary hours each week as directed by Boral.

#### 18.2 Spread of Hours

Your ordinary hours of work shall be worked:

- (a) on any day of the week Monday to Friday inclusive; and
- (b) between the hours of 6.30am and 6.00pm (or if your name appears in Schedule B to this award 7.00am and 6.00pm); or
- (c) between such spread of hours as is agreed between Boral and the majority of you in the section of the quarry concerned:

Or if you are a shift worker:

- (d) any day of the week Monday to Friday inclusive; or
- (e) by agreement with the majority of you in the section of the quarry concerned on any day of the week Monday to Sunday inclusive.

#### 18.3 Ten Hour Days

Unless it is agreed between Boral and the majority of you in the section of the quarry concerned your ordinary hours of work must not exceed ten on any day.

#### 18.4 Change to or from Shift Work

Unless otherwise agreed, Boral may direct you to change from regularly working day work to regularly working shift work (or vice versa) by giving you one month's notice in writing and you shall then work your ordinary hours on the shifts/days you have been rostered to work.

#### 18.5 Rosters

Boral shall give you a roster for working your ordinary hours at least seven days in advance.

#### 18.6 Change to Rosters

Despite clause 18.5, if due to unforeseen circumstances Boral needs to change your roster to keep the quarry operating effectively Boral may change your roster:

- (a) upon giving you no less than notice on the previous day of any such change if you are a day worker; or

- (b) upon giving you no less than notice on the previous day of any such change if you are a shift worker provided that if you are given less than seven days notice you shall continue to be paid your shift penalty for the balance of the such seven days even if you are transferred to day work.

#### 18.7 Afternoon Shifts

If you are rostered to work an afternoon shift you shall be paid the afternoon shift allowance.

#### 18.8 Night Shifts

If you are rostered to work a night shift you shall be paid the night shift allowance.

#### 18.9 Saturday Shifts

If you work a shift that part of which is between midnight on Friday and midnight on Saturday you shall be paid at the rate of time and a half for the first two hours and double time thereafter and such extra rate shall be in substitution for and not cumulative upon your shift allowance.

#### 18.10 Sundays and Holidays

If you work a shift that part of which is on a Sunday you shall be paid at the rate of double time and such extra rate shall be in substitution for and not cumulative upon your shift allowance.

#### 18.11 Holidays

If you work a shift that part of which is on a public holiday you shall be paid at the rate of double time and one half and such extra rate shall be in substitution for and not cumulative upon your shift allowance.

### **19. Method of Working the 38 Hour Week**

#### 19.1 Work Cycles

The method of working the 38-hour week shall be any one of the following:

- (a) by Boral fixing one work day in the 4th week of a 4 week work cycle as a rostered day off on which you will be off work;
- (b) by Boral fixing two rostered work days on which you may be rostered off for two half days during a particular 4 week work cycle;
- (c) [subject to agreement between you and Boral] by you working less than eight ordinary hours on each day; or
- (d) by Boral fixing the recognised building and construction industry rostered day off as a rostered day off on which you will be off work.

#### 19.2 Accumulation of Rostered Days Off

Subject to the quarry's fatigue management plan, rostered days off may be:

- (a) accumulated for a specific purpose (taking with annual leave etc) and taken at a time agreed by you and Boral (such agreement to be reduced to writing); or
- (b) accumulated for no specific purpose in which case they will:
  - (i) be taken on at least 24 hours notice on a day that does not disrupt the satisfactory operation of the quarry; or

- (ii) be paid out by Boral to you at the rate of 7.6 ordinary hours pay per rostered day off accumulated but not taken as at 31 January each year.

Notation: RDOs may be taken in accordance with this clause in whole days, half days or two hour blocks.

#### 19.3 Rostered Days Off on Public Holidays

When a rostered day off falls on a public holiday as prescribed in clause 22.1 the next working day shall be taken in lieu of the rostered day off unless an alternate day is agreed to between you and Boral.

#### 19.4 Accrual

Each day of paid leave taken and any public holiday occurring during any cycle of four weeks shall be regarded as a day worked for the purposes of accruing a rostered day off.

#### 19.5 Taking a Rostered Day Off

A rostered day off shall be taken as a paid day off.

#### 19.6 Rostered Days Off

- (a) You may elect, with the consent of Boral, to take a rostered day off at any time.
- (b) You may elect, with the consent of Boral, to take rostered days off in part day amounts.
- (c) You may elect, with the consent of Boral, to accrue some or all rostered days off for the purpose of creating a bank to be drawn upon at a time mutually agreed between Boral and yourself, or subject to reasonable notice by you or Boral.
- (d) This subclause is subject to Boral informing the union which is both party to the award and which has members employed at the quarry of its intention to introduce an enterprise system of RDO flexibility, and providing a reasonable opportunity for the union to participate in negotiations.

### **20. Meal Breaks**

#### 20.1 Work Before Break

You shall not be required to work for more than five ordinary hours of work without a break for a meal which shall be taken as unpaid. Provided that you and Boral may agree to extend the five ordinary hours before taking a break up to six.

#### 20.2 Continuity of Operations

The time of your taking a scheduled meal break may be altered by agreement between you and Boral or by Boral if it is necessary to maintain continuity of quarry operations.

#### 20.3 Staggering Breaks

Boral may stagger the time of taking a meal break to meet operational requirements.

#### 20.4 Meal Breaks for Shift Workers

Despite the provisions of this clause, if you are a shift worker you shall be allowed a thirty (30) minute paid meal break during each shift, which shall be counted as time worked.

### 20.5 Working Through a Meal Break

Except as provided for in clause 20.1 and 20.2, you shall be paid at the rate of time and one half of ordinary time for all work done during your meal break and thereafter until a meal break is taken.

## 21. Rest Breaks

### 21.1 Daily Break

You shall be given a paid rest break of ten (10) minutes each day.

### 21.2 Staggering

Boral may stagger the time of taking a rest break to meet operational requirements.

### 21.3 Continuous Operation

The time of your taking a scheduled rest break may be altered by agreement between you and Boral or by Boral if it is necessary to maintain continuity of quarry operations.

### 21.4 Shift Workers

In the case of shift workers the rest break may be combined (by Boral) with the paid meal break so as to enable a forty-minute paid meal break.

## 22. Sundays and Holidays

### 22.1 Holidays

The days on which the following holidays are observed shall be granted to you without loss of pay as a holiday:

- (a) New Year's Day;
- (b) Australia Day;
- (c) Good Friday;
- (d) Easter Saturday;
- (e) Easter Monday;
- (f) Anzac Day;
- (g) Queen's Birthday;
- (h) Eight Hour Day;
- (i) Christmas Day;
- (j) Boxing Day;
- (k) Picnic Day, the first Monday in December (or a substitute day agreed to by you and Boral and taken by 31 December in the following year); and
- (l) any other day gazetted as a public holiday for the State.

## 22.2 Absence

When you are absent from work on the working day before or the working day after a holiday, without reasonable excuse or without the consent of Boral, then you shall not be entitled to payment for such holiday.

## 22.3 Working on a Holiday

For work done on any of the holidays referred to in clause 22.1 (except (k) Union Picnic Day), you shall be paid at the rate of double time and one-half with a minimum payment for four hours' work.

## 22.4 Sundays

For work done on a Sunday you shall be paid at the rate of double time with a minimum payment for four hours' work.

# 23. Overtime

## 23.1 Payment

Subject to clause 22.3 and 22.4, for all work performed by you outside of and/or in excess of your ordinary hours you shall be paid at the rate of time and one-half for the first two hours and double time thereafter; such double time to continue until the completion of the overtime worked.

## 23.2 Day Stands Alone

Except as provided in clause 23.3 in computing your overtime each day's work shall stand-alone.

## 23.3 10 Hour Rest Period

(Subject to clause 23.4) When:

- (a) overtime work is necessary it shall wherever reasonably practicable, be so arranged that you have at least ten consecutive hours off duty between the work of successive days;
- (b) you work so much overtime between the termination of your ordinary work on one day and the commencement of your ordinary work on the next day that you have not had at least ten consecutive hours off duty between those times you shall be released after completion of such overtime until you have had ten consecutive hours off duty without loss of pay for ordinary working time occurring during such absence; and
- (c) on the instruction of Boral you resume or continue work without having had such ten consecutive hours off duty you shall be paid at double time rates until you are released from duty for such period and you shall then be entitled to be absent until you have had ten consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

## 23.4 8 Hour Rest Period for Shift Workers

The provisions of clause 23.3 shall apply in the case of shift workers who rotate from one shift to another as if eight hours were substituted for ten hours when overtime is worked:

- (a) for the purpose of changing shift rosters; or
- (b) where a shift worker does not report for duty.

## 23.5 Call Back

- (a) If you are recalled to work overtime after leaving the quarry (whether notified before or after leaving) you shall be paid for a minimum of four hours' work (whether worked or not) or where

you have been paid for standing by you shall be paid a minimum of three hours' pay at the appropriate rate.

- (b) This clause shall not apply in cases where it is customary for you to return to the quarry to perform a specific job outside your ordinary working hours, or where the overtime is continuous (subject to a reasonable meal break) with the completion or commencement of ordinary working time.
- (c) Overtime worked in the circumstances set out above, shall not be regarded as overtime for the purposes of clause 23.6 when the actual time worked is less than three hours on each such recall.
- (d) If you are directed to hold yourself in readiness to work after your ordinary hours you shall be paid stand-by time, at ordinary rates of pay, until released.

#### 23.6 Overtime Bonus and Breaks

If you are required to work overtime:

- (a) for one and one half hours after your normal ceasing time and you were not notified on the day before (or earlier) of the need to work overtime you shall be paid the amount set out in Item 8 of Table 2 of Part B of this award;
- (b) for two hours or more after your normal ceasing time you shall be paid the amount set out in Item 8 of Table 2 of Part B of this award ;
- (c) for four hours after your normal ceasing time (and for each four hours thereafter) you shall be provided with a 30 minute break without loss of pay provided that overtime work continues after any such break; and
- (d) for six hours or more after your normal ceasing time (and for each four hours thereafter) you shall be paid the amount set out in Item 8 of Table 2 of Part B of this award.

#### 23.7 Not Required to Work Overtime

Despite clause 23.6, if you are notified of the intention to work overtime but you are not called upon to work that overtime you shall be paid an amount ascertained from clause 23.6 (a).

#### 23.8 Weekend Crib Breaks

Where overtime is worked on a Saturday or Sunday and it continues after 12 noon, you shall be given a paid break for a meal of 30 minutes between 12.00 noon and 1.00pm, provided that the work continues after the meal break.

#### 23.9 Weekend Minimum

If you are required to work overtime on a Saturday you shall be given at least four hours' work or receive four hours' pay.

#### 23.10 Requirement To Work Reasonable Overtime

- (a) Subject to clause 23.10 (b), Boral may require you to work reasonable overtime at overtime rates or as otherwise provided for in this award.
- (b) You may refuse to work overtime in circumstances where the working of such overtime would result in you working hours which are unreasonable.

- (c) For the purposes of clause 23.10 (b) what is unreasonable or otherwise will be determined having regard to:
  - (i) any risks to employee health and safety;
  - (i) your personal circumstances including any family and carer responsibilities;
  - (iii) the needs of the quarry;
  - (iv) the notice (if any) given by Boral of the overtime and by you of their intention to refuse it; and
  - (v) any other relevant matters.

#### 23.11 Time Off in Lieu of Payment for Overtime

- (a) You may elect, with the consent of Boral, to take time off in lieu of payment for overtime at a time or times agreed with Boral within 12 months of the said election.
- (b) Overtime taken as time off during ordinary time hours shall be taken at the ordinary time rate that is an hour for each hour worked.
- (c) If, having elected to take time as leave in accordance with clause 23.11 (a), the leave is not taken for whatever reason payment for time accrued at overtime rates shall be made at the expiry of the 12 month period or on termination.
- (d) Where no election is made in accordance with clause 23.11 (a), you shall be paid overtime rates in accordance with the award.

#### 23.12 Make-up Time

- (a) You may elect, with the consent of Boral, to work "make-up time", under which you take time off ordinary hours, and work those hours at a later time, during the spread of ordinary hours provided in the award, at the ordinary rate of pay.
- (b) If you are on shift work you may elect, with the consent of Boral, to work "make-up time" (under which you take time off ordinary hours and work those hours at a later time), at the shift work rate which would have been applicable to the hours taken off.

### 24. Annual Leave

#### 24.1 Entitlement

See *Annual Holidays Act 1944* as amended.

#### 24.2 Single Days

- (a) You may elect with the consent of Boral, subject to the *Annual Holidays Act 1944*, to take annual leave not exceeding five days in single day periods or part thereof, in any calendar year at a time or times agreed by the parties.
- (b) Access to annual leave, as prescribed in paragraph (a) of this subclause, shall be exclusive of any shutdown period provided for elsewhere under this award.
- (c) You and Boral may agree to defer payment of the annual leave loading in respect of single day absences, until at least five consecutive annual leave days are taken.



## 25. Annual Leave Loading

### 25.1 Payment of Loading

Whenever you enter a period of annual leave you shall be paid, in addition to your annual leave pay a loading of 17.5 percent on top of your annual leave pay.

### 25.2 Calculation of Loading

The loading is to be calculated on your rate of pay that is applicable immediately before commencing annual leave, excluding any other allowances, penalty rates, shift allowances, overtime or any other payments prescribed by this award.

### 25.3 Shift Workers

Despite any thing else contained in this award, if you are a shift worker when you enter a period of annual leave then you shall be entitled to the greater of the following:

- (a) your shift work allowances and/or weekend penalty rates for the ordinary time (not including time on a public holiday) which you would have worked during the period of the leave; or
- (b) the loading calculated in accordance with this clause.

## 26. Long Service Leave

### 26.1 Entitlement

See *Long Service Leave Act, 1955* as amended.

## 27. Parental Leave and Personal/Carers Leave

### 27.1 Parental Leave

See *Industrial Relations Act, 1996* as amended.

### 27.2 Personal Carers Leave

- (a) If you are a full time or part time employee, with responsibilities in relation to a class of person set out in clause 27.2 (c) (ii) who needs your care and support, you shall be entitled to use, in accordance with this subclause, any current or accrued sick leave entitlement, provided for in clause 30 of the award, for absences to provide care and support, for such persons when they are ill. Such leave may be taken for part of a single day.
- (b) You shall, if required, establish by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person. In normal circumstances, you must not take carer's leave under this subclause where another person has taken leave to care for the same person.
- (c) The entitlement to use sick leave in accordance with this subclause is subject to:
  - (i) you being responsible for the care and support of the person concerned; and
  - (ii) the person concerned being:
    - (A) your spouse; or
    - (B) a de facto spouse, who, in relation to a person, is a person of the opposite sex to the first mentioned person who lives with the first mentioned person as the husband or

wife of that person on a bona fide domestic basis although not legally married to that person or;

- (C) a child or an adult child (including an adopted child, a step child, a foster child or an ex-nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the employee or spouse or de facto spouse of yours; or
- (D) a same sex partner who lives with you as your de facto partner on a bona fide domestic basis; or
- (E) a relative who is a member of the same household, where for the purposes of this paragraph:

"relative" means a person related by blood, marriage or affinity;

"affinity" means a relationship that one spouse because of marriage has to blood relatives of the other; and

"household" means a family group living in the same domestic dwelling.

- (d) You shall, wherever practicable, give Boral notice prior to the absence or the intention to take leave, the name of the person requiring care and that person's relationship to you, the reasons for taking such leave and the estimated length of absence. If it is not practicable for you to give prior notice of absence, then you shall notify Boral by telephone of such absence at the first opportunity on the day of absence.

### 27.3 Unpaid Leave for Family Purpose

You may elect, with the consent of Boral, to take unpaid leave for the purpose of providing care and support to a class of person set out in clause 27.2 (c) (ii) above who is ill.

## 28. Bereavement Leave

### 28.1 Entitlement

You shall be entitled to up to three days bereavement leave without deduction of pay on each occasion of the death of a person prescribed in clause 27.2 (c) (ii).

### 28.2 Notification

You must notify Boral as soon as practicable of the intention to take bereavement leave and will, if required by Boral, provide to the satisfaction of Boral proof of death.

### 28.3 Responsibility For Care

Bereavement leave shall be available to you in respect to the death of a person prescribed for the purposes of Personal/Carer's leave in clause 27.2 (c) (ii), provided that for the purposes of bereavement leave, you need not have been responsible for the care of the person concerned.

### 28.4 Bereavement Leave Not When Other Leave Granted

You shall not be entitled to bereavement leave under this clause during any period in respect of which you have been granted other leave.

### 28.5 Bereavement Leave In Conjunction With Other Leave

Bereavement leave may be taken in conjunction with other leave available under clause 27.3, 24.2, 23.11 and 23.12. In determining such a request Boral will give consideration to your circumstances and the reasonable operational requirements of the quarry.

## 29. Jury Service

### 29.1 Entitlement

If you are required to attend for jury service during your ordinary working hours you shall be reimbursed by Boral an amount equal to the difference between the amount paid in respect of your attendance for such jury service and the amount of wages you would have received in respect of the ordinary time you would have worked had you not been on jury service.

### 29.2 Notification

You must notify Boral as soon as possible of the date upon which you are required to attend for jury service. Further, you must give Boral proof of your attendance, the duration of such attendance and the amount received in respect of such jury service.

## 30. Sick Leave

### 30.1 Entitlement

You shall, subject to clause 30.2 and the production of a medical certificate be entitled to ten days' sick leave during the first and subsequent years of service on full pay [provided that a statutory declaration shall be sufficient proof of sickness in respect of the first two single days' absence in any year].

### 30.2 Notification

You must notify Boral of your absence prior to your normal starting time on the same day of your absence and in any event before 9.00am on that day unless because of the nature of the illness you are incapable to do so in which case you must notify Boral as soon as possible.

### 30.3 Workers Compensation

You shall not be entitled to sick leave for any period in respect of which you are entitled to workers' compensation

### 30.4 Accumulation

If the full period of sick leave is not taken in any year, the whole or any untaken portion shall be cumulative from year to year.

### 30.5 Absent on Holidays and Rostered Days Off

If an award holiday or rostered day off occurs during your absence on sick leave then such award holiday or rostered day off shall not be counted as sick leave.

## 31. Protective Clothing

### 31.1 Entitlement

At the commencement of your employment Boral shall provide you with five sets of clothes, two pairs of boots and in May a winter jacket (or agreed substitute), which shall be replaced on an item for item exchange basis.

### **32. Protective Equipment**

#### **32.1 Entitlement**

Boral shall provide you with all personal protective equipment required to perform your work.

### **33. Use of Car**

#### **33.1 Allowance**

If you are required to use your car by Boral you will be paid per km the amount set out in Item 6 of Table 2 of Part B.

### **34. Salary Increase**

#### **34.1 Wage Adjustment**

On the first full pay period to commence on or after 15 November each year the rates set out in Table 1 Wages and the allowances set out in Table 2 Other Rates and Allowances shall be increased by the greater of the average percentage salary increase given that year to salaried employees employed in:

- (a) the Metropolitan Division; or
- (b) the Emu Plains quarry.

Notation: A salaried employee will be taken to be employed in the Emu Plains quarry if they have worked in the quarry for the majority of the preceding 12 months.

#### **34.2 Bonus**

On the first full pay period to commence on or after 15 November each year you shall be paid an amount of money equivalent to the greater of the average percentage bonus paid to salaried employees employed in:

- (a) the Metropolitan Division; or
- (b) the Emu Plains quarry,

applied to your gross earnings for the preceding twelve months.

Notation: A salaried employee will be taken to be employed in the Emu Plains quarry if they have worked in the quarry for the majority of the preceding 12 months.

#### **34.3 Audit**

If requested to do so by the majority of you, Boral shall at its expense have an external auditor validate the:

- (a) average salary increase determined for the purposes of clause 34.1; and/or
- (b) average percentage bonus determined for the purposes of clause 34.2.

#### **34.4 Change To Salary System**

Should Boral at any time alter the method by which they remunerate the salaried employees relevant to this award they shall confer with you and the union about those changes and whether any variation to this award is necessary to ensure that the original purpose of this award is maintained.

## 34.5 Safety Net

Despite any thing else in his award, the wage increase paid in accordance with clause 34.1 shall not be less than any general wage increase granted in that year.

**35. Fares**

## 35.1 Payment

From the start date you shall receive in compensation for fares incurred travelling to and from work at irregular hours when public transport is not necessarily available the amount set out in Item 7 of Table 2 of Part B per week, provided that the above allowance shall be payable to employees who commence prior to 6:30am or finish subsequent to 7:00pm.

**36. Additions to Wage**

## 36.1 Allowances

In addition to the rate of pay ascertained from clause 8.3, you shall receive the following allowances (paid for all purposes of this award):

- (a) if appointed a leading hand or team leader and you are in charge of:-
- |                         |  |
|-------------------------|--|
| 2 - 5 employees:        | the amount set out in Item 1 Table 2 of Part B per week  |
| 6 - 10 employees:       | the amount set out in Item 2 Table 2 of Part B per week  |
| 11- 20 employees:       | the amount set out in Item 3 Table 2 of Part B per week  |
| More than 20 employees: | the amount set out in Item 4 Table 2 of Part B per week; |
- (b) if appointed as an assessor the amount set out in Item 9 of Table 2 of Part B per week.; and
- (c) if you hold NATA signatory status the amount set out in Item 10 of Table 2 of Part B per week.

**37. Delegates**

## 37.1 Appointment

Boral shall recognise the appointed delegates for the union at the quarry.

## 37.2 Time

Boral shall provide the delegate with reasonable time while at work to perform the proper functions of the delegate.

**38. Counselling**

## 38.1 Principles

It is the intention of the parties to use the Procedure set out in clause 38.2 in all cases where behaviour and/or work performance is unsatisfactory.

Except in cases of misconduct, Boral will use a three warning approach involving a verbal warning, written warning and then final warning.

## 38.2 Procedure

Upon Boral becoming aware that your conduct, behaviour and/or work performance was/is unsatisfactory they should:

- (a) undertake an investigation of the matter;

- (b) put the matter to you with any relevant supporting information Boral is aware of and allow you to respond;
- (c) consider your response;
- (d) conclude whether or not your conduct, behaviour and/or work performance was/is unsatisfactory;
- (e) explain why the conclusion reached has been arrived at; and then
- (f) (subject to this clause) take such action as they see fit (which may include but not be limited to nothing, verbal warning, written warning, training, termination of employment).

### 38.3 Suspension Without Pay

Boral may suspend your employment without pay for up to 10 days (but only if the consultative committee agrees) as an alternative to terminating your employment.

### 38.4 Validity Of Warnings

Any warning given to you in accordance with clause 38 shall be valid for 12 months from the date such warning was given.

## 39. Kitchen

### 39.1 Tea and Coffee

Boral shall provide you with a reasonable supply of coffee, tea, milk and sugar for use during meal and crib breaks.

## 40. Timekeeping

### 40.1 Decimal Proportion

Boral shall:

- (a) utilise, for time keeping purposes, the decimal proportion 0.1 of an hour; and
- (b) apply such proportion in the calculation of your working time.

### 40.2 Latecomers

If you:

- (a) do not commence work at the time you are rostered to; or
- (b) cease work before your rostered finish time,

Boral may pay you only for the time that you actually worked.

## 41. Rain

### 41.1 Working in the Rain

If you are called upon to work in the rain, by Boral, you will be paid per day the amount set out in Item 11 of Table 2 of Part B.

## 42. Leave Reserved

### 42.1 Clauses

Leave is reserved to the parties in relation to clause:

- (a) 8.2; and
- (b) 34.5.

## 43. Anti Discrimination

### 43.1 Obligation

- (a) It is the intention of the parties bound by this award to seek to achieve the object in section 3(f) of the *Industrial Relations Act* 1996 to prevent and eliminate discrimination in the workplace. This includes discrimination on the grounds of race, sex, marital status, disability, homosexuality, transgender identity, age and responsibilities as a carer.
- (b) It follows that in fulfilling their obligations under the dispute resolution procedure prescribed by this award the parties have obligations to take all reasonable steps to ensure that the operation of the provisions of this award are not directly or indirectly discriminatory in their effects. It will be consistent with the fulfilment of these obligations for the parties to make application to vary any provision of the award that, by its terms or operation, has a direct or indirect discriminatory effect.
- (c) Under the *Anti-Discrimination Act* 1977, 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.
- (d) Nothing in this clause is to be taken to affect:
  - (i) any conduct or act which is specifically exempted from anti-discrimination legislation;
  - (ii) offering or providing junior rates of pay to persons under 21 years of age;
  - (iii) any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act* 1977;
  - (iv) a party to this award from pursuing matters of unlawful discrimination in any State or federal jurisdiction.
- (e) This clause does not create legal rights or obligations in addition to those imposed upon the parties by the legislation referred to in this clause.

#### NOTATION:

- (a) Employers and employees may also be subject to Commonwealth anti-discrimination legislation.
- (b) Section 56(d) of the *Anti-Discrimination Act* 1977 provides:

"Nothing in the Act affects ... any other act or practice of a body established to propagate religion that conforms to the doctrines of that religion or is necessary to avoid injury to the religious susceptibilities of the adherents of that religion."

#### **44. 2003 Fatigue Management Program Saturday No Disadvantage**

##### 44.1 Preamble

In 2003 in consultation with its employees at Emu Plains Quarry, Boral instituted a fatigue management program and rostered work accordingly to meet its then business needs to the limits of that program. As a consequence of this some employees work within and to the limits of the fatigue program Monday to Friday while others to meet the operational needs of the quarry are required to work Monday to Saturday and have their hours arranged so to comply with the program. It has been agreed that with the current roster arrangements these employees suffer a disadvantage to others working Monday to Friday only. Clause 44.2 is intended to resolve this disadvantage.

##### 44.2 Entitlement

As of the first full pay week period in November 2004, any employee who is required to and directed by Boral to work Monday to Saturday inclusive to meet the operational needs of the quarry while genuinely trying to comply with the fatigue management program shall be paid per week an additional one hours pay calculated at their ordinary time rate of pay.

#### **45. Superannuation Benefits**

##### 45.1 Obligation

The subject of superannuation contributions is dealt with extensively by legislation including the *Superannuation Guarantee (Administration) Act, 1992*, the *Superannuation Guarantee Charge Act 1992*, the *Superannuation Industry (Supervision) Act 1993* and the *Superannuation (Resolution of Complaints) Act 1993*. The legislation, as varied from time to time, governs the superannuation rights and obligations of the parties.

#### **46. 'Wages Sacrifice' in Return for Increased Employer Funded Superannuation**

##### 46.1 Preamble

(a) This clause has been included in this award because it allows permanent employee to elect to forgo:

- (i) part of their weekly ordinary time rate of pay; and/or
- (ii) their annual cash bonus,

for increased employer funded superannuation benefits on the basis that this is tax beneficial for the employee and at only minimal additional (administrative) cost to Boral.

(b) Having made a wages sacrifice election in accordance with this clause an employee shall have their weekly ordinary time rate of pay reduced by the relevant elected amount except when:

- (i) overtime is worked in which case the relevant pre election weekly ordinary time rate of pay shall apply for the purposes of calculating the payment for overtime;
- (ii) calculating allowances arising from Table 2 - Other Rates and Allowances, in which case the relevant pre election weekly ordinary time rate of pay shall apply for the purposes of calculating the said allowances;
- (iii) calculating annual leave loading, in which case the relevant pre election weekly ordinary time rate of pay shall apply for the purposes of calculating the said allowances;
- (iv) calculating payments upon termination of employment (pay in lieu of notice, accrued annual and long service leave entitlements and redundancy pay) in which case the relevant



pre election weekly ordinary time rate of pay shall apply for the purposes of calculating the payment those payment upon termination; or

- (v) calculating an employee's minimum statutory Superannuation Guarantee contribution, in which case the relevant pre election weekly ordinary time rate of pay shall apply for the purposes of calculating the said contribution.

#### 46.2 Wages Sacrifice Election

A permanent employee may elect to forgo receiving:

- (a) part of their weekly ordinary time rate of pay; and/or
- (b) their annual cash bonus,

in return for increased employer funded superannuation by completing the election form set out in Schedule "J" of this award.

#### 46.3 Boral to Fund Increased Superannuation

Whenever a permanent employee has made an election referred to in clause 46.2 Boral shall provide the employee with employer funded superannuation contributions in the amount elected in addition to any statutory contributions.

#### 46.4 Change or Ceasing Elected Amount

Having made an election in accordance with this clause an employee may cease or vary their election by completing a further election form as set out in Schedule "J" of this award to have effect on and only on 1 January or 1 July each year.

#### 46.5 Cessation & Suspension of Wages Sacrifice Election

Despite anything else in this clause:

- (a) should any laws governing taxation or superannuation change at any time so as to impose any additional cost or tax upon Boral than those applicable at the commencement of the operation of this clause then Boral may serve a notice upon each employee of their intention to cease the wages sacrifice for them and upon the first full pay period to commence on or after the service of the notice the wages sacrifice election shall cease to operate; and
- (b) if an employee has made a wages sacrifice election in accordance with this clause in relation to their ordinary time rate of pay and then enters a period of leave without pay the wages sacrifice election in relation to their ordinary time rate of pay shall be suspended for the period of such leave.

#### 46.6 Workers Compensation

During any period when an employee is injured or incapacitated and in receipt of workers' compensation payments, Boral will continue to provide the employee with employer funded superannuation contributions in the amount elected in addition to any statutory contributions while the employee is still employed by Boral, up to a maximum of 26 weeks within any continuous period of 52 weeks from the date of the employee's injury or incapacitation.

#### 46.7 Age Based Contribution Limit

Despite anything else in this clause an employee must not make a sacrifice election of a percentage that when added to the minimum Superannuation Guarantee Contribution exceeds the age-based contribution limit provided for by sections 82AAC to 82AAF of the *Income Tax Assessment Act 1946* (Cth).

**PART B****Table 1 - Rates Of Pay**

Subject to this award, you shall be paid in accordance with the following table of rates from the first full pay week period in November 2005:

Classification	Weekly Ordinary Time Rate of Pay \$
Level 1 Operator	682.48
Level 2 Operator	791.68
Level 3 Operator	805.35
Level 4 Operator	818.99
Level 5 Operator	832.63
Level 6 Operator	846.29
Level 7 Operator	859.95
Level 8 Operator	874.77

Notation:

The rates in Table 1 above include and consume the "Industry Disability" allowance and the "Inclement Weather" allowance. Accordingly, the rates in Table 1 above compensate you for working in the open in quarries and thereby being subject to climatic conditions such as dust blowing in the wind, sloppy and muddy conditions and the lack of usual amenities associated with factory work, etc. and for the additional disabilities of being required to work when exposed to inclement weather and for working in isolated and underdeveloped locations: "inclement weather" means wet weather and/or abnormal climatic conditions such as hail, cold, high winds, severe dust storms, extreme high temperatures or any combination thereof.

The rates in Table 1 also compensate for working in confined spaces.

**Table. 2 - Other Rates and Allowances**

Subject to this award, you shall be paid in accordance with the following table of allowances from the first full pay week period in November 2005:

Item No	Clause No.	Brief Description	Amount \$
	36.1(a)	Team Leader/Leading Hand Allowances	
1		2 to 5	21.70 per week
2		6 to 10	30.85 per week
3		11 to 20	43.68 per week
4		More than 20	55.69 per week
5	16.1	First Aid Allowance	2.25 per day
6	33.1	Motor Vehicle Allowance	0.60 per km
7	35.1	Transport not Available	7.17 per day
8	23.6	Meal Allowance	13.17
9	36.1(b)	Assessor	27.43 per week
10	36.1(c)	NATA	27.43 per week
11	41.1	Working in the Rain	2.60 per day
12	16.1	First Aid Attendant	4.52 per day

**SCHEDULE A**

Pearson	H	Excavator Operation Skill
Penellum	JT	Truck Operation Skill
O'Hare	MH	Truck Operation Skill
Potbury	KD	Wash Plant Operation Skill
Daniel	MA	Crushing Plant Operation Skill
Maguire	BM	Front End Loader Operation Skill
Swadling	SH	Basic Competency Skill (afternoon shift)
Marion	PD	Basic Competency Skill (afternoon shift)
Anderson	BJ	Front End Loader Operation Skill
Clarke	DM	Front End Loader Operation Skill
Woods	PG	Front End Loader Operation Skill (afternoon shift)
Clarke	MG	Laboratory Skill

**SCHEDULE B****NOTATION****MOBILE CRANE PROTOCOL**

1. Operators must be competent for the task as authorised by the Quarry Manager.
2. The operator will be chosen on the basis of making the most efficient use of the Boral employees and the principle maintenance contractor on site, as determined by the Quarry Manager.
3. Where a Boral employee is available without effecting other operations, s/he will be the first choice.
4. If the use of a Boral employee adversely effects other operations, then s/he would not be asked and the following would happen:
  - (a) A person from the principle maintenance contractor may be used; or
  - (b) A hired external crane would be used.

Examples of this type of situation would be where the use of a haul truck operator would reduce raw feed supply to the plant or where the use of a sales loader operator would cause delay to loading of trucks.
5. When a substantial amount of crane work is required on a weekend, the most efficient approach would be to use a Boral employee on a pre-arranged overtime basis to do the crane work and other duties as required.
6. Where no competent Boral employees are on site and the principle maintenance contractor cannot safely or efficiently perform the tasks, the following would happen:
  - (a) A competent Boral employee would be called back from the list of approved operators; or
  - (b) A hired external crane will be used, if a Boral employee is not available for call back.
7. Within the workshop areas, all competent maintenance personnel have free use of the crane.

**SCHEDULE C****EMPLOYEES WITH A SPAN OF HOURS OF 7:00 AM TO 6:00 PM AS PER CLAUSE 18.2 (b) OF THE EMU AWARD****THAT IS EMPLOYEES WHO PRIOR TO 9TH NOVEMBER 1990, REGULARLY WORKED BEFORE 7:00 AM EACH DAY**

NAME	DATE START BORAL	
Anderson	BJ	15/02/88
Clarke	MG	06/05/89
Daniel	MA	17/04/85
O'Hare	MH	09/11/75
Pearson	H	05/05/69
Penellum	JT	03/04/68
Potbury	KD	08/01/90
Woods	PG	01/04/84

**SCHEDULE D****Notation:****TOP UP LABOUR PROTOCOL**

Boral will source external labour (casuals or labour hire) to meet the operational needs of the quarry provided that:

1. Subject to the Emu Plains Award, all of the quarry's full time employees will be allocated to unmanned plant and equipment before external labour is used.
2. Labour hire labour will be paid by their employer no less than level 1 Operator and when assessed as competent level 2 Operator.
3. Subject to paragraph 2, labour hire labour will be given the benefits of this award by their employer.
4. All overtime will be offered first to full time employees of Boral before it is offered to external labour.
5. If external labour is used so much that the consultative committee believes it is assuming the role of full time Boral employees the committee will discuss the appropriate manning levels of the quarry.
6. To avoid any doubt, if a new full time Boral position is justified, such person will be recruited in accordance with the recruitment process determined by the quarry manager.
7. Prior to using external labour, the quarry manager will inform the delegate of the reason for their use, the number to be used and the work they will perform.

**SCHEDULE E**

Notation:

**WET HIRE OF PLANT AND EQUIPMENT LABOUR PROTOCOL**

Boral will source external plant and equipment on wet hire as it sees to meet its operational needs, provided that:

1. Subject to the Emu Plains Award, all of the quarry's full time employees will be allocated to unmanned plant and equipment.

2. Prior to using external plant or equipment, the quarry manager will inform the delegate of the reason for its use, the period it is required and the work it will perform.
3. The wet hiring of plant or equipment will not be used to contract out by stealth a full time Boral job.
4. If the members of the consultative committee are able to suggest a source of dry hire for plant or equipment that is more commercially viable than wet hire the quarry manger will give the suggestion genuine consideration.

## **SCHEDULE F**

### **NOTATION**

#### **WEEKEND WORK ABSENTEEISM PROTOCOL**

Where an employee confirms their availability for work on a weekend or public holiday they are expected to attend punctually on those days.

If an employee cannot get to work on the day, they are to duly telephone the provided contact number and leave a message.

Failure to give such notice or a valid and proven reason for not attending work will, at the quarry manager's discretion, result in that person being excluded from working on the following weekend that work is undertaken.

## **SCHEDULE G**

### **NOTATION**

#### **WEEKEND WORK PREFERENCE PROTOCOL**

DAY	PREFERENCE SHIFT
Saturday	Day Shift
Sunday	Afternoon Shift

Except that, no one can take preference over another employee's Primary Skill and casuals or labour hire employees have no preference.

## **SCHEDULE H**

### **NOTATION**

#### **NEW EQUIPMENT PROTOCOL**

If a new piece of plant or equipment is introduced into the quarry it will be available as a primary skill subject to:

1. There being no contest for the "new primary skill" within 12 months of its introduction or such other period as agreed between the Consultative Committee and the quarry manager.
2. A review of the training programs to accommodate the introduction of the new plant or equipment.
3. After 12 months (or such other period as agreed) a contest for the new primary skill will occur in accordance with clause 13.4 of the award.
4. After the contest has occurred if there are any primary skill in Schedule "A" that have not been assigned (to employees who already have a primary skill) they will be deleted in accordance with clause 13.5 of the award.

**SCHEDULE I****ASSESSMENT & RECLASSIFICATION REQUEST FORM**

Date:

Trainee Name:

Current Skills Level:

Competence Requested:

Assessment to include:

The above named trainee has under taken training and demonstrated the ability to perform the requested skill to the assessment standard for a period of .....

I .....the Emu Plains Quarry Manager AGREE / DISAGREE the trainee has demonstrated the ability to perform the required skill to the assessment standard.

I .....the Emu Plains Quarry Shift Superrvisor AGREE / DISAGREE the trainee has demonstrated the ability to perform the required skill to the assessment standard.

I .....the Emu Plains Quarry Trainer - Assessor AGREE / DISAGREE the trainee has demonstrated the ability to perform the required skill to the assessment standard.

If all persons above agree that you the trainee are ready to be assessed then you shall be:

Provisionally accredited with that new skill and shall be provisionally reclassified into the relevant classification in clause 8.1 of the Emu Plains Quarry Award, and

Paid in accordance with the rates of pay in Table 1 of the award for the classification.

You the trainee must allow a maximum time of 7 working days for your rate of pay to be adjusted, in accordance with the new classification.

If all persons above agree that you the trainee are ready to be assessed then a skill level and pay rate adjustment form must be completed and forwarded onto the relevant person/department.

The Training and Progression clause 10 as set out in the Emu Plains Quarry Award must be adhered to, the relevant clauses are as follows:

- Provisional Accreditation and Reclassification, clause 10.3.
- Progression Assessment, clause 10.4
- Assessor and Appeal, clause 10.5
- New Skill Recognition, clause 10.6
- Progression to New Classifications In Clause 8.1, clause 10.7
- Failure to Gain Recognition, clause 10.8
- Reassessment To Gain Recognition, clause 10.9
- Further failure to Gain Recognition, clause 10.10
- Payment For Training, clause 10.12
- Course fees, clause 10.13

Quarry Manager signed:

Shift Supervisor signed:

Trainer/Assessor signed:

Trainee signed:

**SCHEDULE J****‘Wages Sacrifice’ Election Form**

Pursuant to clause 46 of the Boral Emu Plains Quarry (State) Award an employee may elect to forgo part of their weekly ordinary time rate of pay and/or annual cash bonus in return for increased employer funded superannuation.

**Sacrifice of Ordinary Time Rate of Pay Election**

If you make this election your weekly ordinary time rate of pay of pay will be reduced (because Boral will be funding more superannuation for you) which will effect how you are paid for such things as annual leave etc. This will not be the case when working overtime when you will receive the weekly ordinary time rate of pay applicable to you before you made your election. The tables below set out the effect of making an election on your weekly ordinary time rate of pay.

Operative from the first full pay period to commence on or after 15 March 2006.

Post Election Ordinary Time Rate of Pay

Level	No Election \$	1% Election \$	3% Election \$	5% Election \$	7% Election \$	10% Election \$	15% Election \$	20% Election \$
1	682.48	675.66	662.01	648.36	634.71	614.23	580.11	545.98
2	791.68	783.76	767.93	752.10	736.26	712.51	672.93	633.34
3	805.35	797.30	781.19	765.08	748.98	724.82	684.55	644.28
4	818.99	810.80	794.42	778.04	761.66	737.09	696.14	655.19
5	832.63	824.30	807.65	791.00	774.35	749.37	707.74	666.10
6	846.29	837.83	820.90	803.98	787.05	761.66	719.35	677.03
7	859.95	851.35	834.15	816.95	799.75	773.96	730.96	687.96
8	874.77	866.02	848.53	831.03	813.54	787.29	743.55	699.82

Having taken my own independent financial and taxation advice on the matter, I [insert employee name] classified on Level [insert level] elect in accordance with clause 46 of the Boral Emu Plains Quarry (State) Award to forgo:

- 1%;
- 3%;
- 5%;
- 7%;
- 10%;
- 15%; or
- 20% [circle percentage elected],

of my weekly ordinary time rate of pay in return for increased employer funded superannuation contributions equal to this amount.

**Sacrifice of Annual Cash Bonus Election**

Having taken my own independent financial and taxation advice on the matter, I (insert employee name) classified on Level (insert level) elect in accordance with clause 46 of the Boral Emu Plains Quarry (State) Award to forgo any annual cash bonus falling due after this election in return for increased employer funded superannuation contributions equal to this amount.

[Cross out Sacrifice of Annual Cash Bonus Election if Bonus is not being sacrificed]



In making this election, the elected percentage when added to the minimum Superannuation Guarantee Contribution does not exceed the age-based contribution limit provided for by sections 82AAC to 82AAF of the *Income Tax Assessment Act 1946* (Cth).

Notation:

For the 2004/2005 tax year these were:

Under 35 Years of age	35 to 49 Years of age	Over 50 Years of age
\$13,934	\$38,702	\$95,980

Signed by [insert employee name].....

Confirmed by Boral [insert name].....

Date.....

M. J. WALTON *J, Vice-President.*

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**PARKING ATTENDANTS, &c. (STATE) CONSOLIDATED AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

FAMILY PROVISIONS CASE - 19 DECEMBER 2005.

(No. IRC 4201 of 2005)

**VARIATION**

1. Insert after subclause (v) of clause 23, Bereavement Leave of the award published 8 December 2000 (320 I.G.1171), the following new subclause:
  - (vi) Bereavement entitlements for casual employees
    - (a) Subject to the evidentiary and notice requirements in subclause (ii) casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of a person prescribed in subparagraph (2) of paragraph (c) of subclause (i) of clause 14A, Personal/Carer's Leave
    - (b) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance
    - (c) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not engage a casual employee are otherwise not affected.
2. Delete subclauses (i), (ii) and (iii) of clause 14A, Personal/Carer's Leave, and insert in lieu the following:
  - (i) Use of Sick Leave -
    - (a) An employee, other than a casual employee, with responsibilities in relation to a class of person set out in subparagraph (2) of paragraph (c) of subclause (i) who needs the employee's care and support, shall be entitled to use, in accordance with this subclause, any current or accrued sick leave entitlement, provided for at clause 14, Sick Leave of the award, for absences to provide care and support for such persons when they are ill, or who require care due to an unexpected emergency. Such leave may be taken for part of a single day.
    - (b) The employee shall, if required,
      - (1) establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person, or
      - (2) establish by production of documentation acceptable to the employer or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee.

In normal circumstances, an employee must not take carer's leave under this subclause where another person had taken leave to care for the same person.
    - (c) The entitlement to use sick leave in accordance with this subclause is subject to:
      - (1) the employee being responsible for the care of the person concerned; and

- (2) the person concerned being:
- (A) a spouse of the employee; or
  - (B) a de facto spouse who, in relation to a person, is a person of the opposite sex to the first mentioned person who lives with the first mentioned person as the husband or wife of that person on a bona fide domestic basis although not legally married to that person; or
  - (C) a child or an adult child (including an adopted child, a stepchild, a foster child or an ex nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the employee or spouse or de facto spouse of the employee; or
  - (D) a same sex partner who lives with the employee as the de facto partner of that employee on a bona fide domestic basis; or
  - (E) a relative of the employee who is a member of the same household where, for the purposes of this subparagraph:
    - (i) "relative" means a person related by blood, marriage or affinity;
    - (ii) "affinity" means a relationship that one spouse, because of marriage, has to blood relatives of the other; and
    - (iii) "household" means a family group living in the same domestic dwelling.
- (d) An employee shall, wherever practicable, give the employer notice prior to the absence of the intention to take leave, the name of the person requiring care and that person's relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the employee to give prior notice of absence, the employee shall notify the employer by telephone of such absence at the first opportunity on the day of absence.

Note: In the unlikely event that more than 10 days sick leave in any year is to be used for caring purposes the employer and employee shall discuss appropriate arrangements which, as far as practicable, take account of the employer's and employee's requirements.

Where the parties are unable to reach agreement the disputes procedure at clause 27, Dispute Settling Procedure should be followed.

(ii) Unpaid Leave for Family Purpose -

- (a) An employee may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care and support to a class of person set out in subparagraph (2) of paragraph (c) of subclause (i) above who is ill or who requires care due to an unexpected emergency.

(iii) Annual Leave -

- (a) An employee may elect, with the consent of the employer to take annual leave not exceeding ten days in single-day periods, or part thereof, in any calendar year at a time or times agreed by the parties.
- (b) Access to annual leave, as prescribed in paragraph (a) above, shall be exclusive of any shutdown period provided for elsewhere under this award.
- (c) An employee and employer may agree to defer payment of the annual leave loading in respect of single-day absences until at least five consecutive annual leave days are taken.

- (d) An employee may elect with the employers agreement to take annual leave at any time within a period of 24 months from the date at which it falls due.
3. Insert after subclause (vi) of clause 14A, Personal/Carer's Leave the following new subclause:
- (vii) Personal Carer's Entitlement for casual employees -
- (a) Subject to the evidentiary and notice requirements in paragraphs (b) and (d) of subclause (i) casual employees are entitled to not be available to attend work, or to leave work if they need to care for a person prescribed in subparagraph (2) of paragraph (c) of subclause (i) of this clause who is sick and requires care and support, or who requires care due to an unexpected emergency, or the birth of a child.
- (b) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
- (c) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.

4. Insert in the Arrangement of the award, the following new clause number and subject matter:

14B. Parental Leave

5. Insert after the clause 14A, Personal/Carer's Leave, the following new clause:

**14B. Parental Leave**

- (1) Refer to the *Industrial Relations Act 1996 (NSW)*. The following provisions shall also apply in addition to those set out in the *Industrial Relations Act 1996 (NSW)*.
- (2) An employer must not fail to re-engage a regular casual employee (see section 53(2) of the Act) because:
- (a) the employee or employee's spouse is pregnant; or
- (b) the employee is or has been immediately absent on parental leave.

The rights of an employer in relation to engagement and re-engagement of casual employees are not affected, other than in accordance with this clause.

- (3) Right to request
- (a) An employee entitled to parental leave may request the employer to allow the employee:
- (i) to extend the period of simultaneous unpaid parental leave use up to a maximum of eight weeks;
- (ii) to extend the period of unpaid parental leave for a further continuous period of leave not exceeding 12 months;
- (iii) to return from a period of parental leave on a part-time basis until the child reaches school age;
- to assist the employee in reconciling work and parental responsibilities.

(b) The employer shall consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the employer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.

(c) Employee's request and the employer's decision to be in writing

The employee's request and the employer's decision made under subparagraphs (ii) and (iii) of paragraph (a) of subclause (3) must be recorded in writing.

(d) Request to return to work part-time

Where an employee wishes to make a request under subparagraph (iii) of paragraph (a) of subclause (3), such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the employee is due to return to work from parental leave.

(4) Communication during parental leave

(a) Where an employee is on parental leave and a definite decision has been made to introduce significant change at the workplace, the employer shall take reasonable steps to:

(i) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave; and

(ii) provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave.

(b) The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.

(c) The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with paragraph (a).

6. This order shall take effect on and from 19 December 2005.

NOTE: This variation is made pursuant to s 50 of the *Industrial Relations Act 1996*, to give effect to the orders made by the Industrial Relations Commission of New South Wales (Full Commission: Wright P, Sams DP, Staff J and Ritchie C) on 19 December 2005, published 27 January 2006 (353 I.G. 731).

G. M. GRIMSON *Industrial Registrar.*

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## CLERICAL AND ADMINISTRATIVE EMPLOYEES IN TEMPORARY EMPLOYMENT SERVICES (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

FAMILY PROVISIONS CASE - 19 DECEMBER 2005.

(No. IRC 4201 of 2005)

### VARIATION

1. Insert after subclause (v) of clause 26, Bereavement Leave of the award published 10 November 2000 (320 I.G.56), the following new subclause:
  - (vi) Bereavement entitlements for casual employees
    - (a) Subject to the evidentiary and notice requirements in subclause (ii) casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of a person prescribed in subparagraph (2) of paragraph (c) of subclause (i) of clause 18, Personal/Carer's Leave
    - (b) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance
    - (c) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not engage a casual employee are otherwise not affected.
2. Delete subclauses (i), (ii) and (iii) of clause 18, Personal/Carer's Leave, and insert in lieu the following:
  - (i) Use of Sick Leave -
    - (a) An employee, other than a casual employee, with responsibilities in relation to a class of person set out in subparagraph (2) of paragraph (c) of subclause (i) who needs the employee's care and support, shall be entitled to use, in accordance with this subclause, any current or accrued sick leave entitlement, provided for at clause 17, Sick Leave of the award, for absences to provide care and support for such persons when they are ill, or who require care due to an unexpected emergency. Such leave may be taken for part of a single day.
    - (b) The employee shall, if required,
      - (1) establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person, or
      - (2) establish by production of documentation acceptable to the employer or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee.

In normal circumstances, an employee must not take carer's leave under this subclause where another person had taken leave to care for the same person.

- (c) The entitlement to use sick leave in accordance with this subclause is subject to:
- (1) the employee being responsible for the care of the person concerned; and
  - (2) the person concerned being:
    - (A) a spouse of the employee; or
    - (B) a de facto spouse who, in relation to a person, is a person of the opposite sex to the first mentioned person who lives with the first mentioned person as the husband or wife of that person on a bona fide domestic basis although not legally married to that person; or
    - (C) a child or an adult child (including an adopted child, a stepchild, a foster child or an ex nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the employee or spouse or de facto spouse of the employee; or
    - (D) a same sex partner who lives with the employee as the de facto partner of that employee on a bona fide domestic basis; or
    - (E) a relative of the employee who is a member of the same household where, for the purposes of this subparagraph:
      - (i) "relative" means a person related by blood, marriage or affinity;
      - (ii) "affinity" means a relationship that one spouse, because of marriage, has to blood relatives of the other; and
      - (iii) "household" means a family group living in the same domestic dwelling.
- (d) An employee shall, wherever practicable, give the employer notice prior to the absence of the intention to take leave, the name of the person requiring care and that person's relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the employee to give prior notice of absence, the employee shall notify the employer by telephone of such absence at the first opportunity on the day of absence.

Note: In the unlikely event that more than 10 days sick leave in any year is to be used for caring purposes the employer and employee shall discuss appropriate arrangements which, as far as practicable, take account of the employer's and employee's requirements.

Where the parties are unable to reach agreement the disputes procedure at clause 33, Grievance and Dispute Resolution Procedure should be followed.

(ii) Unpaid Leave for Family Purpose -

- (a) An employee may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care and support to a class of person set out in subparagraph (2) of paragraph (c) of subclause (i) above who is ill or who requires care due to an unexpected emergency.

(iii) Annual Leave -

- (a) An employee may elect, with the consent of the employer to take annual leave not exceeding ten days in single-day periods, or part thereof, in any calendar year at a time or times agreed by the parties.
- (b) Access to annual leave, as prescribed in paragraph (a) above, shall be exclusive of any shutdown period provided for elsewhere under this award.

- (c) An employee and employer may agree to defer payment of the annual leave loading in respect of single-day absences until at least five consecutive annual leave days are taken.
  - (d) An employee may elect with the employers agreement to take annual leave at any time within a period of 24 months from the date at which it falls due.
3. Insert after subclause (v) of clause 18, Personal Carer's Leave the following new subclause:
- (vi) Personal Carer's Entitlement for casual employees -
    - (a) Subject to the evidentiary and notice requirements in paragraphs (b) and (d) of subclause (i) casual employees are entitled to not be available to attend work, or to leave work if they need to care for a person prescribed in subparagraph (2) of paragraph (c) of subclause (i) of this clause who is sick and requires care and support, or who requires care due to an unexpected emergency, or the birth of a child.
    - (b) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
    - (c) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.
4. Delete clause 29, Parental Leave and insert in lieu thereof the following:

### **29. Parental Leave**

- (1) Refer to the *Industrial Relations Act 1996* (NSW). The following provisions shall also apply in addition to those set out in the *Industrial Relations Act 1996* (NSW).
- (2) An employer must not fail to re-engage a regular casual employee (see section 53(2) of the Act) because:
  - (a) the employee or employee's spouse is pregnant; or
  - (b) the employee is or has been immediately absent on parental leave.

The rights of an employer in relation to engagement and re-engagement of casual employees are not affected, other than in accordance with this clause.
- (3) Right to request
  - (a) An employee entitled to parental leave may request the employer to allow the employee:
    - (i) to extend the period of simultaneous unpaid parental leave use up to a maximum of eight weeks;
    - (ii) to extend the period of unpaid parental leave for a further continuous period of leave not exceeding 12 months;
    - (iii) to return from a period of parental leave on a part-time basis until the child reaches school age;

to assist the employee in reconciling work and parental responsibilities.
  - (b) The employer shall consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only



refuse the request on reasonable grounds related to the effect on the workplace or the employer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.

- (c) Employee's request and the employer's decision to be in writing

The employee's request and the employer's decision made under subparagraphs (ii) and (iii) of paragraph (a) of subclause (3) must be recorded in writing.

- (d) Request to return to work part-time

Where an employee wishes to make a request under subparagraph (iii) of paragraph (a) of subclause (3), such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the employee is due to return to work from parental leave.

- (4) Communication during parental leave

- (a) Where an employee is on parental leave and a definite decision has been made to introduce significant change at the workplace, the employer shall take reasonable steps to:

(i) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave; and

(ii) provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave.

- (b) The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.

- (c) The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with paragraph (a).

5. This order shall take effect on and from 19 December 2005.

NOTE: This variation is made pursuant to s 50 of the *Industrial Relations Act* 1996, to give effect to the orders made by the Industrial Relations Commission of New South Wales (Full Commission: Wright P, Sams DP, Staff J and Ritchie C) on 19 December 2005, published 27 January 2006 (353 I.G. 731).

G. M. GRIMSON *Industrial Registrar.*

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**PARKING ATTENDANTS, &c. (STATE) CONSOLIDATED AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

FULL BENCH

Application by Liquor, Hospitality and Miscellaneous Union, New South Wales Branch, Industrial Organisation of Employees.

(No. IRC 1233 of 2006)

Before The Honourable Justice Wright, President  
The Honourable Justice Walton, Vice-President  
The Honourable Justice Haylen  
Commissioner Tabbaa

13 March 2006

**VARIATION**

1. Insert in Clause 1, Arrangement of the award published 8 December 2000 (320 I.G. 1171), the following new clause number and subject matter:

7A. Secure Employment Provisions

2. Insert after the clause 7, Casual Employees, the following new clause:

**7A. Secure Employment Provisions**

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the Industrial Relations Act 1996 (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Occupational Health and Safety
- (i) For the purposes of this subclause, the following definitions shall apply:
    - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
    - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
  - (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
    - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;

- (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
  - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the Occupational Health and Safety Act 2000 or the Workplace Injury Management and Workers Compensation Act 1998.
- (d) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the Apprenticeship and Traineeship Act 2001 (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from 7 March 2006.

F. L. WRIGHT *J, President.*  
M. J. WALTON *J, Vice-President.*  
The Honourable Justice Haylen  
I. TABBAA, Commissioner.

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## CLERICAL AND ADMINISTRATIVE EMPLOYEES IN TEMPORARY EMPLOYMENT SERVICES (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

FULL BENCH

Application by New South Wales Local Government, Clerical, Administrative, Energy, Airlines & Utilities Union, Industrial Organisation of Employees.

(No. IRC 1306 of 2006)

Before The Honourable Justice Wright, President  
The Honourable Justice Walton, Vice-President  
The Honourable Justice Haylen  
Commissioner Tabbaa

24 March 2006

### VARIATION

1. Insert after subclause (ii) of clause 5, Terms of Engagement, of the award published 10 November 2000 (320 I.G. 56) the following new subclause (iii):

(iii) Secure Employment -

(a) Definitions

For the purposes of this clause:

- (i) A reference to a casual employee is to be read as a reference to a person employed as an hourly temporary employee under this award.
- (ii) A reference to casual employment is to be read as a reference to employment as an hourly temporary employee under this award.
- (iii) A reference to a full-time employee is to be read as a reference to a person employed on a permanent basis to work 38 hours per week with all the rights and benefits of a weekly temporary employee under this award.
- (iv) A reference to permanent full-time employment or full-time employment is to be read as a reference to employment on permanent basis for 38 hours per week with all the rights and benefits of a weekly temporary employee under this award.
- (v) A reference to a part-time employee is to be read as a reference to a person employed on a permanent basis to work more than 12 but less than 38 hours per week with all the rights and benefits of a part-time temporary employee under this award.
- (vi) A reference to permanent part-time employment or part-time employment is to be read as a reference to employment on a permanent basis for more than 12 but less than 38 hours per week with all the rights and benefits of a part-time temporary employee under this award.

(b) Objective of this clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the

employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

(c) Casual conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of nine months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of nine months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the Industrial Relations Act 1996 (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.

3. This variation shall take effect from 24 March 2006.

F. L. WRIGHT *J, President.*  
M. J. WALTON *J, Vice-President.*  
The Honourable Justice Haylen  
I. TABBAA, Commissioner.

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## CROWN EMPLOYEES (NATIONAL PARKS AND WILDLIFE SERVICE) CONDITIONS OF EMPLOYMENT 2000 AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Public Employment Office.

(No. IRC 381 of 2006)

Before The Honourable Justice Wright, President

3 February 2006

### VARIATION

1. Insert in numerical order in clause 2, Arrangement of the award published 23 July 2004 (345 I.G. 411), the following new annexure number and subject matter:

Annexure 5 - Casual Leave Entitlements

2. Insert after subclause (ii), of clause 15, Temporary Work Arrangements, the following new subclause:
  - (iii) casuals shall also receive the following entitlements in accordance with the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2006:
    - (a) Unpaid parental leave in accordance with clause 12 (iv) (d);
    - (b) Personal Carer's entitlement in accordance with clause 12 (v); and
    - (c) Bereavement entitlement in accordance with clause 12 (vi).

This entitlement is also set out in this award at Annexure 5 - Casual Leave Entitlements

3. Insert after Annexure 4 - Salary Schedule for Field Officer Classification, the following new Annexure:

### ANNEXURE 5

#### CASUAL LEAVE ENTITLEMENTS

- (a) Casual employees are entitled to unpaid parental leave under Chapter 2, Part 4, Division 1, section 54, Entitlement to Unpaid Parental Leave, in accordance with the *Industrial Relations Act 1996*. The following provisions shall apply in addition to those set out in the *Industrial Relations Act 1996* (NSW).
  - (i) The Department Head must not fail to re-engage a regular casual employee (see section 53(2) of the Act) because:
    - (A) the employee or employee's spouse is pregnant; or
    - (B) the employee is or has been immediately absent on parental leave.

The rights of an employer in relation to engagement and re-engagement of casual employees are not affected, other than in accordance with this clause.
- (b) Personal Carers entitlement for casual employees
  - (i) Casual employees are entitled to not be available to attend work, or to leave work if they need to care for a family member described in Clause 29B (iii) (b) who is sick and requires care and support, or who require care due to an unexpected emergency, or the birth of a child. This



entitlement is subject to the evidentiary requirements set out below in (iv), and the notice requirements set out in (v).

- (ii) The Department Head and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
- (iii) A Department Head must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.
- (iv) The casual employee shall, if required,
  - (a) establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person, or
  - (b) establish by production of documentation acceptable to the employer or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee.

In normal circumstances, a casual employees must not take carer's leave under this subclause where another person has taken leave to care for the same person.

- (v) The casual employee must, as soon as reasonably practicable and during the ordinary hours of the first day or shift of such absence, inform the employer of their inability to attend for duty. If it is not reasonably practicable to inform the employer during the ordinary hours of the first day or shift of such absence, the employee will inform the employer within 24 hours of the absence.
- (c) Bereavement entitlements for casual employees
- (i) Casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of a family member on production of satisfactory evidence (if required by the employer).
  - (ii) The Department Head and the casual employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance
  - (iii) A Department Head must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not engage a casual employee are otherwise not affected.
  - (iv) The casual employee must, as soon as reasonably practicable and during the ordinary hours of the first day or shift of such absence, inform the employer of their inability to attend for duty. If it is not reasonably practicable to inform the employer during the ordinary hours of the first day or shift of such absence, the employee will inform the employer within 24 hours of the absence.

4. This variation shall take effect from the 19 December 2005.

F. L. WRIGHT J , *President*

(1424)

SERIAL C4831

**CROWN EMPLOYEES (NEW SOUTH WALES DEPARTMENT OF  
AGEING, DISABILITY AND HOME CARE) COMMUNITY LIVING  
AND RESIDENTIAL (STATE) AWARD 2004**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Public Employment Office.

(No. IRC 375 of 2006)

Before The Honourable Justice Wright, President

3 February 2006

**VARIATION**

1. Delete clause 26, Family and Community Services Leave, Personal Carer's Leave, of clause 1 Arrangement, of the award published 18 February 2002 (348 I.G. 538), and renumber the existing clauses as follows:
  26. General Conditions
  27. Extra Claims
  28. Area, Incidence and Duration
  29. Leave Reserved
  
2. Delete paragraph 6 (D) (viii), of clause 6, Part-Time Workers, Permanent Part-Time Workers, Temporary and Casual Workers, and insert in lieu thereof the following new paragraphs:
  - (viii) With respect to casual employees, the provisions of subclauses (v) to (xi) of clause 4 Hours, clause 5 Roster of Hours, clause 7 Overtime, clause 8 Time in lieu of Overtime, clause 12 Annual (Recreation Leave), clause 13 Public Holidays, clause 14 Paid Union Leave and clause 26, General Conditions shall not apply. Casual employees shall be entitled to all other benefits of this award, excepting where expressly provided for in this award, in the same proportion as their ordinary hours of work bear to full-time hours.
  
  - (ix) A casual employee shall also receive the following entitlements in accordance with clause 12, Casual Employees of the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2006.
    - (a) Unpaid parental leave in accordance with Clause 12 (iv) (d);
    - (b) Personal Carer's entitlement in accordance with Clause 12 (v); and
    - (c) Bereavement entitlement in accordance with Clause 12 (vi).
  
  - (x) Clauses 12 (i)-(iii) Casual Employment from the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2006 do not apply to a casual employee engaged under this Award.
  
3. Renumber the clauses in the body of the award to reflect the new Arrangement.

4. This variation shall take effect from the 19 December 2005.

F. L. WRIGHT J, *President*

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## CROWN EMPLOYEES (PARLIAMENT HOUSE CONDITIONS OF EMPLOYMENT 2004) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by The Presiding Officers Parliament of New South Wales.

(No. IRC 366 of 2006)

Before The Honourable Justice Wright, President

3 February 2006

### VARIATION

1. Insert in numerical order in clause 1, Arrangement of the award published 11 February 2005 (348 I.G. 445), the following new clause number and subject matter:

28A. Leave for Casual Employees

2. Insert after clause 28, Leave General, the following new clause:

#### 28A. Leave for Casual Employees

- (i) Other than as described under (iv), (v) and (vii) below, casual employees are not entitled to any other paid or unpaid leave.
- (ii) Casual employees will be paid 1/12th in lieu of annual leave.
- (iii) Casual employees will be entitled to Long Service Leave in accordance with the provisions of the *Long Service Leave Act 1955*.
- (iv) Casual employees are entitled to unpaid parental leave under Chapter 2, Part 4, Division 1, section 54, Entitlement to Unpaid Parental Leave, in accordance with the *Industrial Relations Act 1996*. The following provisions shall also apply in addition to those set out in the *Industrial Relations Act 1996* (NSW).
  - (a) The Clerks must not fail to re-engage a regular casual employee because:
    - (A) the employee or employee's spouse is pregnant; or
    - (B) the employee is or has been immediately absent on parental leave.

The rights of an employer in relation to engagement and re-engagement of casual employees are not affected, other than in accordance with this clause.

- (v) Personal Carers entitlement for casual employees
  - (a) Casual employees are entitled to not be available to attend work, or to leave work if they need to care for a family member described in (iii) below who is sick and requires care and support, or who requires care due to an unexpected emergency, or the birth of a child. This entitlement is subject to the evidentiary requirements set out below in (d), and the notice requirements set out in (e).
  - (b) The Clerks and the casual employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.

- (c) The Clerks must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.
- (d) The casual employee shall, if required,
  - (A) establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person, or
  - (B) establish by production of documentation acceptable to the employer or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee.

In normal circumstances, a casual employee must not take carer's leave under this subclause where another person had taken leave to care for the same person.

- (e) The casual employee must, as soon as reasonably practicable and during the ordinary hours of the first day or shift of such absence, inform the employer of their inability to attend for duty. If it is not reasonably practicable to inform the employer during the ordinary hours of the first day or shift of such absence, the employee will inform the employer within 24 hours of the absence.
- (vi) A family member for the purposes of (ii) (a) above is:
- (a) a spouse of the staff member; or
  - (b) a de facto spouse being a person of the opposite sex to the staff member who lives with the staff member as her husband or his wife on a bona fide domestic basis although not legally married to that staff member; or
  - (c) a child or an adult child (including an adopted child, a step child, a foster child or an ex-nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the staff member or of spouse or of de facto spouse of the staff member; or
  - (d) a same sex partner who lives with the staff member as the de facto partner of that staff member on a bona fide domestic basis; or a relative of the staff member who is a member of the same household, where for the purposes of this definition:-

"relative" means a person related by blood, marriage, affinity or Aboriginal kinship structures;

"affinity" means a relationship that one spouse or partner has to the relatives of the other; and

"household" means a family group living in the same domestic dwelling.

- (vii) Bereavement entitlements for casual employees
- (a) Casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of a family member on production of satisfactory evidence (if required by the employer).
  - (b) The Clerks and the casual employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
  - (c) The Clerks must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not engage a casual employee are otherwise not affected.

- (d) The casual employee must, as soon as reasonably practicable and during the ordinary hours of the first day or shift of such absence, inform the employer of their inability to attend for duty. If it is not reasonably practicable to inform the employer during the ordinary hours of the first day or shift of such absence, the employee will inform the employer within 24 hours of the absence.
3. Insert after subclause (vii), of clause 36, Maternity Leave, the following new subclauses:
- (viii) Right to Request
- (1) A staff member who has been granted maternity, adoption or other parent leave in accordance with subclause (a), (b) or (c) may make a request to the Department Head to:
- (i) extend the period of unpaid maternity, adoption or other parent leave for a further continuous period of leave not exceeding 12 months;
- (ii) return from a period of full time maternity, adoption or other parent leave on a part time basis until the child reaches school age;
- to assist the staff member in reconciling work and parental responsibilities.
- (2) The Department Head shall consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the employer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.
4. Delete subclause (i), of clause 37, Parental Leave, and insert in lieu thereof the following:
- (i) A staff member is entitled to take parental leave in respect of each pregnancy of the spouse or partner as follows:
- (a) short parental leave - an unbroken period of up to one week at the time of the birth of the child or other termination of the spouse's or partner's pregnancy; or in the case of adoption, from the date of taking custody of the child or children;
- A staff member entitled to short other parent leave is entitled to payment at the ordinary rate of pay for a period of up to 1 week, provided the staff member:
- (1) Applied for parental leave within the time and in the manner determined set out in subclause (j) of this clause; and
- (2) Prior to the commencement of parental leave, completed not less than 40 weeks' continuous service.
- (b) extended parental leave - for a period not exceeding 12 months, less any short parental leave already taken by the staff member as provided for in paragraph (a) of this subclause in order to assume the primary care giving responsibilities.
5. Insert after subclause (v), of clause 37, Parental Leave, the following new subclauses:
- (vi) Right to Request
- (1) A staff member who has been granted maternity, adoption or other parent leave in accordance with subclause (a), (b) or (c) may make a request to the Department Head to:
- (i) extend the period of unpaid maternity, adoption or other parent leave for a further continuous period of leave not exceeding 12 months;

- (ii) return from a period of full time maternity, adoption or other parent leave on a part time basis until the child reaches school age;

to assist the staff member in reconciling work and parental responsibilities.

- (2) The Department Head shall consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the employer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.

(vii) Communication during Parental Leave

- (a) Where an employee is on parental leave and a definite decision has been made to introduce significant change at the workplace, the employer shall take reasonable steps to:
  - (i) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave; and
  - (ii) provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave.
- (b) The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.
- (c) The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with paragraph (a).

6. Insert after subclause (vii), of clause 38, Adoption Leave, the following new subclauses:

(vii) Right to Request

- (1) A staff member who has been granted maternity, adoption or other parent leave in accordance with subclause (a), (b) or (c) may make a request to the Department Head to:
  - (i) extend the period of unpaid maternity, adoption or other parent leave for a further continuous period of leave not exceeding 12 months;
  - (ii) return from a period of full time maternity, adoption or other parent leave on a part time basis until the child reaches school age;

to assist the staff member in reconciling work and parental responsibilities.

- (2) The Department Head shall consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the employer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.

(ix) Communication during Adoption Leave

- (a) Where an employee is on adoption leave and a definite decision has been made to introduce significant change at the workplace, the employer shall take reasonable steps to:

- (i) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave; and
  - (ii) provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave.
- (b) The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.
- (c) The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with paragraph (a).

7. This variation shall take effect from the 19 December 2005.

F. L. WRIGHT J , *President*

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**INDEPENDENT COMMISSION AGAINST CORRUPTION AWARD**

## INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales, Industrial Organisation of Employees.

(No. IRC 397 of 2006)

Before The Honourable Justice Wright, President

3 February 2006

**VARIATION**

1. Insert at the end of the Arrangement, of the award published 3 September 2004 (346 I.G. 227), the following:

Schedule 3 ICAC Award - Casual Employees' Entitlements

2. Insert at the end of clause 6, Basis of Employment in the ICAC, the following paragraph:

Casual employees shall receive leave entitlements as referred to in Schedule 3.

3. Delete paragraph 10.3.9 of clause 10, Conditions of Employment, and insert in lieu thereof the following:

10.3.9 Parental Leave

Parental leave includes maternity, adoption leave and "other parent" leave.

- (a) Maternity leave shall apply to a staff member who is pregnant and, subject to this clause the staff member shall be entitled to be granted maternity leave as follows:
  - (1) For a period up to 9 weeks prior to the expected date of birth; and
  - (2) For a further period of up to 12 months after the actual date of birth.
  - (3) A staff member who has been granted maternity leave and whose child is stillborn may elect to take available sick leave instead of maternity leave.
- (b) Adoption leave shall apply to a staff member adopting a child and who will be the primary care giver, the staff member shall be granted adoption leave as follows:
  - (1) For a period of up to 12 months if the child has not commenced school at the date of the taking of custody; or
  - (2) For such period, not exceeding 12 months on a full-time basis, as the Commissioner may determine, if the child has commenced school at the date of the taking of custody.
  - (3) Special Adoption Leave --- A staff member shall be entitled to special adoption leave (without pay) for up to 2 days to attend interviews or examinations for the purposes of adoption. Special adoption leave may be taken as a charge against recreation leave, extended leave, flex leave or family and community service leave.
- (c) Where maternity or adoption leave does not apply; "other parent" leave is available to male and female staff who apply for leave to look after his/her child or children. Other parent leave applies as follows:

- (1) Short other parent leave --- an unbroken period of up to 8 weeks at the time of the birth of the child or other termination of the spouse's or partner's pregnancy or, in the case of adoption, from the date of taking custody of the child or children;
  - (2) Extended other parent leave --- for a period not exceeding 12 months, less any short other parental leave already taken by the staff member as provided for in paragraph (1) of this subclause. Extended other parental leave may commence at any time up to 2 years from the date of birth of the child or the taking of custody of the child.
- (d) A staff member taking maternity or adoption leave is entitled to payment at the ordinary rate of pay for a period of 14 weeks, a staff member entitled to short other parent leave is entitled to payment at the ordinary rate of pay for a period of up to 1 week, provided the staff member:
- (1) Applied for parental leave within the time and in the manner determined set out in subclause (j) of this clause; and
  - (2) Prior to the commencement of parental leave, completed not less than 40 weeks' continuous service.
  - (3) Payment for the maternity, adoption or short other parent leave may be made as follows:
    - (i) in advance as a lump sum; or
    - (ii) fortnightly as normal; or
    - (iii) fortnightly at half pay; or
    - (iv) a combination of full-pay and half pay.
- (e) Payment for maternity, adoption or other parent leave is at the rate applicable when the leave is taken. A member of staff holding a full time position who is on part time leave without pay when they start parental leave is paid:
- (1) at the full time rate if they began part time leave 40 weeks or less before starting maternity, adoption or other parent leave;
  - (2) at the part time rate if they began part time leave more than 40 weeks before starting maternity, adoption or other parent leave and have not changed their part time work arrangements for the 40 weeks;
  - (3) at the rate based on the average number of weekly hours worked during the 40 week period if they have been on part time leave for more than 40 weeks but have changed their part time work arrangements during that period.
- (f) A staff member who has taken no more than 12 months full time maternity, adoption or other parent leave or its part time equivalent is entitled to be paid at their normal rate (ie the rate at which they were paid before proceeding on parental leave) for another period of such leave regardless of whether they resume their normal hours of work before proceeding on leave for another pregnancy or adoption.
- (g) Except as provided in subclauses (d), (e) and (f) of this clause, maternity, adoption or other parent leave shall be granted without pay.

- (h) Right to request
- (1) A staff member who has been granted maternity, adoption or other parent leave in accordance with subclause (a), (b) or (c) may make a request to the Commissioner to:
    - (i) extend the period of unpaid maternity, adoption or other parent leave for a further continuous period of leave not exceeding 12 months;
    - (ii) return from a period of full time maternity, adoption or other parent leave on a part time basis until the child reaches school age;to assist the staff member in reconciling work and parental responsibilities.
  - (2) The Commissioner shall consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the employer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.
- (i) Notification Requirements
- (1) When the Commissioner is made aware that a staff member or their spouse is pregnant, or a staff member's spouse is pregnant or is adopting a child, the Commission must inform the staff member of their entitlements and their obligations under the Award.
  - (2) A staff member who wishes to take parental leave must notify the Commissioner in writing at least 8 weeks (or as soon as practicable) before the expected commencement of parental leave:
    - (i) that she/he intends to take maternity, adoption or other parent leave, and
    - (ii) the expected date of birth or the expected date of placement, and
    - (iii) if she/he is likely to make a request under subclause(h)
  - (3) At least 4 weeks before a staff member's expected date of commencing maternity, adoption or other parent leave they must advise:
    - (i) the date on which the maternity, adoption or other parent leave is intended to start, and
    - (ii) the period of leave to be taken.
  - (4) Employee's request and the employer's decision to be in writing
  - (5) The employee's request and the Commissioner's decision made under 10.3.9 (h)(1)(i) and 10.3.9 (h)(1)(ii) must be recorded in writing.
  - (6) A staff member intending to request to return from maternity, adoption or other parent leave on a part-time basis or seek an additional period of leave of up to 12 months (or possible just cross reference back up) must notify the Commissioner in writing as soon as practicable and preferably before beginning maternity, adoption or other parental leave. If the notification is not given before commencing such leave, it may be given at any time up to 4 weeks before the proposed return on a part time basis, or later if the Commissioner agrees.

- (7) A staff member on maternity leave is to notify the Commission of the date on which she gave birth as soon as she can conveniently do so
- (8) A staff member must notify the Commission as soon as practicable of any change in her intentions as a result of premature delivery or miscarriage.
- (9) A staff member on maternity or adoption leave may change the period of leave or arrangement, once without the consent of the Commission and any number of times with the consent of the Commission. In each case she/he must give the Commission at least 14 days notice of the change unless the Commissioner decides otherwise.
- (j) A staff member has the right to his/her former position.
  - (1) if she/he has taken approved leave or part-time work in accordance with subclause (h), and she resumes duty immediately after the approved leave or work on a part-time basis.
- (k) If the position occupied by the staff member immediately prior to the taking of maternity, adoption or other parent leave has ceased to exist, but there are other positions available that the staff member is qualified for and is capable of performing, the staff member shall be appointed to a position of the same grade and classification as the staff member's former position.
- (l) A staff member does not have a right to her/his former position during a period of return to work on a part-time basis. If the Commissioner approves a return to work on a part-time basis then the position occupied is to be at the same classification and grade as the former position.
- (m) A staff member who has returned to full time duty without exhausting their entitlement to 12 months unpaid maternity, adoption or other parent leave is entitled to revert back to such leave. This may be done once only, and a minimum of 4 weeks notice (or less if acceptable to the Commission) must be given.
- (n) A staff member who is sick during her pregnancy may take available paid sick leave or accrued recreation or extended leave or sick leave without pay. A staff member may apply for accrued recreation leave, extended leave or leave without pay before taking maternity leave. Any leave taken before maternity leave ceases at the end of the working day immediately preceding the day she starts her nominated period of maternity leave or on the working day immediately preceding the date of birth of the child, whichever is sooner.
- (o) A staff member may elect to take available recreation leave or extended leave within the period of maternity, adoption or other parent leave provided this does not extend the total period of such leave.
- (p) A staff member may elect to take available recreation leave at half pay in conjunction with maternity, adoption or other parent leave subject to:
  - i. accrued recreation leave at the date adoption leave commences is exhausted within the period of maternity, adoption or other parent leave,
  - ii. the total period of maternity, adoption or other parent leave, is not extended by the taking of recreation leave at half pay
  - iii. when calculating other leave accruing during the period of recreation leave at half pay, the recreation leave at half pay shall be converted to the full time equivalent and treated as full pay leave for accrual of further recreation, extended and other leave at the full time rate

- (q) If, for any reason, a pregnant staff member is having difficulty in performing her normal duties or there is a risk to her health or to that of her unborn child the Commissioner, should, in consultation with the member of staff, take all reasonable measures to arrange for safer alternative duties. This may include, but is not limited to greater flexibility in when and where duties are carried out, a temporary change in duties, retraining, multi-skilling, teleworking and job redesign.
- (r) If such adjustments cannot reasonably be made, the Commissioner must grant the staff member maternity leave, or any available sick leave, for as long as it is necessary to avoid exposure to that risk as certified by a medical practitioner, or until the child is born which ever is the earlier.
- (s) Communication during maternity, adoption or other parent leave
  - (1) Where a staff member is on maternity, adoption or other parent leave and a definite decision has been made to introduce significant change at the workplace, the Commission shall take reasonable steps to:
    - (i) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the staff member held before commencing maternity, adoption or other parent leave; and
    - (ii) provide an opportunity for the staff member to discuss any significant effect the change will have on the status or responsibility level of the position she held before commencing maternity, adoption or other parent leave.
  - (2) The staff member shall take reasonable steps to inform the Commissioner about any significant matter that will affect the decision regarding the duration of maternity, adoption or other parent leave to be taken, whether the staff member intends to return to work and whether she intends to request to return to work on a part-time basis.
  - (3) The staff member shall also notify the Commission of changes of address or other contact details which might affect the Commission's capacity to comply with paragraph (1).

4. Insert after Schedule 2, Allowance Rates from 2 July 2004, the following new Schedule:

### **SCHEDULE 3 CASUAL EMPLOYEES' ENTITLEMENTS**

- (i) Casual employees are entitled to unpaid parental leave under Chapter 2, Part 4, Division 1, section 54, Entitlement to Unpaid Parental Leave, in accordance with the *Industrial Relations Act 1996*. The following provisions shall also apply in addition to those set out in the *Industrial Relations Act 1996* (NSW).
  - (a) The Commission must not fail to re-engage a regular casual employee (see section 53(2) of the Act) because:
    - (A) the employee or employee's spouse is pregnant; or
    - (B) the employee is or has been immediately absent on parental leave.

The rights of an employer in relation to engagement and re-engagement of casual employees are not affected, other than in accordance with this clause.

- (ii) Personal Carers entitlement for casual employees
- (a) Casual employees are entitled to not be available to attend work, or to leave work if they need to care for a family member described in (iii) below who is sick and requires care and support, or who requires care due to an unexpected emergency, or the birth of a child. This entitlement is subject to the evidentiary requirements set out below in (d), and the notice requirements set out in (e).
  - (b) The Commissioner and the casual employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
  - (c) The Commissioner must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.
  - (d) The casual employee shall, if required,
    - (A) establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person, or
    - (B) establish by production of documentation acceptable to the employer or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee.

In normal circumstances, a casual employee must not take carer's leave under this subclause where another person had taken leave to care for the same person.

- (e) The casual employee must, as soon as reasonably practicable and during the ordinary hours of the first day or shift of such absence, inform the employer of their inability to attend for duty. If it is not reasonably practicable to inform the employer during the ordinary hours of the first day or shift of such absence, the employee will inform the employer within 24 hours of the absence.
- (iii) A family member for the purposes of (ii) (a) above is:
- (a) a spouse of the staff member; or
  - (b) a de facto spouse being a person of the opposite sex to the staff member who lives with the staff member as her husband or his wife on a bona fide domestic basis although not legally married to that staff member; or
  - (c) a child or an adult child (including an adopted child, a step child, a foster child or an ex-nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the staff member or of spouse or of de facto spouse of the staff member; or
  - (d) a same sex partner who lives with the staff member as the de facto partner of that staff member on a bona fide domestic basis; or a relative of the staff member who is a member of the same household, where for the purposes of this definition:-

"relative" means a person related by blood, marriage, affinity or Aboriginal kinship structures;

"affinity" means a relationship that one spouse or partner has to the relatives of the other; and

"household" means a family group living in the same domestic dwelling.

- (iv) Bereavement entitlements for casual employees
- (a) Casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of a family member on production of satisfactory evidence (if required by the employer).
  - (b) The Commissioner and the casual employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
  - (c) The Commissioner must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not engage a casual employee are otherwise not affected.
  - (d) The casual employee must, as soon as reasonably practicable and during the ordinary hours of the first day or shift of such absence, inform the employer of their inability to attend for duty. If it is not reasonably practicable to inform the employer during the ordinary hours of the first day or shift of such absence, the employee will inform the employer within 24 hours of the absence.
5. This variation shall take effect from the 19 December 2005.

F. L. WRIGHT J , *President*

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Printed by the authority of the Industrial Registrar.

**NEW SOUTH WALES LOTTERIES CORPORATION (SALARIES,  
ALLOWANCES AND CONDITIONS OF EMPLOYMENT) 2004  
AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by NSW Lotteries Corporation.

(No. IRC 323 of 2006)

Before The Honourable Justice Wright, President

3 February 2006

**VARIATION**

1. Insert after paragraph 9.4 (f), of clause 9, Categories of Employment, of the award published 23 December 2005 (355 I.G. 636), the following new paragraphs:

(g) Casual employees are entitled to unpaid parental leave under Chapter 2, Part 4, Division 1, Section 54, Entitlement to Unpaid Parental Leave, in accordance with the *Industrial Relations Act 1996*. The following provisions shall also apply in addition to those set out in the *Industrial Relations Act 1996* (NSW).

(i) The Corporation must not fail to re-engage a regular casual employee (see Section 53(2) of the Act) because:

(a) the employee or employee's spouse is pregnant; or

(b) the employee is or has been immediately absent on parental leave.

The rights of an employer in relation to engagement and re-engagement of casual employees are not affected, other than in accordance with this clause.

(h) Personal Carers Entitlements for casual employees

(i) Casual employees are entitled to not be available to attend work, or to leave work if they need to care for a family member described in clause 20.14(b) of the Award who is sick and requires care and support, or who requires care due to an unexpected emergency, or the birth of a child. This entitlement is subject to the evidentiary requirements set out below in (iv), and the notice requirements set out in (v).

(ii) The Corporation and the casual employee shall agree on the period for which the employee is entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.

(iii) The Corporation must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.

(iv) The casual employee shall, if required:

(a) establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person, or



- (b) establish by production of documentation acceptable to the employer or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee.

In normal circumstances, a casual employee must not take carer's leave under this subclause where another person had taken leave to care for the same person.

- (v) The casual employee must, as soon as reasonably practicable and during the ordinary hours of the first day or shift of such absence, inform the employer of their inability to attend for duty. If it is not reasonably practicable to inform the employer during the ordinary hours of the first day or shift of such absence, the employee will inform the employer within 24 hours of the absence.
- (i) Bereavement entitlements for casual employees
    - (i) Casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of a family member on production of satisfactory evidence (if required by the employer),
    - (ii) The Corporation and the casual employee shall agree on the period for which the employee is entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
    - (iii) The Corporation must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not engage a casual employee are otherwise not affected.
    - (iv) The casual employee must, as soon as reasonably practicable and during the ordinary hours of the first day or shift of such absence, inform the employer of their inability to attend for duty. If it is not reasonably practicable to inform the employer during the ordinary hours of the first day or shift of such absence, the employee will inform the employer within 24 hours of the absence.
2. Delete the words "adoption leave;" appearing in paragraph 20.1 (d), of clause 20, Leave, and insert in lieu thereof the following:
 

adoption leave, full-pay and half-pay;
  3. Delete the words "short paid parental leave;" appearing in paragraph 20.1 (d), of the said clause 20, and insert in lieu thereof the following:
 

short paid other parent leave
  4. Delete the words "short paid parental leave at full pay;" appearing in paragraph 20.1 (e), of the said clause 20, and insert in lieu thereof the following:
 

short paid other parent leave at full-pay;
  5. Delete the words "short paid parental leave at half pay, which accrues all leave at half the rate;" appearing in paragraph 20.1 (e), of the said clause 20, and insert in lieu thereof the following:
 

short paid other parent leave at half-pay, which accrues all leave at half the rate;
  6. Delete the words "unpaid parental leave does not count as service for determining any leave entitlement, except for extended (long service) leave when at least ten years of service has been completed and unpaid maternity leave does not exceed six months;" appearing in paragraph 20.1 (e), of the said clause 20, and insert in lieu thereof the following:

unpaid other parent leave does not count as service for determining any leave entitlement, except for extended (long service) leave when at least ten years of service has been completed and unpaid maternity leave does not exceed six months;

7. Delete subclauses 20.2, Maternity Leave, 20.3, Adoption Leave and 20.4, Parental Leave, of the said clause 20, and insert in lieu thereof the following:

20.2 Parental Leave

Parental leave includes maternity leave, adoption leave and "other parent" leave.

- (a) Maternity leave shall apply to an employee who is pregnant and, subject to this clause, the employee shall be entitled to be granted maternity leave as follows:
- (i) for a period of up to nine weeks prior to the expected date of birth; and
  - (ii) for a further period of up to twelve months after the actual date of birth.
  - (iii) an employee who has been granted maternity leave and whose child is stillborn may elect to take available sick leave instead of maternity leave.
- (b) Adoption leave shall apply to an employee adopting a child and who will be the primary care giver, the employee shall be granted adoption leave as follows:
- (i) for a period of up to twelve months if the child has not commenced school at the date of the taking custody, or
  - (ii) for such period, not exceeding twelve months on a full-time basis, as the Corporation may determine, if the child has commenced school at the date of the taking of custody.
  - (iii) Special Adoption Leave - an employee shall be entitled to special adoption leave (without pay) for up to 2 days to attend interviews or examinations for the purposes of adoption. Special adoption leave may be taken as charges against recreation leave, extended leave, flex time, rostered time off or family and community services leave.
- (c) Where maternity or adoption leave does not apply, "other parent" leave is available to male and female staff who apply for leave to look after his/her child or children. Other parent leave applies as follows:
- (i) Short other parent leave - an unbroken period of up to eight weeks at the time of the birth of the child or other termination of the spouse's or partner's pregnancy or, in the case of adoption, from the date of taking custody of the child or children;
  - (ii) Extended other parent leave - for a period not exceeding twelve months, less any short other parent leave already taken by the employee as provided for in paragraph (i) of this subclause. Extended other parent leave may commence at any time up to 2 years from the date of birth of the child or the taking of custody of the child.
- (d) An employee taking maternity or adoption leave is entitled to payment at the ordinary rate of pay for a period of 14 weeks. An employee entitled to short other parent leave is entitled to payment at the ordinary rate of pay for a period of up to 1 week, provided the employee:
- (i) Applied for parental leave within the time and in the manner determined as set out in subclause (i) of this clause; and

- (ii) Prior to the commencement of parental leave, completed not less than 40 weeks continuous service.
- (iii) Payment for maternity, adoption or short other parent leave may be made as follows:
  - a. in advance as a lump sum; or
  - b. fortnightly as normal; or
  - c. fortnightly at half pay; or
  - d. a combination of full pay and half pay.
- (e) Payment for maternity, adoption or other parent leave is at the rate applicable when the leave is taken. An employee holding a full time position who is on part time leave without pay when they start parental leave is paid:
  - (i) at the full time rate if they began part time leave 40 weeks or less before starting maternity, adoption or other parent leave;
  - (ii) at the part time rate if they began part time leave more than 40 weeks before starting maternity, adoption or other parent leave and have not changed their part time work arrangements for the 40 weeks;
  - (iii) at the rate based on the average number of weekly hours worked during the 40 week period if they have been on part time leave for more than 40 weeks but have changed their part time work arrangements during that period,
- (f) An employee who has taken no more than 12 months full time maternity, adoption or other parent leave or its part time equivalent is entitled to be paid at their normal rate (i.e. the rate at which they were paid before proceeding on parental leave) for another period of such leave regardless of whether they resume their normal hours of work before proceeding on leave for another pregnancy or adoption.
- (g) Except as provided in subclauses (d), (e) and (f) of this clause, maternity, adoption or other parent leave shall be granted without pay,
- (h) Right to request
  - (i) An employee who has been granted maternity, adoption or other parent leave in accordance with subclauses (a), (b) or (c) may make a request to the Corporation to:
    - a. extend the period of unpaid maternity, adoption or other parent leave for a further continuous period of leave not exceeding 12 months;
    - b. return from a period of full time maternity, adoption or other parent leave on a part time basis until the child reaches school age;to assist the staff member in reconciling work and parental responsibilities.
  - (ii) The Corporation shall consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the employer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.

## (i) Notification Requirements

- (i) An employee who wishes to take parental leave must notify the Corporation in writing at least eight weeks (or as soon as practicable) before the expected commencement of parental leave;
  - a. that he/she intends to take maternity, adoption or other parent leave, and
  - b. the expected date of birth or the expected date of placement, and
  - c. if she/he is likely to make a request under subclause (h).
- (ii) At least four weeks before an employee's expected date of commencing maternity, adoption or other parent leave they must advise:
  - a. the date on which the maternity, adoption or other parent leave is intended to start, and
  - b. the period of leave to be taken.
- (iii) Employee's request and the employer's decision to be in writing

The employee's request and the Corporation's decision made under subclause 20.2(h)(i) and 20.2h(ii) must be recorded in writing.
- (iv) An employee intending to request to return from maternity, adoption or other parent leave on a part time basis or seek an additional period of leave of up to 12 months, must notify the Corporation in writing as soon as practicable and preferably before beginning maternity, adoption or other parent leave. If the notification is not given before commencing such leave, it may be given at any time up to 4 weeks before the proposed return on a part time basis, or later if the Corporation agrees.
- (v) An employee on maternity leave is to notify the Corporation of the date on which she gave birth, within two weeks of the date of birth.
- (vi) An employee must notify the Corporation within two weeks of any change in their intentions as a result of premature delivery or miscarriage.
- (vii) An employee on maternity or adoption leave may change the period of leave or arrangement, once without the consent of the Corporation, and any number of times with the consent of the Corporation. In each case she/he must give the Corporation at least 14 days notice of the change unless the Corporation decides otherwise.
- (j) An employee has the right to his/her former position if she/he has taken approved leave or part time work in accordance with subclause (h), and resumes duty immediately after the approved leave or work on a part time basis.
- (k) If the position occupied by the employee immediately prior to the taking of maternity, adoption or other parent leave has ceased to exist, but there are other positions available that the employee is qualified for and is capable of performing, the employee shall be appointed to a position of the same grade or pay range as the employee's former position.
- (l) An employee does not have a right to her/his former position during a period of return to work on a part time basis. If the Corporation approves a return to work on a part time basis then the position occupied is to be at the same grade or pay range as the former position.

- (m) An employee who has returned to full time duty without exhausting their entitlement to twelve months unpaid maternity, adoption or other parent leave is entitled to revert back to such leave. This may be done once only, and a minimum of four weeks notice (or less if acceptable to the Corporation) must be given.
- (n) An employee who is sick during her pregnancy may take available paid sick leave or accrued recreation or extended leave or sick leave without pay. An employee may apply for accrued recreation, extended leave or leave without pay before taking maternity leave. Any leave taken before maternity leave ceases at the end of the working day immediately preceding the day she starts her nominated period of maternity leave or on the working day immediately preceding the date of birth of the child, whichever is the sooner.
- (o) An employee may elect to take available recreation or extended leave within the period of maternity, adoption or other parent leave provided this does not extend the total period of such leave.
- (p) If, for any reason, a pregnant employee is having difficulty in performing her normal duties or there is a risk to her health or to that of her unborn child, the Corporation, should, in consultation with the member of staff, take all reasonable measures to arrange for safer alternative duties.
- (q) If such adjustments cannot reasonably be made, the Corporation must grant the employee maternity leave, or any available sick leave, for as long as it is necessary to avoid exposure to that risk as certified by a medical practitioner, or until the child is born, whichever is the earlier.
- (r) Communication during maternity, adoption or other parent leave
  - (i) Where an employee is on maternity, adoption or other parent leave and a definite decision has been made to introduce significant change at the workplace, the Corporation shall take reasonable steps to:
    - a. make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing maternity, adoption or other parent leave; and
    - b. provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position she held before commencing maternity, adoption or other parent leave.
  - (ii) The employee shall take reasonable steps to inform the Corporation about any significant matter that will affect his/her decision regarding the duration of maternity, adoption or other parent leave to be taken, whether the employee intends to return to work and whether he/she intends to request a return to work on a part time basis.
  - (iii) The employee shall also notify the Corporation of changes of address or other contact details, which might affect the Corporation's capacity to comply with paragraph (i).

8. This variation shall take effect from the 19 December 2005.

F. L. WRIGHT J , *President*

(1211)

SERIAL C4852

**TEACHERS (CATHOLIC EARLY CHILDHOOD SERVICE CENTRES  
AND PRE-SCHOOLS) (STATE) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by New South Wales Independent Education Union, Industrial Organisation of Employees.

(No. IRC 317 of 2006)

Before The Honourable Justice Wright, President

3 February 2006

**VARIATION**

1. Delete clause 11 Catholic Personal/Carer's Leave of the award published 30 August 2002 (335 I.G. 1351) and insert in lieu thereof the following:

**11. Catholic Personal/Carer's Leave****11.1 Use of Sick Leave to Provide Care and Support for a Family Member**

- (a) A teacher other than a casual teacher, with responsibilities in relation to a class of person set out in subparagraph (ii) of paragraph (c) who needs the teacher's care and support, shall be entitled to use, in any year, in accordance with this subclause, 10 days of current and 30 days of accrued sick leave entitlement provided for at Clause 10 of the award, for absences to provide care and support for such persons when they are ill, or who require care due to an unexpected emergency. Such leave may be taken for part of a single day.
- (b) The teacher shall, if required,
  - (i) establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person, or
  - (ii) establish by production of documentation acceptable to the employer or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the teacher.

In normal circumstances, a teacher must not take carer's leave under this subclause where another person had taken leave to care for the same person.

- (c) The entitlement to use sick leave in accordance with this subclause is subject to:
  - (i) the teacher being responsible for the care of the person concerned; and
  - (ii) the family member being a parent, step-parent, spouse, grandchild, sibling, grandparent, child, stepchild, foster child, adopted child and foster parent of the teacher or spouse.

Note: In the unlikely event that more than 10 days sick leave in any year is to be used for caring purposes the employer and teacher shall discuss appropriate arrangements which, as far as practicable, take account of the employer's and teacher's requirements.

Where the parties are unable to reach agreement the disputes and grievances procedure at Clause 20 should be followed.

### 11.2 Use of Sick Leave for a Pressing Domestic Necessity

- (a) Subject to paragraph (c), for the purposes of this clause "pressing domestic necessity" means any reason at the discretion of the employer, provided that such discretion is not unreasonably withheld and is exercised so as not to contravene any applicable provisions of the *Anti-Discrimination Act 1977*.
- (b) A teacher, other than a casual teacher, with sick leave credits may apply to utilise such credits up to five of any current or accrued sick leave entitlement days in any one year of the teacher's service, for any pressing domestic necessity other than to care for or support a person defined in subparagraph 11.1(c)(ii).
- (c) Where a teacher, other than a casual teacher, is not entitled to utilise sick leave credits pursuant to paragraph 11.1(a) he or she may access 10 days current and 30 days accrued sick leave for any pressing domestic necessity where the teacher is responsible for the care or support of a person not referred to in subparagraph 11.1(c)(ii).
- (d) The yearly entitlement for the purpose of pressing domestic necessity in paragraph 11.2(b) is non-cumulative.
- (e) If required, a teacher shall provide a written statement or other evidence supporting the application for Personal/Carer's Leave for the purpose of pressing domestic necessity.

### 11.3 Notification of Intention to Take Leave

In relation to sub-clauses 11.1 and 11.2, wherever practicable; a teacher shall give the employer notice prior to the absence of the intention to take leave. The teacher shall also provide the name of the person requiring care, that person's relationship to the teacher, the nature of any pressing domestic necessity, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the teacher to give prior notice of absence, the teacher shall notify the employer by telephone of such absence at the first opportunity on the day of absence.

### 11.4 Unpaid Leave for Family Purpose

A teacher may elect, with the consent of the employer to take unpaid leave for the purpose of providing care and support to a person referred to in subparagraph 11.1(c)(ii) or paragraph 11.2(c) who is ill or who requires care due to an unexpected emergency.

### 11.5 Entitlement for casual teachers

- (a) Subject to the requirements in paragraph 11.1(b) and subclause 11.3, casual teachers are entitled to not be available to attend work, or to leave work if they need to care for a person prescribed in subparagraph 11.1 (c) (ii) or paragraph 11.2(c) of this clause who is sick and requires care and support, or who requires care due to an unexpected emergency, or the birth of a child.
- (b) The employer and the teacher shall agree on the period for which the teacher will be entitled to not be available to attend work. In the absence of agreement; the teacher is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual teacher is not entitled to any payment for the period of non-attendance.
- (c) An employer must not fail to re-engage a casual teacher because the teacher accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual teacher are otherwise not affected.

2. Insert the following new paragraphs after subclause 12.1 Maternity Leave of clause 12, Other Leave:

12.1.1 Casual Teachers

An employer must not fail to re-engage a regular casual teacher (see section 53(2) of the *Industrial Relations Act 1996* (NSW)) because:

- (a) the teacher or teacher's spouse is pregnant; or
- (b) the teacher is or has been immediately absent on parental leave.

The rights of an employer in relation to engagement and reengagement of casual teachers are not affected, other than in accordance with this clause.

- (b) The teacher shall take reasonable steps to inform the employer about any significant matter that will affect the teacher's decision regarding the duration of parental leave to be taken, whether the teacher intends to return to work and whether the teacher intends to request to return to work on a part-time basis.
- (c) The teacher shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with paragraph (a).

3. Insert after paragraph (d) of subclause 12.4 - Bereavement Leave, of clause 12, the following new paragraph:

- (e) Casual teachers are entitled to not be available to attend work, or to leave work upon the death in Australia of a person prescribed in relation to whom the teacher could have utilised Catholic Personal/Carer's Leave in 11.5, provided that for the purpose of this bereavement entitlement, the casual teacher need not have been responsible for the care of the person concerned. A casual teacher must notify the employer as soon as practicable of the intention to take this entitlement and may be required to provide the employer with satisfactory evidence of such death.
- (f) The employer and the teacher shall agree on the period for which the teacher will be entitled to not be available to attend work. In the absence of agreement, the teacher is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual teacher is not entitled to any payment for the period of non-attendance.

An employer must not fail to re-engage a casual teacher because the teacher accessed the entitlements provided for in this clause. The rights of an employer to engage or not engage a casual teacher are otherwise not affected.

4. This variation shall take effect from 19 December 2005.

F. L. WRIGHT J, *President*



(061)

**SERIAL C4796****CROWN EMPLOYEES (POLICE OFFICERS - 2005) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Police Association of New South Wales, Industrial Organisation of Employees.

(No. IRC 4529 of 2005)

Before Commissioner Patterson

30 September 2005

**VARIATION**

1. Delete subclause (v) of clause 18, Annual Leave, of the award published 7 October 2005 (354 I.G. 175), and insert in lieu thereof the following;

- (v) An officer who is rostered to work their ordinary hours of duty on a Sunday or public holiday shall, on the completion of the relevant qualifying period, accrue additional annual leave on full pay on the following basis:

Number of ordinary rostered shifts worked on Sundays and/or Public Holidays during a qualifying period.	Additional Annual Leave
4-10	1 additional working day
11-17	2 additional working days
18-24	3 additional working days
25-31	4 additional working days
32 or more	5 additional working days

- (a) Any ordinary rostered shift, the major portion of which is worked on a Sunday or Public Holiday shall be deemed to be an ordinary shift worked on a Sunday or Public Holiday.
- (b) A qualifying period shall mean the period commencing 12 months from 1 December each year.
2. Delete Table 4 - Travelling Allowances, of Part B Monetary Rates, and insert in lieu thereof the following;

**Table 4 - Travelling Allowances**

Item 1

Capital Cities	\$ Per day
Adelaide	222.00
Brisbane	226.00
Canberra	199.00
Darwin	219.00
Hobart	195.00
Melbourne	241.00
Perth	209.00
Sydney	248.00
High cost country centres	\$ Per day
Alice Springs	182.00
Ballarat (VIC)	188.00
Broome (WA)	220.00
Burnie (TAS)	184.50
Carnarvon (WA)	186.00

Christmas Island (WA)	211.00
Dampier (WA)	189.00
Devonport (TAS)	190.00
Exmouth	186.00
Gold Coast (QLD)	197.00
Halls Creek	194.50
Horn Island (QLD)	200.00
Jabiru (NT)	296.00
Kalgoorlie (WA)	186.00
Karratha (WA)	243.00
Kununurra (WA)	210.00
Launceston (TAS)	186.00
Maitland (NSW)	183.00
Newcastle (NSW)	199.00
Newman (WA)	208.00
Norfolk Island	191.00
Pt Hedland (WA)	208.00
Queenstown (TAS)	186.50
Thursday Island (QLD)	231.00
Weipa (Qld)	216.00
Wilpena (SA)	194.00
Wollongong (NSW)	191.00
Yulara	373.00
Tier 2 country centres	\$ Per day
Ararat (VIC)	170.00
Bathurst (NSW)	170.00
Bendigo (VIC)	170.00
Bordertown (SA)	170.00
Broken Hill (NSW)	170.00
Bunbury (WA)	170.00
Cairns (QLD)	170.00
Castlemaine (VIC)	170.00
Cocos (Keeling) Island	170.00
Geelong (VIC)	170.00
Mount Gambier (SA)	170.00
Mount Isa (QLD)	170.00
Northam (WA)	170.00
Orange (NSW)	170.00
Port Lincoln (SA)	170.00
Portland (VIC)	170.00
Wagga Wagga (NSW)	170.00
Warrnambool (VIC)	170.00
	\$ Per Day
Other country centres	158.00

## Item 2

	\$
Incidental expenses allowance - when claiming actual expenses - all locations	14.55

## Item 3

Meal Allowances - when claiming actual expenses on overnight stays	\$
Capital cities and high cost country centres	
Breakfast	18.90
Dinner	36.40
Lunch	21.15
Tier 2 and other country centres	
Breakfast	16.85
Dinner	33.30
Lunch	19.30

3. Delete Table 5 - Remote Areas - Living Allowance, of Part B Monetary Rates, and insert in lieu thereof the following:

**Table 5 - Remote Areas - Living Allowance**

## Item 1

With Dependents	Per Annum \$
Grade A	1,522.00
Grade B	2,018.00
Grade C	2,695.00

## Item 2

Without Dependents	Per Annum \$
Grade A	1,061.00
Grade B	1,415.00
Grade C	1,888.00

4. Delete Table 10 - Meal Allowances (Non-Commissioned Officers), of Part B Monetary Rates, and insert in lieu thereof the following:

**Table 10 - Meal Allowances (Non-Commissioned Officers)**

Where Non-Commissioned Officers incur expense in purchasing a meal:

- (i) when they have worked more than one half hour beyond the completion of a rostered shift or
- (ii) where they have performed duty at a place where no reasonable meal facilities were available for partaking of a meal or
- (iii) where they are performing escort duty and cannot carry a meal.

	\$
Breakfast	21.10
Lunch	21.10
Dinner	21.10
Supper	8.30

5. This variation shall take effect on and from 1 July 2005.

R. J. PATTERSON, Commissioner

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Printed by the authority of the Industrial Registrar.

## HEALTH EMPLOYEES' MEDICAL RADIATION SCIENTISTS (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Health Administration Corporation.

(Nos. IRC 6746 of 2004 and 2195 of 2005)

Before Mr Deputy President Grayson

14 February 2006

### VARIATION

1. Delete in clause 1, Definitions, the Definition "Medical Radiation Scientist (MRS)" of the award published 31 March 2006 (358 I.G. 727) and insert in lieu thereof the following:

#### MEDICAL RADIATION SCIENTIST (MRS) (DIAGNOSTIC RADIOGRAPHERS)

"Diagnostic Radiographer" means a person who has acquired a Bachelor of Medical Radiation Science in Diagnostic Radiography and holds a Statement of Accreditation issued by the Australian Institute of Radiography.

MRS (Diagnostic Radiographer) Qualifications:

Bachelor of Medical Radiation Science (Diagnostic Radiography).

Bachelor of Applied Science (Medical Radiation Science) - (Diagnostic Radiography).

Successful completion of a Diagnostic Radiography course recognised by the Health Administration Corporation (HAC) and the Australian Institute of Radiography (AIR).

Accreditation by the AIR.

#### LEVEL 1

Progression from Level 1 to Level 2 is automatic upon completion of a PDY (full-time or part-time equivalent) in an approved department. The MRS at this level must have been granted provisional accreditation by the AIR. The Level 2 progression shall be retrospective to the PDY completion anniversary date.

The Medical Radiation Scientist (MRS) (Diagnostic Radiographers) at this level is employed in an approved department during their first year post-graduation from a recognised university undergraduate course. This year may be referred to as their Provisional Development Year or PDY.

The MRS (Diagnostic Radiographer) at this level shall develop a capacity to apply knowledge, skills, professional judgement and show initiative in solving routine professional issues involving patient care, radiation safety, occupational health, safety and rehabilitation, manual handling and QA. They will be expected to work in an environment where there are multi-disciplinary teams.

#### LEVEL 2 (Years 1 - 5)

Progression through Level 2 is automatic, and occurs annually on the MRS' (Diagnostic Radiographer) anniversary. This level also maintains those who are still on the "thereafter" rate.

To satisfy the criteria for progression to Level 2 the MRS (Diagnostic Radiographer) will have completed the requirements for their PDY.

The MRS (Diagnostic Radiographer) at this level:

Demonstrates independent and significant professional knowledge and judgement to acquire and exhibit competency in all appropriate clinical tasks.

Begins to take an active part in multidisciplinary teams and gain experience in the more complex modalities of their department, including Quality Improvement/Assurance programmes, OHS&R issues and Radiation Safety.

Is expected to provide a high level of patient care and management with an understanding of patient needs and psychology, and continue to develop their knowledge regarding work place safety issues (eg. manual handling, infection control, etc.).

Demonstrates significant ongoing commitment to continuing professional education and actively participates in undergraduate student education and departmental in-service lectures.

### LEVEL 3

#### Grade 1 (Years 1 - 2: Specialist MRS)

At completion of one-year full-time (or part-time equivalent) at Level 3, Grade 1, Year 1, the MRS (Diagnostic Radiographer) will automatically progress to Level 3, Grade 1, Year 2.

A MRS (Diagnostic Radiographer) may apply for a personal regrading to this level after not less than two years post accreditation experience (i.e. Level 2, Year 2). The MRS (Diagnostic Radiographer) must display a suitable level of professionalism, as determined by their peers (Level 4 or above), and develop competency in at least one sub-speciality from the list below. A panel of at least three Chief MRS (Diagnostic Radiographers) or their representative will assess the application.

The relevant Area Health Service may also establish such positions at Level 3, Grade 1 or 2 as it deems appropriate from time-to-time.

The profession of MRS (Diagnostic Radiography) is free to bring forward new technologies and procedures as they develop with a view to gaining agreement of their inclusion in the criteria listed below.

MRS (Diagnostic Radiographers) seeking appointment to Level 3, Grade 1 shall be required to demonstrate a high level of knowledge and proficiency in complex clinical procedures including but not confined to:

Education

Applied Computer Science (including PACS)

Paediatrics

Clinical Supervisor

QA

Radiation Safety & Assessment

CT

Angiography

Intra-operative interventional techniques

MRI

Ultrasound

Mammography/Breast Imaging

General/Trauma Radiography

Dental Imaging

Software development and application.

In addition, MRS (Diagnostic Radiographers) at this level are expected to:

Demonstrate a level of participation in teaching programs within and/or outside the establishment. This teaching may include undergraduate, postgraduate students, other health professionals, patients and their carers and the public in a field relevant to Diagnostic Radiography.

Demonstrate an ability to supervise and be responsible for other MRS' (Diagnostic Radiographers).

Demonstrate an ability to supervise and assess clinical experience of MRS (Diagnostic Radiography) undergraduate students. Provide liaison between the universities and the clinical setting.

Be able to demonstrate active participation and involvement in development of techniques through associated reports, presentations, conferences, publications or work place in service lectures.

Contribute to Quality Assurance activities

Display judgement and demonstrate a high level of initiative and independence in problem solving

OR

Possess a post graduate certificate in a relevant area of specialisation.

LEVEL 3

Grade 2 (Years 1 - 2: Consultant MRS)

At completion of one year full-time (or part-time equivalent) at Level 3, Grade 2, Year 1, the MRS (Diagnostic Radiographer) will automatically progress to Level 3, Grade 2, Year 2.

The MRS (Diagnostic Radiographer) after not less than the completion of 12 months service at Level 3, Grade 1, Year 2 may apply to the Chief MRS (Diagnostic Radiographer) for personal progression to Level 3, Grade 2. The applicant will be assessed by a panel of at least three Chief MRS' (Diagnostic Radiographers) or their representatives.

The MRS (Diagnostic Radiographer) at this level will have extensive clinical expertise related to specific areas/modalities and be able to demonstrate a high level of competency and a consistently high standard of practice, as outlined in Level 3, Grade 1 and as determined by their peers (Level 4 and above). They will be expected to demonstrate their expertise through the development and maintenance of protocols, clinical reviews, teaching and delivery of in-service and presentations of papers/publications related to their area of expertise at departmental level and at conferences at national or international level. They may be called on in an advisory capacity to assist other MRS' (Diagnostic Radiographers) with difficulties encountered within specific situations relating to their area of expertise.

Applicants should have substantiated reports by Senior MRS' (Diagnostic Radiographers) Level 4 or above and/or Staff Specialists. The reports should focus on the expertise, judgement, and provision of advice by the applicant, together with the impact on services provided by the department arising from the work of the applicant. A minimum of two reports should be included and at least one must be from an MRS. (Diagnostic Radiographer). This wider acknowledgment of their expertise may be for example, in publications in peer-reviewed journals.

The MRS (Diagnostic Radiographer) Level 3, Grade 2 may also be designated as the Clinical Imaging Educator/Tutor.

This position would be responsible to the Chief MRS (Diagnostic Radiographer) for the identification, provision and delivery of continuing education for MRS' (Diagnostic Radiographers) with both clinical and general management components. In addition, responsible for the co-ordination and determined service delivery of the educator/tutor function for undergraduates on clinical placement and MRS (Diagnostic Radiographers) undergoing PDY.

#### LEVEL 3

##### Grade 3

The MRS (Diagnostic Radiographer) at this level must have obtained an appropriate recognised postgraduate diploma allied to their area of expertise. This refers to post graduate diploma in areas such as (but not restricted to) ultrasound, CT, MRI, mammography, angiography, QA, management, education, research or IT. Such applicable diplomas must be relevant to the area of specialisation.

#### LEVEL 4

Grade 1 (Years 1 - 2: Section Manager / Assistant Chief MRS/Sole Chief MRS).

At completion of one year full-time (or part-time equivalent) at Level 4, Grade 1, Year 1, the MRS (Diagnostic Radiographer) will automatically progress to Level 4, Grade 1 Year 2.

A MRS (Diagnostic Radiographer) at this level would manage the operations of a section or functional unit (specialist or general) within the Diagnostic Radiology department and discharge the associated administrative duties. These operations include day to day management, throughput and patient care, patient scheduling as well as immediate staffing. The MRS (Diagnostic Radiographer) would be responsible to the Assistant Chief MRS (Assistant Chief Diagnostic Radiographer) or the Chief MRS (Chief Diagnostic Radiographer) for the overall QA, organisation, activities and maintenance of standards within the particular specialised section.

OR

MRS' (Diagnostic Radiographers) at this level may be a sole Chief MRS (Diagnostic Radiographer) responsible to a Health Services Manager for both the clinical and financial management of the Imaging Department.

OR

An MRS (Diagnostic Radiographer) at this level may be an Assistant Chief MRS (Diagnostic Radiographer) within a department with 4-7 FTE MRS' (Diagnostic Radiographers) in addition to other associated department staff eg. clerical, hospital assistants, etc.

OR

Possess a Masters Degree in an area of Medical Radiation Science specialisation which is relevant to medical imaging and which will benefit the profession. Eligibility requires a minimum of three years equivalent clinical practice after successful completion of a PDY.

#### LEVEL 4

##### Grade 2

An MRS (Diagnostic Radiographer) at this level would manage an area of the Diagnostic Radiology department with at least two specialist modalities such as 2 CT units or 2 Angiographic units.

OR



two imaging sections within a tertiary referral teaching hospital eg. Operating Suite and General Radiography.

In a department of only one specialist modality it may be appropriate to have only one position at this level but the focus of the position would be the decision of the relevant Area Health Service.

The areas referred to in this section would include a number of imaging sections or units, such as all CT units or all angiographic units. The manager of the area would have the responsibility for the overall organisation of the designated area and be responsible for tasks such as coordinated implementation of existing and new techniques, creation of protocols for scheduling and training, overall waiting list management and ensuring all resources are used in the most effective manner.

OR

The MRS (Diagnostic Radiographer) at this level may be a Chief MRS (Diagnostic Radiographer) who manages a department with 2-3 FTE MRS' (Diagnostic Radiographers) in addition to other associated department staff eg. clerical, hospital assistants.

OR

The MRS (Diagnostic Radiographer) at this level may be an Assistant Chief MRS (Diagnostic Radiographer) within a department with 8-14 FTE MRS' (Diagnostic Radiographers) in addition to other associated department staff eg. clerical, hospital assistants, etc.

OR

At this level the MRS (Diagnostic Radiographer) will have the duties and responsibilities of an MRS Section Manager (Level 4 Grade 2) but possess a post graduate diploma or masters degree in an area of relevance to their position. The post graduate diploma/masters degree will have been completed after a minimum four years clinical experience. Such a position is to receive accelerated progression to Level 4, Grade 2, Year 2.

#### LEVEL 5

##### Grade 1

The MRS (Diagnostic Radiographer) at this level is a Chief MRS (Diagnostic Radiographer) who manages a department with 4-7 FTE MRS' (Diagnostic Radiographers) in addition to other associated departmental staff eg. clerical, hospital assistants, etc.

OR

The MRS (Diagnostic Radiographer) at this level is an Assistant Chief MRS (Diagnostic Radiographer) within a department with 15 - 19 FTE MRS' (Diagnostic Radiographers) in addition to other associated departmental staff eg. clerical, hospital assistants, etc.

OR

At this level the MRS (Diagnostic Radiographer) is responsible for coordinating and managing a complex function for example, but not limited to: IT, PACS/RIS, CT, US etc. across an Area Health Service.

OR

Has completed a PhD in a relevant area of specialisation.

## LEVEL 5

## Grade 2

The MRS (Diagnostic Radiographer) at this level is a Chief MRS (Diagnostic Radiographer) who manages a department with 8-14 FTE MRS' (Diagnostic Radiographers) in addition to other associated departmental staff eg. clerical, hospital assistants, etc.

OR

The MRS (Diagnostic Radiographer) at this level is an Assistant Chief MRS (Diagnostic Radiographer) within a department with 20-24 FTE MRS' (Diagnostic Radiographers) in addition to other associated departmental staff eg. clerical, hospital assistants, etc.

## LEVEL 5

## Grade 3

The MRS (Diagnostic Radiographer) at this level is a Chief MRS (Diagnostic Radiographer) who manages a department with 15-19 FTE MRS' (Diagnostic radiographers) in addition to other associated departmental staff eg. clerical, hospital assistants, etc.

OR

The MRS (Diagnostic Radiographer) at this level is an Assistant Chief MRS (Diagnostic Radiographer) within a department with more than 24 FTE MRS' (Diagnostic Radiographers) in addition to other associated departmental staff eg. clerical, hospital assistants etc.

## LEVEL 6

## Grade 1

The MRS (Diagnostic Radiographer) at this level is a Chief MRS (Diagnostic Radiographer) who manages a department with 20-24 FTE MRS' (Diagnostic Radiographers) in addition to other associated departmental staff eg. clerical, hospital assistants etc.

## LEVEL 6

## Grade 2

The MRS (Diagnostic Radiographer) at this level is a Chief MRS (Diagnostic Radiographer) who manages a department with 25-30 FTE MRS' (Diagnostic Radiographers) in addition to other associated departmental staff eg. clerical, hospital assistants, etc.

## LEVEL 6

## Grade 3

The MRS (Diagnostic Radiographer) at this level is a Chief MRS (Diagnostic Radiographer) who manages a department with 31 or more FTE MRS' (Diagnostic Radiographers) in addition to other associated departmental staff eg clerical, hospital assistants, etc

NB: FTE's refer to establishment radiographer positions only.

"MEDICAL RADIATION SCIENTIST (MRS) (NUCLEAR MEDICINE)"

A MRS (Nuclear Medicine) means a person who has acquired a Bachelor of applied science in Medical Radiation Science - Nuclear Medicine or equivalent qualifications recognised by the accreditation board of the Australian and New Zealand Society of Nuclear Medicine and currently holds a radiation license under the

*Radiation Control Act 1990*. Employees employed as MRS (Nuclear Medicine) are classified into six levels as follows:

#### LEVEL 1 - PDY MRS (Nuclear Medicine)

The MRS (Nuclear Medicine) at this level are employed in an Australian and New Zealand Society of Nuclear Medicine (ANZSNM) approved department during their first year post graduation from a University undergraduate or postgraduate course/program accredited by the ANZSNM. This year may be referred to as their Professional Development Year (PDY).

The MRS (Nuclear Medicine) at this level shall develop a capacity to apply knowledge, skills, professional judgement and show initiative in solving routine professional issues involving patient care, workplace safety, Radiation Safety, Occupational Health and Safety, and Manual Handling.

Progression from Level 1 to Level 2 is upon completion of their PDY (full-time or part-time equivalent) in an approved department. The MRS (Nuclear Medicine) PDY must also have been granted accreditation with the ANZSNM.

NB. The level 2 progression shall be retrospective to their successful completion of their PDY.

#### LEVEL 2 (Years 1 - 5)

The MRS (Nuclear Medicine) at this level have completed at least one year full time employment or equivalent in an ANZSNM approved Department and obtained their accreditation.

The MRS (Nuclear Medicine) at this level:

Demonstrates independent and significant professional knowledge and judgement when performing clinical tasks.

Begins to take an active part in multidisciplinary teams and gain experience in the more complex Nuclear Medicine procedures including Quality Improvement / Assurance programmes.

Is expected to provide a high level of patient care and continue to develop their knowledge regarding work place safety issues (eg. Manual Handling, OH&S).

Demonstrates significant ongoing commitment to continuing education and participates in undergraduate student education and departmental in-service lectures

Progression through Level 2 is automatic, and occurs annually on the MRS (Nuclear Medicine's) anniversary of accreditation.

#### LEVEL 3

##### Grade 1 (Years 1-2: Specialist MRS (Nuclear Medicine))

The MRS (Nuclear Medicine) may apply for a personal regrading to this level after not less than two years post accreditation experience (full-time or part-time equivalent). The MRS (Nuclear Medicine) must display a suitable level of professionalism, as determined by their peers, and develop competency in at least one essential criterion and 3 desirable criteria from the list below. A panel of at least three Chief MRS (or their representative) will assess the application.

##### Essential Criteria

Undertake relevant workplace academic postgraduate certificate, diploma or higher qualification or other 'relevant' professional qualifications i.e. Ultrasound, BMD, CT (hybrid course).

OR

Develop a high level of competency within area/s of specialty with a minimum of 12 months (not necessarily continuous) experience in those relevant area/s. Areas of specialty may include: Education, applied computer science (including PACS), paediatrics, clinical supervisor, QA, Radiopharmacy, Software development and application etc.

OR

Develop a consistently high standard of practice within the profession and has proven problem solving skills. The MRS (Nuclear Medicine) at this level should also be actively involved in the organisation and management of the workplace (eg. Staff mentoring, IT duties, Staff Appraisals, QA, QC).

Desirable Criteria

Demonstrated high standard of practice within the profession, through the active involvement in areas such as conferences, lectures, seminars, continuing education or professional development.

Published papers, presentations or preparation of significant reports.

Active involvement in workplace in-services.

Contributes to the establishment of clinical protocols and development of techniques.

Demonstrate competency in, and a detailed knowledge of complex clinical procedures

Demonstrates an ability to supervise and assess clinical experience of MRS undergraduate students.

Involved in department quality management activities, including protocols and procedures.

Involved in research either performed in the department or in conjunction with the department.

Participation in relevant professional committees. Example of these may be radiation safety, OH&S, QA or Area Health Service committees relevant to the professional activities of Nuclear Medicine.

The Profession of Nuclear Medicine is free to bring forward new technologies and procedures as they develop with a view to gaining agreement of their inclusion in the above listed criteria.

At completion of one-year full time (or part time equivalent) at Level 3 Grade 1 Year 1, the MRS (Nuclear Medicine) will automatically progress to Level 3 Grade 1 Year 2.

LEVEL 3

Grade 2 (Year 1-2: Specialist/Educator Co-ordinator MRS (Nuclear Medicine))

The MRS (Nuclear Medicine) may after not less than the completion of 2 years service (full-time or part-time equivalent) at Level 3, Grade 1, Year 2 apply to the Chief MRS for personal progression to Level 3, Grade 2, Year 1. A panel of at least three Chief MRS (or their representative) will assess the application.

MRS (Nuclear Medicine) must have clinical expertise related to specific areas/modalities and be able to demonstrate a high level of competency and a consistently high standard of practice, as outlined in Level 3, Grade 1 and as determined by their peers (Level 4 and above).

They will be expected to demonstrate their expertise through the development and maintenance of protocols, clinical reviews, teaching and delivery of in-service and presentations of papers/publications related to their area of expertise at departmental level and at conferences at national or international level. They may be called on in an advisory capacity to assist other MRS (Nuclear Medicine) with difficulties encountered within specific situations relating to their area of expertise.

Applicants should have substantiated reports/appraisals by Senior MRS (Level 4 or above) and/or Staff Specialists. The reports should focus on the expertise, judgement, and provision of advice by the applicant,

together with the impact on services provided by the department arising from the work of the applicant. A minimum of two reports should be included and at least one must be from a MRS (Nuclear Medicine). This wider acknowledgment of their expertise may be in publications in peer-reviewed journals.

OR

The MRS (Nuclear Medicine) Level 3, Grade 2 may also be designated as the Nuclear Medicine Department Educator/Tutor co-ordinator.

This position would be responsible to the Level 5 & 6 MRS (Nuclear Medicine) for the identification, provision and delivery of continuing education for the department, including both clinical and general management components. In addition, responsible for the co-ordination and determined service delivery of the tutor function for undergraduates on clinical placement and MRS (Nuclear Medicine) undergoing their PDY. This position would also be expected to liaise with the relevant professional bodies (e.g. Mentor program, accreditation, ANZSNM and NSWSNMS).

At completion of one-year full time (or part time equivalent) at Level 3 Grade 2 Year 1, the MRS (Nuclear Medicine) will automatically progress to Level 3 Grade 2 Year 2.

### LEVEL 3

#### Grade 3

The MRS (Nuclear Medicine) at this level must have obtained an appropriate postgraduate diploma allied to their area of expertise. This refers to post graduate qualifications in areas such as (but not restricted to) ultrasound, CT, QA, management, education, research or IT. Such applicable qualifications must be relevant to the area of specialisation.

### LEVEL 4

#### Grade 1 (Year 1-2: Section Manager)

The MRS (Nuclear Medicine) at this level is responsible for the scheduling and adaptation of services within a section of a Nuclear Medicine department. They must possess excellent leadership, communication and interpersonal skills. A MRS (Nuclear Medicine) at this level performs the clinical duties and some associated administrative duties (e.g. policy and procedure development and implementation) of that section, under the direction of the Level 5 and/or Level 6 MRS (Nuclear Medicine).

OR

#### Research Co-ordinator MRS

The MRS at this level is primarily responsible for the co-ordination and development of research projects within the department. This MRS is required to liaise with related groups such as clinical departments, university faculties or private companies. This MRS is to be known as the research co-ordinator.

At completion of one-year full time (or part time equivalent) at Level 4, Grade 1, Year 1 the MRS (Nuclear Medicine) will automatically progress to Level 4, Grade 1, Year 2.

### LEVEL 4

#### Grade 2 (Year 1-2: Section Manager)

The MRS (Nuclear Medicine) at this level is responsible for the scheduling and adaptation of services within a section of a Nuclear Medicine department. They must possess excellent leadership, communication and interpersonal skills. A MRS (Nuclear Medicine) at this level performs the clinical duties and some associated administrative duties (e.g. policy and procedure development and implementation) of that section, under the direction of the Level 5 and/or Level 6 MRS (Nuclear Medicine).

AND

The MRS at this level must have obtained an appropriate postgraduate diploma or above allied to their area of expertise. This refers to post graduate qualifications in areas such as (but not restricted to) ultrasound, CT, QA, management, education, research or IT. Such applicable qualifications must be relevant to the area of specialisation.

At completion of one-year full time (or part time equivalent) at Level 4, Grade 2, Year 1 the MRS (Nuclear Medicine) will automatically progress to Level 4, Grade 2, Year 2.

#### LEVEL 5

##### Grade 1 (Deputy Chief MRS)

The MRS (Nuclear Medicine) at this level is responsible for providing managerial support to the Chief MRS (Nuclear Medicine) in a Nuclear Medicine Department with less than 3 gamma cameras. This MRS is to be known as the Deputy Chief MRS.

A MRS (Nuclear Medicine) at this level performs a combination of both clinical and administrative duties under the direction of the Chief MRS (Nuclear Medicine) e.g. Policy/procedure development and implementation, provide feedback and performance appraisals of less experienced MRS (Nuclear Medicine).

The Level 5, Grade 1 MRS (Nuclear Medicine) also possesses an understanding of hospital and departmental administration, and a working knowledge of purchasing requirements.

#### LEVEL 5

##### Grade 2 (Deputy Chief MRS)

The MRS (Nuclear Medicine) at this level is responsible for providing managerial support to the Chief MRS (Nuclear Medicine) in a Nuclear Medicine Department with 3 or more gamma cameras. This MRS is to be known as the Deputy Chief MRS.

A MRS (Nuclear Medicine) at this level performs a combination of both clinical and administrative duties under the direction of the Chief MRS (Nuclear Medicine) e.g. Policy/procedure development and implementation, provide feedback and performance appraisals of less experienced MRS (Nuclear Medicine).

The Level 5, Grade 2 MRS (Nuclear Medicine) also possesses an understanding of hospital and departmental administration, and a working knowledge of purchasing requirements.

#### LEVEL 5

##### Grade 3 (Deputy Chief MRS)

The MRS (Nuclear Medicine) at this level is responsible for providing managerial support to the Chief MRS (Nuclear Medicine) in a Nuclear Medicine Department with 3 or more gamma cameras including a dedicated PET facility. This MRS is to be known as the Deputy Chief MRS.

A MRS (Nuclear Medicine) at this level performs a combination of both clinical and administrative duties under the direction of the Chief MRS (Nuclear Medicine) e.g. Policy/procedure development and implementation, provide feedback and performance appraisals of less experienced MRS (Nuclear Medicine).

The Level 5, Grade 3 MRS (Nuclear Medicine) also possesses an understanding of hospital and departmental administration, and a working knowledge of purchasing requirements.

## LEVEL 6

## Grade 1 (Chief MRS (Nuclear Medicine))

The Chief MRS (Nuclear Medicine) has ultimate responsibility for service standards, patient throughput, continuing education, research, training of MRS (Nuclear Medicine) staff and students as well as liaison with appropriate universities and with relevant other bodies.

Duties of the MRS Level 6 Grade 1 include: HR management, recruitment and selection of personnel, complaint handling, departmental accreditation, QA (Equip) maintenance, financial, expenditure and resource management. Administration and clinical management, delegation and negotiation skills and development, and implementation of policies/procedures and strategic business plans are also tasks that the Level 6 Grade 1 MRS must perform.

The Level 6 Grade 1 MRS (Nuclear Medicine) is responsible for managing a Nuclear Medicine Department with less than 3 gamma cameras, in addition to other associated departmental staff eg. clerical, hospital assistants etc. This MRS is to be known as the Chief MRS.

OR

The Level 6 Grade 1 MRS (Nuclear Medicine) is responsible for managing a Nuclear Medicine Department that is not accredited by the Australian and New Zealand Association of Physicians in Nuclear Medicine for the training of advanced registrars in Nuclear Medicine. This MRS is to be known as the Chief MRS.

## LEVEL 6

## Grade 2 (Chief MRS (Nuclear Medicine))

The Chief MRS (Nuclear Medicine) has ultimate responsibility for service standards, patient throughput, continuing education, research, training of MRS (Nuclear Medicine) staff and students as well as liaison with appropriate universities and with relevant other bodies.

Duties of the MRS Level 6, Grade 2 include: HR management, recruitment and selection of personnel, complaint handling, departmental accreditation, QA (Equip) maintenance, financial, expenditure and resource management. Administration and clinical management, delegation and negotiation skills and development, and implementation of policies/procedures and strategic business plans are also tasks that the Level 6, Grade 2 MRS must perform.

The Level 6, Grade 2 MRS (Nuclear Medicine), is responsible for managing a Nuclear Medicine Department with 3 or more gamma cameras, in addition to other associated departmental staff eg. clerical, hospital assistants etc.

AND

The Level 6, Grade 2 MRS (Nuclear Medicine) is responsible for managing a Nuclear Medicine Department that is accredited by the Australian and New Zealand Association of Physicians in Nuclear Medicine for the training of advanced registrars in Nuclear Medicine. This MRS is to be known as the Chief MRS.

## LEVEL 6

## Grade 3

The Chief MRS (Nuclear Medicine) has ultimate responsibility for service standards, patient throughput, continuing education, research, training of MRS (Nuclear Medicine) staff and students as well as liaison with appropriate universities and with relevant other bodies.

Duties of the MRS Level 6, Grade 3 include: HR management, recruitment and selection of personnel, complaint handling, departmental accreditation, QA (Equip) maintenance, financial, expenditure and resource management. Administration and clinical management, delegation and negotiation skills and development, and

implementation of policies/procedures and strategic business plans are also tasks that the Level 6, Grade 3 MRS must perform.

The Level 6, Grade 3 MRS (Nuclear Medicine), is responsible for managing a Nuclear Medicine Department with 3 or more gamma cameras including a dedicated PET facility, in addition to other associated departmental staff e.g. clerical, hospital assistants etc.

AND

The Level 6, Grade 3 MRS (Nuclear Medicine) is responsible for managing a Nuclear Medicine Department that is accredited by the Australian and New Zealand Association of Physicians in Nuclear Medicine for the training of advanced registrars in Nuclear Medicine. This MRS is to be known as the Chief MRS.

2. Delete in Clause 1 the Definition, "Medical Radiation Therapist" and insert in lieu thereof the following:

"MEDICAL RADIATION SCIENTIST (RADIATION THERAPIST)"

A MRS (Radiation Therapists means a person who has acquired a Bachelor of Medical Radiation Science (Radiation Therapy)/Bachelor of Applied Science (Medical Radiation Sciences) - Radiation Therapy; or has qualifications deemed equivalent by the Health Administration Corporation and accredited by the Australian Institute of Radiography. Employees employed as a Medical Radiation Therapist are classified into one of the following six levels:

#### LEVEL 1

The Medical Radiation Scientists ('MRS') (Radiation Therapists) at this level are employed in an approved department during their first year post-graduation from a recognised university undergraduate course. This year may be referred to as their Professional Development Year (PDY).

The MRS at this level shall develop a capacity to apply knowledge, skills, professional judgement and show initiative in solving routine professional issues involving patient care, radiation safety, occupational health, safety and rehabilitation, manual handling and QA. They will be expected to work in an environment where there are multi-disciplinary teams.

Progression from Level 1 to Level 2 is upon their successful completion of their PDY (full-time or part-time equivalent) in an approved department. The MRS (PDY) must also have been granted provisional accreditation with the AIR. The Level 2 progression shall be retrospective to the PDY anniversary date.

Radiation Therapists at this level are responsible for their own Continuing Professional Development and maintenance of their AIR Accreditation.

#### LEVEL 2 (Years 1 - 5)

Radiation Therapists at this level have completed the requirements for the PDY and progression from Level 1. Radiation Therapists at Level 2 and above shall have a high level of patient care and understanding towards the patient; involvement in Occupational Health Safety & Rehabilitation and Quality Assurance matters; and work in an environment where there are multi disciplinary teams.

Radiation Therapists operating at this level are required to demonstrate competency within the areas of patient treatment, planning and delivery; and active involvement/ participation in workplace in-services.

The MRS at this level:

Demonstrates independent and significant professional knowledge and judgment to acquire and exhibit competency in all appropriate clinical tasks.

Begins to take an active part in multidisciplinary teams and gain experience in the more complex modalities of their department, including Quality Improvement/Assurance programmes, OHS&R issues and Radiation Safety.



Is expected to provide a high level of patient care and treatment planning and delivery with an understanding of patient needs and psychology, and continue to develop their knowledge regarding work place safety issues (e.g. manual handling).

Demonstrates significant ongoing commitment to continuing education and professional development, and participates in undergraduate student education and departmental in-service lectures.

Radiation Therapists at this level are responsible for their own Continuing Professional Development and maintenance of their AIR Accreditation.

Progression through Level 2 is automatic, and occurs annually on the MRS' anniversary. This level also maintains those who are still on the "thereafter" rate.

### LEVEL 3

#### Grade 1 (Years 1 - 2: Radiation Therapist Specialist)

A Radiation Therapist may apply to the Chief Radiation Therapist for a personal regrading to this level after not less than two years post accreditation experience (i.e. Completion of Level 2, Year 2). The application will be assessed by a panel of at least three Chief Radiation Therapists. The relevant Area Health Service may also establish such positions at Level 3, Grade 1 that it deems appropriate, from time to time.

Radiation Therapists seeking appointment at Level 3, Grade 1 shall be required to demonstrate a high level of knowledge and proficiency in at least two complex clinical procedures including but not confined to:

Treatment planning and delivery:

CNS

Multi-field junctional techniques (3 fields or more)

Mono isocentric techniques

Conformal therapy

Brachytherapy (both treatment and planning)

Radiosurgery/stereotactic

Intensity Modulated Radiation Therapy

Paediatric radiation therapy

Complex radiation therapy techniques related to specific trials and protocols

3-Dimensional Treatment Planning

Technique development

Complex mould-room procedures

The Association and the Corporation are free to bring forward new technologies and procedures as they develop, with a view to gaining agreement on their inclusion in the above-listed criteria.

In addition, Radiation Therapists at this level are expected to:

Demonstrate a record of participation in teaching programmes within and/or outside the place of work. This teaching may include undergraduate, postgraduate students, other health professionals, patients and their carers or the public in a field relevant to Radiation Therapy;

Demonstrate an ability to supervise and be responsible for other Radiation Therapists;

Demonstrate an ability to supervise and assess clinical experience of Radiation Therapy undergraduate students. Provide liaison between the Universities and the clinical setting; and

Be able to demonstrate active participation/involvement in research and development through associated reports, presentations, conferences, publications; or workplace in-services.

At completion of one-year full-time (or part-time equivalent) at Level 3, Grade 1, Year 1, the MRS will automatically progress to Level 3, Grade 1, Year 2.

Radiation Therapists at this level are responsible for their own Continuing Professional Development and maintenance of their AIR Accreditation.

### LEVEL 3

#### Grade 2 (Years 1-2: Radiation Therapist Consultant)

A Radiation Therapist may, after not less than the completion of 12 months service at Level 3, Grade 1 Year 2, apply to the Chief Radiation Therapist for personal progression to Level 3, Grade 2 (Year 1) - Radiation Therapist Consultant and will be assessed by a panel of at least three Chief Radiation Therapists.

The relevant Area Health Service may also establish such positions at Level 3, Grade 2 (Radiation Therapist Consultant) that it deems appropriate, from time to time.

Radiation Therapist Consultants have clinical expertise related to specific areas of radiation therapy e.g. Paediatric speciality, stereotactic radiosurgery, clinical review, counselling, head and neck cancers, genitourinary cancers etc, and may be called on in an advisory capacity to assist other Radiation Therapists with difficulties encountered within specific situations relating to their area of expertise.

The Radiation Therapist Consultant will be expected to demonstrate their expertise through the development and maintenance of protocols, delivery of in-services and presentation of papers related to their area of expertise at departmental level and at conferences at national or international level.

In addition to the criterion for Level 3 Grade 1, the Radiation Therapist must be able to demonstrate expertise in 2 further speciality areas, or one further speciality area and a postgraduate qualification deemed appropriate to the profession by the panel.

The Level 3 Grade 2 Radiation Therapist should also demonstrate an increased involvement in teaching and presentations/publications.

Applicants should have substantiated reports by Senior Radiation Therapists (Level 4 or above) and/or Radiation Oncologists and/or other associated health service managers. The reports should focus on the expertise, judgement, and provision of advice by the applicant, together with the impact on services provided by the Radiation Therapy department arising from the work of the applicant. A minimum of two reports should be included and at least one must be from a Radiation Therapist. This wider acknowledgment of their expertise may be in publications in peer-reviewed journals.

Radiation Therapists at this level are responsible for their own Continuing Professional Development and maintenance of their AIR Accreditation.

At completion of one year full-time (or part-time equivalent) at Level 3, Grade 2, Year 1, the MRS will automatically progress to Level 3, Grade 2, Year 2.

## LEVEL 4

## Grade 1 (Years 1 - 2: Section/Functional Unit Manager/Senior Radiation Therapist)

A Radiation Therapist at this level would manage the operations of a section or functional unit of a Radiation Therapy Department and discharge associated administrative duties.

A section or unit within this level is a single treatment machine where the managers would be responsible for the administrative detail, such as day to day running, throughput and patient care, patient scheduling, as well as immediate staffing. The Radiation Therapist at this level would also be responsible for maintaining adequate QA on patient treatment sheets, record and verify systems (including data entry) Portal films, EPI and billing data entry requirements. The Radiation Therapist would also be actively involved in ensuring all treatment deviations are investigated, reported and corrective measures implemented where appropriate. A section or unit may also relate to sections within the treatment planning area. These sections may include, but are not limited to simulator, mould room and planning room.

Radiation Therapy Level 4 grade 1 positions may also be established as multidisciplinary team co-ordinators, where the Radiation Therapist is responsible for the management and associated duties of the multidisciplinary team functions.

Radiation Therapy Level 4 Grade 1 positions may also be established as Radiation Therapist - Education.

A position of Radiation Therapist - Education is responsible to the Chief Radiation Therapist for the identification, provision and delivery of continuing education for Radiation Therapists, with both clinical and general management components; and for the co-ordination and appropriate service delivery of the tutor function for undergraduates/trainees on clinical placement and Radiation Therapists in their Professional Development Year.

Radiation Therapists at this level are responsible for their own Continuing Professional Development and maintenance of their AIR Accreditation.

At completion of one year full-time (or part-time equivalent) at Level 4, Grade 1, Year 1, the MRS will automatically progress to Level 4, Grade 1, Year 2.

## LEVEL 4

## Grade 2 (Years 1 - 2: Radiation Therapist Supervisor)

A Radiation Therapist at this level would manage an area of a Radiation Therapy Department, such as treatment planning or treatment delivery, OH&S and or Radiation safety legislation and Equip co-ordinators. The Radiation Therapist at this level would be expected to maintain expertise in radiation therapy planning, simulation and treatment delivery.

The Radiation Therapist in this position would be responsible for the overall Quality Assurance, organisation, activities and maintenance of standards within the particular area in conjunction with the Chief Radiation Therapist and Deputy Chief Radiation Therapist.

The area referred to in this level would include a number of the sections or units, such as all the treatment machines and the total planning area. The manager of an area would have responsibility for the overall organisation of the designated area and be responsible for tasks such as coordinated implementation of existing and new techniques, overall waiting list management, ensuring planning and treatment resources are used in the most effective manner. The radiation therapist would also be responsible for ensuring all treatment deviations are investigated, reported and corrective measures are implemented where appropriate.

Radiation Therapists at this level are responsible for their own Continuing Professional Development and maintenance of their AIR Accreditation.

At completion of one year full-time (or part-time equivalent) at Level 4, Grade 2, Year 1, the MRS will automatically progress to Level 4, Grade 2, Year 2.

**LEVEL 5 (Years 1 - 3)**

A Radiation Therapist at this level is an Assistant Chief Radiation Therapist who assists in the management of a Radiation Therapy department of a hospital.

Radiation Therapists at this level are responsible for their own Continuing Professional Development and maintenance of their AIR Accreditation.

Progression through Level 5 is automatic, and occurs annually on the MRS' anniversary.

**LEVEL 6 (Years 1 - 3)**

A Radiation Therapist at this level manages a Radiation Therapy department of a hospital. The Chief Radiation Therapist has ultimate responsibility for patient service standards and patient throughput, continuing education, research, training of radiation therapy staff and students; liaison with appropriate universities and with relevant other bodies.

Radiation Therapists at this level are responsible for their own Continuing Professional Development and maintenance of their AIR Accreditation.

Progression through Level 6 is automatic, and occurs annually on the MRS' anniversary.

3. Delete from Part B of the said Award the existing Table 1, Salaries and Allowances, and replace with the following:

**PART B****MONETARY RATES****Table 1 - Salaries and Allowances**

Radiographers	Nuclear Medicine	Radiation Therapists	Rate from 1.4.2006 per week \$	Rate from 1.7.2006 per week \$	Rate from 1.7.2007 per week \$
<b>LEVEL ONE</b>					
Year 1	Year 1	Year 1	816.70	849.40	883.40
<b>LEVEL TWO</b>					
Year 1	Year 1	Year 1	847.40	881.30	916.60
Year 2	Year 2	Year 2	961.20	999.60	1039.60
Year 3	Year 3	Year 3	1093.00	1136.70	1182.20
Year 4	Year 4	Year 4	1146.20	1192.00	1239.70
Year 5	Year 5	Year 5	1183.20	1230.50	1279.70
<b>LEVEL THREE</b>					
Grade 1, Year 1	Grade 1, Year 1	Grade 1, Year 1	1272.60	1323.50	1376.40
Grade 1, Year 2	Grade 1, Year 2	Grade 1, Year 2	1315.20	1367.80	1422.50
Grade 2, Year 1	Grade 2, Year 1	Grade 2, Year 1	1351.90	1406.00	1462.20
Grade 2, Year 2	Grade 2, Year 2	Grade 2, Year 2	1500.00	1560.00	1622.40
Grade 3, Year 1	Grade 3, Year 1	-	1541.60	1603.30	1667.40
<b>LEVEL FOUR</b>					
Grade 1, Year 1	Grade 1, Year 1	Grade 1, Year 1	1541.60	1603.30	1667.40
Grade 1, Year 2	Grade 1, Year 2	Grade 1, Year 2	1593.00	1657.70	1724.00
Grade 2, Year 1	Grade 2, Year 1	Grade 2, Year 1	1642.50	1708.20	1776.50
Grade 2, Year 2	Grade 2, Year 2	Grade 2, Year 2	1683.80	1751.20	1821.20

LEVEL FIVE					
Grade 1	Grade 1	Year 1	1803.90	1876.10	1951.10
Grade 2	Grade 2	Year 2	1848.90	1922.90	1999.80
Grade 3	Grade 3	Year 3	1943.90	2021.70	2102.60
LEVEL SIX					
Grade 1	Grade 1	Year 1	1991.10	2070.70	2153.50
Grade 2	Grade 2	Year 2	2037.60	2119.10	2203.90
Grade 3	Grade 3	Year 3	2084.70	2168.10	2254.80
ALLOWANCE					
Where a Chief Radiographer provides a weekly service to another hospital or hospitals and is not entitled to an adjustment to a higher salary rate for this service, he/she shall be paid the following allowance:					
Chief Radiographer - Serving other hospitals			\$36.60	\$38.10	\$39.60

4. The above variations will commence from the first full pay period on or from 1 April 2006.

J. P. GRAYSON *D.P.*

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**ABBOTT AUSTRALASIA PTY LTD CONSENT AWARD 2004-2006**

## INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union, New South Wales Branch, Industrial Organisation of Employees.

(No. IRC 1021 of 2006)

Before The Honourable Justice Boland

13 March 2006

**VARIATION**

1. Delete clause 20, Public Holidays, of the award published 6 January 2006 (355 I.G. 1083), and insert in lieu thereof the following:

**20. Public Holidays**

(a)

1. For the purposes of this Award the days generally observed as the following shall be Public Holidays:

New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, Labour Day, Christmas Day, Boxing Day, and the Tuesday immediately following Easter Monday but if that Tuesday is a gazetted or proclaimed Public Holiday then on another day mutually agreed between the parties to this award. Also, all other days gazetted or proclaimed as Public Holidays for the State of New South Wales.

(b)

1. An Employee shall be entitled, without loss of pay, to the above holidays if they fall during their regular work schedule. Employees whose work schedule is Tuesday to Friday will receive a total of the same number of public holidays as an employee whose work schedule is Monday to Thursday.

(c)

1. If mutually agreed between the parties to this award, the holiday on the first Tuesday immediately after Easter Monday may be varied to suit the employers circumstances for that particular year.

(d)

1. An employee must be in attendance both the working day before and the working day after the holiday that they are entitled to in clause 20.1(a) in order to be paid for such holiday unless otherwise agreed to.
2. This variation shall take effect from the beginning of the first pay period to commence on or after 13 March 2006 and shall remain in force for a period of 12 months.

R. P. BOLAND

**MISCELLANEOUS WORKERS' - GENERAL SERVICES (STATE)  
AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Zoological Parks Board of New South Wales.

(No. IRC 817 of 2006)

Before Mr Deputy President Sams

3 March 2006

**VARIATION**

1. Insert in Section 2 - after the subheading "and excepting employees of" of clause 43, Area Incidence and Duration of the award published 8 December 2000 (320 I.G. 1078), the following:

"Excepting employees of the Zoological Parks Board of New South Wales"

2. This variation shall take effect from 3 March 2006.

P. J. SAMSD.P.

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Printed by the authority of the Industrial Registrar.

## **PUBLIC HEALTH SYSTEM NURSES' & MIDWIVES' (STATE) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Health Administration Corporation.

(No. IRC 380 of 2006)

Before The Honourable Justice Wright, President

3 February 2006

### **VARIATION**

1. Insert after subclause (d) of Clause 6, Introduction of Change of the award published 24 February 2006 (357 I.G. 345) the following new subclause (e):
  - (e) The provision of communication during maternity, adoption or parental leave is in accordance with Part E Communication During Leave, of Clause 34 Maternity, Adoption and Parental Leave.
2. Delete the words "clause 32, Family and Community Services Leave and Personal/Carer's Leave" in subclause (iii) of Clause 29, Part-Time, Casual and Temporary Employees in Part II - Casual Employees.
3. Delete Clause 32, Family and Community Services Leave and Personal/Carer's Leave and insert in lieu thereof the following Attachment A, clause 32, Family and Community Services Leave and Personal/Carers' Leave

### **ATTACHMENT A**

#### **32. Family and Community Services Leave and Personal/Carers' Leave**

- (i) Family and Community Services ('FACS') Leave and Personal/Carer's Leave are separate, stand alone entitlements.
  - (ii) FACS Leave and Personal/Carer's Leave are available to all part time and full time employees covered by this Award in accordance with Parts A, B and D of this clause.
  - (iii) FACS Leave and Personal/Carer's Leave are available to all casual employees covered by this Award in accordance with Part C of this clause.
- A. FACS Leave
- (iv) FACS Leave - general
    - (a) For the purpose of this clause relating to FACS Leave:

"relative" means a person related by blood, marriage or affinity;

"affinity" means a relationship that one spouse because of marriage has to blood relatives of the other; and

"household" means a family group living in the same domestic dwelling.



- (b) The appropriate Chief Executive or authorised delegate may grant FACS Leave to an employee:
- (1) to provide care and/or support for sick members of the employee's relatives or household; or
  - (2) for reasons related to the family responsibilities of the employee (e.g. to arrange and or attend a funeral of a relative; to accompany a relative to a medical appointment where there is an element of emergency; parent/teacher meetings; education week activities; to meet elder-care requirements of a relative); or
  - (3) for reasons related to the performance of community service by the employee (e.g. in matters relating to citizenship; to office holders in local government, other than as a mayor, for attendance at meetings, conferences or other associated duties; representing Australia or the State in major amateur sport other than in Olympic/Commonwealth Games); or
  - (4) in a case of pressing necessity (e.g. where an employee is unable to attend work because of adverse weather conditions which either prevent attendance or threaten life or property; the illness of a relative; where a child carer is unable to look after their charge).
- (v) FACS Leave replaces Compassionate Leave.
- (vi) An employee is not to be granted FACS Leave for attendance at court to answer a criminal charge, unless the Chief Executive or authorised delegate approves the grant of leave in the particular case.

Applications for FACS Leave to attend court, for reasons other than criminal charges, will be assessed on an individual basis.

(vii) FACS Leave - entitlement

- (a) The maximum amount of FACS Leave on full pay that may be granted to an employee is:

3 working days during the first year of service, commencing on and from 1 January 1995, and thereafter 6 working days in any period of 2 years; or

1 working day, on a cumulative basis effective from 1 January 1995, for each year of service after 2 years' continuous service, minus any period of FACS Leave already taken by the employee since 1 January 1995,

whichever method provides the greater entitlement.

- (b) For the purposes of calculating entitlement, a working day for employees working an average of 38 hours per week in each roster cycle shall be deemed to consist of 8 hours. The rate at which FACS Leave is paid out and utilised shall be on actual hours absent from the rostered shift.
- (c) FACS Leave is available to part-time employees on a pro rata basis.

(viii) Additional FACS Leave for bereavement purposes

Where FACS Leave has been exhausted, additional FACS leave of up to 2 days for bereavement may be granted on a discrete, "per occasion" basis to an employee on the death of a relative or member of a household as defined in subclause (iv)(a) of this clause.

(ix) Use of other leave entitlements

The appropriate Chief Executive or authorised delegate may grant an employee other leave entitlements for reasons related to family responsibilities, or community service, by the employee.

An employee may elect, with the consent of the employer, to take annual leave; long service leave; or leave without pay.

B. Personal/Carer's Leave

(x) Use of sick leave to care for the person concerned - definitions

A person who needs the employee's care and support is referred to as the "person concerned" and is:

- (a) a spouse of the employee; or
- (b) a de facto spouse, who, in relation to a person, is a person of the opposite sex to the first mentioned person who lives with the first mentioned person as the husband or wife of that person on a bona fide domestic basis although not legally married to that person; or
- (c) a child or an adult child (including an adopted child, a step child, a foster child or an ex nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the employee or spouse or de facto spouse of the employee; or
- (d) a same sex partner who lives with the employee as the de facto partner of that employee on a bona fide domestic basis; or
- (e) a relative of the employee who is a member of the same household, where for the purpose of this clause relating to Personal/Carer's Leave:

"relative" means a person related by blood, marriage or affinity;

"affinity" means a relationship that one spouse because of marriage has to blood relatives of the other; and

"household" means a family group living in the same domestic dwelling.

(xi) Use of Sick Leave to care for the person concerned - entitlement

- (a) The entitlement to use sick leave in accordance with this subclause is subject to the employee being responsible for the care and support of the person concerned; and the person concerned being as defined in subclause (x) of this clause.
- (b) An employee covered by the provisions of this clause with responsibilities in relation to a person who needs their care and support shall be entitled to use the untaken sick leave, from that year's annual sick leave entitlement, to provide care and support for such persons when they are ill.
- (c) Sick leave accumulates from year to year. In addition to the current year's grant of sick leave available under (b) above, sick leave untaken from the previous 3 years may also be accessed by an employee with responsibilities in relation to a person who needs their care and support.
- (d) The Chief Executive or authorised delegate may, in special circumstances, make a grant of additional sick leave. This grant can only be taken from sick leave untaken prior to the period referred to in subclause (c) above.
- (e) The employee shall, if required, establish either by production of a medical certificate or statutory declaration, that the illness of the person concerned is such as to require care by another person.
- (f) The employee has the right to choose the method by which the ground for leave is established, that is, by production of either a medical certificate or statutory declaration.
- (g) The employee is not required to state the exact nature of the relevant illness on either a medical certificate or statutory declaration.

- (h) The employee shall, wherever practicable, give the employer notice prior to the absence of the intention to take leave, the name of the person requiring care and that person's relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the employee to give prior notice of absence, the employee shall notify the employer by telephone of such absence at the first opportunity on the day of absence.
  - (i) In normal circumstances, the employee must not take leave under this subclause where another person has taken leave to care for the same person.
- (xii) Use of other leave entitlements

An employee may elect, with the consent of the employer, to take:

- (a) annual leave, including annual leave not exceeding ten days in single-day periods, or part thereof, in any calendar year at a time or times agreed by the parties. An employee and employer may agree to defer payment of the annual leave loading in respect of single day absences until at least five consecutive annual leave days are taken.
- (b) an employee may elect with the employer's agreement to take annual leave at any time within a period of 24 months from the date at which it falls due;
- (c) long service leave; or
- (d) leave without pay for the purpose of providing care and support to the person concerned as defined in subclause (x) above.

### C. Casual Employee Entitlements

#### (xiii) Bereavement entitlements for casual employees

- (a) Casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of a person prescribed in subclause (iv)(a) of this clause.
- (b) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
- (c) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not engage a casual employee are otherwise not affected.

#### (xiv) Personal Carers Entitlement for casual employees

- (a) Subject to the evidentiary and notice requirements in subclauses (xi)(e)-(h) casual employees are entitled to not be available to attend work, or to leave work if they need to care for a person prescribed in subclause (x) of this clause who is sick and requires care and support, or who require care due to an unexpected emergency or the birth of a child.
- (b) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
- (c) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.

## D. Flexible Work Practice Alternatives to Using FACS or Personal/Carer's Leave

## (xv) Time off in lieu of payment of overtime to care for the person concerned

- (a) An employee may elect, with the consent of the employer, to take time off in lieu of payment of overtime at a time or times agreed with the employer within 12 months of the said election, to care for the person concerned, as defined in sub-clause (x) above.
- (b) Overtime taken as time off during ordinary time shall be taken at the ordinary time rate, that is, one hour off for each hour of overtime worked.
- (c) If, having elected to take time as leave in accordance with (xv)(a) above, the leave is not taken for whatever reason, payment for time accrued at overtime rates shall be made at the expiry of the twelve month period from the date the overtime was worked, or earlier by agreement, or on termination.
- (d) Where no election is made in accordance with paragraph (xv)(a) above, the employee shall be paid overtime rates in accordance with the provisions of clause 25, Overtime.

## (xvi) Use of make-up time

- (a) An employee may elect, with the consent of the employer, to work "make-up time". "Make-up time" is worked when the employee takes time off during ordinary hours for family or community service responsibilities, and works those hours at another time, during the spread of ordinary hours provided for in clauses 4, 5 and 7 of this Award, at the ordinary rate of pay.
- (b) An employee on shift work may elect, with the consent of the employer, to work "make-up time" (under which the employee takes time off during ordinary hours and works those hours at another time) at the applicable shift work rate under clause 15 of this Award to the hours taken off.

## 4. Delete Clause 34, Maternity, Adoption and Parental Leave and insert in lieu thereof the following Attachment B.

**ATTACHMENT B****34. Maternity, Adoption and Parental Leave**

- (i) All eligible employees covered by this Award are entitled to the provisions of this clause other than part time employees who receive a part time loading as prescribed by Part IV - Savings Provisions of clause 29 of this Award (known as "old part time"), and casual employees.
- (ii) Part time employees who receive a part time loading as prescribed by Part IV - Savings Provisions of clause 29 of this Award (known as "old part time") and casual employees are entitled to parental leave in accordance with the provisions of Part 4, Parental Leave, of the *Industrial Relations Act, 1996*. The following provisions shall also apply in addition to those set out in the *Industrial Relations Act 1996* (NSW).
  - (a) An employer must not fail to re-engage a regular casual employee (see section 53(2) of the Act) because:
    - the employee or employee's spouse is pregnant; or
    - the employee is or has been immediately absent on parental leave.

The rights of an employer in relation to engagement and re-engagement of casual employees are not affected, other than in accordance with this clause.

- (b) Part time employees who receive a part time loading as prescribed by Part IV - Savings Provisions of clause 29 of this Award are entitled to the provisions of Part D Right to Request and Part E Communication During Leave of this clause.

(iii) Liability for Superannuation Contributions

During a period of unpaid maternity, adoption or parental leave, the employee will not be required to meet the employer's superannuation liability.

A. Maternity Leave

(i) Eligibility for Paid Maternity Leave -

To be eligible for paid maternity leave a full time or permanent part time employee must have completed at least 40 weeks continuous service prior to the expected date of birth.

An employee who has once met the conditions for paid maternity leave will not be required to work again the 40 weeks continuous service in order to qualify for a further period of paid maternity leave, unless;

- (a) there has been a break in service where the employee has been re-employed or re-appointed after a resignation, medical retirement, or after her services have been otherwise dispensed with; or
- (b) the employee has completed a period of leave without pay of more than 40 weeks. In this context, leave without pay does not include sick leave without pay, maternity leave without pay, or leave without pay associated with an illness or injury compensable under the Workers' Compensation Act, 1987.

(ii) Portability of Service for Paid Maternity Leave -

Portability of service for paid maternity leave involves the recognition of service in public sector organisations for the purpose of determining an employee's eligibility to receive paid maternity leave. For example, where an employee moves between a public sector department and a public hospital, previous continuous service will be counted towards the service prerequisite for paid maternity leave.

When determining an employee's eligibility for paid maternity leave, continuous service with an organisation that is part of the public sector service as defined in the Public Sector Employment and Management Act 2002 will be recognised, provided that:

- (a) service was on a full-time or permanent part-time basis;
- (b) cessation of service with the former employer was not by reason of dismissal on any ground, except retrenchment or reduction of work;
- (c) the employee commences duty with the new employer on the next working day after ceasing employment with the former employer (there may be a break in service of up to two months before commencing duty with the new employer provided that the new position was secured before ceasing duty with the former employer. However, such a break in service will not be counted as service for the purpose of calculating any prior service prerequisite for paid maternity leave.

(iii) Entitlement to Paid Maternity Leave -

- (a) An eligible employee is entitled to fourteen weeks at the ordinary rate of pay from the date maternity leave commences. This leave may commence up to fourteen weeks prior to the expected date of birth.

It is not compulsory for an employee to take this period off work. However, if an employee decides to work during the nine weeks prior to the expected date of birth it is subject to the employee being able to perform satisfactorily the full range of normal duties.

Paid maternity leave may be paid:

on a normal fortnightly basis; or

in advance in a lump sum; or

at the rate of half pay over a period of twenty-eight weeks on a regular fortnightly basis.

Annual and/or long service leave credits can be combined with periods of maternity leave on half pay to enable an employee to remain on full pay for that period.

(iv) Unpaid Maternity Leave

- (a) Full time and permanent part time employees who are entitled to paid maternity leave are entitled to a further period of unpaid maternity leave of not more than 12 months after the actual date of birth.
- (b) Full time and permanent part time employees who are not eligible for paid maternity leave are entitled to unpaid maternity leave of not more than 12 months.
- (c) Full time and permanent part time employees may also apply for additional unpaid maternity leave as provided for in subclause (i)(b) of Part D Right to Request of this clause.

(v) Applications -

An employee who intends to proceed on maternity leave should formally notify her employer of such intention as early as possible, so that arrangements associated with her absence can be made.

Written notice of not less than eight weeks prior to the commencement of the leave should accordingly be given. This notice must include a medical certificate stating the expected date of birth and should also indicate the period of leave desired.

(vi) Variation after Commencement of Leave -

After commencing maternity leave, an employee may vary the period of her maternity leave, once without the consent of her employer and otherwise with the consent of her employer. A minimum of fourteen days' notice must be given, although an employer may accept less notice if convenient.

The conditions relating to variation of maternity leave are derived from Section 64 of the Industrial Relations Act 1996.

(vii) Staffing Provisions -

In accordance with obligations established by the Section 69 of the *Industrial Relations Act 1996*, any person who occupies the position of an employee on maternity leave must be informed that the employee has the right to return to her former position. Additionally, since an employee has the right to vary the period of her maternity leave, offers of temporary employment should be in writing, stating clearly the temporary nature of the contract of employment. The duration of employment should be also set down clearly; to a fixed date or until the employee elects to return to duty, whichever occurs first.

(viii) Effect of Maternity Leave on Accrual of Leave, Increments etc.

When the employee has resumed duties, any period of full pay leave is counted in full for the accrual of annual leave, sick leave and long service leave and any period of maternity leave on half pay is taken into account to the extent of one half thereof when determining the accrual of annual leave, sick leave and long service leave.

Except in the case of employees who have completed ten years' service the period of maternity leave without pay does not count as service for long service leave purposes. Where the employee has completed ten years' service the period of maternity leave without pay shall count as service provided such leave does not exceed six months.

Maternity leave without pay does not count as service for incremental purposes. Periods of maternity leave at full pay and at half pay are to be regarded as service for incremental progression on a pro-rata basis.

Where public holidays occur during the period of paid maternity leave, payment is at the rate of maternity leave received i.e., public holidays occurring in a period of full pay maternity leave are paid at full rate and those occurring during a period of half pay leave are paid at half rate.

(ix) Illness Associated with Pregnancy -

If, because of an illness associated with her pregnancy an employee is unable to continue to work then she can elect to use any available paid leave (sick, annual and/or long service leave) or to take sick leave without pay.

Where an employee is entitled to paid maternity leave, but because of illness, is on sick, annual, long service leave, or sick leave without pay prior to the birth, such leave ceases nine weeks prior to the expected date of birth. The employee then commences maternity leave with the normal provisions applying.

(x) Transfer to a More Suitable Position -

Where, because of an illness or risk associated with her pregnancy, an employee cannot carry out the duties of her position, an employer is obliged, as far as practicable, to provide employment in some other position that she is able to satisfactorily perform. This obligation arises from section 70 of the Industrial Relations Act 1996. A position to which an employee is transferred under these circumstances must be as close as possible in status and salary to her substantive position.

(xi) Miscarriages -

In the event of a miscarriage any absence from work is to be covered by the current sick leave provisions

(xii) Stillbirth -

In the case of a stillbirth, (as classified by the Registry of Births, Deaths and Marriages) an employee may elect to take sick leave, subject to production of a medical certificate, or maternity leave. She may resume duty at any time provided she produces a doctor's certificate as to her fitness.

(xiii) Effect of Premature Birth on Payment of Maternity Leave -

An employee who gives birth prematurely, and prior to proceeding on maternity leave shall be treated as being on maternity leave from the date leave is commenced to have the child. Should an employee return to duty during the period of paid maternity leave, such paid leave ceases from the date duties are resumed.

## (xiv) Right to Return to Previous Position -

In accordance with the obligations set out in section 66 of the *Industrial Relations Act*, 1996 an employee returning from maternity leave has the right to resume her former position.

Where this position no longer exists the employee is entitled to be placed in a position nearest in status and salary to that of her former position and for which the employee is capable or qualified.

## (xv) Further Pregnancy While on Maternity Leave -

Where an employee becomes pregnant whilst on maternity leave, a further period of maternity leave may be granted. Should this second period of maternity leave commence during the currency of the existing period of maternity leave, then any residual maternity leave from the existing entitlement lapses.

An employee who has taken no more than 12 months full time equivalent maternity leave is entitled to be paid at their normal rate (i.e. the rate at which they were paid before proceeding on maternity leave) for another period of such leave regardless of whether they resume their normal hours of work before proceeding on the second period of maternity leave.

An employee who commences a subsequent period of maternity leave during the first 12 months of a return to duty for less than full time hours as provided under subclause (i)(c) of Part D of this clause is entitled to be paid at their substantive full time rate for the subsequent period of maternity leave.

An employee who commences a subsequent period of maternity leave more than 12 months after returning to duty for less than full time hours under subclause (i)(c) of Part D of this clause, will be entitled to paid maternity leave for the subsequent period of maternity leave at their part-time rate.

## B. Adoption Leave

## (i) Eligibility -

All full time and permanent part time employees who are adopting a child and are to be the primary care giver of the child are eligible for unpaid adoption leave.

To be eligible for paid adoption leave a full time or permanent part time employee must also have completed at least 40 weeks continuous service prior to the date of taking custody of the child.

An employee who has once met the conditions of paid adoption leave, will not be required to again work the 40 weeks continuous service in order to qualify for further periods of paid adoption leave, unless;

- (a) there has been a break in service where the employee has been re-employed or re-appointed after a resignation, medical retirement, or after their services have been otherwise dispensed with; or
- (b) the employee has completed a period of leave without pay of more than 40 weeks. In this context, leave without pay does not include sick leave without pay, maternity leave without pay, or leave without pay associated with an illness or injury compensable under the Workers Compensation Act, 1987.



## (ii) Entitlement -

## (a) Paid Adoption Leave -

Eligible employees are entitled to paid adoption leave of fourteen weeks at the ordinary rate of pay from and including the date of taking custody of the child.

Paid adoption leave may be paid:-

on a normal fortnightly basis; or

in advance in a lump sum; or

at the rate of half pay over a period of twenty-eight weeks on a regular fortnightly basis.

Annual and/or long service leave credits can be combined with periods of adoption leave at half pay to enable an employee to remain on full pay for that period.

## (b) Unpaid Adoption Leave -

Eligible employees are entitled to unpaid adoption leave as follows:

where the child is under the age of 12 months - a period of not more than 12 months from the date of taking custody;

where the child is over the age of 12 months - a period of up to 12 months, such period to be agreed upon by both the employee and the employer.

## (iii) Applications -

Due to the fact that an employee may be given little notice of the date of taking custody of a child, employees who believe that, in the reasonably near future, they will take custody of a child, should formally notify the employer as early as practicable of the intention to take adoption leave. This will allow arrangements associated with the adoption leave to be made.

## (iv) Variation after Commencement of Leave -

After commencing adoption leave, an employee may vary the period of leave, once without the consent of the employer and otherwise with the consent of the employer. A minimum of fourteen days' notice must be given, although an employer may accept less notice if convenient.

## (v) Portability of Service for Paid Adoption Leave -

As per maternity leave conditions.

## (vi) Staffing Provisions -

As per maternity leave conditions.

## (vii) Effect of Adoption Leave on Accrual of Leave, Increments, etc

As per maternity leave conditions.

## (viii) Right to return to previous position -

As per maternity leave conditions.

## C. Parental Leave -

## (i) Eligibility

To be eligible for parental leave a full time or permanent part time employee must have completed at least 40 weeks continuous service prior to the expected date of birth or to the date of taking custody of the child.

An employee who has once met the conditions for paid parental leave will not be required to again work the 40 weeks continuous service in order to qualify for a further period of paid parental leave, unless:

- (a) there has been a break in service where the employee has been re-employed or re-appointed after a resignation, medical retirement, or after their services have been otherwise dispensed with; or
- (b) the employee has completed a period of leave without pay of more than 40 weeks. In this context, leave without pay does not include sick leave without pay, maternity leave without pay, or leave without pay associated with an illness or injury compensable under the *Workers' Compensation Act 1987*.

## (ii) Portability of Service for Paid Parental Leave

As per maternity leave conditions.

## (iii) Entitlements

Eligible employees whose spouse or partner (including a same sex partner) is pregnant or is taking custody of a child are entitled to a period of leave not exceeding 52 weeks which includes one week of paid leave, and may be taken as follows:

- (a) an unbroken period of up to one week at the time of the birth of the child, taking custody of the child or other termination of the pregnancy (short parental leave); and
- (b) a further unbroken period in order to be the primary caregiver of the child (extended parental leave).
- (c) The entitlement of one weeks' paid leave may be taken at anytime within the 52 week period and shall be paid:

at the employee's ordinary rate of pay for a period not exceeding one week on full pay; or

two weeks at half pay or the period of parental leave taken, whichever is the lesser period.

Annual and/or long service leave credits can be combined with periods of parental leave on half pay to enable an employee to remain on full pay for that period.

- (d) Extended parental leave cannot be taken at the same time as the employee's spouse or partner is on maternity or adoption leave except as provided for in subclause (i)(a) of Part D Right to Request of this clause.

## (iv) Applications

An employee who intends to proceed on parental leave should formally notify their employer of such intention as early as possible, so that arrangements associated with their absence can be made.

- (a) In the case of extended parental leave, the employee should give written notice of the intention to take the leave.
- (b) The employee must, at least four weeks before proceeding on leave, give written notice of the dates on which they propose to start and end the period of leave, although it is recognised in situations of taking custody of a child, little or no notice may be provided to the employee. In such an instance, the employee should notify the employer as early as practicable.
- (c) The employee must, before the start of leave, provide a certificate from a medical practitioner confirming that their spouse or partner is pregnant and the expected date of birth, or in the case of an adoption, an official form or notification on taking custody of the child.
- (d) In the case of extended parental leave, the employee must, before the start of leave, provide a statutory declaration by the employee stating:
  - (i) if applicable, the period of any maternity leave sought or taken by his spouse, and
  - (ii) that they are seeking the period of extended parental leave to become the primary care giver of the child.

(v) Variation after Commencement of Leave

After commencing parental leave, an employee may vary the period of her/his parental leave, once without the consent of the employer and otherwise with the consent of the employer. A minimum of fourteen days' notice must be given, although an employer may accept less notice if convenient.

(vi) Effect of Parental Leave on Accrual of Leave, Increments etc.

As per maternity leave conditions.

(vii) Right to return to Previous Position

As per maternity leave conditions.

D. Right to Request

- (i) An employee entitled to maternity, adoption or parental leave may request the employer to allow the employee:
  - (a) to extend the period of simultaneous maternity, adoption or parental leave use up to a maximum of eight weeks;
  - (b) to extend the period of unpaid maternity, adoption or extended parental leave taken for a further continuous period of leave not exceeding 12 months;
  - (c) to return to duty for less than the full time hours they previously worked by taking weekly leave without pay.

to assist the employee in reconciling work and parental responsibilities.

- (ii) The employer shall consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the employer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.

- (iii) The employee's request and the employer's decision made under (i)(b) and (c) must be recorded in writing.
- (iv) Where an employee wishes to make a request under subclause (i)(c):
  - (a) the employee is to make an application for leave without pay to reduce their full time weekly hours of work.
  - (b) such application must be made as early as possible to enable the employer to make suitable staffing arrangements. At least four weeks notice must be given.
  - (c) all requests are to be considered having regard to the terms of Department of Health Policy Directive No. PD2005\_154 dated 25 January 2005 (Circular No. 99/66), as amended from time to time.
  - (d) Salary and other conditions of employment are to be adjusted on a basis proportionate to the employee's full time hours of work i.e. for long service leave the period of service is to be converted to the full time equivalent, and credited accordingly.
  - (e) It should be noted that employees who return from maternity, adoption or parental leave under this arrangement remain full time employees. Therefore the payment of any part time allowance to such employees does not arise.

E. Communication During Leave

- (i) Where an employee is on maternity, adoption or parental leave and a definite decision has been made to introduce significant change at the workplace, the employer shall take reasonable steps to:
  - (a) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing the leave; and
  - (b) provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing leave.
- (ii) The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.
- (iii) The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with subclause (i).

5. This variation shall take effect on and from 19 December 2005.

F. L. WRIGHT J , *President*

**ERRATUM TO CONTENTS PAGE AND INDEX OF THE  
INDUSTRIAL GAZETTE PUBLISHED 30 JUNE 2006**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

(Vol. 359 Part 5)

**ERRATUM**

1. Delete the words "Crown Employees (Teachers in Schools and TAFE and Related Employees) Salaries and Conditions Award 2006" appearing in the Contents and in the Index of the Industrial Gazette published 30 June 2006 and substitute the following:

Crown Employees (Teachers in Schools and Related Employees) Salaries and Conditions Award 2006

G. M. GRIMSON *Industrial Registrar.*

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Printed by the authority of the Industrial Registrar.

**CLERICAL AND ADMINISTRATIVE EMPLOYEES (STATE) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Erratum to Serial C4375 published 17 March 2006

(358 I.G. 69)

(No. IRC 3613 of 2001 and 1413 of 2003)

**ERRATUM**

1. Delete clause 1, Arrangement, and substitute the following:

**1. Arrangement**

Clause No.	Subject Matter
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**PART A**

- |     |   |
|-----|---|
| 13. | Allowances and Expenses                               |
| 14. | Annual Leave  |
| 2.  | Anti-Discrimination                                   |
| 34. | Area, Incidence and Duration                          |
| 1.  | Arrangement   |
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| 32. | Telephone Canvassers Other Than for the Sale of Goods |
| 27. | Termination of Engagement                             |
| 4.  | Terms of Engagement                                   |
| 25. | Training  |
| 21. | Union Notice Board                                    |

PART B - MONETARY RATES

Table 1 - Adult Wages

Table 2 - Juniors Wages

Table 3 - Telephone Canvassers

Table 4 - Other Rates And Allowances

G. M. GRIMSON *Industrial Registrar.*

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## ENTERPRISE AGREEMENTS APPROVED BY THE INDUSTRIAL RELATIONS COMMISSION

(Published pursuant to s.45(2) of the *Industrial Relations Act 1996*)

### **EA06/275 - Private Hospital Nurses' and Midwives (Named Employers and New South Wales Nurses' Association) Enterprise Agreement 2006-2008**

**Made Between:** Alwyn Rehabilitation Hospital, Calvary Healthcare Sydney - Hurstville Community, Cape Hawke Community Private Hospital, Great Lakes Hospitals Pty Ltd t/as Toronto Private Hospital, Hawkesbury District Health Service, Hironnelle Private Hospital, Hunter Valley Private Hospital Pty Ltd, Jean Colvin Hospital & Ecclesourne, Lithgow Community Private Hospital Ltd, Maitland Private Hospital Pty Ltd, Mayo Private Hospital, NIB Health Funds Ltd t/as Newcastle Private Hospital, Poplars Private Hospital Epping, SPH Management Pty Ltd t/as Shellharbour Private Hospital, St John Of God Hospitals, St John of God Health Services, St Luke's Hospital Complex, St Vincent's Private Hospital Bathurst, Sydney Adventist Hospital, Uniting Church in Australia Property Trust (NSW) t/as Wandene Private Hospital, Uniting Church in Australia Property Trust (NSW) t/as Wesley Gardens Georgian Aged Care, Wolper Jewish Private Hospital -&- the New South Wales Nurses' Association.

**New/Variation:** New.

**Approval and Commencement Date:** Approved and commenced 21 March 2006.

**Description of Employees:** The agreement applies to all employees employed by the named employers listed in Schedule 1 of this agreement, who are engaged in the industry of nursing, who fall within the coverage of the following awards: Private Hospital Industry Nurses' (State) Nurses' (Private Sector) Training Wage (State) Award, Nurses (Private Sector) Redundancy (State) Award and the Private Hospital and Nursing Home Nurses' Superannuation (State) Award. The agreement will not apply to nursing staff who are employed in a Private Hospital whose terms and conditions are covered by the Public Health System Nurses' & Midwives (State) Award.

**Nominal Term:** 29 Months.

### **EA06/276 - Speedo Australia Machinists & Cutters Certified Agreement 2005**

**Made Between:** Speedo Australia Pty Limited -&- the Transport Workers' Union of New South Wales.

**New/Variation:** Replaces EA04/108.

**Approval and Commencement Date:** Approved and commenced 23 March 2006.

**Description of Employees:** The agreement applies to all employees employed by Speedo Australia Pty Limited located at 100 Mileham Street, South Windsor NSW 2756, who are engaged in sewing, cutting and associated garment manufacturing at the Company's site in Windsor, who fall within the coverage of the Clothing Trades (State) Award.

**Nominal Term:** 21 Months.



**EA06/277 - Healthscope Group and New South Wales Nurses' Association Nurses' and Midwives (State) Enterprise Agreement 2006-2008**

**Made Between:** Healthscope Group -&- the New South Wales Nurses' Association.

**New/Variation:** New.

**Approval and Commencement Date:** Approved and commenced 21 March 2006.

**Description of Employees:** The agreement applies to all employees employed by Healthscope Group who are engaged in the industry of nursing employed in or in connection with Hospitals owned or operated by Healthscope Group in NSW. The agreement shall also apply to persons engaged in or in connection with the industry of nursing employed by the Healthscope Group at the following Healthscope Group Hospitals: Prince of Wales Hospital and The Hills Private Hospital, as and from the date that Healthscope Group legally acquires these hospitals, who fall within the coverage of the following awards: Private Hospital Industry Nurses' (State) Nurses' (Private Sector) Training Wage (State) Award, Nurses (Private Sector) Redundancy (State) Award and the Private Hospital and Nursing Home Nurses' Superannuation (State) Award.

**Nominal Term:** 29 Months.

**EA06/278 - Hudson - TWU Enterprise Agreement**

**Made Between:** Hudson Trade and Industrial Services Pty Ltd -&- the Transport Workers' Union of New South Wales.

**New/Variation:** New.

**Approval and Commencement Date:** Approved and commenced 24 March 2006.

**Description of Employees:** The agreement applies to all employees employed by Hudson Trade and Industrial Services Pty Ltd., Level 19, 45 Clarence Street, Sydney NSW 2000, who fall within the coverage of the following State Awards: Ice Cream Carters and Van Salespersons (State) Award; Milk Treatment, &c., and Distribution (State) Award; Transport Industry (State) Award; Transport Industry - Mixed Enterprises Interim (State) Award; Transport Industry - Petroleum, &c., Distribution (State) Award; Transport Industry - Motor Bus Drivers and Conductors (State) Award; Transport Industry - Quarried Materials (State) Award; Transport Industry - Retail (State) Award 1999; Transport Industry - Tourist and Service Coach Drivers (State) Award; Transport Industry - Trade Waste (State) Award; Transport Industry - Waste Collection and Recycling (State) Award; Transport Industry - Wholesale Butchers (State) Award 2000 and the following Federal Awards: Gate Gourmet Services - Transport Workers' Award 2002; Transport Workers (Airlines) Award 1998; Transport Workers (Cateair Airport Services) Award 1990; Transport Workers (Oil Distribution) Award 2000; Transport Workers (Oil Companies) Award 1992.

**Nominal Term:** 36 Months.

**EA06/279 - Trojan Workforce No. 3 Pty Ltd NSW Labour Hire Agreement 2005-2008**

**Made Between:** Trojan Workforce No. 3 -&- the Electrical Trades Union of Australia, New South Wales Branch.

**New/Variation:** New.

**Approval and Commencement Date:** Approved and commenced 24 March 2006.

**Description of Employees:** The agreement applies to all employees employed by Trojan Workforce No. 3 Pty Ltd., Level 6 Westfields Parramatta, Church Street, Parramatta NSW 2150, who are engaged within NSW and who fall within the coverage of the Electrical, Electronic and Communications Contracting Industry (State) Award.

**Nominal Term:** 30 Months.

**EA06/280 - Garde Pty Ltd Enterprise Agreement 2005-2005**

**Made Between:** Garde Pty Limited -&- the Electrical Trades Union of Australia, New South Wales Branch.

**New/Variation:** New.

**Approval and Commencement Date:** Approved and commenced 24 March 2006.

**Description of Employees:** The agreement applies to all employees employed by Garde Pty Ltd., 126 Beaconsfield Street, Silverwater NSW 2128, who are engaged upon work within the Electricity Supply Industry in NSW, who fall within the coverage of the Electrical, Electronic and Communications Contracting Industry (State) Award.

**Nominal Term:** 31 Months.

**EA06/281 - Prosys Services Pty Ltd NSW Agreement 2005-2008**

**Made Between:** Electrical Trades Union of Australia, New South Wales Branch, Prosys Services.

**New/Variation:** Replaces EA04/152.

**Approval and Commencement Date:** Approved and commenced 24 March 2006.

**Description of Employees:** The agreement applies to all employees employed by Prosys Services Pty Ltd., Level 3/109 Hunter Street, Hornsby NSW 2077, who fall within the coverage of the Electrical, Electronic and Communications Contracting Industry (State) Award.

**Nominal Term:** 30 Months.

**EA06/282 - Bidvest QSR Sydney - Certified Agreement 2005-2008**

**Made Between:** Pymont Management Services trading as Bidvset QSR Sydney -&- the Transport Workers' Union of New South Wales.

**New/Variation:** New.

**Approval and Commencement Date:** Approved and commenced 24 March 2006.

**Description of Employees:** The agreement applies to all employees employed by Pymont Management Services Pty Ltd trading as Bidvest QSR Sydney located at 350 Victoria Street, Wetherill Park NSW 2164, who fall within the coverage of the Storemen and Packers, General (State) Award and the Transport Industry (State) Award.

**Nominal Term:** 27 Months.

**EA06/283 - Toll Fleet Management Chullora and Greenacre Enterprise Agreement 2006-2009**

**Made Between:** Toll Fleet Management, a division of Toll Transport Pty Ltd -&- The Australian Workers' Union, New South Wales .

**New/Variation:** Replaces EA05/81.

**Approval and Commencement Date:** Approved and commenced 24 March 2006.

**Description of Employees:** The agreement applies to all employees employed by Toll Fleet Management who are engaged to perform work at the company's operations at its Fleet Management Workshope sites located at 10 Bruncker Road, Chullora NSW 2190 and 77-85 Roberts Road, Greenacre NSW 2190, who fall within the coverage of the Metal, Engineering and Associated Industries (State) Award.

**Nominal Term:** 36 Months.

**EA06/284 - Health Care Australia Pty Ltd and New South Wales Nurses' Association Nurses' and Midwives' (State) Enterprise Agreement 2006-2008**

**Made Between:** Healthe Care Australia Pty Ltd -&- the New South Wales Nurses' Association.

**New/Variation:** New.

**Approval and Commencement Date:** Approved and commenced 24 March 2006.

**Description of Employees:** The agreement applies to all employees employed by Healthe Care Australia Pty Ltd., who are engaged in the industry of nursing employed in or in connection with hospitals owned or operated by Healthe Care Australia in NSW, who fall within the coverage of the following awards: Private Hospital Industry Nurses' (State) Award, Private Hospital and Nursing Home Nurses' Superannuation (State) Award, Nurses (Private Sector) Redundancy (State) Award and the Nurses' (Private Sector) Training Wage (State) Award.

**Nominal Term:** 31 Months.

**EA06/285 - Toll Liquid Distribution and TWU Sydney Metro Fuel/BOC Cryogenics Contract Site Agreement**

**Made Between:** Toll Transport Pty Ltd trading as Toll Liquid Distribution -&- the Transport Workers' Union of New South Wales.

**New/Variation:** New.

**Approval and Commencement Date:** Approved and commenced 24 March 2006.

**Description of Employees:** The agreement applies to all employees employed by Toll Liquid Distribution a Division of Toll Pty Ltd., located at 119 Cosgrove Road, South Strathfield NSW 2136, who are engaged in Toll Distribution Sydney Metropolitan dangerous goods operations, which includes Fleets located at Enfield, Parramatta, Newcastle and BOC Port Kembla/Newcastle, who fall within the coverage of the Transport Industry - Petroleum, &c., Distribution (State) Award.

**Nominal Term:** 21 Months.

**EA06/286 - Ullrich Aluminium Certified Agreement 2005-2008**

**Made Between:** Ullrich Aluminium Pty Limited -&- the National Union of Workers, New South Wales Branch.

**New/Variation:** New.

**Approval and Commencement Date:** Approved 24 March 2006 and commenced 16 December 2005.

**Description of Employees:** The agreement applies to all employees employed by Ullrich Aluminium Pty Ltd., 185-187 Woodpark Road, Smithfield NSW 2164, who are engaged in or in connection with receiving, unloading, storing, packing, sorting, handling, preparing material for order and despatch, loading and despatching steel or any other similar material and/or transporting steel or any other similar material and truck driving at the company's Mayfield West and Smithfield locations, who fall within the coverage of the Storemen and Packers, General (State) Award.

**Nominal Term:** 36 Months.

**EA06/287 - The Springwood Neighbourhood Centre Cooperative Ltd Enterprise Agreement 2005**

**Made Between:** Springwood Neighbourhood Centre Co-operative Ltd -&- Kate Blair, Morna Colbran, Sandul Dobson, Iwona Hale, Elaine Mercier, Lee O'Dowd Austen, Suzanne Pickles, Toni Quigley, Kim Roshier, Judith Whelan.

**New/Variation:** New.

**Approval and Commencement Date:** Approved and commenced 4 April 2006.

**Description of Employees:** The agreement applies to all employees employed by Springwood Neighbourhood Centre Co-operative Ltd., located at 108 Macquarie Road, Springwood NSW 2777, who fall within the coverage of the Social & Community Services (State) Award and the Miscellaneous Workers' - Kindergartens and Child Care Centres, &c. (State) Award.

**Nominal Term:** 36 Months.

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