



NEW SOUTH WALES
INDUSTRIAL GAZETTE

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CROWN EMPLOYEES (FIRE & RESCUE NSW TRADESPERSONS) AWARD 2021

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Fire and Rescue NSW.

(Case No. 192178 of 2021)

Before Commissioner Webster

9 July 2021

AWARD

Arrangement

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PART A

1. Definitions

"Commissioner" means the Commissioner of Fire and Rescue NSW (FRNSW) holding office as such under the *Government Sector Employment Act 2013*, or his/her delegate.

"Industrial Relations Secretary" means the employer for industrial purposes pursuant to the *Government Sector Employment Act 2013*.

"Discharge" means termination of service with FRNSW as a consequence of retrenchment, reorganisation or shortage of work or other reason for which the employer may not be entirely responsible.

"Dismissed" means termination of service with FRNSW for inefficiency, neglect of duty, or misconduct.

"Employee" means all persons who are permanently or temporarily employed under the *Government Sector Employment Act 2013* and who, as at the operative date of this Award, occupy one of the positions covered by this Award, or who, after that date, are appointed to or employed in one of such positions.

"Fire Vehicle Repairer" this classification is an amalgamation of the following classifications: Automotive Electrical; Motor Mechanic; Painter (Vehicle); Fitter and Body Maker. Each of the individual classifications receive an appropriate tool allowance in addition to the wage for a Fire Vehicle Repairer.

"FRNSW" or "Employer" means Fire and Rescue NSW.

"Headquarters" means any office, workshop, store, depot, or other place of employment at which an employee is regularly required to work or from which the employee's work is directly controlled and to which the employee has been attached.

"Resignation" means voluntarily leaving the service of FRNSW.

"Skilled Trades Award" means the Crown Employees (Skilled Trades) Award.

"Union" means the:

Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union, New South Wales Branch;

Electrical Trades Union of Australia, New South Wales Branch;

New South Wales Fire Brigade Employees Union; and

Construction, Forestry, Mining and Energy Union (New South Wales Branch)

having regard for their respective coverage.

2. Hours

2.1 The ordinary working hours of employees shall not exceed 38 hours per week, to be worked not exceeding 8 hours per day, as determined by FRNSW.

2.1.1 The ordinary working hours of Fire Vehicle Repairers shall not exceed 76 hours per fortnight, to be worked not exceeding 8.5 hours per day, as determined by FRNSW.

2.2 The ordinary working hours of cleaners shall not exceed 35 hours per week, to be worked in shifts not exceeding 8 hours per day, as determined by FRNSW.

2.3 FRNSW may require an employee to perform duty beyond the hours determined under subclause 2.1 of this clause but only if it is reasonable for the employee to be required to do so. An employee may refuse to work additional hours in circumstances where the working of such hours would result in the employee working unreasonable hours. In determining what is unreasonable the following factors shall be taken into account:

2.3.1 the employee's prior commitments outside the workplace, particularly the employee's family and carer responsibilities, community obligations or study arrangements,

2.3.2 any risk to employee health and safety,

2.3.3 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,

2.3.4 the notice (if any) given by FRNSW regarding the working of the additional hours, and by the employee of their intention to refuse the working of additional hours, or

2.3.5 any other relevant matter.

3. Rostered Days Off

3.1 The Rostered Day Off (RDO) provisions of clause 2, Hours-Day Workers, of the Skilled Trades Award, (as defined) shall apply to all employees employed in the Communications Section. The same provisions, but as varied by the provisions of subclauses 3.2, 3.3, 3.4, 3.5 & 3.6, shall apply to all other employees covered by this Award.

3.2 RDO shall be taken in accordance with the roster. Those staff who are on call and therefore work on the RDO day as part of the roster will normally take their RDO on the following Monday when they are off call.

3.3 RDO are to be taken as and when they fall due unless a special arrangement is agreed to pursuant to sub clause 3.6.3 or;

3.3.1 under exceptional circumstances, where the clearing of the RDO day may be delayed, with prior approval.

- 3.4 Appropriate records will be kept by the Department of the dates on which each employee takes a RDO. Such records will be available for perusal by the employee on request.
- 3.5 Where an employee is asked and elects to work on the pre-determined RDO, in accordance with subclause 2.1 of clause 2, Hours-Day Workers, of the Skilled Trades Award (as defined), the compensation paid in accordance with subclause 2.5 of the said clause 2 (i.e. Saturday rates), shall be the employee's only entitlement for working on the RDO.
- 3.6 Employees may elect, with the consent of the employer, to take a rostered day off at any time.
- 3.6.1 An employee may elect, with the consent of the employer, to take rostered days off in part day amounts.
- 3.6.2 An employee may elect, with the consent of the employer, 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 and employee, or subject to reasonable notice by the employee or the employer.
- 3.6.3 This subclause is subject to the employer informing each union which is both party to the Award 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(s) to participate in negotiations.

4. Payment of Wages

- 4.1 All wages shall be paid fortnightly and payment shall be into a bank account specified by the employee, or other financial institutions acceptable to FRNSW and Unions.
- 4.2 Wages shall be paid not later than Thursday in any pay week.

5. Rates of Pay

- 5.1 Adult Employees - The minimum weekly rate of pay for each classification shall be as expressed in Table 1 - Wages, of Part B, Monetary Rates, and is payable for all purposes of the Award. This amount incorporates the following: Basic Wage, Margins, Special Loadings, Trades Allowance and Industry Allowance.
- 5.2 Juniors - The unapprenticed juniors employed by FRNSW shall be paid the following percentages of the appropriate classifications:

Age	Percentage per week (%)
At 17 years of age and under	55
At 18 years of age	67.5
At 19 years of age	80
At 20 years of age	92.5

6. Parties Bound

- 6.1 This Award is binding upon the Industrial Relations Secretary and Fire and Rescue NSW and the following industrial organisations of employees:

Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union, New South Wales Branch;

Electrical Trades Union of Australia, New South Wales Branch;

New South Wales Fire Brigade Employees Union; and

Construction, Forestry, Mining and Energy Union (New South Wales Branch).

7. Savings of Rights

- 7.1 Except as provided for by this Award, no employee shall suffer a reduction in the employee's rate of pay or any loss or diminution of the employee's conditions of employment as a consequence of the amalgamation of the NSW Fire Brigades Maintenance and Miscellaneous Staff Enterprise Agreement 2008 and the Crown Employees (New South Wales Fire Brigades - Maintenance, Construction and Miscellaneous Staff) Award.

8. Relationship to Acts/Awards for Apprenticeships

- 8.1 In regards to Apprentices, this Award shall also be read and interpreted in conjunction with:
- 8.1.1 the *Apprenticeship and Traineeship Act 2001*, provided that where there is any inconsistency between this Act and this Award, the Act shall prevail to the extent of any inconsistency.
- 8.2 The Skilled Trades Award (as defined) provided that where there is any inconsistency between this Award and the Skilled Trades Award, this Award shall prevail to the extent of any inconsistency.

9. Union Subscriptions

- 9.1 The Department agrees, subject to prior written authorisation by an employee, to deduct Union subscriptions from the pay of the authorising employee, in accordance with Treasury Guidelines.

10. Fleet Tradespersons Multi-Skilling

- 10.1 While Apprentice training shall be principally focused on those activities specific to each Apprentice's trade classification, the Department shall, where possible, coordinate and make available work of a similar nature and skill to that contained in the modules studied from time to time by the Apprentice as part of their external Technical and Further Education studies.
- 10.2 The work of a "similar nature and skill" referred to in subclause 10.1, shall where appropriate be made available to Apprentices for the purposes of overtime.
- 10.3 Employees will identify and select spare parts as required from the store during normal work hours and after hours. When using parts from the store the employees will record parts usage, utilising the systems provided which may be written or electronic. Where necessary employees will provide information as required to assist in parts identification and provide the part number itself with reference to manuals - paper and electronic.
- 10.4 Appliance servicing will continue in Station on a State-wide basis.

11. FVR Classification Structure and Labour Flexibility

- 11.1 Fire Vehicle Repairers (FVR) employed by FRNSW perform, both on a planned and emergency basis, a variety of manual and technical tasks related to preventative and corrective maintenance and mechanical repairs. Those tasks include the performance of peripheral and incidental tasks and assisting other staff so as to complete the whole job.
- 11.2 In recognition of the skills and knowledge brought to the performance of tasks by FVR's, the following classification structure is to be applied from the first full pay period to commence on or after the 1 July 2018. Levels 2, 3 and 4 however, cannot be accessed earlier than the date this Award is varied in 2018.

Fire Vehicle Repairer	Definition	% of Weekly Wage
Level 1	Holds relevant Trades certificate	100%
Level 2	Required to use skills/knowledge of other trades of 120 hours & at completion of 12 months continuous service	105%
Level 3	Required to use skills/knowledge of other trades of 240 hours	110%
Level 4	Required to use skills/knowledge of other trades of 360 hours	115%

Note: Actual rates are shown in Part B and will be increased with annual movements to wage and wage related allowances.

11.3 Approved courses in respect of skills/knowledge no longer regularly required shall not be counted for progression purposes.

11.3.1 Approved Courses - are TAFE courses and any others that FRNSW approves, in consultation with the relevant Union. Courses approved however must relate to the acquisition of new skills (performing additional functions) and not simply the modernisation or updating of current work practices or methods (performing the same functions better/differently - for example, personal OH&S related courses, updated inventory or programmed maintenance systems, new computer software etc.).

Placement

11.4 FRNSW will determine where each tradesperson should be placed within the classification structure, in consultation with the relevant Union.

11.4.1 This must be done firstly by determining which skills/knowledge, above classification level 1 skills, are regularly required of the tradesperson and secondly, in relation to each of those, determining whether the relevant approved course has been successfully completed or, alternatively, in respect of FVR's in employment as at 1 July 2018, determining whether the skills/knowledge possessed by the tradesperson is equivalent to skills/knowledge acquired from successfully undertaking the approved course.

11.4.2 Where the FVR in question is placed within a classification in the structure greater than level 1, the employee is to be paid the higher rate from the first full pay period to commence on or after that date that the higher skill/knowledge was regularly required of the tradesperson.

Progression

11.5 Progression to classification levels 2, 3 and 4 is to be on the basis of the FVR in question having successfully undertaken at least 120 hours of additional approved course(s), and, being required to regularly use the skills/knowledge acquired in such courses. Approved courses in respect of skills/knowledge no longer regularly required shall not be counted for progression purposes.

11.5.1 FRNSW will determine which and how many employees are to be regularly required to use additional skills/knowledge for which a higher classification level is to be paid.

11.5.2 FVR's at classification levels 2, 3 and 4 are responsible for maintaining the additional skills/knowledge to a standard equivalent to that of having successfully undertaken a current approved course(s) in order to continue to be paid the higher classification level.

Equivalent Skills

11.6 For the purposes of progression under the foregoing clause, FRNSW, in consultation with the relevant Union, may determine that the skills/knowledge possessed by and regularly required of a FVR who was in employment as at 1 July 2018, should be considered equivalent to skills/knowledge acquired from successfully undertaking an approved course/s. Any such decision requires that the FVR in question be credited with hours equivalent to that of the relevant approved course(s).

No Double Counting

- 11.7 There will be no credit toward progression to a higher classification level in relation to the performance of any function for which payment of an allowance is already made.

Leading Hand Allowances

- 11.8 Leading hand allowances, where applicable, will be paid in addition to the skill based increment of the tradesperson in question.

Disputes

- 11.9 The Grievance and Dispute Resolution Procedures of this award should be utilised if any disputes arise concerning implementation of this clause.

12. Additional Wage Rates

- 12.1 Electricians - An electrician who is the holder of a New South Wales electrician's licence shall be paid the amounts set in Item 1 of Table 2.

13. Special Rates

- 13.1 Confined Spaces - Working in a place the dimensions or nature of which necessitates working in a stooped or cramped position or without sufficient ventilation; the amount set out in Item 1 of Special Rates in Table 3.
- 13.2 Height Pay - Employees, working at a height of 7.5 metres from the ground, deck, floor or water shall be paid the amounts set out in Item 2 of Special Rates in Table 3. Height shall be calculated from where it is necessary for the employee to place his hands or tool in order to carry out the work to such ground, deck, floor or water. For the purposes of this subclause, deck or floor means a substantial structure which, even though temporary, is sufficient to protect an employee from falling any further distance. Water level means in tidal waters mean water level. This subclause shall not apply to an employee working on a suitable scaffold erected in accordance with the *Scaffolding and Lifts Act 1912*. An additional amount set in Item 3 of Special Rates in Table 3 shall be paid for every metre beyond that specified in Item 2 of Special Rates in Table 3.
- 13.3 Roof Work - Employees engaged in the fixing or repairing of a roof or any other work in excess of 12 metres from the nearest floor level shall be paid the amount set out in Item 2 of Special Rates in Table 2 per hour extra with a minimum payment also set out in Item 2.
- 13.4 Extra Rates not Cumulative - When more than one of the above rates provide payment for disabilities of substantially the same nature then only the highest of such rates shall be payable.
- 13.5 Rates not Subject to Penalty Provisions - The special rates herein prescribed shall be paid irrespective of the time at which the work is performed and shall not be subject to any premium or penalty additions.

14. Team Leader Allowance and Higher Duties

- 14.1 The Team Leader Allowance as provided for in Table 3 of this Award is in compensation for an employee being appointed as the supervisor of a section. Additionally, Team Leaders are required to undertake planning and scheduling activities as well as provide monthly section reports to the Operations Manager.
- 14.2 An employee covered under this Award engaged for more than five consecutive weekdays, on duties carrying a higher rate than employee's ordinary classification or entitling the employee to a Team Leader allowance, shall be paid the higher rate or allowance, as the case may be.

- 14.3 Where payment of the Team Leader allowance is due because of a temporary vacancy of more than five days, acting up will not be distributed to employees or paid in increments of less than 5 days per employee. Provided the employee actually acts up for 5 or more consecutive days.

15. Higher Grade Pay

- 15.1 An employee engaged for more than five consecutive weekdays, on duties carrying a higher rate than the employee's ordinary classification or entitling the employee to a Team Leader Allowance shall be paid the higher rate or allowance as the case may be.
- 15.2 Employees covered under this Award, who are engaged on duties in a classification appearing in the Crown Employees (Public Sector - Salaries 2019) Award, or successor, carrying a higher rate than the employee's ordinary classification, will be paid a higher duties allowance on a day by day basis (regardless of how many days such employee was acting in the higher graded position). This includes an employee who is on-call on a Saturday or Sunday, that is, the higher duties allowance is payable whilst on-call on a weekend. Such higher duties allowance is payable at 7 hours per day only.

16. Authorised Heavy Vehicle Allowance

- 16.1 An Authorised Heavy Vehicle Inspectors allowance is paid to employees covered under this Award who have successfully completed the Transport Roads and Maritime Services training course and therefore have been issued with a Heavy Vehicle Inspectors Number.
- 16.2 The Heavy Vehicle Inspectors allowance is provided for in Table 3 of this Award and is paid on a daily basis. The allowance is paid irrespective of the number of inspections undertaken. There is no allowance payable per each inspection undertaken. This allowance is subject to incremental adjustment linked to percentage increases in adjustments to rates of pay.
- 16.3 As directed by the department, suitably qualified fire vehicle repairers covered by this award will be required to obtain and maintain a Heavy Vehicle Inspector Number and undertake inspections as required as part of their normal duties.

17. On Call Allowance

- 17.1 An On Call Allowance is paid to employees covered under this Award who are working On Call as part of the normal roster or have been directed to work On Call. Minimum payment for emergency recall to duty shall be for four hours at appropriate penalty rates.
- 17.2 The On Call allowance provided for in Table 3A of this Award shall apply to all employees except those provided for in subclause 17.3.
- 17.3 The On Call allowance provided for in Table 3b of this Award shall apply only to Fire Vehicle Repairers.
- 17.4 The On Call allowance at subclause 17.3 comes into effect from the date this Award was varied in 2018.
- 17.5 The On Call allowances at subclauses 17.3 and 17.4 are subject to incremental adjustment linked to percentage increases in adjustments to rates of pay.

18. Tool Allowance

- 18.1 Employees of any of the following classifications shall be paid in addition to all other payments to which they are entitled under this Award, a Tool Allowance of the amount per week assigned to the classification as set out in the Tool Allowance Table of Table 3 - Allowances.

Classification

Bodymaker
Motor Mechanic

Painter (Vehicle)
Panel Beater
Automotive Electrician
Electronic Technician
Instrument Maker
Radio Mechanic
Telephone Mechanic
Fitter
Electronic Tradesperson
Fire Vehicle Repairer

Apprentices

Motor Mechanic
Automotive Electrician
Fitter
Electronic Technician

19. Apprentice Tool Loan

- 19.1 All new Apprentices to whom clause 5, Tool Allowance, of the *Skilled Trades Award* (as defined) applies, shall be entitled to apply to the Department for a zero interest loan up to the value of \$1500.00 for the purpose of equipping themselves, with the pre-requisite tools and equipment for their classification.
- 19.2 On behalf of each new Apprentice, the Department will purchase the required tools and equipment from the Department's recommended supplier.
- 19.3 The selection of tools and equipment shall be those identified by the Department or the Team Leader in charge of the Apprentice.
- 19.4 Upon commencement of employment, each Apprentice shall be issued with the pre-requisite tools and equipment for their trade classification. On receipt of the tool issue, title and ownership of the tools shall become the responsibility of the Apprentice.
- 19.5 Repayment of the loan shall be recouped by the Department, from the Apprentice's weekly tool allowance entitlement. The repayment amount shall equate to the maximum value of the weekly tool allowance entitlement as prescribed by this Award and or clause 5 of the *Skilled Trades Award* (as defined), as varied.
- 19.6 If for any reason, an Apprentice's employment is terminated prior to full repayment of the loan, the Apprentice shall be liable to repay to the Department the outstanding balance of the loan owing. In this regard, the Department shall be entitled to deduct from the Apprentice's termination payments the value of any outstanding loan.

20. Fire Equipment Allowance

- 20.1 This allowance only applies to Tradespersons in the Fleet Management Unit.
- 20.1.1 Employees with a minimum of twelve (12) months continuous service covered by this Award shall be paid a fire equipment allowance as set out in Table 3 of this Award, as varied by the provisions of paragraph 20.1.2.
- 20.1.2 Apprentices covered by this Award shall be entitled to be paid at the Non-Trades Staff rate of the allowance as set out in Table 3 of this Award after a minimum of twelve (12) months continuous service.

21. Apprentice to Tradesperson

- 21.1 An Apprentice who completes a full four-year apprenticeship with FRNSW and then is appointed as a Tradesperson, will commence payment as a Fire Vehicle Repairer at the thereafter rate of pay.

22. Overtime and Penalty Rates

- 22.1 Subject as otherwise provided in this Award, all time worked in excess of the ordinary weekly hours of work shall be overtime and shall be paid for at the rate of time and one-half for the first 2 hours, and double time thereafter.
- 22.2 Each day shall stand alone for the purpose of computation of overtime pursuant to this paragraph.
- 22.3 All time worked on a Saturday shall be at the rate of time and one-half for the first 2 hours and double time thereafter, provided that where in any case of emergency an employee called out for work after 12 noon on Saturday shall be paid at the rate of double time.
- 22.4 All time worked on a Sunday shall be at the rate of double time and all time worked on a Public Holiday shall be at the rate of double time and one-half.
- 22.5 For the purpose of computing the hourly rate the weekly rate shall be divided by the number of ordinary hours per week prescribed for each employee.
- 22.6 An employee required to work 2 hours or more overtime immediately after the usual ceasing time shall be allowed a meal break of 20 minutes, which shall be paid for at the appropriate overtime rate.
- 22.7 The meal break shall be taken at the commencement of the overtime period or later by mutual arrangement with the officer for the time being in charge and the employee.
- 22.8 An employee working overtime shall be allowed a meal break of 20 minutes to be paid for at the appropriate overtime rate, after each 4 hours of overtime actually worked, provided that the employee is required to work at least a further 1 hour after the said 4 hours actually worked.
- 22.9 An employee whose ordinary hours do not include Saturday or Sunday or a public holiday shall be allowed meal breaks with pay only in respect of time worked outside what would be the usual hours of duty on an ordinary working day.
- 22.10 Call back - Minimum payment for emergency recall to duty shall be for four hours at appropriate penalty rates.
- 22.11 An employee may be directed by the FRNSW to work overtime, provided it is reasonable for the employee to be required to do so. An employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working unreasonable hours. In determining what is unreasonable, the following factors shall be taken into account:
- 22.11.1 the employee's prior commitments outside the workplace, particularly the employee's family and carer responsibilities, community obligations or study arrangements,
 - 22.11.2 any risk to employee health and safety,
 - 22.11.3 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,
 - 22.11.4 the notice (if any) given by the FRNSW regarding the working of the overtime, and by the employee of their intention to refuse overtime, or
 - 22.11.5 any other relevant matter.

23. Meal Allowance

- 23.1 An employee required to work overtime for one and a half hours or more shall be paid the amount set in Item 1 of Meal Allowance in Table 3 for a meal and after the completion of each four hours on continuous overtime shall be paid the amount also set in Item 2 of Meal Allowance in Table 3 for each subsequent meal in addition to his overtime payment, but such payment need not be made to employees living in the same locality as their place of work who can reasonably return home for meals.
- 23.2 An employee whose ordinary hours do not include a Saturday or Sunday or public holiday, shall receive the meal allowance prescribed by this clause when the time is worked outside what would be the usual hours of duty on an ordinary working day.

24. Travelling Time and Fares

- 24.1 An employee shall be required to proceed to his headquarters and to return to his or her home at ordinary starting and ceasing time at least once on each ordinary working day in the employee's own time and expense.
- 24.2 An employee other than an employee classified as a builder's labourer and who is required to work temporarily or is transferred to work temporarily at a point distant from his or her headquarters shall be paid travelling time for such period at the rate set out in Item 1 of Travelling Time and Other Fares in Table 3 for each day to compensate for excess fares and travelling time to and from places or work, provided that the allowance shall not be payable if the employer provides or offers to provide transport free of charge to the employee in which case an allowance also set in Item 2 of Travelling Time and Other Fares in Table 3 per day shall be paid.
- 24.3 An employee classified as a labourer-builder shall be paid the amount also set in Item 1 of Travelling Time and Other Fares in Table 3 per day as a fare allowance and travelling allowance for travel patterns and costs peculiar to the industry which includes mobility requirements on employees and the nature of employment on construction work.
- 24.4 Subject to the foregoing provisions, a fare shall be deemed to have been incurred if the employee has used a bicycle or other means of locomotion or has walked instead of using public conveyance.
- 24.5 Excess travelling time and fares shall not be payable in the case of an employee permanently transferred or appointed to a new headquarters, in which case the new location shall become headquarters for the purpose of this clause from the date of attachment to the new location.
- 24.6 Where an employee is sent during working hours from one location to another, the FRNSW shall pay all travelling time and fares incurred in addition to the amount it may be liable to pay under this clause.

25. Travelling Expenses

- 25.1 An employee while travelling upon the business of FRNSW away from their accustomed workshop shall be paid:
- 25.1.1 Reasonable expenses incurred for accommodation and meals whilst so travelling.
- 25.1.2 The cost actually incurred for travel by aircraft, rail, road, boat or otherwise.
- 25.1.3 Vouchers shall show the employee's movements on each day and state times of his or her departure and arrival.
- 25.1.4 Travelling expenses to be incurred pursuant to this clause shall, if requested, be paid to the employee concerned in cash on the last working day prior to departure.
- 25.1.5 The meal, accommodation and incidental allowances expressed in NSW Treasury Circulars will be adjusted on 1 July regardless of the date of the issuing of the Circular by the NSW Treasury.

The amounts will be in line with the corresponding allowance amounts for the appropriate financial year published by the Australian Taxation Office (ATO).

26. Annual Leave

- 26.1 Every employee shall be entitled to four weeks leave of absence, exclusive of public holidays, on the completion of each 12 months service, such leave shall be taken within 6 months after it becomes due, and reasonable notice be given by either party when leave is to commence. This clause governs the time in which past Annual Leave accrual should be taken with the exception provided for in subclause 26.6. In other words, an employee should work towards taking their Annual Leave from the year before in the first 6 months of the following year, however if there are reasons to the satisfaction of the employee and management of why this cannot be accomplished, then subclause 26.6 provides for flexibility.
- 26.2 Where an employee with one or more months' service but less than 12 months' service is discharged, dismissed, resigns, retires or dies, the employee or their legal personal representative shall be paid for each completed week of service an amount equal to one-twelfth of the employee's ordinary weekly rate payable at the date of the termination of service.
- 26.3 After the first completed year of service annual leave shall accrue at the rate of one and two-third days for each completed month of service.
- 26.4 The Annual Leave provisions of clause 31, General Leave Conditions and Accident Pay, of the Skilled Trades Award (as defined), shall apply, as varied by the provision of subclauses 26.5 and 26.6 to all employees covered by this Award.
- 26.5 Annual Leave shall be subject to pre-approval at least 5 weekdays prior and if approved may be taken in consecutive or single days.
- 26.6 The parties agree to jointly work towards reducing each employee's accrual of Annual Leave to the accumulation of twenty (20) days plus the current year's entitlement. The only exceptions being, in the case of family emergencies, or with prior notification of a planned extended holiday.

27. Annual Leave Loading

- 27.1 Employees shall be granted an annual leave loading equivalent to 17 1/2 per cent of four weeks' ordinary salary or wages.
- 27.2 The full entitlement to the loading on annual leave that the employee has accrued over the previous leave year is to be paid to the employee on the first occasion sufficient annual leave is taken to permit an absence from duty of at least two consecutive weeks after 1 December in any year.
- 27.3 The loading will apply only to leave accrued in the year ending the preceding 30 November, up to a maximum of four weeks. Leave and salary records are then to be endorsed to indicate that payment of the annual leave loading for the year ended 30 November previous has been made.
- 27.4 In the event of no such absence occurring by 30 November of the following year, the employee being still employed, is to be paid the monetary value of the annual leave loading payable on leave accrued as at 30 November to the previous leave year notwithstanding that the employee has not entered on leave. The leave and salary records are to be endorsed to indicate that payment of the annual leave loading for the previous leave year has been made.
- 27.5 There shall be a leave year ending 30 November in every year. The above scheme will first apply to leave taken on or after 1 December 1974, being leave accrued during the 12-month period to 30 November 1974.
- 27.6 The annual leave loading is not payable when an employee is granted annual leave to the employee's credit, or the monetary value thereof, on resignation, retirement, termination of employment, dismissal, etc.

- 27.7 Broken service during a year does not attract the annual leave loading, e.g., if an employee resigns and is subsequently re-employed during the same year, only the service from the date of re-employment attracts the annual leave loading, subject to the foregoing conditions.
- 27.8 Rate of Payment – The annual leave loading is to be calculated on the salary or wage rate paid for the leave when taken, i.e., new rates granted by Award, agreement, determination, national wage case decision, increment, etc., during the period of leave are to be taken into account unless otherwise prescribed by Award or agreement and, if necessary, retrospective adjustment of the loading is to be made. Where payment is made as at 30 November, because no period of two weeks leave has been taken during the year, the payment is to be calculated at the rate which would have been paid had the leave been taken at 30 November.
- 27.9 Provided adequate notice is given, the annual leave loading will be paid prior to entry on leave, normally at the same time as the advance on salary or wages.
- 27.10 In the case of an employee sent on annual leave pending an inquiry into the employee's services, the annual leave loading is not to be paid.
- 27.11 Retrospective payments will be made to employees who have qualified to receive payment of the annual leave loading since 1 December 1974.

28. Holidays

- 28.1 Subject to subclause 28.2 of this clause, the days on which New Year's Day, Australia Day, Good Friday, Easter Monday, Anzac Day, Queen's Birthday, Bank Holiday (in lieu of picnic days), Labour Day, Christmas Day, Boxing Day and/or specially proclaimed holidays in any year are observed shall be holidays. An employee shall be entitled to these holidays without loss of pay.
- 28.2 An employee who is absent from duty without reasonable cause on the working day prior to and/or the working day following any holiday shall not be entitled to payment for such holiday.

29. Long Service Leave

- 29.1 Long Service Leave, calculated from the date of appointment to the service, shall accrue in accordance with the following entitlement:
- 29.1.1 After service for 10 years, leave for 2 months on full pay or 4 months on half pay.
- 29.1.2 After service in excess of 10 years:
- 29.1.2.1 leave pursuant to paragraph 29.1.1, of this subclause; and
- 29.1.2.2 in addition, an amount of leave proportionate to the length of service after 10 years.
- 29.1.3 Long Service Leave shall not include annual leave but shall include public holidays occurring during the period when such leave is taken.
- 29.2 Where the service of an employee with at least 5 years' service and less than 7 years' service is terminated by FRNSW for any reasons or by the employee on account of illness, incapacity or domestic or other pressing necessity, the employee shall be entitled after 5 years' service to one month's leave on full pay and for service after 5 years', to a proportionate amount of leave on full pay calculated on the basis of 3 months leave for 15 years' service.
- 29.3 In the event of the death of an employee the value of long service leave due shall be paid to such dependants as FRNSW shall determine.
- 29.3.1 In the event of the termination of the employment of an employee for any reason other than death the money value of long service leave due to the employee shall be paid to such employee as a gratuity.

29.3.2 Long service leave as provided by this clause, shall, subject to the exigencies of the service, be granted by the FRNSW as and when such leave becomes due (i.e. after 7 years) or at any time thereafter; provided that notice in writing of intention to take such leave shall be given to the FRNSW by the employee concerned at least 30 days before the date on which the employee desires that such leave should commence.

29.4 Notwithstanding anything elsewhere provided by this clause:

29.4.1 employees may apply to take pro-rata Long Service leave after the completion of (7) years of service. Additionally, employees with such service shall be entitled to pro-rata Long Service leave on resignation or termination.

29.4.2 employees may apply to take a period of Long Service leave at double pay provided that:

29.4.2.1 The additional payment will be made as a non-superable taxable allowance payable for the period of the absence from work.

29.4.2.2 The employees' leave balance will be debited for the actual period of the absence from work and an equivalent number of days as are necessary to pay the allowance.

29.4.2.3 Other leave entitlements, e.g. recreation leave, sick leave and Long Service leave will accrue at the single time rate where an employee takes Long Service leave at double time.

29.4.2.4 Superannuation contributions will only be made on the basis of the actual absence from work, i.e. at that single time rate.

29.4.3 Where a public holiday falls during a period of Long Service leave the employee shall be paid for that day and additionally it shall not be deducted from the period of leave.

29.4.4 In respect of public holidays that fall during a period of double pay Long Service leave an employee will not be debited in respect of the leave on a public holiday. The employees leave balance will however be reduced by an additional day to fund the non-superable taxable allowance.

30. Sick Leave

30.1 An employee shall be allowed 15 working days sick leave with pay within each 12 months period of entitlement; provided, however, that all such sick leave in excess of two days within each period shall only be granted on the submission of a medical certificate which shall be to the satisfaction of FRNSW.

30.2 Sick leave not taken shall be cumulative to a maximum period of 120 days but payment of the monetary equivalent of sick leave not taken shall not be made.

30.3 Where an employee with ten or more years' service has taken all sick leave entitlement, FRNSW may, at its discretion, grant further sick leave with or without pay.

31. Bereavement Leave

31.1 In no way restricting the right of FRNSW to grant leave for compassionate reasons in other circumstances, an employee shall, on the death within Australia of a wife, husband, parent, brother, sister, child, stepchild, grandparent, parent-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law or grandchild, be entitled, on notice, to leave up to and including the day of the funeral of such relation and such leave shall be without deductions of pay for a period not exceeding two ordinary working days. Proof of such death, shall, if requested, be furnished by the employee to the satisfaction of FRNSW; provided, however, that this clause shall have operation whilst the period of entitlement to leave under it coincides with any other period of entitlement to leave.

- 31.2 For the purpose of this clause, the words "wife" and "husband" shall include a person who lives with the employee as a de facto spouse.
- 31.3 Bereavement entitlements for casual employees
- 31.3.1 Subject to the evidentiary and notice requirements in subclause 31.1 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 paragraph 38.1.3 of clause 38 Personal/Carers Leave – August 1996.
- 31.3.2 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.
- 31.3.3 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.

32. Clothing

- 32.1 Clothing, tools or any articles issued to employees shall be worn or used only in the course of their duties.
- 32.2 Clothing or other articles shall be issued to such employee as FRNSW approves where in its opinion such clothing or article is necessary for:
- 32.2.1 Uniformity of appearance,
- 32.2.2 Protection against material which destroy or damage ordinary clothing,
- 32.2.3 Protection against weather, and
- 32.2.4 Protection against injury to the employee.
- 32.3 An employee shall be responsible for the care and upkeep of any clothing issued and new clothing shall not be issued until the previous clothing has been returned to the store and its loss satisfactorily accounted for.
- 32.4 An employee shall also be responsible for tools, equipment and other articles issued or for their loss or damage through misuse or negligence.
- 32.5 An employee shall replace any such clothing, tools, equipment or other articles so lost or damaged through the employee's misuse or negligence or pay such amount in respect thereof which the FRNSW shall determine.
- 32.6 Where full uniform is supplied by FRNSW and is required to be worn by an employee and such uniform becomes soiled or damaged in the execution of duty so as to require dry cleaning or repairs, such dry cleaning and repairs shall be done at the expense of the FRNSW.

33. Insurance of Tools

- 33.1 In respect of those employees entitled under this Award to a tool allowance FRNSW shall insure, and shall keep insured against loss or damage by fire whilst on the employer's premises, such tools of the employee which are used by him/her in the course of his/her employment. The employee shall if requested to do so furnish FRNSW with a list of his/her tools so used.
- 33.2 Any such employee shall be entitled to be reimbursed for the loss of tools up to the value set out in Item 1 of Insurance of Tools of Table 3, provided such tools are lost by theft from a breaking and entering outside working hours while the tools are stored at the FRNSW's direction on the job.

34. Procedure on Charge

- 34.1 When an employee is summoned to appear before a Senior Officer or before FRNSW on a charge, appeal, or other formal inquiry not being a preliminary investigation, the employee shall be given particulars; in writing, of the charge or allegation if any, against the employee at least 48 hours before the hearing of the charge or appeal or the opening of the said inquiry and shall be allowed access, personally or by a representative duly authorised by the employee in writing to all or any of the official papers, correspondence or reports of the FRNSW relating to the charge, appeal or subject to the said inquiry.
- 34.2 The employee also shall be allowed to give and call evidence on the employee's own behalf and to hear all evidence given.
- 34.3 If an employee so requests, the employee may be represented by an Officer of the union before such senior officer of the FRNSW on all such occasions.
- 34.4 No adverse report about an employee shall be placed among the records or papers relating to the employee or noted thereupon unless the employee concerned shall have been shown the said report which shall be evidenced by the employee's signature thereupon unless the employee refuses to sign in which case the union shall be notified by the FRNSW in writing within seven days of such refusal, and shall have been given an opportunity of replying to the report. If the employee so desires a reply shall be in writing, which, together with the adverse report, also shall be placed amongst the records or papers relating to the employee or shall be noted thereupon.
- 34.5 Where FRNSW has for its own purpose caused a transcript copy of proceedings on a charge, appeal or formal inquiry to be taken, a copy of such transcript shall be supplied, free of cost, to the employee concerned, if during the hearing or at the termination of the proceedings a request therefore in writing is made by the employee.
- 34.5.1 After the Senior Officer has announced the recommendation or when the FRNSW has made its decision as the result of a charge or an appeal the employee concerned shall be informed thereof in writing within 7 days after such announcement or decision has been made or has been given as the case may be.

35. Anti-Discrimination

- 35.1 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.
- 35.2 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 this Award which, by its terms or operation, has a direct or indirect discriminatory effect.
- 35.3 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.
- 35.4 Nothing in this clause is to be taken to affect:
- 35.4.1 any conduct or act which is specifically exempted from anti-discrimination legislation;
- 35.4.2 offering or providing junior rates of pay to persons under 21 years of age;
- 35.4.3 any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*;

- 35.4.4 a party to this Award from pursuing matters of unlawful discrimination in any State or Federal jurisdiction.
- 35.5 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.
- 35.5.1 Employers and employees may also be subject to Commonwealth Anti-Discrimination legislation.
- 35.5.2 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."

36. Term of Employment

- 36.1 An employee shall give to FRNSW and FRNSW shall give to an employee two weeks' notice of termination of employment, such notice to be given from a normal pay day. This shall not affect the right of FRNSW to dismiss any employee without notice for inefficiency, neglect of duty or misconduct and in such cases wages shall be paid up to the time of dismissal only.
- 36.2 For the purposes of meeting the needs of the industry, FRNSW may require any employee to work reasonable overtime, including work on Saturdays, Sundays and public holidays at the rate prescribed in this Award, and unless reasonable excuse exists the employee shall work in accordance with such requirements.
- 36.3 In the event of wet weather, no deduction from wages shall be made subject to the following conditions:
- 36.3.1 An employee shall continue working until such time as the officer in charge orders the employee to cease work.
- 36.3.2 An employee shall stand by as directed by the officer in charge.
- 36.3.3 An employee shall report for duty as directed.
- 36.4 The absence of an employee from work for a continuous period exceeding five working days without the consent of the employer and without notification to the employer shall be prima facie evidence that the employee has abandoned employment.
- 36.5 Provided that if within a period of 14 days from the employee's last attendance at work or the date of the employee's last absence in respect of which notification has been given or consent has been granted an employee has not established to the satisfaction of the FRNSW that the absence was for reasonable cause, the employee shall be deemed to have abandoned employment.
- 36.6 Termination of employment by abandonment in accordance with this subclause shall operate as from the date of the last attendance at work or the last day's absence in respect of which consent was granted, or the date of the last absence in respect of which notification was given to the employer, whichever is the later.
- 36.6.1 No payment in respect of wages, annual leave or long service leave shall be assigned or charged to any person but shall be paid to the employee entitled thereto, or may be paid to the employee entitled thereto, or may be paid to a person authorised by the employee to receive the same.
- 36.6.2 FRNSW shall be entitled to deduct out of an employee's wages such sum as the employee requests in writing in respect of contributions or payments for purposes approved by FRNSW.

37. Grievance and Dispute Resolution Procedures

- 37.1 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 appropriate Department, if required.
- 37.2 A staff member is required to notify in writing their immediate manager, as to the substance of the grievance, dispute, or difficulty, request a meeting to discuss the matter, and if possible, state the remedy sought.
- 37.3 The immediate manager 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.
- 37.4 If the matter remains unresolved with the immediate manager, the staff member may request to meet the appropriate person at the next level of management in order to resolve the matter. This manager shall respond within two (2) working days, or as soon as practicable. This sequence of reference to successive levels of management may be pursued by the staff member until the matter is referred to the Commissioner.
- 37.5 The Commissioner may refer the matter to the Industrial Relations Secretary for consideration.
- 37.6 If the matter remains unresolved, the Commissioner 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.
- 37.7 A staff member, at any stage, may request to be represented by their Union.
- 37.8 The staff member or the Union on their behalf, or the Commissioner may refer the matter to the New South Wales Industrial Relations Commission if the matter is unresolved following the use of these procedures.
- 37.9 The staff member, Union, FRNSW and Industrial Relations Secretary shall agree to be bound by any order or determination by the New South Wales Industrial Relations Commission in relation to the dispute.
- 37.10 Whilst the procedures outlined in subclauses 37.1 to 37.9 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.

38. Personal/Carer's Leave – August 1996

- 38.1 Use of Sick Leave -
- 38.1.1 An employee, other than a casual employee, with responsibilities in relation to a class of person set out in 38.1.3 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 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.
- 38.1.2 The 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 carer's leave under this subclause where another person has taken leave to care for the same person.
- 38.1.3 The entitlement to use sick leave in accordance with this subclause is subject to:
- 38.1.3.1 the employee being responsible for the care of the person concerned; and

38.1.3.2 the person concerned being:

38.1.3.2.1 a spouse of the employee; or

38.1.3.2.2 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

38.1.3.2.3 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

38.1.3.2.4 a same sex partner who lives with the employee as the de facto partner of that employee on a bona fide domestic basis; or

38.1.3.2.5 a relative of the employee who is a member of the same household, where for the purposes of this paragraph:

(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.

38.1.4 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.

38.2 Unpaid Leave for Family Purpose -

38.2.1 An employee may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care and support to a member of a class of person set out in 38.1.3 above who is ill.

38.3 Time Off in Lieu of Payment for Overtime -

38.3.1 An employee may elect, with the consent of the employer, to take time off in lieu of payment for overtime at a time or times agreed with the employer within 12 months of the said election.

38.3.2 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.

38.3.3 If, having elected to take time as leave in accordance with paragraph 38.3.1 above, 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.

38.3.4 Where no election is made in accordance with paragraph 38.3.1, the employee shall be paid overtime rates in accordance with the Award.

38.4 Make-up Time -

38.4.1 An employee may elect, with the consent of the employer, 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 Award, at the ordinary rate of pay.

38.4.2 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 ordinary hours and works those hours at a later time), at the shift work rate which would have been applicable to the hours taken off.

38.5 Personal Carers Entitlement for casual employees -

38.5.1 Subject to the evidentiary and notice requirements in 38.1.2 and 38.1.3 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 38.1.3.2 of this clause who are sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child.

38.5.2 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.

38.5.3 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.

39. Maternity Leave

39.1 A staff member who is pregnant shall, subject to this clause, be entitled to be granted maternity leave as follows:

39.1.1 for a period up to 9 weeks prior to the expected date of birth; and

39.1.2 for a further period of up to 12 months after the actual date of birth.

39.2 A staff member who has been granted maternity leave may, with the permission of the Department Head, take leave after the actual date of birth:

39.2.1 full-time for a period of up to 12 months; or

39.2.2 part-time for a period of up to 2 years; or

39.2.3 as a combination of full-time and part-time over a proportionate period of up to 2 years.

39.3 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.

39.4 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.

39.5 If the position occupied by the staff member immediately prior to 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, subject to the mobility provisions of the *Government Sector Employment Act 2013*.

39.6 A staff member who:

39.6.1 applied for maternity leave within the time and in the manner determined by the Department Head; and

39.6.2 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 28 weeks at half pay, or the period of maternity leave taken, whichever is the lesser period.

39.7 Except as provided in subclause 39.6 of this clause, maternity leave shall be granted without pay.

40. Parental Leave

40.1 A staff member is entitled to take parental leave in respect of each pregnancy of the spouse or partner as follows:

40.1.1 short parental leave - an unbroken period of one week at the ordinary rate of pay, or 2 weeks at half pay at the time of the birth of the child or other termination of the spouse's or partner's pregnancy;

40.1.2 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 sub clause 40.1.1 of this subclause in order to assume the primary care giving responsibilities.

40.2 Extended parental leave may commence at any time up to 2 years from the date of birth of the child.

40.3 A staff member who has been granted parental leave may, with the permission of the Department Head, take such leave:

40.3.1 full-time for a period not exceeding 12 months; or

40.3.2 part-time over a period not exceeding 2 years; or

40.3.3 partly full-time and partly part-time over a proportionate period of up to 2 years.

40.4 A staff member who resumes duty immediately on the expiration of parental leave shall:

40.4.1 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

40.4.2 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, subject to the mobility provisions of the *Government Sector Employment Act 2013*.

40.5 Except as provided in paragraph 40.1.1 of this clause, parental leave shall be granted without pay.

40.6 Refer to the *Industrial Relations Act 1996*. The following provisions shall also apply in addition to those set out in the *Industrial Relations Act 1996*.

40.7 An employer must not fail to re-engage a regular casual employee (see section 53(2) of the Act) because:

40.7.1 the employee or employee's spouse is pregnant; or

40.7.2 the employee is or has been immediately absent on parental leave;

40.7.3 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.

40.8 Right to request - An employee entitled to parental leave may request the employer to allow the employee:

40.8.1 to extend the period of simultaneous unpaid parental leave use up to a maximum of eight weeks;

40.8.2 to extend the period of unpaid parental leave for a further continuous period of leave not exceeding 12 months;

- 40.8.3 to return from a period of parental leave on a part-time basis until the child reaches school age;
- 40.8.4 to assist the employee in reconciling work and parental responsibilities.
- 40.8.5 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.
- 40.8.6 Employee's request and the employer's decision to be in writing. The employee's request and the employer's decision made under 40.8.2 and 40.8.4 must be recorded in writing.
- 40.8.7 Request to return to work part-time - Where an employee wishes to make a request under 40.8.4 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.
- 40.8.8 Communication during parental leave - 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:
- 40.8.8.1 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
 - 40.8.8.2 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.
 - 40.8.8.3 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.
 - 40.8.8.4 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 40.8.8.1.

41. Adoption Leave

- 41.1 A staff member adopting a child and who will be the primary care giver shall be entitled to be granted adoption leave:
- 41.1.1 for a period of up to 12 months if the child has not commenced school at the date of the taking of custody; or
 - 41.1.2 for such period, not exceeding 12 months on a full-time basis, as the Department Head may determine, if the child has commenced school at the date of the taking of custody.
- 41.2 A staff member who has been granted adoption leave may, with the permission of the Department Head, take leave:
- 41.2.1 full-time for a period not exceeding 12 months; or
 - 41.2.2 part-time over a period not exceeding 2 years; or
 - 41.2.3 partly full-time and partly part-time over a proportionate period of up to 2 years.

- 41.3 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.
- 41.4 A staff member who resumes duty immediately on the expiration of adoption leave shall:
- 41.4.1 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
- 41.4.2 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, subject to the mobility provisions of the *Government Sector Employment Act 2013*.
- 41.5 A staff member who will be the primary care giver from the date of taking custody of the adopted child shall be entitled to payment at the ordinary rate of pay for a period not exceeding 14 weeks, or 28 weeks at half pay of adoption leave or the period of adoption leave taken, whichever is the lesser period if the staff member:
- 41.5.1 applied for adoption leave within the time and in the manner determined by the Department Head; and
- 41.5.2 prior to the commencement of adoption leave, completed not less than 40 weeks' continuous service.
- 41.6 With the exception of subclause 41.5, adoption leave shall be granted without pay.
- 41.7 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, flexitime or family and community service.

42. Family and Community Service Leave

- 42.1 The Department Head shall grant to an employee some or all of the available family and community service leave on full pay, for reasons relating to family responsibilities, performance of community service or emergencies.
- 42.2 Such cases may include but not be limited to the following:
- 42.2.1 compassionate grounds - such as the death or illness of a close member of the family or a member of the employee's household;
- 42.2.2 emergency 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;
- 42.2.3 emergency or weather conditions, such as when flood, fire or snow or disruption to utility services etc. threaten property and/or prevent an employee from reporting for duty;
- 42.2.4 attending to family responsibilities such as citizenship ceremonies, parent/teacher interviews or attending child's school for other reasons;
- 42.2.5 attendance at court by an employee to answer a charge for a criminal offence, only if the Department Head considers the granting of family and community service leave to be appropriate in a particular case;
- 42.2.6 attendance at a competitor in major amateur sport (other than Olympic or Commonwealth Games) for staff members who are selected to represent Australia or the State; and

- 42.2.7 absence during normal working hours to attend meetings, conferences or to perform other duties, for an employee holding office in Local Government, and whose duties necessitate absence during normal working hours for these purposes, provided that the employee does not hold a position of Mayor of a Municipal Council, President of a Shire Council or Chairperson of a County Council.
- 42.3 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 subclauses 42.3.1 or 42.3.2 of this clause.
- 42.3.1 2½ of the employee's working days in the first year of service and, on completion of the first year's service, 5 of the employee's working days in any period of 2 years; or
- 42.3.2 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 family and community service leave previously granted to the employee.
- 42.4 If available family and community service leave is exhausted as a result of natural disasters, the Department Head shall consider applications for additional family and community service leave, if some other emergency arises. On the death of a person as described in 42.1.3.2 of clause 42, Personal/Carer's Leave – August 1996, additional paid family and community service leave of up to 2 days may be granted on a discrete, per occasion basis to an employee.
- 42.5 In cases of illness of a family member for whose care and support the employee is responsible, paid sick leave in accordance with subclause 42.1.3.2 of clause 42 of this Award shall be granted when paid family and community service leave has been exhausted.

43. Trade Union Leave

- 43.1 The granting of leave with pay will apply to the following activities undertaken by a trade union delegate, as specified below:
- 43.1.1 annual or biennial conferences of the delegate's union;
- 43.1.2 meetings of the union's Executive, Committee of Management or Councils;
- 43.1.3 annual conference of the Unions NSW and the biennial Congress of the Australian Council of Trade Unions;
- 43.1.4 attendance at meetings called by Unions NSW involving a public sector trade union which requires attendance of a delegate;
- 43.1.5 attendance at meetings called by the Industrial Relations Secretary, as the employer for industrial purposes, as and when required;
- 43.1.6 giving evidence before the Industrial Relations Commission, or any other industrial tribunal, as a witness for the trade union;
- 43.1.7 local meetings between the Union and Management

44. Supplementary Labour

- 44.1 The parties to this agreement recognise that at times of peak workloads and when staff are on long term absences there may be a requirement to use supplementary labour in order to meet criteria deadlines.
- 44.2 This supplementary labour may be casual or temporary and;
- 44.2.1 arranged through or with an Employment Agency of bona-fide contractors; or

44.2.2 in accordance with the provisions of the *Government Sector Employment Act 2013*.

44.3 It is not the Department's intention to use supplementary labour as an alternative to fill vacant permanent positions.

45. Salary Packaging Arrangements, Including Salary Sacrifice to Superannuation

45.1 The entitlement to salary package in accordance with this clause is available to:

45.1.1 permanent full-time and part-time employees;

45.1.2 temporary employees, subject to the Department or agency's convenience; and

45.1.3 casual employees, subject to the Department or agency's convenience, and limited to salary sacrifice to superannuation in accordance with subclause 45.7.

45.2 For the purposes of this clause:

45.2.1 "salary" means the salary or rate of pay prescribed for the employee's classification in Table 1 - Wages of this Award, and any other payment that can be salary packaged in accordance with Australian taxation law.

45.2.2 "post compulsory deduction salary" means the amount of salary available to be packaged after payroll deductions required by legislation or order have been taken into account. Such payroll deductions may include, but are not limited to, taxes, compulsory superannuation payments, HECS payments, child support payments, and judgement debtor/garnishee orders.

45.3 By mutual agreement with the Industrial Relations Secretary, an employee may elect to package a part or all of their post compulsory deduction salary in order to obtain:

45.3.1 a benefit or benefits selected from those approved by the Industrial Relations Secretary; and

45.3.2 an amount equal to the difference between the employee's salary, and the amount specified by the Industrial Relations Secretary for the benefit provided to or in respect of the employee in accordance with such agreement.

45.4 An election to salary package must be made prior to the commencement of the period of service to which the earnings relate.

45.5 The agreement shall be known as a Salary Packaging Agreement.

45.6 Except in accordance with subclause 45.7, a Salary Packaging Agreement shall be recorded in writing and shall be for a period of time as mutually agreed between the employee and the Industrial Relations Secretary at the time of signing the Salary Packaging Agreement.

45.7 Where an employee makes an election to sacrifice a part or all of their post compulsory deduction salary as additional employer superannuation contributions, the employee may elect to have the amount sacrificed:

45.7.1 paid into the superannuation fund established under the *First State Superannuation Act 1992*; or

45.7.2 where the employer is making compulsory employer superannuation contributions to another complying superannuation fund, paid into the same complying fund; or

45.7.3 subject to the Department or agency's agreement, paid into another complying superannuation fund.

45.8 Where the employee makes an election to salary sacrifice, the employer shall pay the amount of post compulsory deduction salary, the subject of election, to the relevant superannuation fund.

45.9 Where the employee makes an election to salary package and where the employee is a member of a superannuation scheme established under the:

45.9.1 *Police Regulation (Superannuation) Act 1906*;

45.9.2 *Superannuation Act 1916*;

45.9.3 *State Authorities Superannuation Act 1987*; or

45.9.4 *State Authorities Non-contributory Superannuation Act 1987*,

the employee's Department or agency must ensure that the employee's superable salary for the purposes of the above Acts, as notified to the SAS Trustee Corporation, is calculated as if the Salary Packaging Agreement had not been entered into.

45.10 Where the employee makes an election to salary package, and where the employee is a member of a superannuation fund other than a fund established under legislation listed in subclause 45.9 of this clause, the employee's Department or agency must continue to base contributions to that fund on the salary payable as if the Salary Packaging Agreement had not been entered into. This clause applies even though the superannuation contributions made by the Department or agency may be in excess of superannuation guarantee requirements after the salary packaging is implemented.

45.11 Where the employee makes an election to salary package:

45.11.1 subject to Australian taxation law, the amount of salary packaged will reduce the salary subject to appropriate PAYG taxation deductions by the amount packaged; and

45.11.2 any allowance, penalty rate, payment for unused leave entitlements, weekly worker's compensation or other payment, other than any payments for leave taken in service, to which an employee is entitled under this agreement or any applicable Award, Act or statute which is expressed to be determined by reference to the employee's rate of pay, shall be calculated by reference to the rate of pay which would have applied to the employee in Table 1 - Wages of this Award if the Salary Packaging Agreement had not been entered into.

45.12 The Industrial Relations Secretary may vary the range and type of benefits available from time to time following discussion with the Union. Such variations shall apply to any existing or future Salary Packaging Agreement from date of such variation.

45.13 The Industrial Relations Secretary will determine from time to time the value of the benefits provided following discussion with the Union. Such variations shall apply to any existing or future Salary Packaging Agreement from the date of such variation. In this circumstance, the employee may elect to terminate the Salary Packaging Agreement.

46. Calculations

46.1 In relation to Part B of this Award, and specifically Tables 1, 2 and 3, per week amounts are rounded to the nearest ten cents, per day to the nearest cent, and per hour to the cent.

47. No Extra Claims

47.1 The parties agree that, during the term of this Award, there will be no extra wage claims, claims for improved conditions of employment or demands made with respect to the employees covered by the Award and, further, that no proceedings, claims or demands concerning wages or conditions of employment with respect to those employees will be instituted before the Industrial Relations Commission or any other industrial tribunal.

47.2 The terms of the preceding paragraph do not prevent the parties from taking any proceedings with respect to the interpretation, application, or enforcement of existing Award provisions.

48. Area, Incidence and Duration

- 48.1 The Crown Employees (Fire and Rescue NSW Tradespersons) Award 2021 rescinds and replaces the Crown Employees (Fire & Rescue NSW Tradespersons) Award 2020 published 26 February 2021 (389 I.G. 275).
- 48.2 Historically rates of pay and wage related allowances expressed in the Crown Employees (New South Wales Fire Brigades - Maintenance, Construction and Miscellaneous Staff) Award have had a nexus with the Crown Employees Wages Staff (Rates of Pay) Award and its successors. However, after the date of the making of the Crown Employees (Fire & Rescue NSW Tradespersons) Award 2012 this nexus ceased.
- 48.3 This Award shall apply to all employees in the classifications specified in Part B, Monetary Rates, Table 1 - Wages in the employment of Fire and Rescue NSW.
- 48.4 The term of this Award is 3 July 2021 until 3 July 2022 and will remain in force thereafter until rescinded.
- 48.5 Increases in the column dated 3 July expressed in Tables 1, 2 and 3 shall apply on and from the first full pay period to commence on or after that date.
- 48.6 The rates for 2019 and 2020 in Tables 1, 2 and 3 are for historical purposes.

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

Classifications from the Crown Employees (New South Wales Fire Brigades - Maintenance, Construction and Miscellaneous Staff) Award

Clause 5, Rates of pay	1/7/2019	3/7/2020	3/07/2021
Classification	Historical Rate	Existing Rate	2.04% increase per week
	\$	\$	\$
(a) Electrical Department - Automotive Electrical	1138.50	1141.90	1165.20
Battery Fitter	1138.50	1141.90	1165.20
Electrical Fitter	1141.70	1145.10	1168.50
Trades Assistant (Electrical Department)	914.10	916.80	935.50
Labourer-General (Electrical Department)	736.30	738.50	753.60
(b) Workshops Department - Blacksmith/Welder	1078.40	1081.60	1103.70
Bodymaker	1067.30	1070.50	1092.30
Draughtsperson - 1st year	985.90	988.90	1009.10
- 2nd year	1029.80	1032.90	1054.00
- 3rd year	1078.40	1081.60	1103.70
- 4th year	1138.50	1141.90	1165.20
- thereafter	1192.40	1196.00	1220.40
Welder	1078.40	1081.60	1103.70
Fitter and/or Turner	1037.90	1041.00	1062.20
Motor Mechanic	1067.30	1070.50	1092.30
Motor Trimmer	1067.30	1070.50	1092.30
Painter (Vehicle)	1067.30	1070.50	1092.30
Panel Beater	1067.30	1070.50	1092.30

Signwriter (Vehicle)	1037.90	1041.00	1062.20
Trades assistant (Mechanical Workshops)	882.00	884.70	902.80
Labourer - General (Mechanical Workshops)	736.30	738.50	753.60
(c) Boot Factory - Bootmaker	1029.80	1032.90	1054.00
(d) Building Maintenance Department - Draughtsperson Building services			
- 1st year	1138.50	1141.90	1165.20
- 2nd year	1159.50	1163.00	1186.70
- 3rd year	1180.50	1184.00	1208.20
- 4th year	1201.80	1205.40	1230.00
- thereafter	1234.70	1238.40	1263.70
Plumber	1078.40	1081.60	1103.70
Bricklayer	1067.30	1070.50	1092.30
Carpenter	1067.30	1070.50	1092.30
Painter	1067.30	1070.50	1092.30
Plasterer	1067.30	1070.50	1092.30
Labourer - Builders	1048.20	1051.30	1072.80
(e) Cleaner -	944.50	947.30	966.60
Stores Assistant	994.50	997.50	1017.90
Sailmaker	1037.90	1041.00	1062.20
(h) Hose Repair Department - Hose Assembler and Repairer	985.80	988.80	1009.00

Increases shall apply on and from the first full pay period to commence on or after the dates expressed in the tables

The Communications Section Classification is from the NSW Fire Brigades Maintenance and Miscellaneous Staff Enterprise Agreement 2008

	1/7/2019 Historical Rate	3/7/2020 Existing Rate	3/7/2021 2.04% increase per week
	\$	\$	\$
COMMUNICATION SECTION			
Electronic Technician			
- 1st year	1469.00	1473.40	1503.50
- 2nd year	1513.20	1517.70	1548.70
- 3rd year	1540.30	1544.90	1576.40
- 4th year	1572.90	1577.60	1609.80
Instrument Maker	1298.30	1302.20	1328.80
Radio Mechanic	1239.60	1243.30	1268.70
Telephone Mechanic	1239.60	1243.30	1268.70
Electronic Tradesperson	1423.90	1428.20	1457.30
Electrical Mechanic	1239.60	1243.30	1268.70
Trades Assistant	995.70	998.70	1019.10

FRNSW Fire Vehicle Repairer Classification from 1 July 2018 (Levels 2,3,4 from 31 October 2018)

Level	Classification	1/7/2019 Historical rate (not including Clause 20. FEA)	1/7/2019 Historical rate (including Clause 20. FEA)	3/7/2020 Current rate (not including Clause 20. FEA)	3/7/2020 Current rate (including Clause 20. FEA)	3/7/2021 (+2.04%) (not including Clause 20. FEA)	3/7/2021 (+2.04%) (including Clause 20. FEA)
Level 1	Fire Vehicle Repairer	\$1,256.00	\$1,340.50*	1259.80	1344.60	1285.50	1372.00
Level 2	Fire Vehicle Repairer	\$1,318.80	\$1,403.30*	1322.80	1407.60	1349.80	1436.30
Level 3	Fire Vehicle Repairer	\$1,381.60	\$1,466.10*	1385.80	1470.60	1414.10	1500.60
Level 4	Fire Vehicle Repairer	\$1,444.40	\$1,528.90*	1448.80	1533.60	1478.40	1564.90

* The relativity is based upon the corresponding amount for FVR without the FEA

	1/7/2019 Historical Rate \$	3/7/2020 Existing rate \$	3/7/2021 2.04% increase \$
APPRENTICES**			
- 1st year	\$503.00	504.50	514.80
- 2nd year (Rate = 2nd Year + NT FEA)	\$724.20	726.40	741.20
- 3rd year (Rate = 3rd Year + NT FEA)	\$910.20	912.90	931.50
- 4th year (Rate = 4th Year + NT FEA)	\$1,039.80	1042.90	1064.20
Adult (Rate = Adult + NT FEA)	\$1,039.80	1042.90	1064.20

** inclusive in rate after 12 months continuous service an apprentice receives the (Non Trades Staff) Fire Equipment Allowance.

Increases shall apply on and from the first full pay period to commence on or after the dates expressed in the tables.

Table 2 - Other Rates and Allowances

From the *Crown Employees (New South Wales Fire Brigades - Maintenance, Construction and Miscellaneous Staff) Award*.

Item	Clause 12, Additional Wage Rates	1/7/2019 Historical Rate \$	3/7/2020 Existing Rate \$	3/7/2021 2.04% increase \$
1	12.1 Electricians: An electrician who is the holder of A Grade Licence (per week)	50.30	50.50	51.50
	B Grade Licence (per week)	27.20	27.30	27.90
2	20.10 Roof work (per hour)	1.00	1.00	1.02

Increases shall apply on and from the first full pay period to commence on or after the dates expressed in the tables.

Table 3 – Allowances

From NSW Fire Brigades Maintenance and Miscellaneous Staff Enterprise Agreement 2008

Item	ALLOWANCES	1/7/2019 Historical Rate \$	3/7/2020 Existing Rate \$	3/7/2021 2.04% increase \$
1	Team Leader Allowance (per week)	188.80	189.40	193.30
2	Heavy Vehicle Inspectors Allowance (per day)	2.32	2.33	2.38

Table 3A: On Call Allowance

Item	ALLOWANCES	1/7/2019 Historical Rate \$	3/7/2020 Existing Rate \$	3/7/2021 2.04% increase \$
1	On Call Allowance - Monday to Friday (per day)	22.38	22.45	22.91
2	On Call Allowance – Saturday, Sunday & Public Holidays (per day)	34.61	34.71	35.42

Table 3B: On Call Allowance applicable only to FVRs

Item	ALLOWANCES	1/7/2019 Historical Rate \$	3/7/2020 Existing Rate \$	3/7/2021 2.04% increase \$
1	On Call Allowance - Monday to Friday (per day)	41.00	41.10	41.94
2	On Call Allowance – Saturday, Sunday & Public Holidays (per day)	82.00	82.25	83.93

Item	Clause 13, SPECIAL RATES	1/7/2019 Historical Rate \$	3/7/2020 Existing Rate \$	3/7/2021 2.04% increase \$
1	20.1.1 Confined Spaces	1.00	1.00	1.02
2	20.3.1 Height Pay - 7.5 metres	0.94	0.94	0.96
3	20.3.1 Height Pay - every metre beyond 7.5m	0.29	0.29	0.30

Increases shall apply on and from the first full pay period to commence on or after the dates expressed in the tables.

Item	Clause 18, TOOL ALLOWANCES	1/7/2019 Historical Rate \$	3/7/2020 Existing Rate \$	3/7/2021 \$
1	Bodymaker	32.90	33.60	33.60
2	Motor Mechanic	32.90	33.60	33.60
3	Painter (Vehicle)	8.00	8.20	8.20
4	Panel Beater	32.90	33.60	33.60
5	Automotive Electrician	32.90	33.60	33.60
6	Electronic Technician	20.80	21.20	21.20
7	Instrument Maker	20.80	21.20	21.20
8	Radio Mechanic	20.80	21.20	21.20
9	Telephone Mechanic	20.80	21.20	21.20
10	Fitter	32.90	33.60	33.60
11	Electronic Tradesperson	20.80	21.20	21.20

Item	Apprentices	1/7/2019 Historical Rate \$	3/7/2020 Existing Rate \$	3/7/2021 \$
1	Motor Mechanic	32.90	33.60	33.60
2	Automotive Electrician	32.90	33.60	33.60
3	Fitter	32.90	33.60	33.60
4	Electronic Technician	20.80	21.20	21.20

Increases in the Tool Allowance will be based upon increases expressed in the Crown Employees (Skilled Trades) Award. These amounts will be administratively adjusted when the Crown Employees (Skilled Trades) Award increases.

Item	Clause 20, FIRE EQUIPMENT ALLOWANCE	1/7/2019 Historical Rate \$	3/7/2020 Existing Rate \$	3/7/2021 2.04% Increase per week \$
1	Fire Equipment Allowance (FEA) - Trades**	84.50	84.80	86.50
2	Fire Equipment Allowance (FEA) - Non Trades	63.10	63.30	64.60

** At the completion of 12 months continuous service

Increases shall apply on and from the first full pay period to commence on or after the dates expressed in the tables.

Item	Clause 23, MEAL ALLOWANCE	1/7/2019 Historical Rate \$	3/7/2020 Existing Rate \$	3/7/2021 Increase Per meal \$
1	After 1½ hour overtime	15.90	16.20	16.20
2	Each 4 hours thereafter	13.70	13.90	13.90

Item	Clause 24, TRAVELLING TIME AND OTHER FARES	1/7/2019 Historical Rate \$	3/7/2020 Existing Rate \$	3/7/2021 Increased Rate \$
1	Other than Builders' Labourers	25.60	26.19	26.19
2	Employer providing transport	10.20	10.40	10.40

Item	Clause 33, INSURANCE OF TOOLS	1/7/2019 Historical Rate \$	3/7/2020 Existing Rate \$	3/7/2021 Increased Rate \$
1	Maximum claim for loss of tools	1907.10	1945.15	1945.15

Increases in meal allowance, travelling time and other fares and insurance of tools will be based upon increases expressed in the Crown Employees (Skilled Trades) Award. These amounts will be administratively adjusted when the Crown Employees (Skilled Trades) Award increases.

J. WEBSTER, *Commissioner*

(1901)

SERIAL C9333

CROWN EMPLOYEES (SAS TRUSTEE CORPORATION) AWARD 2021

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Industrial Relations Secretary.

(Case No. 189040 of 2021)

Before Commissioner Webster

9 July 2021

AWARD

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Clause No.	Subject Matter
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PART A

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PART B

MONETARY RATES

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Table 2 - Salary Rates

2. Title

This award shall be known as the Crown Employees (SAS Trustee Corporation) Award 2021.

3. Definitions

- 3.1 Act means the *Government Sector Employment Act 2013*.
- 3.2 Accumulation means the accrual of leave or time. In respect of weekly study time accumulation means the aggregation of short periods of weekly study time which is granted for private study purposes.
- 3.3 Agreement means an agreement referred to in section 51 of the Act or an agreement as defined in the *Industrial Relations Act 1996* (NSW).
- 3.3 Association means the Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales.
- 3.4 At the convenience of means the operational requirements permit the employee's release from duty or that satisfactory arrangements are able to be made for the performance of the employee's duties during the absence.
- 3.5 Award means an award as defined in the *Industrial Relations Act 1996*.

- 3.6 Birth means the birth of a child and includes stillbirth.
- 3.7 Capital City means the area set out as the area for the Sydney Telephone District Directory coded N00 in the Sydney White Pages or within a corresponding area in the Capital City of another State or Territory.
- 3.8 Casual Employee means any employee engaged in terms of section 43 of the Act, and any guidelines issued thereof or as amended from time to time.
- 3.9 Chief Executive Officer means the Chief Executive of SAS Trustee Corporation as defined in the *Superannuation Administration Act 1996 (NSW)* or any acting Chief Executive Officer.
- 3.10 Contract hours, for the day for a full time employee, means one fifth of the full time contract hours, as defined in this award. For a part time employee, contract hours for the day means the hours usually worked on the day.
- 3.11 Corporation means the SAS Trustee Corporation, as defined in the Act.
- 3.12 Daily rate or Rate per day means the rate payable for 24 hours, unless otherwise specified.
- 3.13 Day worker means an employee who works the ordinary hours from Monday to Friday inclusive between the hours of 7.30 a.m. and 6.00 p.m. or as negotiated under a local arrangement.
- 3.14 Employees means persons employed by the Corporation under Section 21 of the Act whose positions and rates of pay are set out in Table 2 - Salary Rates of Part B, Monetary Rates, of this award. For the purposes of maternity leave, as set out in clause 64, Parental Leave of this award, employee means a female employee.
- 3.15 Expected date of birth, in relation to an employee who is pregnant, means a date specified by her medical practitioner to be the date on which the medical practitioner expects the employee to give birth as a result of the pregnancy.
- 3.16 Extended leave means extended (long service) leave to which an employee is entitled under the provisions of the Act, as amended from time to time.
- 3.17 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.
- 3.18 Flexible working hours debit means the contract hours not worked by an employee and not covered by approved leave during the settlement period, as well as any debit carried over from the previous settlement period or periods.
- 3.19 Flexible working hours scheme means the scheme outlined in clause 21, Flexible Working Hours, of this award which enables employees, subject to operational requirements, to select their starting and finishing times and which replaces the Flexible Working Hours Agreement No 2275 of 1980.
- 3.20 Flexible Work Practices, Policy and Guidelines means the document negotiated between the Director of Public Employment, Unions NSW and affiliated unions which enables employees to rearrange their work pattern.
- 3.21 Flex leave means a period of leave available to be taken by an employee as specified in subclause 21.16 of clause 21, Flexible Working Hours, of this award.
- 3.22 Full day means the standard full time contract hours for the day, i.e. seven hours.
- 3.23 Full pay or half pay means the employee's ordinary rate of pay or half the ordinary rate of pay respectively.

- 3.24 Full-time contract hours means the standard weekly hours, that is, 35 hours per week required to be worked.
- 3.25 Full-time employee means an employee whose ordinary hours of duty are specified as such in a formal industrial instrument or whose contract hours are equivalent to the full-time contract hours for the job classification.
- 3.26 Half day means half the standard contract hours for the day.
- 3.27 Headquarters means the centre(s) to which an employee is attached or from which an employee is required to operate on a long-term basis.
- 3.28 Industrial action means industrial action as defined in the *Industrial Relations Act 1996* (NSW).
- 3.29 Industrial Relations Secretary means the person, within the meaning of the *Government Sector Employment Act 2013*, who is for the purposes of any proceedings relating to Public Service employees held before a competent tribunal having jurisdiction to deal with industrial matters, taken to be the employer of Public Service employees.
- 3.30 Local Arrangement means an agreement reached at the organisational level between the Chief Executive Officer and the Association.
- 3.31 Local holiday means a holiday which applies to a particular township or district of the State and which is not a public holiday throughout the State.
- 3.32 Normal hours of duty means:
- for an employee working standard hours - the fixed hours of duty, with an hour for lunch, worked in the absence of flexible working hours;
- for an employee working under a flexible working hours scheme or local arrangement - the hours of duty the Chief Executive Officer requires an employee to work within the bandwidth specified under the flexible working hours scheme or local arrangement.
- 3.33 Normal work means, for the purposes of subclause 9.10 of clause 9, Grievance and Dispute Settling Procedures, of this award, the work carried out in accordance with the employee's position or job description at the location where the employee was employed, at the time the grievance or dispute was notified by the employee.
- 3.34 On duty means the time required to be worked for the Corporation. For the purposes of clause 42, Trade Union Activities Regarded as On Duty, of this award, on duty means the time off with pay given by the Corporation to the accredited Association delegate to enable the Association delegate to carry out legitimate Association activities during ordinary work hours without being required to lodge an application for leave.
- 3.35 On loan means an arrangement between the Corporation and the Association where an employee is given leave of absence from the workplace to take up employment with the employee's Association for a specified period of time during which the Association is required to reimburse the Corporation for the employee's salary and associated on-costs.
- 3.36 Ordinary hourly rate of pay means the hourly equivalent of the annual rate of pay of the classification as set out in Table 2 - Salary Rates of Part B, Monetary Rates, of this award calculated using the formula set out in clause 12, Casual Employment, of this award.
- 3.37 Overtime means all time worked, whether before or after the ordinary daily hours of duty, at the direction of the Chief Executive Officer, which, due to its character or special circumstances, cannot be performed during the employees' ordinary hours of duty.

- 3.38 Part-time position means a designated part-time position and, unless otherwise specified, includes any position which is filled on a part-time basis.
- 3.39 Part-time employee means an employee whose ordinary hours of duty are specified as part-time in a formal industrial instrument or whose contract hours are less than the full-time hours.
- 3.40 Prescribed starting time means, for an employee not working under a flexible working hours scheme, the commencement of standard daily hours of that employee. For an employee working under a flexible working hours scheme, prescribed starting time means the commencement of bandwidth of the scheme applying to that employee.
- 3.41 Public holiday means a day proclaimed under the *Banks and Bank Holidays Act 1912*, as a bank or a public holiday. This definition does not include a Saturday which is such a holiday by virtue of section 15A of that Act, and 1 August or such other day that is a bank holiday instead of 1 August.
- 3.42 Relief staff means staff employed on a temporary basis to provide relief in a position until the return from authorised leave of the substantive occupant or in a vacant position until it is filled substantively.
- 3.43 Residence, in relation to an employee, means the ordinary and permanent place of abode of the employee.
- 3.44 Special leave means the employee is required to apply for special leave in order to engage in an activity which attracts the grant of special leave in the terms of this award.
- 3.45 Standard hours are set and regular hours of operation as determined by the Chief Executive Officer in accordance with any direction under the Act. Standard hours are generally the hours which were in operation prior to the introduction of flexible working hours or have been determined as standard hours for the organisation since the introduction of flexible working hours.
- 3.46 Study leave means leave without pay granted for courses at any level or for study tours during which financial assistance may be approved by the Chief Executive Officer, if the activities to be undertaken are considered to be of relevance or value to the Corporation and/or the public service.
- 3.47 Study Time means the time allowed off from normal duties on full pay to an employee who is studying in a part-time course which is of relevance to the Corporation and/or the public service.
- 3.48 Supervisor means the immediate supervisor or manager of the area in which an employee is employed or any other employee authorised by the Chief Executive Officer to fulfil the role of a supervisor or manager, other than a person engaged as a consultant or contractor.
- 3.49 Temporary work location means the place at or from which an employee temporarily performs official duty if required to work away from headquarters.
- 3.50 Trade Union or Union means a registered trade union, as defined in the *Industrial Relations Act 1996*.
- 3.51 Trade Union Delegate means an accredited Association delegate responsible for his/her workplace; and/or a person who is elected by the Association as its representative, an executive member or a member of the Association's Council.
- 3.52 Workplace means the whole of the organisation or, as the case may be, a branch or section of the organisation in which the employee is employed.
- 3.53 Workplace Management means the Chief Executive Officer, or any other person authorised by the Chief Executive Officer to assume responsibility for the conduct and effective, efficient and economical management of the functions and activities of the Corporation or part of the Corporation.

4. Parties to the Award

The parties to this award are:

SAS Trustee Corporation, as defined by the *Government Sector Employment Act 2013*;

Industrial Relations Secretary; and

Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales.

5. Conditions of Employment

This award contains the current common conditions of employment as negotiated by the SAS Trustee Corporation and the Association.

6. Coverage

The provisions of this Award shall apply to employees employed by the SAS Trustee Corporation under in positions to which the classification structure and/or salary range contained in table 2 of this Award applies.

7. Statement of Intent

This award aims to consolidate, in the one document, all common conditions of employment of staff employed by the SAS Trustee Corporation, to encourage the consultative processes at the various organisational levels, to facilitate, as appropriate, greater flexibility in the workplace and to help ensure that the excess hours, accumulated as a result of the Corporation's work requirements, are not forfeited.

8. Work Environment

- 8.1 Work Health and Safety - The parties to this award are committed to achieving and maintaining accident-free and healthy workplaces covered by this award by:
- 8.1.1 the development of policies and guidelines for the Corporation and, as and when appropriate for individual organisations, on Work Health, Safety and Rehabilitation;
 - 8.1.2 assisting to achieve the objectives of the *Work Health and Safety Act 2011* and the *Work Health and Safety Regulation 2011* by establishing agreed Work Health and Safety consultative arrangements; and to identify and implement safe systems of work, safe work practices, working environments and appropriate risk management strategies.
 - 8.1.3 identifying training strategies for employees, as appropriate, to assist in the recognition, elimination or control of workplace hazards and the prevention of work related injury and illness;
 - 8.1.4 developing strategies to assist the rehabilitation of injured employees;
 - 8.1.5 directly involving the Chief Executive Officer in the provisions of paragraphs 8.1.1 to 8.1.4 inclusive of this subclause.
- 8.2 Equality in employment - The Corporation is committed to the achievement of equality in employment and the Award has been drafted to reflect this commitment.
- 8.3 Harassment-free Workplace - Harassment on the grounds of sex, race, marital status, physical or mental disability, sexual preference, transgender, age or responsibilities as a carer is unlawful in terms of the *Anti-Discrimination Act 1977*. Management and staff of Corporations are required to refrain from, or being party to, any form of harassment in the workplace.

9. Grievance and Dispute Settling Procedures

- 9.1 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 if required.
- 9.2 An employee is required to notify in writing their immediate manager, as to the substance of the dispute or difficulty, request a meeting to discuss the matter, and if possible, state the remedy sought.
- 9.3 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 employee to advise their immediate manager the notification may occur to the next appropriate level of management, including where required, to the Chief Executive Officer or delegate.
- 9.4 The immediate manager, 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.
- 9.5 If the matter remains unresolved with the immediate manager, the employee may request to meet the appropriate person at the next level of management in order to resolve the matter. This manager shall respond within two (2) working days, or as soon as practicable. The employee may pursue the sequence of reference to successive levels of management until the matter is referred to the Chief Executive Officer.
- 9.6 If the matter remains unresolved, the Chief Executive Officer shall provide a written response to the employee 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.
- 9.7 An employee, at any stage, may request to be represented by the Association.
- 9.8 The employee or the Association 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.
- 9.9 The employee, the Association, and the Corporation shall agree to be bound by any order or determination by the New South Wales Industrial Relations Commission in relation to the dispute.
- 9.10 Whilst the procedures outlined in subclauses 9.1 to 9.9 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 employee or member of the public.

10. Salaries and Grades

- 10.1 The salaries payable to the employees are prescribed in Table 2 - Salary Rates of Part B, Monetary Rates, of this award.
- 10.2 Positions within SAS Trustee Corporation will be attributed to a classification grade by way of a job evaluation methodology and criteria agreed to by the parties.
- 10.3 The Corporation and employee(s) can agree to salary sacrifice arrangements consistent with the arrangements under the Crown Employees (Public Sector - Salaries 2018) Award or any variation or replacement award.

SECTION 2 - ATTENDANCE/HOURS OF WORK

11. Working Hours

- 11.1 Ordinary hours of work are 35 hours per week.
- 11.2 Where employees work under a flexitime arrangement work hours are averaged over a 4 week period.
- 11.3 The Chief Executive Officer may require an employee to perform duty beyond the hours determined under subclause 11.1 of this clause but only if it is reasonable for the employee to be required to do so. An employee may refuse to work additional hours in circumstances where the working of such hours would result in the employee working unreasonable hours. In determining what is unreasonable the following factors shall be taken into account:
- 11.3.1 the employee's prior commitments outside the workplace, particularly the employee's family and carer responsibilities, community obligations or study arrangements,
 - 11.3.2 any risk to employee's health and safety,
 - 11.3.3 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,
 - 11.3.4 the notice (if any) given by the Chief Executive Officer regarding the working of the additional hours, and by the employee of their intention to refuse the working of additional hours, or
 - 11.3.5 any other relevant matter.
- 11.4 The ordinary hours may be standard or flexible and may be worked on a full time or part-time basis.

12. Casual Employment

- 12.1 This clause will only apply to those employees whose conditions of employment are not otherwise included in another industrial instrument.
- 12.2 Hours of Work
- 12.2.1 A casual employee is engaged and paid on an hourly basis.
 - 12.2.2 A casual employee will be engaged and paid for a minimum of 3 consecutive hours for each day worked.
 - 12.2.3 A casual employee shall not work more than 9 consecutive hours per day (exclusive of meal breaks) without the payment of overtime for such time in excess of 9 hours, except where longer periods are permitted under another award or local arrangement covering the particular class of work or are required by the usual work pattern of the position.
- 12.3 Rate of Pay
- 12.3.1 Casual employees shall be paid the ordinary hourly rate of pay calculated by the following formula for the hours worked per day:

Annual salary divided by 52.17857 divided by the ordinary weekly hours.
 - 12.3.2 Casual employees shall be paid a loading on the appropriate ordinary hourly rate of pay of:

15% for work performed on Mondays to Fridays (inclusive)

50% for work performed on Saturdays

75% for work performed on Sundays

150% for work performed on public holidays.

12.3.3 Casual employees shall also receive a 1/12th loading in lieu of annual leave.

12.3.4 The loadings specified in paragraph 12.3.2 of this subclause are in recognition of the casual nature of the employment and compensate the employee for all leave, other than annual leave and long service leave, and all incidence of employment, except overtime.

12.4 Overtime

12.4.1 Casual employees shall be paid overtime for work performed:

- (a) In excess of 9 consecutive hours (excluding meal breaks) except where longer periods are permitted under another award or local arrangement covering the particular class of work or are required by the usual work pattern of the position; or
- (b) In excess of the standard weekly roster of hours for the particular class of work; or
- (c) In accordance with a local arrangement.

12.4.2 Overtime rates will be paid in accordance with the rates set in clause 77, Overtime Worked by Day Workers of this award.

12.4.3 Overtime payments for casual employees are based on the ordinary hourly rate plus the 15% loading set out in paragraph 12.3.2 of this clause.

12.4.4 The loading in lieu of annual leave as set out in paragraph 12.3.3 of this clause is not included in the hourly rate for the calculation of overtime payments for casual employees.

12.5 Leave

12.5.1 Other than as described under subclauses 12.5, 12.6 and 12.7 of this clause, casual employees are not entitled to any other paid or unpaid leave.

12.5.2 As set out in paragraph 12.3.3 of this clause, casual employees will be paid 1/12th in lieu of annual leave.

12.5.3 Casual employees will be entitled to Long Service Leave in accordance with the provisions of the *Long Service Leave Act 1955*.

12.5.4 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*. In addition to the provisions set out in the *Industrial Relations Act 1996* (NSW), the Chief Executive Officer must not fail to re-engage a regular casual employee (see section 53(2) of the *Industrial Relations Act 1996*) 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 the Corporation in relation to engagement and re-engagement of casual employees are not affected, other than in accordance with this clause.

12.6 Personal Carers entitlement for casual employees

12.6.1 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 paragraph 70.4.2 of clause 70, Sick Leave to Care for a

Family Member, of this 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 in paragraph 12.6.4, and the notice requirements set out in paragraph 12.6.5 of this clause.

12.6.2 The Chief Executive Officer 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.

12.6.3 The Chief Executive Officer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of the Corporation to engage or not to engage a casual employee are otherwise not affected.

12.6.4 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 Corporation 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.

12.6.5 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 Chief Executive Officer of their inability to attend for duty. If it is not reasonably practicable to inform the Chief Executive Officer during the ordinary hours of the first day or shift of such absence, the employee will inform the Chief Executive Officer within 24 hours of the absence.

12.7 Bereavement entitlements for casual employees

12.7.1 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 Chief Executive Officer).

12.7.2 The Chief Executive Officer 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.

12.7.3 The Chief Executive Officer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of the Corporation to engage or not engage a casual employee are otherwise not affected.

12.7.4 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 Chief Executive Officer of their inability to attend for duty. If it is not reasonably practicable to inform the Chief Executive Officer during the ordinary hours of the first day or shift of such absence, the employee will inform the Chief Executive Officer within 24 hours of the absence.

12.8 Application of other clauses of this Award to casual employees

12.8.1 The following clauses of this award do not apply to casual employees:

11	Working Hours
16	Variation of Hours
17	Natural Emergencies and Major Transport Disruptions
19	Public Holidays
20	Standard Working Hours
21-23	relating to Flexible Working arrangements
27	Excess Travelling Time
28	Waiting Time
37	Room at Home Used as Office
38	Semi-Official Telephones
42-48	relating to Trade Union activities
52	Travelling and other costs of Trade Union Delegates
56	Leave - General Provisions
58-73	relating to the various Leave provisions
75	Study Assistance
76	relating to Overtime
81	Payment for Overtime or Leave in Lieu

13. Part-Time Employment

13.1 General

13.1.1 This clause shall only apply to part-time employees whose conditions of employment are not otherwise provided for in another industrial instrument.

13.1.2 Part-time work may be undertaken with the agreement of the Chief Executive Officer. Part-time work may be undertaken in a part-time position or under a part-time arrangement.

13.1.3 A part-time employee is to work contract hours less than full-time hours.

13.1.4 Unless otherwise specified in the award, part-time employees receive full time entitlements on a pro rata basis calculated according to the number of hours an employee works in a part-time position or under a part-time arrangement. Entitlements to paid leave will accrue on the equivalent hourly basis.

13.1.5 Before commencing part-time work, the Chief Executive Officer and the employee must agree upon:

- (a) the hours to be worked by the employee, the days upon which they will be worked, commencing and ceasing times for the work, and whether hours may be rostered flexibly;
- (b) whether flexible working hours provisions or standard hours provisions will apply to the part-time employee; and
- (c) the classification applying to the work to be performed;

13.1.6 The terms of the agreement must be in writing and may only be varied with the consent of both parties.

13.2 Additional hours

13.2.1 The Chief Executive Officer may request, but not require, a part-time employee to work additional hours. For the time worked in excess of the employee's usual hours and up to the normal full-time hours for the classification, part-time employees may elect to:

- (a) be paid for additional hours at their hourly rate plus a loading of 4/48ths in lieu of recreation leave; or

- (b) if working under a Flexible Working Hours scheme under clause 21 of this award, have the time worked credited as flex time.

13.2.2 For time worked in excess of the full-time hours of the classification, or outside the bandwidth payment shall be made at the appropriate overtime rate in accordance with clause 80, Rate of Payment for Overtime, of this award.

14. Morning and Afternoon Breaks

Employees 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. Employees may also take a 10 minute afternoon break, subject to the same conditions as apply to the morning break.

15. Meal Breaks and Lactation Breaks

15.1 General meal breaks

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

- (a) where the prescribed break is more than 30 minutes, the break may be reduced to not less than 30 minutes if the employee agrees. If the employee requests to reduce the break to not less than 30 minutes, the reduction must be operationally convenient; and
- (b) where the nature of the work of an employee or a group of employees 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 Chief Executive Officer and the Association to provide for payment of a penalty.

15.2 Lactation Breaks

15.2.1 This clause 15.2 applies to employees who are lactating mothers. A lactation break is provided for breastfeeding, expressing milk or other activity necessary to the act of breastfeeding or expressing milk and is in addition to any other rest period and meal break as provided for in this Award.

15.2.2 A full time employee or a part time employee working more than 4 hours per day is entitled to a maximum of two paid lactation breaks of up to 30 minutes each per day.

15.2.3 A part time employee working 4 hours or less on any one day is entitled to only one paid lactation break of up to 30 minutes on any day so worked.

15.2.4 A flexible approach to lactation breaks can be taken by mutual agreement between an employee and their manager provided the total lactation break time entitlement as per 15.2.2 and 15.2.4 is met.. When giving consideration to any such requests for flexibility, a manager needs to balance the operation requirements of the organisation with the lactating needs of the employee.

15.2.5 The Chief Executive Officer shall provide access to a suitable, private space with comfortable seating for the purpose of breastfeeding or expressing milk.

15.2.6 Other suitable facilities, such as refrigeration and a sink, shall be provided where practicable. Where it is not practicable to provide these facilities, discussions between the manager and employee will take place to identify reasonable alternative arrangements for the employee's lactation needs.

15.2.7 Employees experiencing difficulties in effecting the transition from home-based breastfeeding to the workplace will have telephone access in paid time to a free breastfeeding consultative service, such as that provided by the Australian Breastfeeding Association's Breastfeeding Helpline Service or the Public Health System.

15.2.8 Employees needing to leave the workplace during time normally required for duty to seek support or treatment in relation to breastfeeding and the transition to the workplace may utilise sick leave in accordance with clause 70, Sick Leave to care for a Family Member, of this Award, or access to the flexible working hours scheme provided in clause 21, Flexible Working Hours, of this Award, where applicable.

16. Variation of Hours

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

16.1.1 the variation does not adversely affect the operational requirements;

16.1.2 there is no reduction in the total number of daily hours to be worked;

16.1.3 the variation is not more than an hour from the commencement or finish of the span of usual commencing and finishing time;

16.1.4 a lunch break of one hour is available to the employee, unless the employee elects to reduce the break to not less than 30 minutes;

16.1.5 no overtime or meal allowance payments are made to the employee, as a result of an agreement to vary the hours;

16.1.6 ongoing arrangements are documented; and

16.1.7 the Association is consulted, as appropriate, on any implications of the proposed variation of hours for the work area.

17. Natural Emergencies and Major Transport Disruptions

17.1 An employee prevented from attending work at a normal work location by a natural emergency or by a major transport disruption may:

17.1.1 apply to vary the working hours as provided in clause 16, Variation of Hours, of this award; and/or

17.1.2 negotiate an alternative working location with the Corporation; and/or

17.1.3 take available family and community service leave and/or flex leave, recreation or extended leave or leave without pay to cover the period concerned.

18. Notification of Absence from Duty

18.1 If an employee is to be absent from duty, other than on authorised leave, the employee must notify the supervisor, or must arrange for the supervisor to be notified, as soon as possible.

18.2 If an employee is absent from duty without authorised leave to the satisfaction of the Chief Executive Officer, the amount representing the period of absence shall be deducted from the employee's pay.

19. Public Holidays

19.1 Unless directed to attend for duty by the Chief Executive Officer, an employee is entitled to be absent from duty without loss of pay on any day which is:

19.1.1 a public holiday throughout the State; or

- 19.1.2 a local holiday in that part of the State at or from which the employee performs duty; or
- 19.1.3 a day between Boxing Day and New Year's Day determined by the Chief Executive Officer as a public service holiday.
- 19.2 An employee required by the Chief Executive Officer 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.
- 19.3 If a local holiday falls during an employee's absence on leave, the employee is not to be credited with the holiday.

20. Standard Working Hours

- 20.1 Standard hours are set and regular with an hour for lunch and, if worked by the employee 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.
- 20.2 Urgent Personal Business - Where an employee needs to attend to urgent personal business, appropriate leave or time off may be granted by the Chief Executive Officer. Where time off has been granted, such time shall be made up as set out in subclause 20.4 of this clause.
- 20.3 Late Attendance - If an employee is late for work, such employee must either take appropriate leave or, if the Chief Executive Officer agrees, make the time up in accordance with subclause 20.4 of this clause.
- 20.4 Making up of Time - The time taken off in circumstances outlined in subclauses 20.2 and 20.3 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 employee and the Chief Executive Officer.

21. Flexible Working Hours

- 21.1 The parties to this award are committed to fostering flexible work practices with the intention of providing greater flexibility in dealing with workloads, work deadlines and the balance between work and family life. All parties are committed to managing time worked to prevent any forfeiture of credit hours accumulated under a Flexible Working Hours arrangement.
- 21.2 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.
- 21.3 Where the operational requirements allow, the working of flexible hours under a flexible working hours scheme operating in the Corporation, shall be extended to an employee working under a part time work arrangement. Except for provisions contained in subclauses 21.11, 21.13 and 21.16 of this clause, all other provisions under this subclause shall be applied pro rata to an employee working under a part time work arrangement.
- 21.4 Exclusion - Flexible working hours shall not apply to employees, who work permanent standard hours,
- 21.5 Attendance - An employee's attendance outside the hours of a standard day but within the bandwidth shall be subject to the availability of work.
- 21.6 Bandwidth - The bandwidth shall be between the hours of 7.30 a.m. and 6.00 p.m.
- 21.7 Coretime - The coretime shall be between the hours of 9.30 a.m. and 3.30 p.m., excluding the lunch break, unless other arrangements have been negotiated under a local arrangement.
- 21.8 Lunch break - The standard lunch period shall be 1 hour. With the approval of the supervisor, the lunch period may be extended by the employee 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.

- 21.9 Settlement period - Unless a local arrangement has been negotiated, the settlement period shall be four weeks.
- 21.9.1 For time recording purposes the settlement period and flex leave must coincide.
- 21.9.2 Where exceptional circumstances apply, e.g. prolonged transport strikes, adverse weather conditions and the like, the Chief Executive Officer may extend the affected settlement period by a further 4 weeks.
- 21.10 Contract hours - The contract hours for a settlement period shall be calculated by multiplying the employee's weekly contract hours by the number of weeks in a settlement period.
- 21.11 Flexible working hours credit - an employee may carry a maximum of 10 hours credit into the next settlement period.
- 21.12 Weekly hours worked during the settlement period are to be monitored by the employee and their supervisor. If it appears that the employee may exceed an accumulated work time of 150 hours in a settlement period; or if the total hours of work in a settlement period with the credit hour carry over from the previous settlement period may exceed 150 hours, the supervisor and employee shall develop a strategy to ensure that the employee does not forfeit any of the credit hours accumulated, or likely to be accumulated.
- 21.13 Flexible Working Hours Debit - The following provisions shall apply to the carryover of flexible working hours debits:
- 21.13.1 A debit of up to 10 hours at the end of a settlement period may be carried over into the next period;
- 21.13.2 Where the debit exceeds 10 hours, the excess will be debited as leave without pay, unless the employee elects to be granted available recreation or extended leave to offset the excess.
- 21.13.3 Any debit of hours outstanding on an employee's last day of duty is to be deducted from any unpaid salary or the monetary value of accrued recreation/extended leave. If applicable, the debit of hours may be transferred to the next NSW public sector organisation under the Public Sector Staff Mobility policy.
- 21.14 Cessation of duty - An employee may receive payment for a flex day accrued and remaining untaken on the last day of service:
- 21.14.1 Where the employee's services terminate without a period of notice for reasons other than misconduct; or
- 21.14.2 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 could not be granted or
- 21.14.3 In such other circumstances as have been negotiated between the Chief Executive Officer and the Association.
- 21.14.4 Prior to an employee's last day of service the employee and supervisor shall ensure that the employee does not forfeit any credit hours accumulated. Strategies to reduce accumulated credit hours may include those outlined in paragraph 21.16.2 of this clause.
- 21.15 Where an employee ceases duty in the Corporation in order to take up employment in another public service or public sector organisation, the same provisions as apply to recreation leave under the Public Sector Staff Mobility policy shall apply to the accrued but untaken or not forfeited flex leave.

- 21.16 Flex leave - Subject to operational requirements:
- 21.16.1 An employee may take off one full day or two half days in a settlement period of 4 weeks.
 - 21.16.2 Where it appears an employee may exceed a 10-hour credit, as per subclause 21.12 of this clause strategies to reduce this credit may include the granting of additional full days, consecutive days, half days, or any combination of days and half days.
 - 21.16.3 Flex leave may be taken on consecutive working days.
 - 21.16.4 Absences on flex leave may be combined with other periods of authorised leave.
- 21.17 Absence during coretime - Where an employee 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 clause 57, Absence from Work, of this award.
- 21.18 Standard hours - Notwithstanding the provisions of this clause, the Chief Executive Officer may direct the employee to work standard hours and not flexible hours:
- 21.18.1 where the Chief Executive Officer decides that the working of flexible hours by an employee or members does not suit the operational requirements of the Corporation or section of the Corporation, the Association shall be consulted, where appropriate; or
 - 21.18.2 as remedial action in respect of an employee who has been found to have deliberately and persistently breached the flexible working hours scheme.
- 21.19 Easter concession - Employees who work under a flexible working hours scheme may be granted, subject to the convenience of the Corporation, an additional half day's flex leave on the Thursday preceding the Good Friday public holiday or, if directed to work, an additional half day's flex leave on another day within that settlement period.

22. Non-Compliance

In the event of any persistent failure by an employee to comply with the hours of duty required to be worked, the Chief Executive Officer shall investigate such non-compliance as soon as it comes to notice and shall take appropriate remedial action according to Part 5 of the Act.

23. Flexible Work Practices

- 23.1 Nothing in this award shall affect the hours of duty of an employee who is covered by a written flexible working hours agreement negotiated under the Flexible Work Practices, Policy and Guidelines.
- 23.2 Flexible working hours agreements negotiated in terms of the NSW Government Flexible Work Practices, Policy and Guidelines after 28 October 1997 shall be subject to the conditions specified in this award and in consultation with the Association.

24. Existing Hours of Work Determinations

Any existing Determinations on local arrangements in respect of the hours of work which operated in the Corporation or part of the Corporation as at the effective date of this award, shall continue to apply until renegotiated.

SECTION 3 - TRAVEL ARRANGEMENTS

25. Travelling Compensation

- 25.1 Any authorised official travel and associated expenses, properly and reasonably incurred by an employee required to perform duty at a location other than their normal headquarters shall be met by the Corporation.

- 25.2 The Chief Executive Officer shall require employees to obtain an authorisation for all official travel prior to incurring any travel expense.
- 25.3 Where available at a particular centre or location, the overnight accommodation to be occupied by employees 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.
- 25.4 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.
- 25.5 The Corporation will elect whether to pay the accommodation directly or whether an employee should pay the accommodation and be compensated in accordance with this clause. Where practicable, employees shall obtain prior approval when making their own arrangements for overnight accommodation.
- 25.6 Subject to subclause 25.11 of this clause, an employee who is required by the Chief Executive Officer 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 employee's residence in order to perform the work.
- 25.7 If meals are provided by the Corporation at the temporary work location, the employee shall not be entitled to claim the meal allowance.
- 25.8 The payment shall be:
- 25.8.1 where the Corporation elects to pay the accommodation provider the employee shall receive:
- (a) the appropriate meal allowance in accordance with the prevailing ATO ruling or
 - (b) incidentals as set out in the prevailing ATO ruling, or
 - (c) actual meal expenses properly and reasonably incurred (excluding morning and afternoon teas) for any residual part day travel;
- 25.8.2 where the Corporation elects not to pay the accommodation provider the employee shall elect to receive either:
- (a) the appropriate rate of allowance specified in the prevailing ATO ruling , and actual meal expenses properly and reasonably incurred (excluding morning and afternoon teas) for any residual part day travel; OR
 - (b) in lieu of subparagraph (a) of this paragraph, payment of the 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 the prevailing ATO ruling.
- 25.9 Payment of the appropriate allowance for an absence of less than 24 hours may be made only where the employee satisfies the Chief Executive Officer that, despite the period of absence being of less than 24 hours duration, expenditure for accommodation and three meals has been incurred.
- 25.10 Where an employee is unable to so satisfy the Chief Executive Officer, the allowance payable for part days of travel shall be limited to the expenses incurred during such part day travel.
- 25.11 This clause does not apply to employees who are on an employee-initiated secondment in accordance with section 64 of the Act and described in the Commentary and Guidelines on temporary staff assignments - section 66 and Cross-Agency Employment (section 65) of the Act.

26. Assistance with Public Transport Tickets for Travel to Work

- 26.1 The Corporation will provide funds for the purchase of yearly rail, bus and ferry tickets (or combinations of these) for employees who require them.
- 26.2 Employees will repay the cost of the ticket over 12 months through regular fortnightly deductions from after tax salary.

27. Excess Travelling Time

- 27.1 Excess Travelling Time - A employee directed by the Chief Executive Officer to travel on official business outside the usual hours of duty to perform duty at a location other than normal headquarters will, at the Chief Executive Officer's discretion, be compensated for such time either by:
- 27.1.1 Payment calculated in accordance with the provisions contained in this clause; or
- 27.1.2 If it is operationally convenient, by taking equivalent time off in lieu to be granted for excess time spent in travelling on official business. Such time in lieu must be taken within 1 month of accrual unless otherwise authorised by the employee's supervisor.
- 27.2 Compensation under paragraphs 27.1.1 and 27.1.2 of this clause shall be subject to the following conditions:
- 27.2.1 On a non-working day - subject to the provisions of paragraphs 27.3.4, 27.3.5, 27.3.6 and 27.3.7 of this clause, all time spent travelling on official business;
- 27.2.2 On a working day - subject to the provisions of subclause 27.3 of this clause, all time spent travelling on official business outside the usual hours of duty, provided the period for which compensation is being sought is more than a half an hour on any one day.
- 27.3 Compensation for excess travelling time shall exclude the following:
- 27.3.1 Time normally taken for the periodic journey from home to headquarters and return;
- 27.3.2 Any periods of excess travel of less than 30 minutes on any one day;
- 27.3.3 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;
- 27.3.4 Time from 11.00 p.m. on one day to 7.30 a.m. on the following day if sleeping facilities have been provided.
- 27.3.5 Travel not undertaken by the most practical available route and by the most practical and economic means of transport;
- 27.3.6 Working on board ship where meals and accommodation are provided;
- 27.3.7 Any travel undertaken by an employee whose salary includes an all incidents of employment component;
- 27.3.8 Time within the flex time bandwidth;
- 27.3.9 Travel overseas.
- 27.4 Payment - Payment for travelling time calculated in terms of this clause shall be at the employee's ordinary rate of pay on an hourly basis calculated as follows:

$$\frac{\text{Annual salary}}{1} \times \frac{5}{260.89} \times \frac{1}{\text{Normal hours of work}}$$

- 27.5 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.
- 27.6 Employees whose salary is in excess of the maximum rate for Clerk, Grade 5 (as set out in the Crown Employees (Public Sector - Salaries 2016) Award and any variation or replacement award) shall be paid travelling time or waiting time calculated at the maximum rate for Clerk, Grade 5 plus \$1.00 per annum, as adjusted from time to time.
- 27.7 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.

28. Waiting Time

When an employee 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 clause 27, Excess Travelling Time, of this Award

29. Meal Expenses on One-Day Journeys

- 29.1 A employee who is authorised by the Chief Executive Officer to undertake a one-day journey on official business which does not require the employee to obtain overnight accommodation, shall be reimbursed actual meal expenses properly and reasonably incurred for: -
- 29.1.1 Breakfast when required to commence travel at or before 6.00 a.m. and at least 1 hour before the prescribed starting time;
- 29.1.2 An evening meal when required to travel until or beyond 6.30 p.m.; and
- 29.1.3 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 employee's normal headquarters at the time of taking the normal lunch break.

30. Restrictions on Payment of Travelling Allowances

- 30.1 An allowance under clause 26, Travelling Compensation, of this award is not payable in respect of:
- 30.1.1 Any period during which the employee 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;
- 30.1.2 Any period of leave, except with the approval of the Chief Executive Officer or as otherwise provided by this clause; or
- 30.1.3 Any other period during which the employee is absent from the employee's temporary work location otherwise than on official duty.
- 30.2 An employee who is in receipt of an allowance under clause 25, Travelling Compensation, shall be entitled to reimbursement of incidental expenses properly and reasonably incurred in the following circumstances:
- 30.2.1 When granted special leave to return to their residence at a weekend, for the necessary period of travel for the journey from the temporary work location to the employee's residence; and for the return journey from the employee's residence to the temporary work location, or
- 30.2.2 When leaving a temporary work location on ceasing to perform duty at or from a temporary work location, for the necessary period of travel to return to the employee'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.

31. Production of Receipts

Payment of any actual properly and reasonably incurred expenses shall be subject to the production of receipts.

32. Travelling Distance

The need to obtain overnight accommodation shall be determined by the Chief Executive Officer having regard to the safety of the employee or members travelling on official business and local conditions applicable in the area. Where employees are required to attend conferences or seminars which involve evening sessions or employees 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.

SECTION 4 - ALLOWANCES AND OTHER MATTERS

33. Allowance Payable for Use of Private Motor Vehicle

- 33.1 The Chief Executive Officer may authorise an employee to use a private motor vehicle for work where:
- 33.1.1 Such use will result in greater efficiency or involve the Corporation in less expense than if travel were undertaken by other means; or
 - 33.1.2 Where the employee is unable to use other means of transport due to a disability.
- 33.2 An employee who, with the approval of the Chief Executive Officer, uses a private motor vehicle for work shall be paid an appropriate rate of allowance specified the prevailing ATO ruling for the use of such private motor vehicle. A deduction from the allowance payable is to be made for travel as described in subclause 33.4 of this clause.
- 33.3 Different levels of allowance are payable for the use of a private motor vehicle for work depending on the circumstances and the purpose for which the vehicle is used.
- 33.3.1 The casual rate is payable if an employee elects, with the approval of the Chief Executive Officer, to use their vehicle for occasional travel for work. This is subject to the allowance paid for the travel not exceeding the cost of travel by public or other available transport.
 - 33.3.2 The official business rate is payable if an employee is directed, and agrees, to use the vehicle for official business and there is no other transport available. It is also payable where the employee is unable to use other transport due to a disability. The official business rate includes a component to compensate an employee for owning and maintaining the vehicle.
- 33.4 Deduction from allowance
- 33.4.1 Except as otherwise specified in this award, an employee shall bear the cost of ordinary daily travel by private motor vehicle between the employee's residence and headquarters and for any distance travelled in a private capacity. A deduction will be made from any motor vehicle allowance paid, in respect of such travel.
 - 33.4.2 In this subclause "headquarters" means the administrative headquarters to which the employee is attached or from which the employee is required to operate on a long term basis or the designated headquarters per paragraph 33.4.3 of this subclause.
 - 33.4.3 Designated headquarters
 - (a) Where the administrative headquarters of the employee to which they are attached is not within the typical work area in which the employee is required to use the private vehicle on official business, the distance to and from a point designated within the typical work area is to be adopted as the distance to and from the headquarters for the purpose of calculating the daily deduction.

- (b) An employee's residence may be designated as their headquarters provided that such recognition does not result in a further amount of allowance being incurred than would otherwise be the case.

33.4.4 On days when an employee uses a private vehicle for official business and travels to and from home, whether or not the employee during that day visits headquarters, a deduction is to be made from the total distance travelled on the day. The deduction is to equal the distance from the employee's residence to their headquarters and return or 20 kilometres (whichever is the lesser) and any distance that is travelled in a private capacity.

33.4.5 Where a headquarters has been designated per paragraph 33.4.3 of this subclause and the employee is required to attend the administrative headquarters, the distance for calculating the daily deduction is to be the actual distance to and from the administrative headquarters, or, to and from the designated headquarters, whichever is the lesser.

33.4.6 Deductions are not to be applied in respect of days characterised as follows.

- (a) When staying away from home overnight, including the day of return from any itinerary.
- (b) When the employee uses the vehicle on official business and returns it to home prior to travelling to the headquarters by other means of transport at their own expense.
- (c) When the employee uses the vehicle for official business after normal working hours.
- (d) When the monthly claim voucher shows official use of the vehicle has occurred on one day only in any week. Exemption from the deduction under this subparagraph is exclusive of, and not in addition to, days referred to in subparagraphs (a), (b) and (c) of this paragraph.
- (e) When the employee buys a weekly or other periodical rail or bus ticket, provided the Corporation is satisfied that:
 - (i) at the time of purchasing the periodical ticket the employee did not envisage the use of their private motor vehicle on approved official business;
 - (ii) the periodical ticket was in fact purchased; and
 - (iii) in regard to train travellers, no allowance is to be paid in respect of distance between the employee's home and the railway station or other intermediate transport stopping place.

33.5 The employee 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.

33.6 Expenses such as tolls etc. shall be refunded to employees where the charge was incurred during approved work related travel.

34. Damage to Private Motor Vehicle Used for Work

34.1 Where a private vehicle is damaged while being used for work, any normal excess insurance charges prescribed by the insurer shall be reimbursed by the Corporation, provided:

34.1.1 The damage is not due to gross negligence by the employee; and

34.1.2 The charges claimed by the employee are not the charges prescribed by the insurer as punitive excess charges.

34.2 Provided the damage is not the fault of the employee, the Corporation shall reimburse to an employee the costs of repairs to a broken windscreen, if the employee can demonstrate that:

34.2.1 The damage was sustained on approved work activities; and

34.2.2 The costs cannot be met under the insurance policy due to excess clauses.

35. Overseas Travel

Unless the Chief Executive Officer determines that an employee shall be paid travelling rates especially determined for the occasion, an employee required by the Corporation to travel overseas on official business shall be paid the appropriate overseas travelling allowance rates as specified in the relevant Premier and Cabinet Circular as issued from time to time.

36. Exchanges

36.1 The Chief Executive Officer may arrange two way or one way exchanges with other organisations both public and private, if the Corporation or the employee will benefit from additional training and development which is intended to be used in the carrying out of the Corporation's business.

36.2 The conditions applicable to those employees who participate in exchanges will be determined by the Chief Executive Officer according to the individual circumstances in each case (Item 1 of Table 1 - Allowances of Part B, Monetary Rates).

36.3 The provisions of this subclause do not apply to the loan of services of employees to the Association. The provisions of clause 45, Conditions Applying to On Loan Arrangements, of this award apply to employees who are loaned to the Association.

37. Room at Home Used as Office

37.1 Where no Corporation office is provided in a particular location - Where it is impractical to provide an office in a particular location, employees stationed in such a location may be required to use a spare room at their home as an office. In such cases, the Corporation will be responsible for providing furniture, telephone and other equipment, as required. In addition, an allowance as specified in Item 2 of Table 1 - Allowances of Part B, Monetary Rates is payable for the use of a room at home as an office.

37.2 Where an office exists in a particular location - Where a Corporation office or offices already exist in a particular location but the employee and the Chief Executive Officer agree that the employee could work from home on a short term or longer term basis, the arrangement shall be negotiated in accordance with the provisions of the Flexible Work Practices, Policy and Guidelines. The allowance set out in subclause 37.1 of this clause shall not apply in these circumstances.

37.3 Requirements - Arrangements under subclauses 37.1 or 37.2 of this clause shall be subject to:

37.3.1 A formal agreement being reached in respect of the hours to be worked; and

37.3.2 The occupational health and safety, provision of equipment requirements and any other relevant conditions specified in Part 2, Section 7, Working from Home in the Flexible Work Practices, Policy and Guidelines.

38. Semi-Official Telephones

38.1 Reimbursement of expenses associated with a private telephone service installed at the residence of an employee shall be made as specified in this clause if the employee is required to be contacted or is required to contact others in connection with the duties of his/her position in the Corporation, as and when required.

38.2 The service must be located in the employee's principal place of residence and its telephone number communicated to all persons entitled to have out of hours contact with the employee.

- 38.3 The semi-official telephone allowance applies to employees who are required, as part of their duties to:
- 38.3.1 Give decisions, supply information or provide emergency services; and/or
 - 38.3.2 Be available for reasons of safety or security for contact by the public outside of normal office hours.
- 38.4 Unless better provisions already apply to an employee or an employee has been provided with an official telephone, reimbursement of expenses under this clause shall be limited to the following:
- 38.4.1 The connection fee for a telephone service, if the service is not already available at the employee's principal place of residence;
 - 38.4.2 The full annual base rental charged for the telephone service regardless of whether any official calls have been made during the period; and
 - 38.4.3 The full cost of official local, STD and ISD calls.
- 38.5 To be eligible for reimbursement, an employee must submit their telephone account and a statement showing details of all official calls, including:
- 38.5.1 Date, time, length of call and estimated cost;
 - 38.5.2 Name and phone number of the person to whom call was made; and
 - 38.5.3 Reason for the call.

39. Compensation for Damage to or Loss of Employee's Personal Property

- 39.1 Where damage to or loss of the employee's personal 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 employee.
- 39.2 If a claim under subclause 39.1 of this clause is rejected by the insurer, the Chief Executive Officer may compensate an employee for the damage to or loss of personal property, if such damage or loss:
- 39.2.1 Is due to the negligence of the Corporation, another employee, or both, in the performance of their duties; or
 - 39.2.2 Is caused by a defect in an employee's material or equipment; or
 - 39.2.3 Results from an employee's protection of or attempt to protect Corporation property from loss or damage.
- 39.3 Compensation in terms of subclause 39.2 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 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 replacement item.
- 39.4 For the purpose of this clause, personal property means an employee's clothes, spectacles, hearing-aid, tools of trade or similar items which are ordinarily required for the performance of the employee's duties.
- 39.5 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.

40. First Aid Allowance

- 40.1 An employee appointed as a First Aid Officer shall be paid a first aid allowance at the rate specified in Item 3 of Table 1 - Allowances of Part B, Monetary Rates.
- 40.2 The First Aid Allowance will apply to an employee appointed as a First Aid Officer who holds a St John's Ambulance Certificate or equivalent qualifications (such as the Civil Defence or the Red Cross Society's First Aid Certificates) issued within the previous three years.
- 40.3 The First Aid Allowance shall not be paid during leave of one week or more.
- 40.4 When the First Aid Officer is absent on leave for one week or more and another qualified employee is selected to relieve in the First Aid Officer's position, such employee shall be paid a pro rata first aid allowance for assuming the duties of a First Aid Officer.
- 40.5 First Aid Officers may be permitted to attend training and retraining courses conducted during normal hours of duty. The cost of training employees who do not already possess qualifications and who need to be trained to meet Corporation needs, and the cost of retraining First Aid Officers, are to be met by the Corporation.

41. Review of Allowances Payable in Terms of this Award

- 41.1 Adjustment of Allowances - Allowances contained in this award shall be reviewed as follows:
- 41.1.1 Allowances listed in this paragraph will be determined at a level consistent with the reasonable allowances amounts for the appropriate income year as published by the Australian Taxation Office (ATO):
- (a) Clause 25, Travelling Compensation;
 - (b) Clause 29, Meal Expenses on One Day Journeys;
 - (c) Clause 79, Overtime Meal Allowances, for breakfast, lunch and dinner.
- 41.1.2 Allowances listed in this paragraph will be determined and become effective from 1 July each year at a level consistent with the reasonable allowances amounts as published at or before that time by the Australian Taxation Office (ATO):
- (a) Clause 33, Allowances Payable for the Use of Private Motor Vehicle.
- 41.1.3 Allowances payable in terms of clauses listed in this paragraph shall be adjusted on 1 July each year in line with the increases in the Consumer Price Index for Sydney during the preceding year (March quarter figures):
- (a) Clause 37, Room at Home Used as Office;
 - (b) Clause 79, Overtime Meal Allowances, for supper.
- 41.1.4 Allowances payable in terms of clauses listed in this paragraph shall continue to be subject to a percentage increase under an Award, Agreement or Determination and shall be adjusted on and from the date or pay period the percentage increase takes effect:
- Clause 40, First-Aid Allowance;

SECTION 5 - UNION CONSULTATION, ACCESS AND ACTIVITIES

42. Trade Union Activities Regarded as on Duty

- 42.1 An Association delegate will be released from the performance of normal Corporation duty when required to undertake any of the activities specified below. While undertaking such activities the Association delegate will be regarded as being on duty and will not be required to apply for leave:
- 42.1.1 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 *Work Health and Safety Act 2011* and the *Work Health and Safety Regulation 2011*.
- 42.1.2 Attendance at meetings with workplace management or workplace management representatives;
- 42.1.3 A reasonable period of preparation time, before-
- (a) meetings with management;
 - (b) disciplinary or grievance meetings when an Association member requires the presence of an Association delegate; and
 - (c) any other meeting with management,
by agreement with management, where operational requirements allow the taking of such time;
- 42.1.4 Giving evidence in court on behalf of the Corporation;
- 42.1.5 Appearing as a witness before the Government and Related Employees Appeal Tribunal;
- 42.1.6 Representing the Association at the Government and Related Employees Appeal Tribunal as an advocate or as a Tribunal Member;
- 42.1.7 Presenting information on the Association and Association activities at induction sessions for new staff of the Corporation; and
- 42.1.8 Distributing official Association 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.

43. Trade Union Activities Regarded as Special Leave

- 43.1 The granting of special leave with pay will apply to the following activities undertaken by an Association delegate, as specified below:
- 43.1.1 Attendance at annual or biennial conferences of the Association;
- 43.1.2 Attendance at meetings of the Association's Executive, Committee of Management or Councils;
- 43.1.3 Attendance at annual conference of the Unions NSW and the biennial Congress of the Australian Council of Trade Unions;
- 43.1.4 Attendance at meetings called by the Unions NSW involving the Association which requires attendance of a delegate;
- 43.1.5 Attendance at meetings called by the Industrial Relations Secretary, as the employer for industrial purposes, as and when required;

43.1.6 Giving evidence before an Industrial Tribunal as a witness for the Association;

43.1.7 Reasonable travelling time to and from conferences or meetings to which the provisions of clauses 42, 43 and 44 apply.

44. Trade Union Training Courses

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

44.1.1 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 and the Association.

44.1.2 Courses organised and conducted by the Trade Union Education Foundation or by the Association or a training provider nominated by the Association. A maximum of 12 working days in any period of 2 years applies to this training and is subject to:

- (a) The operating requirements of the workplace permitting the grant of leave and the absence not requiring employment of relief staff;
- (b) Payment being at the base rate, i.e. excluding extraneous payments such as shift allowances/penalty rates, overtime, etc.;
- (c) All travelling and associated expenses being met by the employee or the Association;
- (d) Attendance being confirmed in writing by the Association or a nominated training provider.

45. Conditions Applying to on Loan Arrangements

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

45.1.1 Meetings interstate or in NSW of a Federal nature to which an Association member has been nominated or elected by the Association: -

- (a) As an Executive Member; or
- (b) A member of a Federal Council; or
- (c) to a vocational or industry committee.

45.1.2 Briefing counsel on behalf of the Association;

45.1.3 Assisting Association officials with preparation of cases or any other activity outside their normal workplace at which the delegate is required to represent the interests of the Association;

45.1.4 Country tours undertaken by a member of the executive or Council of the Association;

45.1.5 Taking up of full time duties with the Association if elected to the office of President, General Secretary or to another full time position with the Association.

45.1.6 Financial Arrangements - The following financial arrangements apply to the occasions when an employee is placed "on loan" to the Association: -

- (a) The Corporation will continue to pay the delegate or an authorised Association representative whose services are on loan to the Association;

- (b) The Corporation will seek reimbursement from the Association at regular intervals of all salary and associated on costs, including superannuation, as specified by the NSW Treasury from time to time.
- (c) Agreement with the Association 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 and the Association.

45.1.7 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.

45.1.8 Limitation - On loan arrangements may apply to full-time or part-time staff and are to be kept to the minimum time required. Where the Association needs to extend an on loan arrangement, the Association shall approach the Chief Executive Officer in writing for an extension of time well in advance of the expiration of the current period of on loan arrangement.

45.1.9 Where the Chief Executive Officer and the Association cannot agree on the on loan arrangement, the matter is to be referred to the DPE for determination after consultation with the Chief Executive Officer and the Association.

46. Period of Notice for Trade Union Activities

The Chief Executive Officer must be notified in writing by the Association 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.

47. Access to Facilities by Trade Union Delegates

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

47.1.1 Telephone, facsimile, internet and email facilities;

47.1.2 A notice board for material authorised by the Association or access to staff notice boards for material authorised by the Association;

47.1.3 Workplace conference or meeting facilities, where available, for meetings with member(s), as negotiated between local management and the Association.

48. Responsibilities of the Trade Union Delegate

48.1 Responsibilities of the Association delegate are to:

48.1.1 Establish accreditation as a delegate with the Association and provide proof of accreditation to the workplace;

48.1.2 Participate in the workplace consultative processes, as appropriate;

48.1.3 Follow the dispute settling procedure applicable in the workplace;

48.1.4 Provide sufficient notice to the immediate supervisor of any proposed absence on authorised Association business;

48.1.5 Account for all time spent on authorised Association business;

48.1.6 When special leave is required, to apply for special leave in advance;

- 48.1.7 Distribute Association literature/membership forms, under local arrangements negotiated between the Chief Executive Officer and the Association; and
- 48.1.8 Use any facilities provided by the workplace properly and reasonably as negotiated at organisational level.

49. Responsibilities of the Trade Union

- 49.1 Responsibilities of the Association are to:
- 49.1.1 Provide written advice to the Chief Executive Officer about an Association 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;
- 49.1.2 Meet all travelling, accommodation and any other costs incurred by the accredited delegate, except as provided in paragraph 50.1.3 of clause 50, Responsibilities of Workplace Management, of this award;
- 49.1.3 Pay promptly any monies owing to the workplace under a negotiated on loan arrangement;
- 49.1.4 Provide proof of identity when visiting a workplace in an official capacity, if requested to do so by management;
- 49.1.5 Apply to the Chief Executive Officer well in advance of any proposed extension to the "on loan" arrangement;
- 49.1.6 Assist the workplace management in ensuring that time taken by the Association delegate is accounted for and any facilities provided by the Corporation are used reasonably and properly; and
- 49.1.7 Advise Corporation of any leave taken by the Association delegate during the on loan arrangement.

50. Responsibilities of Workplace Management

- 50.1 Where time is required for Association activities in accordance with this clause the responsibilities of the workplace management are to:
- 50.1.1 Release the accredited delegate from duty for the duration of the Association activity, as appropriate, and, where necessary, allow for sufficient travelling time during the ordinary working hours;
- 50.1.2 Advise the workplace delegate of the date of the next induction session for new employees in sufficient time to enable the Association to arrange representation at the session;
- 50.1.3 Meet the travel and/or accommodation costs properly and reasonably incurred in respect of meetings called by the workplace management;
- 50.1.4 Where possible, provide relief in the position occupied by the delegate in the workplace, while the delegate is undertaking Association responsibilities to assist with the business of workplace management;
- 50.1.5 Re-credit any other leave applied for on the day to which special leave or release from duty subsequently applies;
- 50.1.6 Where an Association activity provided under this clause needs to be undertaken during an approved period of flexi leave, apply the provisions of paragraph 50.1.5 of this clause;

- 50.1.7 Continue to pay salary during an "on loan" arrangement negotiated with the Association and to obtain reimbursement of salary and on-costs from the Association at regular intervals, or as otherwise agreed between the parties if long term arrangements apply;
- 50.1.8 Verify with the Association the time spent by an Association delegate or delegates on Association business, if required; and
- 50.1.9 If the time and/or the facilities allowed for Association activities are thought to be used unreasonably and/or improperly, consult with the Association before taking any remedial action.

51. Right of Entry Provisions

The right of entry provisions shall be as prescribed under the *Work Health and Safety Act* 2011 (NSW) and the *Industrial Relations Act* 1996 (NSW).

52. Travelling and Other Costs of Trade Union Delegates

- 52.1 Except as specified in paragraph 50.1.3 of clause 50, Responsibilities of Workplace Management, of this award, all travel and other costs incurred by accredited Association delegates in the course of Association activities will be paid by the Association.
- 52.2 In respect of meetings called by the workplace management in terms of paragraph 50.1.3 of clause 50, 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 clauses 25, Travelling Compensation, 29, Meal Expenses on One-Day Journeys, or 30, Restrictions on Payment of Travelling Allowances, of this award.
- 52.3 No overtime, leave in lieu or any other additional costs will be claimable by an employee from the Corporation or the DPE, in respect of Association activities covered by special leave or on duty activities provided for in this clause.
- 52.4 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 Association or the employee.

53. Industrial Action

- 53.1 Provisions of the *Industrial Relations Act* 1996 shall apply to the right of Association members to take lawful industrial action (Note the obligations of the parties under clause 9, Grievance and Dispute Settling Procedures).
- 53.2 There will be no victimisation of employees prior to, during or following such industrial action.

54. Consultation and Technological Change

- 54.1 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 the Corporation and Association.
- 54.2 The Corporation's management shall consult with the Association prior to the introduction of any technological change.

55. Deduction of Trade Union Membership Fees

- 55.1 The Association shall provide the Corporation with a schedule setting out Association fortnightly membership fees payable by members of the Association in accordance with the Association's rules.
- 55.2 The Association shall advise the Corporation of any change to the amount of fortnightly membership fees made under its rules. Any variation to the schedule of Association fortnightly membership fees payable shall be provided to the Corporation at least one month in advance of the variation taking effect.

- 55.3 Subject to 55.1 and 55.2 of this clause, the Corporation shall arrange for the deduction of Association fortnightly membership fees from the pay of any employee who is a member of the Association in accordance with the Association's rules, provided that the employee has authorised the Corporation to make such deductions.
- 55.4 Monies so deducted from an employee's pay shall be forwarded regularly to the Association together with all necessary information to enable the Association to reconcile and credit subscriptions to employees' Association membership accounts.
- 55.5 Unless other arrangements are agreed to by the Corporation and the Association, all Association membership fees shall be deducted on a fortnightly basis.
- 55.6 Where an employee has already authorised the deduction of Association 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 deduction to continue.

SECTION 6 - LEAVE

56. Leave - General Provisions

- 56.1 The leave provisions contained in this Award apply to all employees other than those to whom arrangements apply under another industrial instrument or under a local arrangement negotiated between the Chief Executive Officer and the Association.
- 56.2 Unless otherwise specified, part-time employees will receive the paid leave provisions of this award on a pro rata basis, calculated according to the number of hours worked per week.
- 56.3 Unless otherwise specified in this award a temporary employee is eligible to take a period of approved leave during the current period of employment and may continue such leave during a subsequent period or periods of employment in the Public Service, if such period or periods of employment commence immediately on termination of a previous period or periods of employment.
- 56.4 Where paid and unpaid leave is available to be granted in terms of this award, paid leave shall be taken before unpaid leave.

57. Absence from Work

- 57.1 An employee must not be absent from work unless reasonable cause is shown.
- 57.2 If an employee is to be absent from duty because of illness or other emergency, the employee shall notify or arrange for another person to notify the supervisor as soon as possible of the employee's absence.
- 57.3 If the employee is absent from duty without authorised leave and the Chief Executive Officer shall deduct from the pay of the employee the amount equivalent to the period of the absence.
- 57.4 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.
- 57.5 Nothing in this clause affects any proceedings for a breach of discipline against an employee who is absent from duty without authorised leave.

58. Applying for Leave

- 58.1 An application by an employee for leave under this award shall be made to and dealt with by the Chief Executive Officer.
- 58.2 The Chief Executive Officer shall deal with the application for leave according to the wishes of the employee, if the operational requirements of the Corporation permit this to be done.

59. Extended Leave

Extended leave shall accrue and shall be granted to employees in accordance with the provisions of the Act.

60. Family and Community Service Leave

- 60.1 The Chief Executive Officer shall grant to an employee some, or all of their accrued family and community service leave on full pay, for reasons relating to unplanned and emergency family responsibilities or other emergencies as described in subclause 60.2 of this clause. The Chief Executive Officer may also grant leave for the purposes in subclause 60.3 of this clause. Non-emergency appointments or duties shall be scheduled or performed outside of normal working hours or through approved use of flexible working arrangements or other appropriate leave.
- 60.2 Such unplanned and emergency situations may include, but not be limited to, the following: -
- 60.2.1 Compassionate grounds - such as the death or illness of a close member of the family or a member of the employee's household;
 - 60.2.2 Emergency 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;
 - 60.2.3 Emergency or weather conditions; such as when flood, fire, snow or disruption to utility services etc., threatens an employee's property and/or prevents an employee from reporting for duty;
 - 60.2.4 Attending to unplanned or unforeseen family responsibilities, such as attending child's school for an emergency reason or emergency cancellations by child care providers;
 - 60.2.5 Attendance at court by an employee to answer a charge for a criminal offence, only if the Chief Executive Officer considers the granting of family and community service leave to be appropriate in a particular case.
- 60.3 Family and community service leave may also be granted for:
- 60.3.1 An absence during normal working hours to attend meetings, conferences or to perform other duties, for employees holding office in Local Government, and whose duties necessitate absence during normal working hours for these purposes, provided that the employee does not hold a position of Mayor of a Municipal Council, President of a Shire Council or Chairperson of a County Council; and
 - 60.3.2 Attendance as a competitor in major amateur sport (other than Olympic or Commonwealth Games) for employees who are selected to represent Australia or the State.
- 60.4 The definition of "family" or "relative" in this clause is the same as that provided in paragraph 70.4.2 of clause 70, Sick Leave to Care for a Family Member, of this award.
- 60.5 Family and community service leave shall accrue as follows:
- 60.5.1 two and a half days in the employee's first year of service;
 - 60.5.2 two and a half days in the employee's second year of service; and
 - 60.5.3 one day per year thereafter.
- 60.6 If available family and community service leave is exhausted as a result of natural disasters, the Chief Executive Officer shall consider applications for additional family and community service leave, if some other emergency arises.
- 60.7 If available family and community service leave is exhausted on the death of a family member or relative, additional paid family and community service leave of up to 2 days may be granted on a discrete, per occasion basis to an employee.

- 60.8 In cases of illness of a family member for whose care and support the employee is responsible, paid sick leave in accordance with clause 70, Sick Leave to Care for a Sick Family Member, of this award shall be granted when paid family and community service leave has been exhausted or is unavailable.
- 60.9 A Chief Executive Officer may also grant employees other forms of leave such as accrued recreation leave, time off in lieu, flex leave and so on for family and community service leave purposes.

61. Leave Without Pay

- 61.1 The Chief Executive Officer may grant leave without pay to an employee if good and sufficient reason is shown.
- 61.2 Leave without pay may be granted on a full-time or a part-time basis.
- 61.3 Where an employee is granted leave without pay for a period not exceeding 10 consecutive working days, the employee shall be paid for any proclaimed public holidays falling during such leave without pay.
- 61.4 Where an employee 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.
- 61.5 An employee who has been granted leave without pay shall not engage in employment of any kind during the period of leave without pay, unless prior approval has been obtained from the Chief Executive Officer.
- 61.6 An employee shall not be required to exhaust accrued paid leave before proceeding on leave without pay but, if the employee elects to combine all or part of accrued paid leave with leave without pay, the paid leave shall be taken before leave without pay.
- 61.7 No paid leave shall be granted during a period of leave without pay.
- 61.8 A permanent appointment may be made to the employee's position if:
- 61.8.1 the leave without pay has continued or is likely to continue beyond the original period of approval and is for a total period of more than 12 months; and
 - 61.8.2 the employee is advised of the Corporation's proposal to permanently backfill their position; and
 - 61.8.3 the employee is given a reasonable opportunity to end the leave without pay and return to their position; and
 - 61.8.4 the Corporation advised the employee at the time of the subsequent approval that the position will be filled on a permanent basis during the period of leave without pay.
- 61.9 The position cannot be filled permanently unless the above criteria are satisfied.
- 61.10 The employee does not cease to be employed by the Corporation if their position is permanently backfilled.
- 61.11 Subclause 61.8 of this clause does not apply to full-time unpaid parental leave granted in accordance with subparagraph 64.9.1(a) of clause 64, Parental Leave or to military leave.

62. Military Leave

- 62.1 During the period of 12 months commencing on 1 July each year, the Chief Executive Officer may grant to an employee who is a volunteer part-time member of the Defence Force, military leave on full pay to undertake compulsory annual training and to attend schools, classes or courses of instruction or compulsory parades conducted by the employee's unit.

- 62.2 In accordance with the *Defence Reserve Service (Protection) Act 2001 (Cth)*, it is unlawful to prevent an employee from rendering or volunteering to render, ordinary Defence Reserve Service.
- 62.3 Up to 24 working days military leave per financial year may be granted by the Chief Executive Officer to members of the Naval and Military Reserves and up to 28 working days per financial year to members of the Air Force Reserve for the activities specified in subclause 62.1 of this clause.
- 62.4 The Chief Executive Officer may grant an employee special leave of up to 1 day to attend medical examinations and tests required for acceptance as volunteer part time members of the Australian Defence Force.
- 62.5 An employee who is requested by the Australian Defence Force to provide additional military services requiring leave in excess of the entitlement specified in subclause 62.3 of this clause may be granted Military Leave Top Up Pay by the Chief Executive Officer.
- 62.6 Military Leave Top Up Pay is calculated as the difference between an employee's ordinary pay as if they had been at work, and the Reservist's pay which they receive from the Commonwealth Department of Defence.
- 62.7 During a period of Military Leave Top up Pay, an employee will continue to accrue sick leave, recreation and extended leave entitlements, and Corporations are to continue to make superannuation contributions at the normal rate.
- 62.8 At the expiration of military leave in accordance with subclause 62.3 or 62.4 of this clause, the employee shall furnish to the Chief Executive Officer a certificate of attendance and details of the employees reservist pay signed by the commanding officer or other responsible officer.

63. Observance of Essential Religious or Cultural Obligations

- 63.1 An employee of:
- 63.1.1 Any religious faith who seeks leave for the purpose of observing essential religious obligations of that faith; or
- 63.1.2 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, flex leave or leave without pay to do so.
- 63.2 Provided adequate notice as to the need for leave is given by the employee to the Corporation and it is operationally convenient to release the employee from duty, the Chief Executive Officer must grant the leave applied for by the employee in terms of this clause.
- 63.3 An employee 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, subject to:
- 63.3.1 Adequate notice being given by the employee;
- 63.3.2 Prior approval being obtained by the employee; and
- 63.3.3 The time off being made up in the manner approved by the Chief Executive Officer.
- 63.4 Notwithstanding the provisions of subclauses 63.1, 63.2 and 63.3 of this clause, arrangements may be negotiated between the Corporation and the Association to provide greater flexibility for employees for the observance of essential religious or cultural obligations.

64. Parental Leave

- 64.1 Parental leave includes maternity, adoption and "other parent" leave.

- 64.2 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:
- 64.2.1 For a period up to 9 weeks prior to the expected date of birth; and
 - 64.2.2 For a further period of up to 12 months after the actual date of birth.
 - 64.2.3 An employee who has been granted maternity leave and whose child is stillborn may elect to take available sick leave instead of maternity leave.
- 64.3 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:
- 64.3.1 For a period of up to 12 months if the child has not commenced school at the date of the taking of custody; or
 - 64.3.2 For such period, not exceeding 12 months on a full-time basis, as the Chief Executive Officer may determine, if the child has commenced school at the date of the taking of custody.
 - 64.3.3 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 a charge against recreation leave, extended leave, flexitime or family and community service leave.
- 64.4 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:
- 64.4.1 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;
 - 64.4.2 Extended other parent leave - for a period not exceeding 12 months, less any short other parental leave already taken by the employee as provided for in paragraph 64.4.1 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.
- 64.5 An employee taking maternity or adoption leave is entitled to payment at the ordinary rate of pay for a period of up to 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:
- 64.5.1 applied for parental leave within the time and in the manner determined set out in subclause 64.10 of this clause; and
 - 64.5.2 prior to the commencement of parental leave, completed not less than 40 weeks' continuous service.
 - 64.5.3 Payment for the 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.
- 64.6 Payment for parental 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:
- 64.6.1 at the full time rate if they began part time leave 40 weeks or less before starting parental leave;

- 64.6.2 at the part time rate if they began part time leave more than 40 weeks before starting parental leave and have not changed their part time work arrangements for the 40 weeks;
- 64.6.3 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.
- 64.7 An employee who commences a subsequent period of maternity or adoption leave for another child within 24 months of commencing an initial period of maternity or adoption leave will be paid:
- 64.7.1 at the rate (full time or part time) they were paid before commencing the initial leave if they have not returned to work; or
- 64.7.2 at a rate based on the hours worked before the initial leave was taken, where the employee has returned to work and reduced their hours during the 24 month period; or
- 64.7.3 at a rate based on the hours worked prior to the subsequent period of leave where the employee has not reduced their hours.
- 64.8 Except as provided in subclauses 64.5, 64.6 and 64.7 of this clause parental leave shall be granted without pay.
- 64.9 Right to request
- 64.9.1 An employee who has been granted parental leave in accordance with subclauses 64.2, 64.3 or 64.4 of this clause may make a request to the Chief Executive Officer to:
- (a) extend the period of unpaid parental leave for a further continuous period of leave not exceeding 12 months;
 - (b) return from a period of full time parental leave on a part time basis until the child reaches school age (Note: returning to work from parental leave on a part time basis includes the option of returning to work on part time leave without pay);
- to assist the employee in reconciling work and parental responsibilities.
- 64.9.2 The Chief Executive Officer 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 Chief Executive Officer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.
- 64.10 Notification Requirements
- 64.10.1 When the Corporation is made aware that an employee or their spouse is pregnant or is adopting a child, the Corporation must inform the employee of their entitlements and their obligations under the award.
- 64.10.2 An employee who wishes to take parental leave must notify the Chief Executive Officer in writing at least 8 weeks (or as soon as practicable) before the expected commencement of parental leave:
- (a) that she/he intends to take parental 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 64.9 of this clause.

- 64.10.3 At least 4 weeks before an employee's expected date of commencing parental leave they must advise:
- (a) the date on which the parental leave is intended to start, and
 - (b) the period of leave to be taken.
- 64.10.4 The employee's request and the Chief Executive Officer's decision are to be in writing.
- The employee's request under paragraph 64.9.1 and the Chief Executive Officer's decision made under paragraph 64.9.2 must be recorded in writing.
- 64.10.5 A employee intending to request to return from parental leave on a part time basis or seek an additional period of leave of up to 12 months must notify the Chief Executive Officer in writing as soon as practicable and preferably before beginning 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 Chief Executive Officer agrees.
- 64.10.6 An employee on maternity leave is to notify the Corporation of the date on which she gave birth as soon as she can conveniently do so.
- 64.10.7 An employee must notify the Corporation as soon as practicable of any change in her intentions as a result of premature delivery or miscarriage.
- 64.10.8 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 Chief Executive Officer decides otherwise.
- 64.11 An employee has the right to her/his former position if she/he has taken approved leave or part time work in accordance with subclause 64.9 of this clause, and she/he resumes duty immediately after the approved leave or work on a part time basis.
- 64.12 If the position occupied by the employee immediately prior to the taking of parental 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 and classification as the employee's former position.
- 64.13 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 Chief Executive Officer 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.
- 64.14 An employee who has returned to full time duty without exhausting their entitlement to 12 months unpaid parental 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 Corporation) must be given.
- 64.15 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 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.
- 64.16 An employee may elect to take available recreation leave or extended leave within the period of parental leave provided this does not extend the total period of such leave.
- 64.17 An employee may elect to take available recreation leave at half pay in conjunction with parental leave provided that:

- 64.17.1 accrued recreation leave at the date leave commences is exhausted within the period of parental leave;
- 64.17.2 the total period of parental leave is not extended by the taking of recreation leave at half pay;
- 64.17.3 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.
- 64.18 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 Chief Executive Officer, should, in consultation with the employee, 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.
- 64.19 If such adjustments cannot reasonably be made, the Chief Executive Officer 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.
- 64.20 Communication during parental leave
- 64.20.1 Where an employee is on parental 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 parental 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 parental leave.
- 64.20.2 The employee shall take reasonable steps to inform the Chief Executive Officer 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.
- 64.20.3 The employee shall also notify the Chief Executive Officer of changes of address or other contact details which might affect the Corporation's capacity to comply with paragraph 64.20.1 of this subclause.

65. Purchased Leave

- 65.1 An employee may apply to enter into an agreement with the Chief Executive Officer to purchase either 10 days (2 weeks) or 20 days (4 weeks) additional leave in a 12 month period.
- 65.1.1 Each application will be considered subject to operational requirements and personal needs and will take into account Corporation business needs and work demands.
- 65.1.2 The leave must be taken in the 12 month period specified in the Purchased Leave Agreement and will not attract any leave loading.
- 65.1.3 The leave will count as service for all purposes.
- 65.2 The purchased leave will be funded through the reduction in the employee's ordinary rate of pay.

- 65.2.1 Purchased leave rate of pay means the rate of pay an employee receives when their ordinary salary rate has been reduced to cover the cost of purchased leave.
- 65.2.2 To calculate the purchased leave rate of pay, the employee's ordinary salary rate will be reduced by the number of weeks of purchased leave and then annualised at a pro rata rate over the 12 month period.
- 65.3 Purchased leave is subject to the following provisions:
- 65.3.1 The purchased leave cannot be accrued and will be refunded where it has not been taken in the 12 month period.
- 65.3.2 Other leave taken during the 12 month purchased leave agreement period i.e. sick leave, recreation leave, extended leave or leave in lieu will be paid at the purchased leave rate of pay.
- 65.3.3 Sick leave cannot be taken during a period of purchased leave.
- 65.3.4 The purchased leave rate of pay will be the salary for all purposes including superannuation and shift loadings.
- 65.3.5 Overtime and salary related allowances not paid during periods of recreation leave will be calculated using the employee's hourly rate based on the ordinary rate of pay.
- 65.3.6 Higher Duties Allowance will not be paid when a period of purchased leave is taken.
- 65.4 Specific conditions governing purchased leave may be amended from time to time by the DPE in consultation with the Association. The Corporation may make adjustments relating to their salary administration arrangements.

66. Recreation Leave

- 66.1 Accrual
- 66.1.1 Except where stated otherwise in this award, paid recreation leave for full time employees and recreation leave for employees working part time, accrues at the rate of 20 working days per year. Employees 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.
- 66.1.2 Recreation leave accrues from day to day.
- 66.2 Limits on Accumulation and Direction to Take Leave
- 66.2.1 At least two (2) consecutive weeks of recreation leave shall be taken by an employee every 12 months, except by agreement with the Chief Executive Officer in special circumstances.
- 66.2.2 Where the operational requirements permit, the application for leave shall be dealt with by the Chief Executive Officer according to the wishes of the employee.
- 66.2.3 The Chief Executive Officer shall notify the employee in writing when accrued recreation leave reaches 6 weeks or its hourly equivalent and at the same time may direct an employee to take at least 2 weeks recreation leave within 3 months of the notification at a time convenient to the Corporation.
- 66.2.4 The Chief Executive Officer shall notify the employee in writing when accrued recreation leave reaches 8 weeks or its hourly equivalent and direct the employee 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.

- 66.2.5 An employee must take their recreation leave to reduce all balances below 8 weeks or its hourly equivalent, and the Corporation must cooperate in this process. The Corporation may direct an employee with more than 8 weeks to take their recreation leave so that it is reduced to below 8 weeks by the beginning of February of the following year.
- 66.3 Conservation of Leave - If the Chief Executive Officer is satisfied that an employee 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 shall:-
- 66.3.1 Specify in writing the period of time during which the excess leave shall be conserved; and
- 66.3.2 On the expiration of the period during which conservation of leave applies, grant sufficient leave to the employee at a mutually convenient time to enable the accrued leave to be reduced to an acceptable level below the 8 week limit.
- 66.3.3 The Chief Executive Officer will inform an employee in writing on a regular basis of the employee's recreation leave accrual.
- 66.4 Miscellaneous
- 66.4.1 Unless a local arrangement has been negotiated between the Chief Executive Officer and the Association, recreation leave is not to be granted for a period less than a quarter-day or in other than multiples of a quarter day.
- 66.4.2 Recreation leave for which an employee is eligible on cessation of employment is to be calculated to a quarter day (fractions less than a quarter being rounded up).
- 66.4.3 Recreation leave does not accrue to an employee in respect of any period of absence from duty without leave or without pay, except as specified in paragraph 66.4.4 of this subclause.
- 66.4.4 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.
- 66.4.5 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 66.4.4 of this subclause shall be calculated to an exact quarter-day (fractions less than a quarter being rounded down).
- 66.4.6 Recreation leave accrues at half its normal accrual rate during periods of extended leave on half pay or recreation leave taken on half pay.
- 66.4.7 Recreation leave may be taken on half pay in conjunction with and subject to the provisions applying to adoption, maternity or parental leave - see clause 64, Parental Leave, of this award.
- 66.4.8 On cessation of employment, an employee is entitled to be paid the money value of accrued recreation leave which remains untaken.
- 66.4.9 An employee to whom paragraph 66.4.8 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.
- 66.5 Death - Where an employee dies, the monetary value of recreation leave accrued and remaining untaken as at the date of death, shall be paid to the employee's nominated beneficiary.

- 66.6 Where no beneficiary has been nominated, the monetary value of recreation leave is to be paid as follows:
- 66.6.1 To the widow or widower of the employee; or
 - 66.6.2 If there is no widow or widower, to the children of the employee 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
 - 66.6.3 If there is no such widow, widower or children, to the person who, in the opinion of the Chief Executive Officer was, at the time of the employee's death, a dependent relative of the employee; or
 - 66.6.4 If there is no person entitled under paragraphs 66.6.1, 66.6.2 or 66.6.3 of this subclause to receive the money value of any leave not taken or not completed by an employee or which would have accrued to the employee, the payment shall be made to the personal representative of the employee.
- 66.7 Recreation leave does not accrue during leave without pay other than
- 66.7.1 military leave taken without pay when paid military leave entitlements are exhausted;
 - 66.7.2 absences due to natural emergencies or major transport disruptions, when all other paid leave is exhausted;
 - 66.7.3 any continuous period of sick leave taken without pay when paid sick leave is exhausted;
 - 66.7.4 incapacity for which compensation has been authorised under the *Workplace Injury Management and Workers Compensation Act 1998*; or
 - 66.7.5 periods which when aggregated, do not exceed 5 working days in any period of 12 months.

67. Annual Leave Loading

- 67.1 General - Unless more favourable conditions apply to an employee under another industrial instrument, an employee, other than a trainee who is paid by allowance, is entitled to be paid an annual leave loading as set out in this subclause. Subject to the provisions set out in subclauses 67.2 to 67.4 of this clause, the annual leave loading shall be 17½% on the monetary value of up to 4 weeks recreation leave accrued in a leave year.
- 67.2 Maximum Loading - Unless otherwise provided in an Award or Agreement under which the employee is paid, the annual leave loading payable shall not exceed the amount which would have been payable to an employee in receipt of salary equivalent to the maximum salary for a Grade 12 Clerk.
- 67.3 Leave year - 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.
- 67.4 Payment of annual leave loading - Payment of the annual leave loading shall be made on the recreation leave accrued during the previous leave year and shall be subject to the following conditions:
- 67.4.1 Annual leave loading shall be paid on the first occasion in a leave year, other than the first leave year of employment, when an employee takes at least two (2) consecutive weeks recreation leave. Where an employee does not have at least 2 weeks recreation leave available, the employee may use a combination of recreation leave and any of the following: public holidays, flex leave, extended leave, leave without pay, time off in lieu, rostered day off. The employee shall be paid the annual leave loading for such period, provided the absence is at least 2 weeks.

- 67.4.2 If at least two weeks leave, as set out in paragraph 67.4.1 of this subclause, is not taken in a leave year, then the payment of the annual leave loading entitlement for the previous leave year shall be made to the employee as at 30 November of the current year.
- 67.4.3 While annual leave loading shall not be paid in the first leave year of employment, it shall be paid on the first occasion in the second leave year of employment when at least two weeks leave, as specified in paragraph 67.4.1 of this subclause, is taken.
- 67.4.4 An employee who has not been paid the annual leave loading for the previous leave year, shall be paid such annual leave loading on resignation, retirement or termination by the Corporation for any reason other than the employee's serious and intentional misconduct.
- 67.4.5 Except in cases of voluntary redundancy, proportionate leave loading is not payable on cessation of employment.

68. Sick Leave

- 68.1 Illness in this clause and in clauses 69 and 70 of this award means physical or psychological illness or injury, medical treatment and the period of recovery or rehabilitation from an illness or injury.
- 68.2 Payment for sick leave is subject to the employee:
- 68.2.1 Informing their manager as soon as reasonably practicable that they are unable to perform duty because of illness. This must be done as close to the employee's starting time as possible; and
- 68.2.2 Providing evidence of illness as soon as practicable if required by clause 69, Sick Leave - Requirements for Evidence of Illness, of this award.
- 68.3 If the Chief Executive Officer is satisfied that an employee is unable to perform duty because of the employee's illness or the illness of his/her family member, the Chief Executive Officer:
- 68.3.1 Shall grant to the employee sick leave on full pay; and
- 68.3.2 May grant to the employee, sick leave without pay if the absence of the employee exceeds the entitlement of the employee under this award to sick leave on full pay.
- 68.4 The Chief Executive Officer may direct an employee to take sick leave if they are satisfied that, due to the employee's illness, the employee:
- 68.4.1 is unable to carry out their duties without distress; or
- 68.4.2 risks further impairment of their health by reporting for duty; or
- 68.4.3 is a risk to the health, wellbeing or safety of other employees, Corporational clients or members of the public.
- 68.5 The Chief Executive Officer may direct an employee to participate in a return to work program if the employee has been absent on a long period of sick leave.
- 68.6 Entitlements. Existing employees at 13 November 2008 commenced accruing sick leave in accordance with this clause from 1 January 2009 onwards.
- 68.6.1 At the commencement of employment with the Public Service, a full-time employee is granted an accrual of 5 days sick leave.
- 68.6.2 After the first four months of employment, the employee shall accrue sick leave at the rate of 10 working days per year for the balance of the first year of service.

- 68.6.3 After the first year of service, the employee shall accrue sick leave day to day at the rate of 15 working days per year of service.
- 68.6.4 All continuous service as an employee in the NSW public service shall be taken into account for the purpose of calculating sick leave due. Where the service in the NSW public service is not continuous, previous periods of public service shall be taken into account for the purpose of calculating sick leave due if the previous sick leave records are available.
- 68.6.5 Notwithstanding the provisions of paragraph 68.6.4 of this subclause, sick leave accrued and not taken in the service of a public sector employer may be accessed in terms of the Public Sector Staff Mobility Policy.
- 68.6.6 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.
- 68.6.7 When determining the amount of sick leave accrued, sick leave granted on less than full pay, shall be converted to its full pay equivalent.
- 68.6.8 Paid sick leave shall not be granted during a period of unpaid leave.
- 68.7 Payment during the initial 3 months of service - Paid sick leave which may be granted to an employee, other than a seasonal or relief employee, in the first 3 months of service shall be limited to 5 days paid sick leave, unless the Chief Executive Officer approves otherwise. Paid sick leave in excess of 5 days granted in the first 3 months of service shall be supported by a satisfactory medical certificate.
- 68.8 Seasonal or relief staff - No paid sick leave shall be granted to temporary employees who are employed as seasonal or relief staff for a period of less than 3 months.

69. Sick Leave - Requirements for Evidence of Illness

- 69.1 An employee absent from duty for more than 2 consecutive working days because of illness must furnish evidence of illness to the Chief Executive Officer in respect of the absence.
- 69.2 In addition to the requirements under subclause 68.2 of clause 68, Sick Leave, of this award, an employee may absent themselves for a total of 5 working days per annum due to illness without the provision of evidence of illness to the Chief Executive Officer. Employees who absent themselves in excess of 5 working days in a year may be required to furnish evidence of illness to the Chief Executive Officer for each occasion absent for the balance of the calendar year.
- 69.3 As a general practice backdated medical certificates will not be accepted. However, if an employee provides evidence of illness that only covers the latter part of the absence, they can be granted sick leave for the whole period if the Chief Executive Officer is satisfied that the reason for the absence is genuine.
- 69.4 If an employee is required to provide evidence of illness for an absence of 2 consecutive working days or less, the Chief Executive Officer will advise them in advance.
- 69.5 If the Chief Executive Officer is concerned about the diagnosis described in the evidence of illness produced by the employee, after discussion with the employee, the evidence provided and the employee's application for leave can be referred to the Department of Health for advice.
- 69.5.1 The type of leave granted to the employee will be determined by the Chief Executive Officer based on Department of Health advice.
- 69.5.2 If sick leave is not granted, the Chief Executive Officer will, as far as practicable, take into account the wishes of the employee when determining the type of leave granted.
- 69.6 The granting of paid sick leave shall be subject to the employee providing evidence which indicates the nature of illness or injury and the estimated duration of the absence. If an employee is concerned about

disclosing the nature of the illness to their manager, they may elect to have the application for sick leave dealt with confidentially by an alternate manager or the human resources section of the Corporation.

69.7 The reference in this clause to evidence of illness shall apply, as appropriate:

69.7.1 up to one week may be provided by a registered dentist, optometrist, chiropractor, osteopath, physiotherapist, oral and maxillo facial surgeon or, at the Chief Executive Officer's discretion, another registered health services provider, or

69.7.2 where the absence exceeds one week, and unless the health provider listed in paragraph 69.7.1 of this subclause is also a registered medical practitioner, applications for any further sick leave must be supported by evidence of illness from a registered medical practitioner, or

69.7.3 at the Chief Executive Officer's discretion, other forms of evidence that satisfy that an employee had a genuine illness.

69.8 If an employee who is absent on recreation leave or extended leave, furnishes to the Chief Executive Officer satisfactory evidence of illness in respect of an illness which occurred during the leave, the Chief Executive Officer may, subject to the provisions of this clause, grant sick leave to the employee as follows:

69.8.1 In respect of recreation leave, the period set out in the evidence of illness;

69.8.2 In respect of extended leave, the period set out in the evidence of illness if such period is 5 working days or more.

69.9 Subclause 69.8 of this clause applies to all employees other than those on leave prior to resignation or termination of services, unless the resignation or termination of services amounts to a retirement.

70. Sick Leave to Care for a Family Member

70.1 Where family and community service leave provided for in clause 60 of this award is exhausted or unavailable, an employee with responsibilities in relation to a category of person set out in subclause 70.4 of this clause who needs the employee's care and support, may elect to use available paid sick leave, subject to the conditions specified in this clause, to provide such care and support when a family member is ill.

70.2 The sick leave shall initially be taken from the sick leave accumulated over the previous 3 years. In special circumstances, the Chief Executive Officer may grant additional sick leave from the sick leave accumulated during the employee's eligible service.

70.3 If required by the Chief Executive Officer to establish the illness of the person concerned, the employee must provide evidence consistent with subclause 69.6 of clause 69, Sick Leave - Requirements for Evidence of Illness, of this award.

70.4 The entitlement to use sick leave in accordance with this clause is subject to:

70.4.1 The employee being responsible for the care and support of the person concerned; and

70.4.2 The person concerned being:

(a) a spouse of the employee; or

(b) a de facto spouse being a person of the opposite sex to the employee who lives with the employee as her husband or his wife on a bona fide domestic basis although not legally married to that employee; 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 or legal guardian), grandparent, grandchild or sibling of the employee or of the 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 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.

71. Sick Leave - Workers Compensation

- 71.1 The Chief Executive Officer shall advise each employee 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.
- 71.2 A employee who is or becomes unable to attend for duty or to continue on duty in circumstances which may give the employee a right to claim compensation under the *Workers Compensation Act 1987* shall be required to lodge a claim for any such compensation.
- 71.3 Where, due to the illness or injury, the employee is unable to lodge such a claim in person, the Chief Executive Officer shall assist the employee or the representative of the employee, as required, to lodge a claim for any such compensation.
- 71.4 The Chief Executive Officer will ensure that, once received by the Corporation, an employee's workers compensation claim is lodged by the Corporation with the workers compensation insurer within the statutory period prescribed in the *Workers Compensation Act 1987*.
- 71.5 Pending the determination of that claim and on production of an acceptable medical certificate, the Chief Executive Officer shall grant sick leave on full pay for which the employee is eligible followed, if necessary, by sick leave without pay or, at the employee's election by accrued recreation leave or extended leave.
- 71.6 If liability for the workers compensation claim is accepted, then an equivalent period of any sick leave taken by the employee pending acceptance of the claim shall be restored to the credit of the employee.
- 71.7 An employee 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 employee's ordinary rate of pay. Sick leave utilised in this way shall be debited against the employee.
- 71.8 If an employee notifies the Chief Executive Officer that he or she does not intend to make a claim for any such compensation, the Chief Executive Officer shall consider the reasons for the employee's decision and shall determine whether, in the circumstances, it is appropriate to grant sick leave in respect of any such absence.
- 71.9 An employee 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. If an employee refuses to submit to a medical examination without an acceptable reason, the employee shall not be granted available sick

leave on full pay until the examination has occurred and a medical certificate is issued indicating that the employee is not fit to resume employment.

- 71.10 If the Chief Executive Officer provides the employee with employment which meets the terms and conditions specified in the medical certificate issued under the *Workers Compensation Act 1987* and the *Workplace Injury Management and Workers Compensation Act 1998* and, without good reason, the employee fails, to resume or perform such duties, the employee shall be ineligible for all payments in accordance with this clause from the date of the refusal or failure.
- 71.11 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*.
- 71.12 Nothing in this clause prevents an employee from appealing a decision or taking action under other legislation made in respect of:
- 71.12.1 The employee's claim for workers compensation;
 - 71.12.2 The conduct of a medical examination by a Government or other Medical Officer;
 - 71.12.3 A medical certificate issued by the examining Government or other Medical Officer; or
 - 71.12.4 Action taken by the Chief Executive Officer 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.

72. Sick Leave - Claims Other than Workers Compensation

- 72.1 If the circumstances of any injury to or illness of an employee 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 employee on completion of an acceptable undertaking that:-
- 72.1.1 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 employee; and
 - 72.1.2 In the event that the employee receives or recovers damages or compensation pursuant to that claim for loss of salary or wages during any such period of sick leave, the employee will repay to the Corporation the monetary value of any such period of sick leave.
- 72.2 Sick leave on full pay shall not be granted to an employee who refuses or fails to complete an undertaking, except in cases where the Chief Executive Officer is satisfied that the refusal or failure is unavoidable.
- 72.3 On repayment to the Corporation of the monetary value of sick leave granted to the employee, sick leave equivalent to that repayment and calculated at the employee's ordinary rate of pay, shall be restored to the credit of the employee.

73. Special Leave

- 73.1 Special Leave - Jury Service
- 73.1.1 An employee shall, as soon as possible, notify the Chief Executive Officer of the details of any jury summons served on the employee.
 - 73.1.2 A employee 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 a certificate of attendance issued by the Sheriff or by the Registrar of the court giving particulars of attendances by the employee during any such period and the details of any

payment or payments made to the employee under section 72 of the *Jury Act 1977* in respect of any such period.

- 73.1.3 When a certificate of attendance on jury service is received in respect of any period during which an employee was required to be on duty, the Chief Executive Officer shall grant, in respect of any such period for which the employee has been paid out-of-pocket expenses only, special leave on full pay. In any other case, the Chief Executive Officer shall grant, at the sole election of the employee, available recreation leave on full pay, flex leave or leave without pay.
- 73.2 Witness at Court - Official Capacity - When an employee is subpoenaed or called as a witness in an official capacity, the employee shall be regarded as being on duty. Salary and any expenses properly and reasonably incurred by the employee in connection with the employee's appearance at court as a witness in an official capacity shall be paid by the Corporation.
- 73.3 Witness at Court - Other than in Official Capacity - Crown Witness - An employee 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:
- 73.3.1 Be granted, for the whole of the period necessary to attend as such a witness, special leave on full pay; and
- 73.3.2 Pay into the Treasury of the State of New South Wales all money paid to the employee 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.
- 73.3.3 Association Witness - an employee called by the Association to give evidence before an Industrial Tribunal or in another jurisdiction shall be granted special leave by the Corporation for the required period.
- 73.4 Called as a witness in a private capacity - An employee 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 employee's election, available recreation leave on full pay or leave without pay.
- 73.5 Special Leave - Examinations -
- 73.5.1 Special leave on full pay up to a maximum of 5 days in any one year shall be granted to employees for the purpose of attending at any examination approved by the Chief Executive Officer.
- 73.5.2 Special leave granted to attend examinations shall include leave for any necessary travel to or from the place at which the examination is held.
- 73.5.3 If an examination for a course of study is held during term or semester within the normal class timetable and study time has been granted to the employee, no further leave is granted for any examination.
- 73.6 Special Leave - Union Activities - Special leave on full pay may be granted to employees who are accredited Association delegates to undertake Association activities as provided for in clause 43, Trade Union Activities Regarded as Special Leave of this award.
- 73.7 An employee who identifies as an Indigenous Australian shall be granted up to one day special leave per year to enable the employee to participate in the National Aborigines and Islander Day of Commemoration Celebrations. Leave can be taken at any time during NAIDOC week, or in the weeks leading up to and after NAIDOC week as negotiated between the supervisor and employee.
- 73.8 Special Leave - Other Purposes - Special leave on full pay may be granted to employees by the Chief Executive Officer for such other purposes, subject to the conditions specified in the Personnel Handbook at the time the leave is taken.

SECTION 7 - TRAINING AND PROFESSIONAL DEVELOPMENT**74. Staff Development and Training Activities**

- 74.1 For the purpose of this clause, the following shall be regarded as staff development and training activities:
- 74.1.1 All staff development courses conducted by a NSW Public Sector organisation;
 - 74.1.2 Short educational and training courses conducted by generally recognised public or private educational bodies; and
 - 74.1.3 Conferences, conventions, seminars, or similar activities conducted by professional, learned or other generally recognised societies, including Federal or State Government bodies.
- 74.2 For the purposes of this clause, the following shall not be regarded as staff development and training activities:
- 74.2.1 Activities for which study assistance is appropriate;
 - 74.2.2 Activities to which other provisions of this award apply (e.g. courses conducted by the Association); and
 - 74.2.3 Activities which are of no specific relevance to the NSW Public Sector.
- 74.3 Attendance of an employee at activities considered by the Chief Executive Officer to be:
- 74.3.1 Essential for the efficient operation of the Corporation; or
 - 74.3.2 Developmental and of benefit to the NSW public sector
- shall be regarded as on duty for the purpose of payment of salary if an employee attends such an activity during normal working hours.
- 74.4 The following provisions shall apply, as appropriate, to the activities considered to be essential for the efficient operation of the Corporation:
- 74.4.1 Recognition that the employees are performing normal duties during the course;
 - 74.4.2 Adjustment for the hours so worked under flexible working hours;
 - 74.4.3 Payment of course fees;
 - 74.4.4 Payment 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
 - 74.4.5 Payment of overtime where the activity could not be conducted during the employee's normal hours and the Chief Executive Officer is satisfied that the approval to attend constitutes a direction to work overtime under clause 76, Overtime - General of this award.
- 74.5 The following provisions shall apply, as appropriate, to the activities considered to be developmental and of benefit to the Corporation:
- 74.5.1 Recognition of the employee as being on duty during normal working hours whilst attending the activity;
 - 74.5.2 Payment of course fees;

- 74.5.3 Reimbursement of any actual necessary expenses incurred by the employee for travel costs, meals and accommodation, provided that the expenses have not been paid as part of the course fee; and
- 74.5.4 Such other conditions as may be considered appropriate by the Chief Executive Officer given the circumstances of attending at the activity, such as compensatory leave for excess travel or payment of travelling expenses.
- 74.6 Where the training activities are considered to be principally of benefit to the employee and of indirect benefit to the public service, special leave of up to 10 days per year shall be granted to an employee. If additional leave is required and the Chief Executive Officer is able to release the employee, such leave shall be granted as a charge against available flex leave, recreation/extended leave or as leave without pay.
- 74.7 Higher Duties Allowance - Payment of a higher duties allowance is to continue where the employee attends a training or developmental activity whilst on duty in accordance with this clause.

75. Study Assistance

- 75.1 The Chief Executive Officer shall have the power to grant or refuse study time for an employee.
- 75.2 Where the Chief Executive Officer approves the grant of study time for an employee, the grant shall be subject to:
- 75.2.1 The course undertaken by the employee being a course relevant to the Corporation and/or the public service and approved by the Chief Executive Officer;
- 75.2.2 The time being taken at the convenience of the Corporation; and
- 75.2.3 Paid study time not exceeding a maximum of 4 hours per week, to accrue on the basis of half an hour for each hour of class attendance.
- 75.3 Study time may be granted to both full and part-time employees. Part-time employees however shall be entitled to a pro-rata allocation of study time to that of a full-time employee.
- 75.4 Study time may be used for:
- 75.4.1 Attending compulsory lectures, tutorials, residential schools, field days etc., where these are held during working hours; and/or
- 75.4.2 Necessary travel during working hours to attend lectures, tutorials etc., held during or outside working hours; and/or
- 75.4.3 Private study; and/or
- 75.4.4 Accumulation, subject to the conditions specified in subclauses 75.6 to 75.9 of this clause.
- 75.5 Employees 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: -
- 75.5.1 Face-to-Face - Employees may elect to take weekly and/or accrued study time, subject to the provisions for its grant.
- 75.5.2 Correspondence - Employees may elect to take weekly and/or accrued study time, or time off to attend compulsory residential schools.
- 75.5.3 Accumulation - Employees may choose to accumulate part or all of their study time as provided in subclauses 75.6 to 75.9 of this clause.

- 75.6 Accumulated study time may be taken in any manner or at any time, subject to operational requirements of the Corporation.
- 75.7 Where at the commencement of an academic year/semester an employee elects to accrue study time and that employee has consequently foregone the opportunity of taking weekly study time, the accrued period of time off must be granted even if changed work circumstances mean absence from duty would be inconvenient.
- 75.8 Employees 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.
- 75.9 Where an employee is employed after the commencement of the academic year, weekly study time may be granted with the option of electing to accrue study time from 1st July in the year of entry on duty or from the next academic year, whichever is the sooner.
- 75.10 Employees studying in semester based courses may vary their election as to accrual or otherwise from semester to semester.
- 75.11 Correspondence Courses - Study time for employees 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.
- 75.12 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.
- 75.13 Repeated subjects - Study time shall not be granted for repeated subjects.
- 75.14 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.
- 75.15 Examination Leave - Examination leave shall be granted as special leave for all courses of study approved in accordance with this clause.
- 75.16 The period granted as examination leave shall include:
- 75.16.1 Time actually involved in the examination;
- 75.16.2 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 employee.
- 75.17 The examination leave shall be granted for deferred examinations and in respect of repeat studies.
- 75.18 Study Leave - Study leave for full-time study is granted to assist those employees 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.
- 75.19 All employees are eligible to apply and no prior service requirements are necessary.
- 75.20 Study leave shall be granted without pay, except where the Chief Executive Officer approves financial assistance. The extent of financial assistance to be provided shall be determined by the Chief Executive Officer according to the relevance of the study to the workplace and may be granted up to the amount equal to full salary.

- 75.21 Where financial assistance is approved by the Chief Executive Officer 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 employee.
- 75.22 Scholarships for Part-Time Study - In addition to the study time/study leave provisions under this clause, 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.

SECTION 8 - OVERTIME

76. Overtime - General

- 76.1 An employee may be directed by the Chief Executive Officer to work overtime, provided it is reasonable for the employee to be required to do so. An employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working unreasonable hours. In determining what is unreasonable, the following factors shall be taken into account:
- 76.1.1 The employee's prior commitments outside the workplace, particularly the employee's family and carer responsibilities, community obligations or study arrangements,
 - 76.1.2 Any risk to employee health and safety,
 - 76.1.3 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,
 - 76.1.4 The notice (if any) given by the Chief Executive Officer regarding the working of the overtime, and by the employee of their intention to refuse overtime, or
 - 76.1.5 Any other relevant matter.
- 76.2 Payment for overtime shall be made only where the employee works directed overtime.
- 76.3 Where a flexible working hours scheme is in operation, overtime shall be deemed as the hours directed to be worked before or after bandwidth or before or after the time specified in a local arrangement provided that, on the day when overtime is required to be performed, the employee shall not be required by the Chief Executive Officer to work more than 7 hours after finishing overtime or before commencing overtime.
- 76.4 Payment for overtime worked shall not be made under this clause if the employee is eligible, under any other industrial instrument, to:
- 76.4.1 Compensation specifically provided for overtime; or
 - 76.4.2 Be paid an allowance for overtime; or
 - 76.4.3 A rate of salary which has been determined as inclusive of overtime.

77. Overtime Worked by Day Workers

- 77.1 The provisions of this clause shall not apply to:
- 77.1.1 Employees covered by formal local arrangements in respect of overtime negotiated between the Chief Executive Officer and the Association;
 - 77.1.2 Employees to whom overtime provisions apply under another industrial instrument;
 - 77.1.3 Employees whose salary includes compensation for overtime; and

- 77.1.4 Employees who receive an allowance in lieu of overtime.
- 77.2 Rates - Overtime shall be paid at the following rates:
- 77.2.1 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 employee's ordinary hours of duty, if working standard hours, or outside the bandwidth, if working under a flexible working hours scheme, unless local arrangements apply;
- 77.2.2 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;
- 77.2.3 Sundays - All overtime worked on a Sunday at the rate of double time;
- 77.2.4 Public Holidays - All overtime worked on a public holiday at the rate of double time and one half.
- 77.3 If an employee 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 employee has been granted leave of absence or the absence has been caused by circumstances beyond the employee's control.
- 77.4 An employee who works overtime on a Saturday, Sunday or public holiday shall be paid a minimum payment as for three (3) hours work at the appropriate rate.
- 77.5 Rest Periods
- 77.5.1 An employee who works overtime shall be entitled to be absent until eight (8) consecutive hours have elapsed.
- 77.5.2 Where an employee, at the direction of the supervisor, resumes or continues work without having had eight (8) consecutive hours off duty then such employee shall be paid at the appropriate overtime rate until released from duty. The employee shall then be entitled to eight (8) consecutive hours off duty and shall be paid for the ordinary working time occurring during the absence.

78. Overtime Meal Breaks

- 78.1 Employees not working flexible hours - An employee required to work overtime on weekdays for an hour and a half or more after the employee'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.
- 78.2 Employee working flexible hours - An employee 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.
- 78.3 Employees Generally - An employee 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. An employee 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.

79. Overtime Meal Allowances

- 79.1 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 the prevailing ATO ruling, provided the Chief Executive Officer is satisfied that:
- 79.1.1 the time worked is directed overtime;

- 79.1.2 the employee properly and reasonably incurred expenditure in obtaining the meal in respect of which the allowance is sought;
- 79.1.3 where the employee was able to cease duty for at least 30 minutes before or during the working of overtime to take the meal, the employee did so; and
- 79.1.4 overtime is not being paid in respect of the time taken for a meal break.
- 79.2 Where an allowance payable under this clause is insufficient to reimburse the employee the cost of a meal, properly and reasonably incurred, the Chief Executive Officer shall approve payment of actual expenses.
- 79.3 Where a meal was not purchased, payment of a meal allowance shall not be made.
- 79.4 Receipts shall be provided to the Chief Executive Officer or his/her delegate in support of any claims for additional expenses or when the employee is required to substantiate the claim.
- 79.5 Notwithstanding the above provisions, nothing in this clause shall prevent the Chief Executive Officer and the Association from negotiating different meal provisions under a local arrangement.

80. Rate of Payment for Overtime

An employee whose salary, or salary and allowance in the nature of salary, exceeds the maximum rate for Clerk Grade 8 (as set out in the Crown Employees (Public Sector - Salaries 2018) Award and any variation or replacement award), as varied from time to time, shall be paid for working directed overtime at the maximum rate for Clerk, Grade 8 plus \$1.00, unless the Chief Executive Officer approves payment for directed overtime at the employee's salary or, where applicable, salary and allowance in the nature of salary.

81. Payment for Overtime or Leave in Lieu

- 81.1 the Chief Executive Officer shall grant compensation for directed overtime worked either by payment at the appropriate rate or, if the employee so elects, by the grant of leave in lieu in accordance with subclause 81.2 of this clause.
- 81.2 The following provisions shall apply to the leave in lieu: -
- 81.2.1 The employee shall advise the supervisor before the overtime is worked or as soon as practicable on completion of overtime, that the employee intends to take leave in lieu of payment.
- 81.2.2 The leave shall be calculated at the same rate as would have applied to the payment of overtime in terms of this clause.
- 81.2.3 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 clause 70, Sick Leave to Care for a Sick Family Member, of this award apply.
- 81.2.4 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 in the employee's Corporation or section;
- 81.2.5 Leave in lieu accrued in respect of overtime shall be given by the Corporation and taken by the employee within three months of accrual unless alternate local arrangements have been negotiated between the Chief Executive Officer and the Association.
- 81.2.6 An employee shall be paid for the balance of any overtime entitlement not taken as leave in lieu.

82. Calculation of Overtime

- 82.1 Unless a minimum payment in terms of subclause 77.4 of clause 77, Overtime Worked by Day Workers, of this award applies, overtime shall not be paid if the total period of overtime worked is less than a quarter of an hour.
- 82.2 The formula for the calculation of overtime at ordinary rates for employees employed on a five (5) day basis shall be:
- $$\frac{\text{Annual Salary}}{1} \times \frac{5}{260.89} \times \frac{1}{\text{No of ordinary hours of work per week}}$$
- 82.3 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.
- 82.4 Overtime is not payable for time spent travelling.

83. Provision of Transport in Conjunction with Working of Overtime

- 83.1 For the purpose of this clause, departure or arrival after 8.00 p.m. will determine whether the provisions of this clause apply.

Departure or arrival after 8.00 p.m. of an employee on overtime does not in itself warrant the provision of transport. It needs to be demonstrated that the normal means of transport, public or otherwise, is not reasonably available and/or that travel by such means of transport places the safety of the employee at risk.

The responsibility of deciding whether the provision of assistance with transport is warranted in the circumstances set out above rests with administrative units of Corporations where knowledge of each particular situation will enable appropriate judgements to be made.

- 83.2 Arrangement of Overtime

Where overtime is required to be performed, it should be arranged, as far as is reasonably possible, so that the employee can use public transport or other normal means of transport to and from work.

- 83.3 Provision of Taxis

Where an employee ceases overtime duty after 8.00 p.m. and public transport or other normal means of transport is not reasonably available, arrangements may be made for transport home or to be provided by way of taxi.

SECTION 9 - MISCELLANEOUS

84. Anti-Discrimination

- 84.1 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.
- 84.2 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.
- 84.3 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.

84.4 Nothing in this clause is to be taken to affect:

84.4.1 Any conduct or act which is specifically exempted from anti-discrimination legislation;

84.4.2 Offering or providing junior rates of pay to persons under 21 years of age;

84.4.3 Any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*;

84.4.4 A party to this award from pursuing matters of unlawful discrimination in any State or federal jurisdiction.

84.5 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.

84.5.1 Employers and employees may also be subject to Commonwealth anti-discrimination legislation.

84.5.2 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."

85. Secure Employment

85.1 Objective of this Clause

The objective of this clause is for the Corporation to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the Corporation's workforce, in particular by ensuring that any casual employees have an opportunity to elect to become full-time or part-time employees.

85.2 Casual Conversion

85.2.1 A casual employee engaged by the Corporation 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.

85.2.2 Where the Corporation employs such a casual employee, the Corporation shall give the employee notice in writing of the provisions of this subclause 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 Corporation fails to comply with this notice requirement.

85.2.3 Any casual employee who has a right to elect under paragraph 85.2.1, upon receiving notice under paragraph 85.2.2 or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the Chief Executive Officer 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 Chief Executive Officer shall consent to or refuse the election, but shall not unreasonably so refuse. Where the Chief Executive Officer 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.

85.2.4 Any casual employee who does not, within four weeks of receiving written notice from the Chief Executive Officer, 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.

85.2.5 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 Chief Executive Officer.

85.2.6 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 85.2.3, the Chief Executive Officer and employee shall, in accordance with this paragraph, and subject to paragraph 85.2.3, discuss and agree upon:

- (a) whether the employee will convert to full-time or part-time employment; and
- (b) 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 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 Chief Executive Officer and the employee.

85.2.7 Following an agreement being reached pursuant to paragraph 85.2.6, 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.

85.2.8 An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.

85.3 Work Health and Safety

85.3.1 For the purposes of this subclause, the following definitions shall apply:

- (a) 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.
- (b) 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.

85.3.2 If the Corporation engages a labour hire business and/or a contract business to perform work wholly or partially on the Corporation's premises shall do the following (either directly, or through the agency of the labour hire or contract business):

- (a) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;

- (b) provide employees of the labour hire business and/or contract business with appropriate health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
- (c) 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
- (d) 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.

85.3.3 Nothing in this subclause is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Work Health and Safety Act 2011* or the *Workplace Injury Management and Workers Compensation Act 1998*.

85.4 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.

85.5 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.

86. Existing Entitlements

The provisions of this award shall not affect any entitlements existing in the Corporation or section of the Corporation at the time this award is made, if such provisions are better than the provisions contained in this award. Such entitlements are hereby expressly preserved until renegotiated with the Association.

87. Area, Incidence and Duration

87.1 This award removes any doubt that the provisions of the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 published 2 October 2016 (380 I.G. 1292) and all variations thereof do not apply to the employees who are now covered under this award.

87.2 This award rescinds and replaces the Crown Employees (SAS Trustee Corporation) Award 2019 published on 25 October 2019 (385 I.G. 334) and all variations thereof from 1 July 2020 and shall remain in force until 30 June 2022.

88. No Extra Claims

Other than as provided for in the *Industrial Relations Act 1996* and the Industrial Relations (Public Sector Conditions of Employment) Regulation 2014, there shall be no further claims/demands or proceedings instituted before the NSW Industrial Relations Commission for extra or reduced wages, salaries, rates of pay, allowances or conditions of employment with respect to the Employees covered by the Award that take effect prior to 30 June 2022 by a party to this Award.

PART B

Table 1: Allowances of Part B - Monetary Rates of the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009.

Item No.	Clause No.	Description	Amount FFPP 1.7.2020	Amount FFPP 1.7.2021
1	36.2	Exchanges	Actual cost 0.3%	Actual cost 2.04%
2	37.1	Room at home used as office	\$961 pa	\$981 pa

3	40.1	First aid allowance	Per annum	Per annum
		- Holders of basic qualifications	\$913	\$932
		- Holders of current occupational first aid certificate	\$1,371	\$1,399

Table 2 - Salary Rates

Clauses 3.14, 6 and 87.2

Grade	Salary rate from first full pay period on or after 1 July 2020 0.3% \$	Salary rate from first full pay period on or after 1 July 2021 2.04% \$
STC Grade 4	81,881	83,551
STC Grade 5	90,933	92,788
STC Grade 6	96,483	98,451
STC Grade 7	103,315	105,423
STC Grade 8	111,041	113,306
STC Grade 9	117,568	119,966
STC Grade 10	127,224	129,819

J. WEBSTER, *Commissioner*

 Printed by the authority of the Industrial Registrar.

CROWN EMPLOYEES (TRANSPORT DRIVERS, &c.) AWARD 2021

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Industrial Relations Secretary.

(Case No. 191857 of 2021)

Before Commissioner Webster

29 July 2021

AWARD**Arrangement****PART A**

Clause No.	Subject Matter
1.	Title
2.	Rates of Pay
3.	Deduction of Union Membership Fees
4.	Shift Allowances
5.	Anti-Discrimination
6.	Grievance and Dispute Settling Procedures
7.	General
8.	No Extra Claims
9.	Area, Incidence and Duration

PART B**MONETARY RATES**

Table 1 - Rates of Pay

PART A**1. Title**

This award shall be known as the Crown Employees (Transport Drivers &c.) Award 2021.

2. Rates of Pay

The rates of pay are set out in Table 1 of Part B, Monetary Rates. The rates are provided by the Crown Employees Wages Staff (Rates of Pay) Award 2021.

3. Deduction of Union Membership Fees

- (i) 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.
- (ii) 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.
- (iii) Subject to (i) and (ii) 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.

- (iv) Monies so deducted from employee's 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.
- (v) Unless other arrangements are agreed to by the employer and the union, all union membership fees shall be deducted on a fortnightly basis.
- (vi) 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.

4. Shift Allowances

For the ordinary hours of shift, shift workers shall be paid the following loadings in addition to the rates prescribed for their respective classifications:

	Loadings per shift %
(a) ordinary afternoon or night shifts (other than shifts referred to hereunder).	15
(b) permanently working afternoon or night shifts or a combinations of such shifts.	30
(c) an ordinary shift, the major portion of which falls on a Saturday or Sunday shall in substitution for the loading specified in paragraphs (a) or (b) of this clause, be paid for at the rate of 50 per cent or 75 per cent respectively in addition to the ordinary rate for such shift.	
(d) where, at the employees own request and to suit the employees own personal requirements, any employee works permanently on a combination of such shifts, the employer notifies the union of the agreement in writing, and the union agrees, the employee shall be paid 15 per cent extra per shift in lieu of the shift loading of 30 per cent specified in paragraph (b) of this clause.	
(e) for an ordinary shift worked on a public holiday, an employee shall receive an additional one and half day's ordinary pay in addition to the normal shift payment calculated in accordance with paragraph (a) or (b) of this clause.	

5. Anti-Discrimination

- (i) 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.
- (ii) 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.
- (iii) 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.
- (iv) Nothing in this clause is to be taken to affect:
 - (a) any conduct or act which is specifically exempted from anti-discrimination legislation;

- (b) offering or providing junior rates of pay to persons under 21 years of age;
 - (c) any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*;
 - (d) a party to this award from pursuing matters of unlawful discrimination in any State or federal jurisdiction.
- (v) 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.

6. Grievance and Dispute Settling Procedures

- (i) 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 appropriate department, if required.
- (ii) An employee is required to notify in writing their immediate manager, as to the substance of the grievance, dispute or difficulty, request a meeting to discuss the matter, and if possible, state the remedy sought.
- (iii) 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 employee to advise their immediate manager the notification may occur to the next appropriate level of management, including where required, to the Secretary or delegate.
- (iv) The immediate manager, 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.
- (v) If the matter remains unresolved with the immediate manager, the employee may request to meet the appropriate person at the next level of management in order to resolve the matter. This manager shall respond within two (2) working days, or as soon as practicable. The employee may pursue the sequence of reference to successive levels of management until the matter is referred to the Secretary.
- (vi) The Secretary may refer the matter to the Industrial Relations Secretary for consideration.
- (vii) If the matter remains unresolved, the Secretary shall provide a written response to the employee 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.
- (viii) An employee, at any stage, may request to be represented by the union.
- (ix) The employee or the union on their behalf, or the Secretary may refer the matter to the New South Wales Industrial Relations Commission if the matter is unresolved following the use of these procedures.
- (x) The employee, union, Secretary and Industrial Relations Secretary shall agree to be bound by any order or determination by the New South Wales Industrial Relations Commission in relation to the dispute.
- (xi) Whilst the procedures outlined in subclauses (i) to (x) 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 employee or member of the public

7. General

- (i) Except as otherwise provided for in this award, the provisions of the Transport Industry (State) Award shall apply.
- (ii) For employees engaged under the *Government Sector Employment Act 2013* the provisions of the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 or its replacement, shall apply in respect of the following entitlements:

Recreation Leave
 Extended Leave
 Sick Leave
 FACS Leave

8. No Extra Claims

Other than as provided for in the *Industrial Relations Act 1996* and the Industrial Relations (Public Sector Conditions of Employment) Regulation 2014, there shall be no further claims/demands or proceedings instituted before the NSW Industrial Relations Commission for extra or reduced wages, salaries, rates of pay, allowances or conditions of employment with respect to the Employees covered by the Award that take effect prior to 30 June 2022 by a party to this Award.

9. Area, Incidence and Duration

- (i) This award shall apply to all employees in the classifications specified in Table 1 - Rates of Pay, of Part B, Monetary Rates, of this Award and clause 1 of the Transport Industry (State) Award, employed in organisations to which the *Government Sector Employment Act 2013* applies.
- (ii) This Award rescinds and replaces the Crown Employees (Transport Drivers &c.) Award 2020 published 19 February 2021 (389 I.G. 209) and all variations thereof.
- (iii) This award has a nominal term of 12 months from 1 July 2021 with any increases to pay and work related allowances effective from the first full pay period on or after 1 July 2021.

PART B

MONETARY RATES

Table 1 - Rates of Pay

Clause 2 Wages	Classification	Weekly Rate from the first full pay period on or after 1.7.20 (0.3%) \$	Weekly Rate from the first full pay period on or after 1.7.21 (2.04%) \$
1. Drivers of motor wagons - having a manufacturer's gross vehicle mass in kilograms			
(a)	Up to 295 -	962.40	982.00
(b)	Over 2950 and up to 4650	970.60	990.40
(c)	Over 4650 and up to 6250	978.40	998.40
(d)	Over 6250 and up to 7700	978.40	998.40
(e)	Over 7700 and up to 9200	988.80	1009.00
(f)	Over 9200 and up to 10800	988.80	1009.00
(g)	Over 10800 and up to 12350	997.50	1017.80
(h)	Over 12350 and up to 13950	997.50	1017.80
(i)	Over 13950 and up to 15500	1005.20	1025.70
(j)	Over 15500 and up to 16950	1015.00	1035.70
(k)	Over 16950 and up to 18400	1015.00	1035.70

(l)	Over 18400 and up to 19750	1015.00	1035.70
(m)	Over 19750 and up to 21100	1015.00	1035.70
(n)	Over 21100 and up to 22450	1022.90	1043.80
(o)	Over 22450 and up to 23850	1022.90	1043.80
(p)	Over 23850 and up to 25200	1022.90	1043.80
(q)	Over 25200 and up to 26550	1032.90	1054.00
(r)	Over 26550 and up to 27900	1032.90	1054.00
(s)	Over 27900 and up to 29300	1032.90	1054.00
(t)	Over 29300 and up to 30650	1032.90	1054.00
(u)	Over 30650 and up to 32000	919.50	938.30
(v)	Over 32000 and up to 33350	919.50	938.30
(w)	Over 33350 and up to 34750	1051.30	1072.70
(x)	Over 34750 and up to 36100	1051.30	1072.70
(y)	Over 36100 and up to 37450	1051.30	1072.70
(z)	Over 37450 and up to 38800	1051.30	1072.70
(aa)	Over 38800 and up to 40200	1061.80	1083.50
(ab)	Over 40200 and up to 41550	1061.80	1083.50
(ac)	Over 41550 and up to 42900	1061.80	1083.50
(ad)	Over 42900 and up to 44250	1070.50	1092.30
(ae)	Over 44250 and up to 45650	1070.50	1092.30
2. Drivers of mobile cranes			
- employed in connection with the carriage and delivery of goods, merchandise and the like and/or in the performance of work incidental to the loading, unloading, handling and/or placement of goods			
- where the mobile crane has a lifting capacity in kilograms			
(a)	Up to and not exceeding 3050	978.40	998.40
(b)	Over 3050 and not exceeding 5100	988.80	1009.00
(c)	Over 5100 and not exceeding 6100	997.50	1017.80
(d)	Over 6100 and not exceeding 7100	997.50	1017.80
(e)	Over 7100 and not exceeding 8100	997.50	1017.80
(f)	Over 8100 and not exceeding 9150	997.50	1017.80
(g)	Over 9150 and not exceeding 10150	1005.20	1025.70
(h)	Over 10150 and not exceeding 11200	1005.20	1025.70
(i)	Over 11200 and not exceeding 12200	1005.20	1025.70
(j)	Over 12200 and not exceeding 13200	1015.00	1035.70
(k)	Over 13200 and not exceeding 14200	1015.00	1035.70
(l)	Over 14200 and not exceeding 15250	1015.00	1035.70
(m)	Over 15250 and not exceeding 16250	1015.00	1035.70
(n)	Over 16250 and not exceeding 17250	1022.90	1043.80
(o)	Over 17250 and not exceeding 18300	1022.90	1043.80
(p)	Over 18300 and not exceeding 19300	1022.90	1043.80
(q)	Over 19300 and not exceeding 20300	1022.90	1043.80
(r)	Over 20300 and not exceeding 21350	1032.90	1054.00
(s)	Over 21350 and not exceeding 22350	1032.90	1054.00
(t)	Over 22350 and not exceeding 23350	1032.90	1054.00
(u)	Over 23350 and not exceeding 24400	1032.90	1054.00
(v)	Over 24400 and not exceeding 25500	1032.90	1054.00
(w)	Over 25500 and not exceeding 26400	1032.90	1054.00
(x)	Over 26400 and not exceeding 27450	1032.90	1054.00
(y)	Over 27450 and not exceeding 28450	1041.00	1062.20
(z)	Over 28450 and not exceeding 29450	1041.00	1062.20
(aa)	Over 29450 and not exceeding 30500	1032.90	1054.00
And for each additional 1000 kg or part thereof over		0.38	0.40
3. Drivers of forklifts - of a capacity			
(a)	Up to 4500 kg	978.40	998.40
(b)	Over 4500 to 9100	997.50	1017.80
(c)	Over 9100 kg	1005.20	1025.70

4. Drivers of prime movers where the crane has a lifting capacity of where the crane has a lifting capacity of			
(a)	Up to 20350 kg	988.80	1009.00
(b)	Over 20350 kg	1015.00	1035.70
5. Extra Hands		941.10	960.30

J. WEBSTER, *Commissioner*

Printed by the authority of the Industrial Registrar.

HOSPITAL SCIENTISTS (STATE) AWARD 2021

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Health Services Union NSW, Industrial Organisation of Employees.

(Case No. 163193 of 2020)

Before Chief Commissioner Constant

30 July 2021

AWARD**PART A****Arrangement**

Clause No.	Subject Matter
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3.	Grading Employees
4.	Hours
4A.	Multiple Assignments
5.	Shift Work and Weekend Work
6.	Rostering Hours
7.	On-Call
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- 39. No Extra Claims
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PART B

Table 1 - Allowances

PART A

1. Definitions

Unless the context otherwise indicates or requires the several expressions hereunder defined shall have their respective meaning assigned to them:

"ADA" means the daily average of occupied beds adjusted by counting each 700 registered outpatients as one occupied bed. The average shall be taken for the twelve months for the year ending 30 June in each and every year and such average shall relate to the salary for the succeeding year.

"Day Worker" means a worker who works ordinary hours from Monday to Friday inclusive and who commences work on such days at or after 6:00 a.m. and before 10:00 a.m. otherwise than as part of a shift system.

"Director/Deputy Director" means an employee appointed as Head of a Department or as second in-charge of a Department, provided that such a position is approved as such by the employer.

"Employee" means a Hospital Scientist, Senior Hospital Scientist, Principal Hospital Scientist, or Trainee Hospital Scientist as defined.

"Employer" means the Secretary of the Ministry of Health exercising employer functions on behalf of the Government of New South Wales.

"Health Service" means a Local Health District constituted under section 8 of the *Health Services Act 1997*, a Statutory Health Corporation constituted under section 11 of that Act, and an Affiliated Health Organisation constituted under section 13 of that Act, as amended or varied from time to time.

"Hospital" means a public hospital as defined under section 15 of the *Health Services Act 1997*, as amended and varied from time to time.

"Hospital Scientist" means an employee who has acquired the Diploma in Medical Technology of the Australian Institute of Medical Technologists (before 1974) or who has obtained a degree in science from an approved university or college of advanced education requiring a minimum of three years full-time study or such qualifications as the employer deems equivalent.

"Principal Hospital Scientist" means a Hospital Scientist who has been appointed as such and holds a post graduate degree in science at least equivalent to the degree of Master of Science of an approved university, or such other qualifications deemed by the employer to be equivalent and who has had not less than ten years post graduate experience in an appropriate scientific field.

"Senior Hospital Scientist" means an employee who is engaged in scientific work of a professional nature in a public hospital laboratory who holds a degree in science from an approved University or a college of advanced education or such other qualifications deemed by the employer to be appropriate who -

- (a) has been appointed to a position in charge of a section of a laboratory; or
- (b) has been approved by the employer for appointment on the recommendation of the Credentials Committee.

"Secretary" means the Secretary of the Ministry of Health.

"Senior or Chief Hospital Scientist" means an employee who is engaged in scientific work of a professional nature in a public hospital laboratory who holds a degree in science from an approved University or a college of advanced education or such other qualifications deemed by the employer to be appropriate who:

- (a) has been appointed to a position in charge of a laboratory; or
- (b) has been approved by the employer for appointment on the recommendation of the Credentials Committee.

"Service" means service before and/or after the commencement of this Award in any one or more hospitals as defined under section 15 of the *Health Services Act 1997*, or any other hospital deemed acceptable by the employer.

"Shift Worker" means a worker who is not a day worker as defined.

"Trainee Hospital Scientist" means an employee appointed as such who is undertaking a part-time degree course in science at an approved University and is engaged in work related to the profession for which they are qualifying.

"Union" means the Health Services Union NSW.

2. Salaries

Full time Hospital Scientist employees, as defined herein, shall be paid the salaries as set out in the *Health Professional and Medical Salaries (State) Award 2019*, as varied or replaced from time to time.

3. Grading of Employees

- (i) Grades: Every employee other than Trainee Hospital Scientist shall be classified in one of the grades of Hospital Scientist, Chief/Senior Hospital Scientist, or Principal Hospital Scientist as provided hereunder.
- (ii) Years of Scale -
 - (a) Within each grade employees shall, at all times be classified not lower than the year of scale corresponding to the minimum described hereunder for their respective qualifications and/or duties advanced by:
 - (1) At least one year of scale for each completed year of service in that grade and hospital; and
 - (2) At least one further year of scale for each completed year of service in the same branch of science in that grade in any other hospital or hospitals.
 - (b) In determining an employee's classification due allowance also shall be made for any post graduate experience.
- (iii) Hospital Scientists who hold or are qualified to hold a degree, diploma or other qualification, as shown hereunder shall not be classified below the respective year of scale in this grade, as follows, with advancement as provided for in subclause (ii) of this clause.

Bachelor's Degree (3 year course) - 1st year;

Bachelor's Degree with Honours (3 year course); Bachelor's degree (4 year course) - 2nd year;

Bachelor's Degree with Honours (4 year course); diploma or Bachelor's degree with at least two years' experience concurrent with or after the last two years of the course - 3rd year;

Master's Degree - 4th year;

Fellow of the Institute of Physics, and/or Fellow of the Australian Institute of Physics, Degree of Doctor of Philosophy - 6th year.

provided such degree with honours or such Master's Degree has been obtained in a subject relevant to the branch of science in which the employee is engaged.

- (iv) Credentials Committee. A committee consisting of two representatives of the employer and two representatives of the Union shall be constituted to consider and recommend to the employer upon application by the Union or the relevant Health Service.
- (a) The appointment of a new employee as a Senior Hospital Scientist (other than a Senior Hospital Scientist in charge of a laboratory or a section of a laboratory), or a Principal Hospital Scientist.
- (b) The promotion of an employee from Hospital Scientist to Senior Hospital Scientist.
- (c) The promotion of an employee from Senior Hospital Scientist to Principal Hospital Scientist.

4. Hours

- (i) The ordinary hours of work for day workers, exclusive of meal times, shall be 152 hours per 28 calendar days to be worked from Monday to Friday inclusive and to commence on such days at or after 6:00 a.m. and before 10:00 a.m.
- (ii) The ordinary hours of work for shift workers exclusive of meal times, shall not exceed an average of 38 hours per week in each roster cycle.
- (iii) Each day worker shall be free from duty for not less than two full days in each week and each shift worker shall be free from duty for not less than two full days in each week or four full days in each fortnight. Where practicable such days off duty shall be consecutive.
- (iv)
- (a) The hours of work prescribed in subclauses (i) and (ii) of this clause shall, where possible, be arranged in such a manner that in each roster cycle of 28 days each employee shall not work their ordinary hours of work on more than nineteen days in the cycle. The hours worked on each of those days shall be arranged to include a proportion of one hour (in the case of employees working shifts of eight hours duration the proportion of 0.4 of an hour) which shall accumulate towards the employee's allocated day off duty on pay, as the twentieth working day of the cycle.
- (b) Notwithstanding the provisions of paragraph (a) of this subclause, employees who were, as at the 30th June, 1984, working shifts of less than eight hours duration may:
- (1) continue to work their existing hours each 28 days but spread over 19 days, or
- (2) with the agreement of the hospital, continue to work shifts of the same duration over 20 days in each cycle of 28 days.
- (v) The employee's allocated day off duty prescribed in subclause (iv) of this clause shall be determined by mutual agreement between the employee and the employer having regards to the needs of the employer. Where practicable such allocated day off duty shall be consecutive with the days off duty prescribed by subclause (iii) of this clause.
- (vi) Once set the allocated day off duty may not be changed in a current cycle unless there are genuine unforeseen circumstances prevailing. Where such circumstances exist and the allocated day is changed, another day shall be substituted in the current cycle. Should this not be practicable, the day must be given and taken in the next cycle immediately following.

- (vii) Where the employer and the Union agree that exceptional circumstances exist in a particular Health Service, an employee's allocated days off duty prescribed by subclause (iv) of this clause may, with the agreement of the employee concerned, accumulate and be taken at a time mutually agreed between the employee and the employer. Provided that the maximum number of days off duty which may accumulate under this subclause shall be three.
- (viii) There shall be no accrual of 0.4 of an hour for each day of ordinary annual leave taken in accordance with subclause (i) of Clause 13, Annual Leave, of this Award. However where an employee has accumulated sufficient time to take his/her allocated day off duty prior to entering on annual leave, and that day would have been taken if the employee had not gone on annual leave, it shall be allowed to the employee on the first working day immediately following the period of leave.

Where an employee has not accumulated sufficient time for an allocated day off duty prior to entering on annual leave, time in credit shall count towards taking the next allocated day off duty falling in sequence after the employee's return to duty.

- (ix) An employee entitled to allocated days off duty in accordance with subclause (iv) of this clause shall continue to accumulate credit towards his/her allocated day off duty whilst on sick leave. Where an employee's allocated day off duty falls during a period of sick leave, the employee's available sick leave shall not be debited for that day.
- (x) Where an employee's allocated day off duty falls due during a period of workers compensation, the employee, on returning to duty, shall be given the next allocated day off duty in sequence irrespective of whether sufficient credits have been accumulated or not.
- (xi) Where an employee's allocated day off duty falls on a public holiday as prescribed by Clause 12 - Public Holidays of this Award, the next working day shall be taken in lieu thereof.
- (xii) Except for one meal break each day all time worked between the normal starting and ceasing time each day shall be at the ordinary rates of pay.
- (xii) There shall be one tea break of twenty minutes duration. This is additional to the meal break provided for in subclause (xii) of this clause.
- (xiv) There shall be a minimum break of eight (8) hours between ordinary rostered shifts.

4A. Multiple Assignments

(This Clause has had application from 13 August 2018)

- (i) Multiple assignments under this Award exist when:
 - a. An employee has more than one position under this Award within the New South Wales Health Service, and
 - b. The same conditions of employment within the Award apply to the positions.

Each of these positions is referred to in this clause as "assignments".

- (ii) Where an employee has multiple assignments with different ordinary rates of pay, the employee shall be paid in relation to the ordinary hours worked in each separate assignment at the ordinary rate of pay applicable to that assignment.
- (iii) This clause does not apply to employees who have multiple casual assignments only. The Award provisions are to apply separately to each casual assignment.

Multiple Assignments Within a Single Organisation in the Public Health System

(iv) The following provisions apply to employees with two or more assignments, that comply with 4A(i), within a single Organisation in the Public Health System:

- (a) The work performed in each of an employee's assignments shall be aggregated for the purposes of determining all of the employee's entitlements under this Award.

Hours, Additional Days Off, and Overtime

- (b) The combined total number of ordinary hours worked under an employee's multiple assignments shall not exceed the hours of work as set out in Clause 4, Hours.

- (c) Where the combined total number of ordinary hours worked under an employee's multiple assignments is equivalent to those set out for the ordinary hours of work for day workers (ie full time) in Clause 4 they will be considered as a full time employee for the purposes of the Award and:

1. that employee is entitled to allocated days off in accordance with Clause 4, Hours, and
2. Clause 9, Overtime, shall apply for the purposes of overtime.

- (d) Where the combined total number of ordinary hours worked under an employee's multiple assignments is less than those set out in subclause (c) of this subclause they will be treated in accordance with Part 1 of Clause 8, Permanent Part-Time and Part-Time Employees.

1. All ordinary hours and additional hours paid at ordinary rates in each assignment shall be aggregated and treated as if they were worked under a single assignment, in accordance with Part 1 of Clause 8 Permanent Part-Time and Part-Time Employees, and
2. Overtime as prescribed in Clause 9, Overtime (including subclauses (v) and (vi)).

- (e) The rostering of additional days off will be co-ordinated between the employee's line managers to ensure that the additional days off are proportionately rostered across the employee's assignments. Where an employee has multiple assignments with different ordinary rates of pay, the additional day off will be paid at the rate of pay relevant to the assignment in which it is rostered.

- (f) Where an employee has multiple assignments with different ordinary rates of pay, the rate of pay used to determine the additional hours or overtime payable shall be the rate applicable to the assignment which generated the additional hours or overtime.

- (g) Where overtime is compensated by way of time off in lieu that time off in lieu must be taken in the assignment which generated the overtime.

- (h) Employees who are in full time or part time assignments cannot be engaged on a second or further assignment as a casual employee under the Award. Any additional hours worked by such employees are to be remunerated in accordance with paragraphs (c) or (d) of this subclause.

Public Holidays – Rostered Day Off

- (i) Each assignment will stand alone when calculating payment for a public holiday that falls on a rostered day off under Clause 12, Public Holidays subclause (iv).

Temporary Employees

- (j) Where an employee has an assignment which attracts a 10% loading in accordance with subclause 3.2 of the Health Industry Status of Employment (State) Award 2019, as varied or replaced from time to time, the 10% loading shall only apply to hours worked in that assignment.

While ever this loading is paid, the provisions of subclauses (p), (q) and (s) of this subclause shall not apply to the temporary assignment.

Employees Engaged as Part Time as at 1 November 2001

(k) Where an employee:

1. has elected to receive the benefits set out in Part 2 of Clause 8, Permanent Part-Time and Part-Time Employees, in relation to an assignment, and
2. after the date this clause was operative in this Award the employee commences in a second or further permanent part time assignment (as set out in Part 1 of Clause 8 Permanent Part-Time and Part-Time Employees) and their combined total number of ordinary hours worked in all assignments is less than those set out in subclause (c) of this subclause;

Part 2 of Clause 8, Permanent Part-Time and Part-Time Employees, shall cease to apply and the employee will be a Permanent Part-Time Employee for the purposes of the Award.

(l) Where an employee:

1. has elected to receive the benefits set out in Part 2 of Clause 8 Permanent Part-Time and Part-Time Employees, in relation to an assignment, and
2. his/her combined total number of ordinary hours worked in all assignments is equal to or more than those set out in subclause (c) of this subclause,

Part 2 of Clause 8, Permanent Part-Time and Part-Time Employees shall not apply to any of their assignments.

Incremental Progression

- (m) Where an employee has multiple assignments in the same classification and pay rate, the employee will progress from one increment (year step) to the next increment after the employee has completed the full time equivalent of one year in the increment having regard to the work performed in all assignments. Further, an employee must complete a minimum of one calendar year in an increment before progressing to the next increment.
- (n) Where an employee has multiple assignments in the same classification, but different grades and/or pay rates, the employee's service in the higher grade will count for the purposes of incremental progression in the lower grade. However, service in the lower grade shall not count for the purposes of incremental progression in the higher grade.
- (o) Where an employee has multiple assignments in different classifications, the employee's service in each assignment will not count for the purpose of incremental progression in the other assignment.

Leave

- (p) All ordinary hours worked by an employee in multiple assignments shall count towards determining the employee's leave entitlements.
- (q) Employees with multiple assignments shall be entitled to take all forms of leave in any of their assignments. That is, leave accrued by an employee through work performed in one assignment, can be taken by that employee in their other assignment/s.
- (r) Where an employee has multiple assignments with different ordinary rates of pay, the employee shall be paid for leave taken at the rate of pay relevant to the assignment in which the leave was taken or rostered.

- (s) An employee's combined total number of ordinary hours worked in their multiple assignments will be used to calculate additional annual leave in accordance with subclause (iii)(b) of Clause 13 Annual Leave.
- (t) Service in all assignments will be recognised for the purposes of entitlements under Clause 32, Maternity, Adoption and Parental Leave.
- (u) Where an employee's assignment is terminated but the employee remains employed under another full time or part time assignment, all leave credits will be transferred to the remaining assignments. The employee shall not be paid out the monetary value of the annual leave or long service leave accrued in the terminated assignment.

Disclosures, Notifications and Approvals

- (v) Employees must, at the time they apply for any second or further assignment, disclose in writing that they are already employed by NSW Health and provide details of that assignment including:
 - 1. the position/s currently held
 - 2. the facility in which the existing position/s are worked
 - 3. the classification/s under which they are engaged in each position
 - 4. the number of ordinary hours worked in each position
 - 5. any regular additional hours or overtime that is worked in each position
 - 6. whether the position/s is worked according to a set roster and if so, the details of that roster arrangement; and
- (w) Prior to accepting an offer for a second or further assignment, employees must provide to their current manager details of that proposed assignment including:
 - 1. the position they have applied for
 - 2. the facility in which the proposed new assignment is to be worked
 - 3. the classification under which they would be engaged in the new assignment
 - 4. the number of ordinary hours to be worked in the proposed assignment
 - 5. whether the position is to be worked according to a set roster and if so, the details of that roster arrangement.
- (x) A Public Health Organisation may elect on reasonable grounds to withhold the approval of a second or further assignment to employees who are already employed in another assignment.
- (y) Before accepting any change in roster or undertaking additional hours or overtime that will impact on another assignment, employees who hold multiple assignments must notify their current manager of the details of their next shift in either assignment. Managers must not change rosters or require employees to work additional hours or overtime where these will impact on the employee's roster in the other assignment (for example by generating overtime) without first consulting the manager of the other assignment/s. (By way of example, if an employee is requested by Manager 1 in Assignment 1 to undertake additional hours in Assignment 1 that may impact on the roster in Assignment 2, the employee must notify Manager 1 of the impact. Manager 1 must not change rosters/hours that impact on Assignment 2 without first consulting Manager 2.)

Multiple Assignments Across Different Organisations in the Public Health System

- (v) Multiple Assignments, that meet the criteria in paragraph (i) of this clause and they are worked in different Organisations in the Public Health System, will be regarded as entirely separate for all purposes under the Award, including the accrual and taking of leave. The only exceptions are:
 - (a) At the time an employee commences an assignment in another Organisation in the Public Health System the employee's accrued leave will be apportioned across their assignments (for example, a 0.6 full time equivalent employee who commences another 0.4 full time equivalent assignment in another Organisation in the Public Health System will have 60% of their leave accruals

allocated to the former assignment and 40% to the latter assignment) unless prior to commencing the new assignment the employee elects that this apportioning does not occur. After this apportioning, leave accrues separately in each assignment, based on the hours worked in each assignment. The employer will notify the employee of their right to make this election prior to the apportioning taking place.

- (b) Employees who have multiple assignments across different Organisations in the Public Health System at the time this clause became operative in this award may elect to apportion their accrued leave across their assignments.
- (c) Service in all assignments will be aggregated for the purposes of calculating entitlements under Clause 14, Long Service Leave.
- (d) Service in all assignments will be recognised for the purposes of entitlements under Clause 32, Maternity, Adoption and Parental Leave.
- (e) Service in all assignments will be recognised for the purposes of entitlements of Family and Community Services Leave and Personal/Carer's Leave as provided in Clause 33.
- (f) Service in all assignments will be recognised for the purposes of entitlements of Family Violence Leave as provided in Clause 33A.
- (g) Where an employee terminates an assignment, any leave credits that are held against that assignment will be transferred to the remaining assignment/s.
- (h) If prior to the introduction of this clause and/or the StaffLink payroll system an employee received additional days off and/or overtime in accordance with subclause (ii) of Clause 9, Overtime, that employee shall continue to receive those benefits until one of the assignments is terminated.
- (i) Where an employee has three or more assignments, one or more of which are in different Organisation in the Public Health System, subclause (iv) of this clause shall apply to those assignments which are within a single Organisation in the Public Health System.

Changes to the composition of Organisation in the Public Health System

- (vi) The employer and the Association agree to review this clause in the event that the boundaries of any Organisation in the Public Health System change.
- (vii) Where any change to the boundaries of any Organisation in the Public Health System causes an employee's multiple assignments to which subclause (iv) of this clause previously applied to then be subject to subclause (v) of this clause, subclause (iv) of this clause shall continue to apply (to the exclusion of subclause (v) of this clause) to those assignments until one of them is terminated.

5. Shift Work and Weekend Work

- (i) Subject to the provisions of this clause, employees may be employed on shift work.
- (ii) The ordinary hours of shift workers shall be worked on not more than five days per week and shall not exceed 152 hours per 28 calendar days.
- (iii) As far as practicable, no employee shall be obliged to work shift work against his/her wishes.
- (iv) Senior Hospital Scientists and Principal Hospital Scientists shall not be required to work shift work against their wishes.
- (v) Before shift work is introduced into any section or department of a Health Service, the proposals relating thereto shall be conveyed to the Union and an opportunity given to discuss such proposals with representatives of the Health Service concerned and the employer.

- (vi) Any disputes arising out of the introduction of new shift systems shall be referred to a committee consisting of not more than six members with equal representatives of the employer and the Union.

In the event of no unanimous decision being arrived at, the matter in dispute may be notified to the Industrial Registrar for the consideration of the Public Health Employees (State) Industrial Committee or the Industrial Relations Commission of New South Wales.

- (vii) Work performed by shift workers working during ordinary hours shall be paid at the following rates:
- (a) On Mondays to Fridays between 8:30 a.m. and 9:00 p.m. at ordinary time rate of pay.
 - (b) On Mondays to Fridays before 8:30 a.m. and after 9:00 p.m. at the rate of time and a half.
 - (c) On Saturdays at the rate of time and a half.
 - (d) On Sundays at the rate of time and three quarters.

Provided that a part-time employee shall not be entitled to be paid in addition the loading prescribed in subclause (ii) of Part 2 of clause 8, Permanent Part-Time Employees and Part-Time Employees, of this Award.

Provided further that, positions which prior to 31 August 1988 were covered under the terms of the *Hospital Employees Conditions of Employment (State) Award*, shall continue to be paid in accordance with provisions of Penalty Rates for Shift Work, Weekend Work and Special Working Conditions, of that Award. Further provided that the provisions of subclauses (iii) and (iv) shall not apply to these positions.

6. Roster of Hours

- (i) The ordinary hours of work for each employee shall be displayed on a roster in a place conveniently accessible to employees. Where reasonably practicable such roster shall be displayed two weeks but, in any case at least one week, prior to the commencing date of the first working period in any roster.

Provided that this provision shall not make it obligatory for the employer to display any roster of ordinary hours of work of members of the relieving staff.

Provided further that a roster may be altered at any time to enable the services of the Health Service to be carried on where another employee is absent from duty on account of illness or in emergency but where any such alteration involves an employee working on a day which would have been his/her day off such time worked shall, subject to subclause (vi) of clause 4, Hours, be paid for at overtime rates. Furthermore, where a change in roster hours occurs with less than 24 hours' notice to the employee affected, all time worked outside that shown on the employee's roster (prior to the alteration) shall be paid for at overtime rates.

- (ii) Where an employee is entitled to an allocated day off duty in accordance with clause 4, Hours of this Award, that allocated day off duty is to be shown on the roster of hours for that employee.

7. On-Call

An employee required by the employer to be on-call in any one 24 hour period shall be paid an allowance as set out in Item 1 of table 1, Allowances, for that period or any part thereof, provided that only one allowance shall be paid in any period of 24 hours.

Provided that an on-call roster shall not be introduced by a Health Service without the approval of the employer. Principal Hospital Scientists are excluded from the provisions of this clause.

Provided that this clause shall not apply to positions covered by the Public Hospital Medical Technologists (State) Award, prior to 31 August 1988.

8. Permanent Part-Time and Part-Time Employees

Part 1 Permanent Part-Time Employees

- (i) A permanent part-time employee is one who is appointed by the employer to work a specified number of hours each roster cycle which are less than those prescribed for a full-time employee.
- (ii) A permanent part-time employee shall be paid an hourly rate calculated on the basis of one thirty eighth of the normal weekly rate available for full-time employees of the same classification.
- (iii) Persons employed on a permanent part-time basis may be employed for not less than two (2) or more than thirty two (32) hours in any full week of seven days, such week to be coincidental with the pay period. Permanent part-time employees are not entitled to an allocated day off. The specified number of hours may be balanced over a roster cycle, provided that the average weekly hours worked shall be deemed to be the specified number of hours for the purposes of accrual of leave provided for by this Award. Provided further that there shall be no interruption to the continuity of employment merely by reason of an employee working on a "week-on", "week-off" basis in accordance with this subclause.
- (iv) Employees engaged under this clause shall be entitled to all other benefits of the Award not otherwise expressly provided for herein in the same proportion as their ordinary hours of work bear to full-time hours.
- (v) All time worked by permanent part-time employees in excess of the total rostered daily ordinary hours of work prescribed for the majority of full-time employees employed on that shift in the ward or section concerned shall be paid for at the rate of time and one half for the first two hours and double time thereafter except that on Sundays such overtime shall be paid for at the rate of double time.
- (vi) Time worked up to the total rostered daily ordinary hours of work prescribed for a majority of the full-time employees employed on that shift in the ward or section concerned shall not be regarded as overtime but an extension of the contract hours for that day and shall be paid at the ordinary rate of pay.

Part 2 Part-Time Employees

- (i) Employees engaged as part-time employees on or before 1 November 2001 are entitled to exercise the option of receiving the benefits of employment specified in Part 1 of this clause.
- (ii) Persons employed on a part-time basis, other than on a permanent part-time basis as outlined in Part 1 of this clause, may be employed for not less than eight or more than thirty hours in any full week of seven days, such week to be coincidental with the pay period of each hospital respectively, and shall be paid for the actual number of hours worked each week an hourly rate calculated on the basis of one thirty-eighth of the appropriate rate prescribed plus 15 per cent thereof.
- (iii) In an emergency, part-time employees may be allowed to work more than thirty hours in one week and in such case will be paid for the hours actually worked at a rate calculated in accordance with subclause (ii) of Part 2 of this clause.
- (iv) With respect to employees employed as part-time workers the provisions of clause 4, Hours, subclauses (iv) to (xi) of this Award shall not apply.
- (v) All time worked by part-time employees in excess of the total rostered daily ordinary hours of work prescribed for the majority of full-time employees employed on that shift in the ward or section concerned shall be paid for at the rate of time and one half for the first two hours and double time thereafter except that on Sundays such overtime shall be paid for at the rate of double time.
- (vi) Time worked up to the total rostered daily ordinary hours of work prescribed for a majority of the full-time employees employed on that shift in the ward or section concerned shall not be regarded as overtime but an extension of the contract hours for that day and shall be paid at the ordinary rate of pay.

- (vii) With respect to employees employed as part-time workers the provisions of clause 9, Overtime, of this Award, except where provided in subclauses (v) and (vi) of Part 2 of this clause, shall not apply.

9. Overtime

- (i) All time worked by day workers and shift workers in excess of or outside the ordinary hours prescribed by clause 4, Hours, and clause 5, Shift Work and Weekend Work of this Award, respectively, shall be paid for at the rate of time and one half for the first two hours and double time thereafter, provided that all time worked on Sundays shall be paid for at double time; provided further that all overtime worked on public holidays shall be paid for at the rate of double time and one half.
- (ii) Subject to subclauses (iii) - (vii) below, employees who are recalled for duty, whether notified before or after leaving the employer's premises, shall be paid for all time worked at the appropriate overtime rate, with a minimum of four hours at such rates.
- (iii) Employees may be required to perform other work that arises during the recall period. Employees shall not be required to work the full four hour minimum payment period if they complete the work they were recalled to perform and any additional work they are required to undertake, within a shorter period.
- (iv) The employer must have processes in place for the formal release of employees from recall duty.
- (v) Employees who are not formally released and who are recalled again during the four hour minimum payment period are not entitled to any additional payment until the expiration of the four hour period.
- (vi) Employees who are advised they will not be required to perform any additional work and are formally released and who are subsequently recalled again during the four hour minimum payment period, shall be entitled to another four hour minimum payment.
- (vii) Employees required to work overtime after leaving the employer's premises to provide a technology support resolution or clinical appraisal remotely without onsite presence, shall be paid for such work at the appropriate overtime rate, with a minimum payment of one hour at such rates.
- (viii) An employee recalled to work overtime as prescribed by this subclause shall be paid all fares and expenses reasonably incurred in travelling to and from his/her place or work.

Provided further that where an employee elects to use their own mode of transport they shall be paid an allowance equivalent to the "Transport Allowance" as provided by determination made under the *Health Services Act 1997*, as varied from time to time.

- (ix) When overtime is necessary it shall wherever reasonably practical, be so arranged that employees have at least eight consecutive hours off duty between the work on successive days or shifts.

For the purposes of assessing overtime each day shall stand alone, provided however, that where any one period of overtime is continuous and extends beyond midnight, all overtime hours in this period shall be regarded as if they had occurred within the one day.

- (x) An employee who works such overtime:
- (a) between the termination of his/her ordinary work on any day or shift and the commencement of his/her ordinary work on the next day or shift that they have not had at least eight consecutive hours off duty between these times; or
- (b) on a Saturday, a Sunday and a holiday, not being ordinary working day, or on a rostered day off without having had eight consecutive hours off duty in the twenty-four hours preceding his/her ordinary commencing time on his/her next day or shift;

shall, subject to this subclause, be released after completion of such overtime until they have had eight consecutive hours off duty without loss of pay for ordinary working time occurring during such absence. If on the instruction of his/her employer such an employee resumes or continues to

work without having had such eight consecutive hours off duty, they shall be paid at double rates until they are released from duty for such period and they then shall be entitled to be absent until he/she has had eight consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

- (xi) When an employee works overtime as an extension of shift and ceases work at a time when reasonable means of transport are not available, they shall be paid at ordinary rates for the time reasonably spent travelling from the employer's premises to the employee's home with a maximum payment of one (1) hour.

This subclause shall not apply in the case of call-back nor where the employee has their own vehicle available for conveyance home.

- (xii) The provisions of this clause shall not apply to Principal Hospital Scientists.

10. Meals

- (i) An employee who works authorised overtime shall be paid in addition for such overtime -
- (a) as set out in Item 2 of Table 1, Allowances, for breakfast when commencing such overtime work at or before 6:00 a.m.;
 - (b) as set out in Item 2 of Table 1, for luncheons when such overtime extends beyond 2:00 p.m. on Saturdays, Sundays or holidays;
 - (c) as set out in Item 2 of the said Table 1, for an evening meal when such overtime is worked for at least one hour immediately following his/her normal ceasing time, exclusive of any meal break, and extends beyond or is worked wholly or after 7:00 p.m.;
- or shall be provided with adequate meals in lieu of payment.
- (ii) The value of payments for meals shall be varied as the equivalent rates in the Crown Employees (Public Service Condition of Employment) Award 2009, as varied or replaced from time to time.
- (iii) Time not exceeding one hour and not less than thirty minutes shall be allowed for each meal, provided that where an employee is called upon to work for any portion of the meal break, such time shall count as ordinary working time.
- (iv) An employee required to work overtime following on the completion of their normal shift for more than two hours shall be allowed twenty minutes for the partaking of a meal and a further twenty minutes after each subsequent four hours' overtime; all such time shall be counted as time worked.
- (v) An employee recalled to work overtime after leaving the employer's premises and who is required to work for more than four hours shall be allowed twenty minutes for partaking of a meal and a further twenty minutes after each subsequent four hours overtime; all such time shall be counted as time worked.
- (vi) Where practicable, employees shall not be required to work more than four (4) hours without a meal break.

11. Higher Duties

An employee who is called upon to relieve an employee in a higher classification continuously for five working days or more, and who satisfactorily performs the whole of the duties and assumes the whole of the responsibilities of the higher classification, shall be entitled to receive, for the period of relief, the minimum pay of such higher classification

12. Public Holidays

- (i) Public Holidays shall be allowed to employees on full pay.
- (ii) Where an employee is required to and does work on any of the holidays set out in subclause (iii) of this clause, whether for a full shift or not, the employee shall be paid one and one half day's pay in addition to the weekly rate prescribed by Clause 2, Salaries, of this Award, such payment in the case of shift workers to be in lieu of any additional rate for shift work or weekend work which would otherwise be payable had the day not been a public holiday:

Provided that if the employer and the employee so agree, an employee may be paid one half day's pay in addition to the weekly rate and have one day added to his/her period of annual leave for each public holiday worked in lieu of the provisions of the preceding paragraph.

- (iii) For the purpose of this clause, the following shall be deemed public holidays, viz: New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Christmas Day, Boxing Day, Anzac Day, Queen's Birthday, local Labour Day, and other days proclaimed and observed as a public holiday within the area in which the hospital or health institution is situated.
- (iv) Where a public holiday occurs on a shift worker's rostered day off, they shall be paid one day's pay in addition to the weekly rate, or if the employer and the employee so agree, have one day added to his period of annual leave.
- (v) An employee who has accrued additional annual leave under subclause (ii) or (iv) of this clause can elect at any time to be paid an amount equivalent to the value of the accrued additional annual leave in lieu of taking additional leave, provided that the amount is a minimum of one weeks' accrued additional leave and that the salary for the period of additional leave paid out will be calculated as if the period of leave was actually taken.
- (vi) Subclauses (i) and (ii) of this clause shall not apply to part-time employee of this Award but each such employee who is required to work on a public holiday as defined in subclause (iii) of this clause shall be paid at the rate of double time and one-half but such employee shall not be entitled to be paid in addition the loading of 15 per cent prescribed in subclause (i) of clause 8, Part-Time Employees, of this Award.
- (vii) Provided that this clause shall not apply to positions covered by the Hospital Employees Conditions of Employment (State) Award, prior to 31 August 1988, the provisions of "Public Holidays" of that Award shall apply.
- (viii) In addition to those public holidays specified in subclause (iii), employees are entitled to an extra public holiday each year. Such public holiday will occur on a day in the Christmas-New Year period as determined by the employer following consultation with the Union, or other suitable day as agreed between the employer and the Union. Such public holiday shall be regarded for all purposes of this clause as any other public holiday.

The foregoing will not apply in areas where in each year a day in addition to the ten named public holidays specified in subclause (iii) is proclaimed and observed as a public holiday and will not apply in areas where, in each year, at least two half days in addition to the ten named public holidays specified in the said subclause are proclaimed and observed as half public holidays.

Provided further that in areas where in each year only one half day in addition to the ten named public holidays specified in subclause (iii) is proclaimed and observed as a half public holiday for the purposes of this Award, the whole day will be regarded as a public holiday and no additional public holiday, which otherwise would, as a result of this subclause apply, will be observed.

13. Annual Leave

- (i) All employees: See *Annual Holidays Act 1944*.

- (ii) Annual leave on full pay shall be granted on completion of each twelve months service as follows:
- (a) Principal Hospital Scientists - 5 weeks.
 - (b) All other employees - 4 weeks.
- (iii)
- (a) This subclause does not apply to part-time employees.
 - (b) Employees who are rostered to work their ordinary hours on Sundays and/or public holidays during the qualifying period of employment for annual leave purposes shall be entitled to receive additional annual leave as follows:
 - (1) If 35 ordinary shifts on such days have been worked - one week.
 - (2) If less than 35 ordinary shifts on such days have been worked and the employees work 38 hours per week - proportionately calculated on the basis of 38 hours leave for 35 such shifts worked.
 - (3) If less than 35 ordinary shifts on such days have been worked and the employees work less than 38 hours per week - proportionately calculated on the basis of leave equivalent to the number of hours ordinarily worked per week for 35 such shifts worked.
- The calculations referred to above shall be made to the nearest one fifth of the ordinary hours worked, half or more than half of one fifth being regarded as one fifth and less than half being disregarded.
- Provided that an employee, entitled to additional annual leave by virtue of this subclause, may elect to be paid an amount equivalent to the value of their additional leave entitlement, in lieu of taking the additional leave. Such election is to be made in writing by the employee at the commencement of each year of employment.
- An employee with accrued annual leave pursuant to this subclause can elect at any time to be paid an amount equivalent to the value of the accrued additional leave in lieu of taking additional leave, provided that the amount is a minimum of one weeks' accrued additional leave and that the salary for the period of additional leave paid out will be calculated as if the period of leave was actually taken.
- (c) Provided further that on termination of employment, employees shall be entitled to payment for any untaken leave due under this subclause together with payment for any untaken leave in respect of an uncompleted year of employment, calculated in accordance with this subclause.
- (iv) The annual leave shall be given by the employer and shall be taken by the employee before the expiration of a period of six months after the date upon which the right to such holidays accrues; provided that the giving and taking of the whole or any separate period of such annual holiday may, with the consent of the employee, be postponed for a period not exceeding 18 months.
- (v) The employer shall give to each employee three months' notice where practicable and not less than one months' notice of the date upon which the employee shall enter upon annual leave.
- (vi) An employee who is normally employed to work shifts shall be paid whilst on annual leave his/her ordinary pay plus shift allowances and weekend penalties relating to ordinary time the employee would have worked if they had not been on annual leave, provided that shift allowances and weekend penalties shall not be payable for public holidays which occur during a period of annual leave or for days which have been added to annual leave in accordance with the provisions of Clause 12, Public Holidays, of this Award.

- (vii) Credit of time towards an allocated day off duty shall not accrue when an employee is absent on ordinary annual leave in accordance with subclause (i) of this clause. Employees entitled to allocated days off duty in accordance with clause 4, Hours, of this Award shall accrue credit towards an allocated day off duty in respect of each day those employees are absent on additional annual leave in accordance with subclause (ii) of clause 12, Public Holidays, of this Award.
- (viii) Employees shall be entitled to an annual leave loading of 17.5 per centum, or shift penalties as set out in subclause (vi) of this clause, whichever is the greater.

NOTATION: The conditions under when the annual leave loading shall be paid to employees are the same as generally applied through circulars issued by the Ministry of Health, as varied or replaced from time to time.

14. Long Service Leave

- (i)
 - (a) Each employee shall be entitled to two months long service leave on full pay after ten years of service; thereafter additional long service shall accrue on the basis of five months long service leave on full pay for each ten years' service.

Employees with at least seven years' service and less than 10 years' service are entitled, proportionate to their length of service, to proceed on a proportionate period of long service leave on the basis of two months' long service leave for ten years' service on full pay.
 - (b) Where the services of an employee with at least five years' service and less than seven years' service are terminated by the employer for any reason other than the employee's serious and wilful misconduct, or by the employee, on account of illness, incapacity or domestic or other pressing necessity, they shall be entitled to be paid a proportionate amount for long service leave on the basis of two months' long service leave for ten years' service.

Where the services of an employee with at least seven years are terminated by the employer or by the employee, they shall be entitled to be paid a proportionate amount for long service leave on the basis of two months' long service leave for ten years' service. Where the services of an employee with at least 10 years' service are terminated by the employer or by the employee, they shall be entitled to be paid on the basis of two months' long service leave for ten years' service and thereafter on the basis of five months long service leave for each ten years' service.
- (ii) For the purposes of subclause (i) of this clause:
 - (a) Service shall mean continuous service with the employer. For the purpose of this paragraph, continuous service will be determined in accordance with Section 7 of the NSW Health Policy Directive PD2019_010 *Leave Matters for the NSW Health Service*, as amended or replaced from time to time.
 - (b) Broken periods of service with the employer in one or more hospitals shall count as service.
 - (c) Service shall not include -
 - (1) any period of leave without pay except in the case of employees who have completed at least ten years' service (any period of absence without pay being excluded there from) in which case service shall include any period of leave without pay not exceeding six months taken after 1 January, 1973;
 - (2) any period of part-time service, except permanent part-time service, as provided for in subclause (ix).
- (iii) An employee with an entitlement to long service leave may elect to access such entitlement:
 - (a) on full pay;

- (b) on half pay; or
- (c) on double pay.
- (iv) When an employee takes long service leave, the leave entitlement will be deducted on the following basis:
 - (a) a period of leave on full pay - the number of days so taken;
 - (b) a period of leave on half pay - half the number of days so taken; or
 - (c) a period of leave on double pay - twice the number of days so taken.
- (v) When taking long service leave and an employee would otherwise have had a rostered shift fall on a public holiday during that period, the amount of long service leave to be deducted is to be reduced by one day for the public holiday.
- (vi) Long Service Leave shall be taken at a time mutually arranged between the employer and the employee.
- (vii)
 - (a) On the termination of employment of an employee, otherwise than by his/her death, an employer shall pay to the employee the monetary value of all long service leave accrued and not taken at the date of such termination and such monetary value shall be determined according to the salary payable to the employee at the date of such termination, unless the employee elects to transfer their leave entitlement in accordance with Section 18 of the NSW Health Policy Directive 2019_010 Leave Matters for the NSW Health Service, as amended or replaced from time to time.
 - (b) Where an employee who has acquired a right to long service leave, or after having had five years' service and less than ten years' service dies, the widow or the widower of such employee, or if there is no such widow or widower, the children of such employee, or if there is no such widow, widower, or children, such person who, in the opinion of the employer, was at the time of the death of such employee, a dependent relative of such employee, shall be entitled to receive the monetary value of the leave not taken or which would have accrued to such employee, had his/her services terminated as referred to in paragraph (b) of subclause (i) of this clause and such monetary value shall be determined according to the salary payable to the employee at the time of his/her death.

Where there is a guardian of any children entitled under this paragraph the payment, to which such children are entitled, may be made to such guardian for their maintenance, education and advancement.

Where there is no person entitled under this paragraph to receive the monetary value of any leave payable under the foregoing provisions payment in respect thereof shall be made to the legal personal representative of such employee.
- (viii) The provisions of subclauses (i) to (v) of this clause shall not apply to part-time employees who receive an adjusted hourly rate (as defined in Part II, of clause 8, of this Award). Such employees shall be entitled to long service leave in accordance with the provisions of the *Long Service Leave Act 1955*, and/or Determination under the *Health Services Act 1997*.
- (ix) A full-time employee shall be entitled to have previous part-time service which is the equivalent of at least two full days' duty per week taken into account for long service purposes in conjunction with full-time service on the basis of the proportion that the actual number of hours worked each week bears to forty hours up until 30 June 1984 and bears to 38 on and from 1 July 1984, provided the part-time service merges without break with the subsequent full-time service.
- (x) Except as provided for in subclause (xi) of this clause, rights to long service leave under this clause shall be in replacement of rights to long service leave, if any, which at the date of commencement of this

Award may have accrued or may be accruing to an employee and shall apply only to persons in the employ of the employer on or after the date of commencement of this Award. Where an employee has been granted long service leave or has been paid its monetary value prior to the date of commencement of this Award, the employer shall be entitled to debit such leave against any leave to which the employee may be entitled pursuant to this clause.

- (xi) The following provisions shall apply only to employees employed in a hospital at 1 January 1973:
- (a) An employee who -
 - (1) has had service in a hospital, to which Clause 21, Climatic and Isolation Allowance, applies, prior to 1 January 1973;
 - (2) Is employed in a hospital, to which Clause 21, Climatic and Isolation Allowance, applies, at 1 January 1973 shall be granted long service leave in accordance with the long service leave provisions in force prior to 1st January 1973, in lieu of the provisions provided by this Award where such benefits are more favourable to the employee.
 - (b) An employee employed -
 - (1) as a part-time employee at 1st January 1973 may be allowed to continue to be granted long service leave in accordance with the long service provisions in force prior to 1st January 1973 in lieu of the provisions of the *Long Service Leave Act 1955*, as provided for in sub-clause (viii) of this clause;
 - (2) on a full-time basis at 1 January 1973, but who had prior part-time service may be allowed to continue to be granted long service leave in accordance with the long service leave provisions in force prior to 1 January 1973, in lieu of the provisions provided by this Award where such benefits are more favourable to the employee.
- (xii) Where an employee has accrued a right to an allocated day off duty on pay prior to entering a period of long service leave such day shall be taken on the next working day immediately following the period of long service leave.

An employee returning to duty from long service leave shall be given the next allocated day off duty in sequence irrespective of whether sufficient credits have been accumulated or not.

15. Sick Leave

- (i) Full-time employees - a full-time employee shall be entitled to sick leave on full pay by allowing 76 rostered ordinary hours of work for each year of continuous service, less any sick leave on full pay already taken subject to the following conditions.
- (a) All periods of sickness shall be certified to by the Medical Superintendent of the hospital or by a legally qualified Medical Practitioner approved by the employer, provided such approval shall not be unreasonably withheld; provided however, that the employer may dispense with the requirement of the medical certificate where the absence does not exceed two (2) consecutive days or where in the employer's opinion the circumstances are such as to not warrant such requirements.
 - (b) The employer shall not change the rostered hours of work of an employee fixed by the roster or rosters applicable to the seven days immediately following the commencement of sick leave merely by reason of the fact that the employee is on sick leave.
 - (c) An employee shall not be entitled to sick leave until after three months continuous service.
 - (d) Service for the purpose of this clause, shall mean service with the employer and shall be deemed to have commenced on the date of engagement by the employer in respect of any period of employment with the employer current at the date of the commencement of this Award in respect

of employees then so employed and in respect of others it shall be deemed to commence on the first day of engagement by the employer after the commencement of this Award.

- (e) Employees who are employed at the date of the commencement of this Award shall retain to their credit, until exhausted, any accumulation of sick leave to their credit immediately prior to such a date; provided that such credit is not less than the entitlement otherwise prescribed by this clause.
- (f) "Continuous Service" for the purpose of this clause, shall be calculated in the same manner as provided under subclause (ii) (a) of Clause 14, Long Service Leave, of this Award, excepting that all periods of service with the employer in any hospital (providing such service is not less than three months actual service) shall be counted.
- (g) Each employee shall take all reasonably practicable steps to inform the employer of their inability to attend for duty and as far as possible state the estimated duration for the absence.

Where practicable such notice shall be given within twenty-four hours of the commencement of such absence.

- (ii) Part-time employees - A part-time employee shall be entitled to sick leave in the same proportion of 76 hours as the average weekly hours worked over the preceding twelve months or from the time of the commencement of the employment, whichever is the lesser, bears to 38 ordinary hours of one week. Such entitlements shall be subject to all the above conditions applying to full-time employees.
- (iii) An employee shall not be entitled to sick leave on full pay for any period in respect of which such employee is entitled to accident pay, or workers compensation; provided, however, that where an employee is not in receipt of accident pay, an employer shall pay to an employee, who has sick leave entitlements under this clause, the difference between the amount received, as workers compensation and full pay. The employee's sick leave entitlement under this clause shall for each week during which such difference is paid, be reduced by the proportion of hours which the difference bears to full pay. On the expiration of available sick leave, weekly compensation payments only shall be payable.
- (iv) For the purpose of determining a full-time employee's sick leave credit as at the 1st July 1984, sick leave entitlement shall be proportioned on the basis of 76/80.

16. Payment and Particulars of Salary

- (i) Salaries shall be paid weekly or fortnightly.
- (ii) Employees shall have their salary paid into one account with a bank or other financial institution in New South Wales as nominated by the employee except where agreement as to another method of payment has been reached between the Union and the employer due to the isolation of the work location. Salaries shall be deposited by the employer in sufficient time to ensure that salaries are available for withdrawal by employees no later than pay day provided that this requirement shall not apply where employees nominate accounts with non-bank financial institutions which lack the technological or other facilities to process salary deposits within 24 hours of the employer making deposits with such financial institutions but in such cases the employer shall take all reasonable steps to ensure that the salaries of such employees are available for withdrawal by no later than pay day.

Subject to adequate notice in writing on each occasion, employees who are rostered off on pay day shall be entitled to have their salary deposited before proceeding on their days off.

- (iii) Notwithstanding the provisions of subclauses (i) and (ii) of this clause, any employee who was given or who has been given notice of termination of employment in accordance with Clause 17, Termination of Employment, of this Award, shall be paid all monies due to him/her prior to ceasing duty on the last day of employment. Where an employee is dismissed or their services are terminated without notice in accordance with Clause 17, Termination of Employment, of this Award, any moneys due to him or her shall be paid as soon as possible after such dismissal or termination, but in any case, not more than three days thereafter.

- (iv) On each pay day an employee, in respect of the payment then due, shall be furnished with a statement in writing containing the following particulars, namely: name, the amount of ordinary salary, the total hours of overtime worked, if any, other monies paid, and the purpose for which they are paid and the amount of deductions made from the total earnings and the nature thereof.
- (v) Where the retrospective adjustments of wages are paid to employees, such payments where practical shall be paid as a separate payment to ordinary wages. Such payment shall be accompanied by a statement containing particulars as set out in subclause (iv) of this clause.
- (vii) Underpayment and overpayment of salaries - the following process will apply once the issue of underpayment or overpayment is substantiated.
 - (a) Underpayment
 - (1) If the amount underpaid is equal to or greater than one day's gross base pay the underpayment will be rectified within three working days;
 - (2) If the amount underpaid is less than one day's gross base pay it will be rectified by no later than the next normal pay. However, if the employee can demonstrate that rectification in this manner would result in undue hardship, every effort will be made by the employer to rectify the underpayment within three working days.
 - (b) Overpayment
 - (1) In all cases where overpayments have occurred, the employer shall as soon as possible advise the employee concerned of both the circumstances surrounding the overpayment and the amount involved. The employer will also advise the employee of the pay period from which the recovery of the overpayment is to commence.
 - (2) One off overpayments will be recovered in the next normal pay, except that where the employee can demonstrate that undue hardship would result, the recover rate shall be at 10% of an employee's gross fortnightly base pay.
 - (3) Unless the employee agrees otherwise, the maximum rate at which cumulative overpayments can be recovered is an amount, calculated on a per fortnight basis, equivalent to 10% of the employee's gross fortnightly base pay.
 - (4) The recovery rate of 10% of an employee's gross fortnightly base pay referred to in subclause (b)(3) above may be reduced by agreement, where the employee can demonstrate that undue hardship would result.
 - (5) Where an employee's remaining period of service does not permit the full recovery of any overpayment to be achieved on the fortnightly basis prescribed in subclause (b)(3) above, the employer shall have the right to deduct any balance of such overpayment from monies owing to the employee on the employee's date of termination, resignation or retirement, as the case may be.

17. Termination of Employment

- (i) During the first three months of employment, employment shall be from week to week. After three months continuous service, employment may be terminated only by twenty eight days' notice given either by the employer or the employee at any time during the week or by payment or forfeiture of twenty eight days salary, as the case may be. Nothing in this clause, however, shall prevent the summary dismissal of an employee for misconduct or neglect of duty.
- (ii) Employees with a credit of time accrued towards an allocated day off duty shall be paid for such accrual upon termination.

- (iii) Provided that this clause shall not apply to positions covered by the Hospital Employees Conditions of Employment (State) Award, prior to 31 August 1988, the provisions of "Termination of Employment", subclause (ii), of that Award, shall apply.

18. Accommodation and Amenities

- (i) Suitable dining room accommodation and lavatory conveniences shall be provided for all resident and non-resident employees.
- (ii) In all hospitals erected after 1st January 1960, dressing room, lockers, hot and cold showers and conveniences also shall be provided for non-resident employees and where practicable, such facilities shall be provided in hospitals erected prior to that date.
- (iii) The following outlines the minimum standards which the employer seeks to achieve in all hospitals:

Sanitary conveniences -

- (a) Seats - in the proportion of 1 seat to every 15 employees or fraction of 15 employees of each sex.
- (b) Separate and distinct conveniences for each sex, together with screened approaches to ensure privacy. These facilities must be located conveniently to work places, they must be adequately lighted and ventilated and floors, walls and ceilings finished with a smooth faced surface resistant to moisture.

Washing and Bathing Facilities

- (a) Washing provision by way of basins of suitable impervious material with taps set at 600mm centres with hot and cold water supplied, in proportion of one hot tap and one cold tap for each fifteen employees or part of 15 employees of each sex. Space in front of the wash points shall not be less than 900mm.
- (b) Showers spaced at not less than 900mm and with hot and cold water connected for persons ceasing work at any one time in a minimum ratio of one shower for every twenty persons or part of twenty persons of each sex ceasing work at any one time.

Washing and bathing facilities must be adequately lighted and ventilated; floors, walls and ceilings finished with a smooth-faced surface resistant to moisture.

These facilities should be incorporated in or communicated direct with the change room and should not be contained within any closet block.

Change Rooms and Lockers

- (a) Properly constructed and ventilated change rooms equipped with a vented steel locker, at least 300mm wide by 450mm deep and 1800mm high for each employee.
- (b) Floor area not less than 0.56 sq. m. per employee to be accommodated.
- (c) Space between lockers - set up facing one another and not less than 1.5 metres. Trafficways not less than one metre wide.
- (d) Sufficient seating not less than 260mm wide by 380mm high should be provided.
- (e) Lockers should be set up with at least 150mm clearance between the floor of the locker and the floor of the room. Lockers shall be of the lock-up type with keys provided.

Dining Room

- (a) Well constructed, ventilated and adequately lighted dining room(s). Generally, floor area should not be less than 1.0 sq. m. per employee using the meal room at any one time.
- (b) Tables not more than 1.8 m. long, spaced 1.2 m. apart, allowing 0.6 m. of table space per person.
- (c) Chairs or other seating with back rests. Sufficient tables and chairs must be provided for all persons who will use the dining room at any one time.
- (d) Facilities for boiling water, warming and refrigerating food and for washing and storing of dining utensils shall be provided.

Rest Room

A well constructed and adequately lighted and ventilated room or screened off portion of the change room for women. Such rest room or rest area to be equipped with day bed or couch with mattress, blankets, pillow and hot water bottle.

- (iv) The above standards shall be the minimum to be included in working drawings approved after 1st December 1976, for new hospitals.
- (v) Where major additions to presently occupied buildings or new buildings are erected within a presently constituted hospital the amenities to be provided in such additions or new buildings shall be the subject of negotiations between the parties.

19. Inspection of Lockers of Employees

Lockers may be opened for inspection in the presence of the employee but in cases where the employee neglects or refuses to be present or in any circumstances where notice to the employee is impracticable such inspection may be carried out in the absence of the employee by an employee appointed by the employer, and if practicable, a Union Branch Employee, otherwise by any two employees so appointed by the employer.

20. Uniform and Laundry Allowance

- (i) Subject to subclause (iii) of this clause, sufficient suitable and serviceable uniforms shall be supplied free of cost to each employee required to wear a uniform provided that an employee to whom a new uniform or part of a uniform has been supplied by the employer who, without good reason, fails to return the corresponding article last supplied to him or her, shall not be entitled to have such article replaced without payment thereof at a reasonable price.
- (ii) An employee, on leaving the service of the employer shall return any uniform or part thereof supplied by the employer which is still in use immediately prior to leaving.
- (iii) In lieu of supplying a uniform to an employee, the employer shall pay to such employee an amount per week as set in Item 3 of Table 1, Allowances.
- (iv) If at any hospital the uniform of the employee is not laundered at the expense of the employer, an allowance per week as set in Item 3 of the said Table 1, shall be paid to such employee.
- (v) Each employee whose duties require him/her to work in a hazardous situation shall be supplied with the appropriate protective clothing and equipment.
- (vi) The allowances referred to in subclauses (iii) and (iv) are payable to part-time employees on the basis of one fifth of the full weekly allowance for each shift worked in the week.

21. Climatic and Isolation Allowance

- (i) Employees employed in hospitals in any place situated upon or to the west of a line drawn as specified in this subclause but not including places as specified in subclause (ii) of this clause shall be paid a weekly allowance as set in Item 4 of Table 1, Allowances, in addition to the salary to which they otherwise are entitled. The line shall be drawn as follows: commencing Tocumwal and thence to the

- following towns in the order stated, namely, Lockhart, Narrandera, Leeton, Peak Hill, Gilgandra, Dunedoo, Coolah, Boggabri, Inverell, and Bonshaw.
- (ii) Employees employed in hospitals in any place situated upon or to the west of a line drawn as specified in this subclause shall be paid a weekly allowance as set in Item 4 of Table 1, Allowances, in addition to the salary to which they otherwise are entitled. The line shall be drawn as follows: commencing at a point on the right bank of the Murray River at Swan Hill (Victoria) and thence to the following towns in the order stated, namely, Hay, Hillston, Nyngan, Walgett, Collarenebri and Mungindi.
 - (iii) Except for the computation of overtime, the allowances prescribed in this clause shall be regarded as part of the salary for the purpose of this Award.
 - (iv) The allowances prescribed by this clause are not cumulative.
 - (v) A part-time employee shall be entitled to the allowances prescribed in this clause in the same proportion as average hours worked each week bears to 38 ordinary hours.

22. Notice Boards

The hospital shall permit notice boards of reasonable dimensions to be erected in a prominent position upon which the representative of the Union shall be permitted to post Union Notices.

23. Union Representatives

An employee appointed as Union representative shall upon notification thereof in writing by the Union to the employer, be recognised as an accredited representative of the Union and shall be allowed the necessary time during working hours to interview the employer on matters affecting employees and shall be allowed suitable facilities to collect the Union's dues.

24. Exemptions

This Award shall not apply to members, novices or aspirants of religious orders in public hospitals, the names of whom are included or hereafter shall be in the third schedule to the *Health Services Act 1997*.

25. Blood Counts

Every employee who works in close proximity to diagnostic and/or therapeutic X-Ray equipment or any other form of radio-active equipment or substance shall have a blood count carried out free of charge, by the employer at least once in every period of three months including any such period of work.

26. Settlement of Disputes

- (i) Where a dispute arises in a particular section which cannot be resolved between the employees or their representative and the supervising staff, it shall be referred to the Chief Executive Officer of the Health Service or establishment or his/her nominee, who will arrange to have the matter discussed with the employees concerned and a local representative or representatives of the Union.
- (ii) Failing settlement of the issue at this level, the matter shall be referred to the Secretary and the Head office of the Union. The dispute will be dealt with pursuant to subclause (v) of this clause.
- (iii) Whilst these procedures are continuing, no stoppage of work or any form of ban or limitation of work shall be applied.
- (iv) The Union reserves the right to vary this procedure where it is considered a safety factor is involved.
- (v) With view to an amicable and speedy settlement, all disputes that firstly cannot be settled in accordance with subclauses (i) and (ii) of this clause may be submitted to the committee consisting of not more than six (6) members, with equal representatives of the Union and the Secretary. Such committee shall have the power to investigate all matters in dispute and to report to the Chief Executive Officer of the Health Service and the Union respectively with such recommendation as it may think right and, in the event of

no mutual decision being arrived at by such committee, the matter in dispute may be referred to the Public Health Employees (State) Industrial Committee.

- (vi) This clause shall not interfere with the rights of either to institute proceedings for the determination of any matter in accordance with the *Industrial Relations Act 1996*.

27. Anti-Discrimination

- (i) It is 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.
- (ii) 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.
- (iii) 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.
- (iv) Nothing in this clause is to be taken to affect:
- (a) any conduct or act which is specifically exempted from anti-discrimination legislation;
 - (b) offering or providing junior rates of pay to persons under 21 years of age;
 - (c) any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*;
 - (d) a party to this Award from pursuing matters of unlawful discrimination in any State or Federal jurisdiction.
- (v) 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 -

- (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 this 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."

28. Travelling Allowance

- (i) An employee seconded to another hospital may be granted a daily travel allowance at the rate of the difference between the cost of travel by public transport to his/her normal place of employment and travel by public transport to the seconding hospital. Provided that where an employee drives his/her own vehicle, they shall, in lieu, be eligible for an allowance based on the casual rate prescribed by the Crown Employees (Public Service Conditions of Employment) Award 2009, as varied or replaced from time to time, for the difference between the distance to his/her normal place of employment and distance to the seconding hospital.
- (ii) An employee who with the approval of the employer, uses on official business a motor vehicle primarily for other than official business, shall be paid the above mentioned allowance from time to time effective. However, where it is estimated that an employee will, with the approval of the employer, be required to

use his/her private vehicle on official business on at least fifty days during any period of twelve months and during that period, aggregate at least 850 kilometres of official running, he shall be paid the official business rate prescribed by the Crown Employees (Public Service Conditions of Employment) Award 2009, as varied or replaced from time to time, at the rate in force from time to time throughout the year.

- (iii) For the purpose of subclause (ii) travel on official business -
 - (a) occurs when an employee is required by the employer as part of his/her duty to use his/her motor vehicle to attend away from his/her normal place of employment or seconding hospital to another clinic, annexe or hospital. Where an employee travels on official business direct from his/her place of residence to a clinic, annexe or hospital, other than normal place of employment they shall be paid the difference between the distance to his/her normal place of employment or seconding hospital and that other clinic, annexe or hospital.
 - (b) shall include other arrangements as agreed to between the employer and the Union from time to time.
 - (c) does not include "call backs".
- (iv) Nothing in this clause shall make the employer liable for the cost of the employee's daily travel to his/her usual and normal place of employment.

29. General Conditions

An employee required to answer emergency phone calls outside of ordinary working hours, but not recalled to duty, shall be reimbursed rental charges on such telephone on production of receipted accounts.

Provided that, where an employee is required to answer out of hours telephone calls on a relief basis they shall be paid one-twelfth of his/her yearly telephone rental for each month or part thereof they are so employed.

30. Promotions and Appointments

- (i) Promotion and/or appointment shall be by merit.
- (ii) In the case of an employee or employees disputing a promotion and/or appointment the Union may apply to the Public Health Employees (State) Industrial Committee or its chairman or the Industrial Relations Commission of New South Wales for determination of the dispute.

31. Board and Lodging

- (i) Where an employee lives at a hospital, deductions from his/her salary for accommodation and/or board may be made by the employer at the rates prescribed from time to time by the Public Health System Nurses' and Midwives' (State) Award 2019, as varied or replaced from time to time.
- (ii) Where individual meals only are provided, the employee may be charged the charges applicable under the Public Health System Nurses' and Midwives' (State) Award 2019, as varied or replaced from time to time.
- (iii) No deductions shall be made from the salary of an employee for board or lodging when the employee is absent on annual, sick or long service leave.

32. Maternity, Adoption and Parental Leave

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 again work 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 (NSW) 1987*.

(ii) Portability of Service for Paid Maternity Leave

Portability of service for paid maternity leave involves the recognition of service in government sector agencies for the purpose of determining an employee's eligibility to receive paid maternity leave. For example, where an employee moves between a public service 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 government sector as defined in the *Government Sector Employment Act 2013* 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 immediately commences duty with the new employer. There may be a break in service of up to two months before commencing duty with the new 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

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 date of birth it is subject to the employee being able to satisfactorily perform 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.

(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 only without the consent of her employer by giving the employer notice in writing of the extended period at least fourteen days' before the start of the extended period. An employer may accept less notice if convenient.

An employee may extend the period of maternity leave at any time with the agreement of the employer.

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 *Industrial Relations Act 1996* (Section 69) 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 pregnancy an employee is unable to continue to work then they 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 pregnancy, an employee cannot carry out the duties of their position, an employer is obliged, as far as practicable, to provide employment in some other position that they are 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 their 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. They may resume duty at any time provided they 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 to 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 shall be granted. If an employee enters on the second period of maternity leave during the currency of the initial period of maternity leave, then any residual maternity leave from the initial entitlement ceases.

An employee who commences a subsequent period of maternity leave while on unpaid maternity leave under subclause (iv)(a) of Part A of this clause or subclause (i)(b) of Part D of this clause is entitled to be paid at their normal rate (i.e. the rate at which they were paid before proceeding on maternity leave).

An employee who commences a subsequent period of maternity leave during the first 12 months of a return to duty on a part time basis 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 on a part time basis 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 (NSW) 1987*.

(ii) Portability of Service for Paid Adoption Leave

As per maternity leave conditions.

(iii) 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 and under 18 years old - a period of up to 12 months, such period to be agreed upon by both the employee and the employer.

(iv) 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.

(v) 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.

(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 (NSW) 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 week's paid leave may be taken at any time within the 52 week period and shall be paid:

at the employees' 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.

- (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.

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.

(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:
- (1) if applicable, the period of any maternity leave sought or taken by his spouse, and
 - (2) 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 for a further continuous period of leave not exceeding 12 months;
- (c) to return from a period of maternity, adoption or parental leave on a part time basis until the child reaches school age;
 - 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 subclauses (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) 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.
 - (d) employees who return from 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 the 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 the 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).

NOTE:

- (a) The entitlement to maternity, adoption and parental leave for part-time employees who receive an adjusted hourly rate (as defined in clause 8, Part 2, in this Award), along with casual employees, are in accordance with the provisions of Part 4, Parental Leave of the *Industrial Relations Act 1996* and/or Determination under the *Health Services Act 1997*.

- (b) Where a casual employee is entitled to parental leave under the *Industrial Relations Act 1996*, the following provisions shall also apply in addition to those set out in the Act.

An employer must not fail to re-engage a casual employee because:

the employee or employee's spouse is pregnant; or

the employee is or has been immediately absent on parental leave.

The rights of the employer in relation to engagement and re-engagement of casual employees are not affected, other than in accordance with this clause.

- (c) Part time employees who receive an adjusted hourly rate are also entitled to the provisions of Part D Right to Request and Part E Communication During Leave of this clause.

- (d) 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.

32A. Lactation Breaks

- (i) This clause applies to employees who are lactating mothers. A lactation break is provided for breastfeeding, expressing milk or other activity necessary to the act of breastfeeding or expressing milk and is in addition to any other rest period and meal break as provided for in this Award.
- (ii) A full time employee or a part time employee working more than four hours per day is entitled to a maximum of two paid lactation breaks of up to 30 minutes each per day or per shift.
- (iii) A part time employee working four hours or less on any day or shift is entitled to only one paid lactation break of up to 30 minutes each per day or per shift worked.
- (iv) A flexible approach to lactation breaks can be taken by mutual agreement between an employee and their manager provided the total lactation break time entitlement is not exceeded. When giving consideration to any such requests for flexibility, a manager needs to balance the operational requirements of the organisation with the lactating needs of the employee.
- (v) The employer shall provide access to a suitable, private space with comfortable seating for the purpose of breastfeeding or expressing milk. Other suitable facilities, such as refrigeration and a sink, shall be provided where practicable. Where it is not practicable to provide these facilities, discussions between the manager and the employee will take place to attempt to identify reasonable alternative arrangements for the employee's lactation needs.
- (vi) Employees experiencing difficulties in effecting the transition from home based breastfeeding to the workplace will have telephone access in paid time to a free breastfeeding consultative service, such as that provided by the Australian Breastfeeding Association's Breastfeeding Helpline Service or the Public Health System.
- (vii) Employees needing to leave the workplace during time normally required for duty to seek support or treatment in relation to breastfeeding and the transition to the workplace may utilise sick leave or other leave in accordance with the Award.

33. 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) The provisions outlined in Parts A and B of this clause are available to all employees covered by this Award, other than casual employees as defined in subclause (iii) below.

- (iii) Casual employees as defined in the Health Industry Status of Employment (State) Award 2019, as varied from time to time, are entitled to the provisions outlined in Part C of this clause.

A. FACS Leave

- (i) 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 employer 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).

- (ii) FACS leave replaces compassionate leave.

- (iii) An employee is not to be granted FACS leave for attendance at court to answer a criminal charge, unless the employer 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.

- (iv) FACS Leave - entitlement

- (a) The maximum amount of FACS leave on full pay that may be granted to an employee is:

- (1) 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
- (2) 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 entitlements under (iv)(a)(1) and (2) above, a working day for employees working 38 hours per week shall be deemed to consist of 8 hours, and a working day

for employees working 35 hours per week shall be deemed to consist of 7 hours. The rate at which FACS leave is paid out and utilised shall be on actual hours absent from a rostered shift.

Example A: An employee working 38 hours per week will have an entitlement, in their first year of employment, to 24 hours of FACS leave. If the employee takes FACS leave for a full 10 hour shift, the employee would be debited 10 hours of FACS leave.

Example B: An employee working 35 hours per week will have an entitlement, in their first year of employment, to 21 hours of FACS leave. If the employee takes FACS leave for a full 7 hour shift, the employee would be debited 7 hours of FACS leave.

Example C: An employee, employed prior to 1 January 1995, applies for FACS leave on 20 February 1997. The employee is entitled to 6 days in any period of two years. Therefore, to calculate the employee's available FACS leave as at 20 February 1997, add all FACS leave taken from 21 February 1995 to 20 February 1997 and deduct that amount from the 6 days entitlement.

- (c) FACS leave is available to part-time employees on a pro rata basis, based on the average number of hours worked per week. A working day shall consist of one-fifth of the employee's average weekly hours during the preceding 12 months or during the employee's period of employment, whichever is the lesser period.

Example: An employee working an average of 30 hours per week will have an entitlement, in first year of employment, of 18 hours of FACS leave. If the employee takes FACS leave for a full rostered shift e.g. of 4 hours, the employee would be debited 4 hours of FACS leave. Likewise, if the employee was rostered for 8 hours and was absent for the full 8 hours on FACS leave, they would be debited 8 hours of FACS leave.

- (v) 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 (i) (a) of Part A of this clause.

- (vi) Use of other leave entitlements

The employer 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

- (i) 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.

(ii) 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:

- (1) the employee being responsible for the care and support of the person concerned; and
(2) the person concerned being as defined in subclause (i) of Part B of this clause.

- (b) Other than a casual or any other employee who receives a loading in lieu of sick leave, an employee 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 employer 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 paragraph (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 part where another person has taken leave to care for the same person.

(iii) 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 10 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 5 consecutive annual leave days are taken. 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.

- (b) long service leave; or
 - (c) leave without pay for the purpose of providing care and support to the person concerned as defined in subclause (i) of Part B of this clause.
- (iv) Time off in lieu of payment of overtime
- (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
 - (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 (iv)(a) above and the leave is not taken for whatever reason, payment for time accrued at overtime rates shall be made at the expiry of the twelve 12 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 (iv)(a) above, the employee shall be paid overtime rates in accordance with the provisions of clause 9, Overtime.
- (v) 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 clause 4 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 which would have been applicable to the hours taken off.

C. Entitlements for Casual Employees

- (i) 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 relative or member of a household as prescribed in subclause (i)(a) of Part 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 part. The rights of an employer to engage or not engage a casual employee are otherwise not affected.
- (ii) Personal carer's entitlement for casual employees
- (a) Subject to the evidentiary and notice requirements in subclauses (ii)(e) - (h) of Part B of this clause 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 (i) of Part B of this clause who are sick and require 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 part. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.

33A. Family Violence Leave

- (i) For the purpose of this clause, family violence means domestic violence as defined in the *Crimes (Domestic and Personal Violence) Act 2007*. The violence may have been reported to the police and/or may be the subject of an Apprehended Violence Order.
- (ii) An employee experiencing family and domestic violence can utilise Award leave entitlements provided for in Sick Leave and Family and Community Services Leave provisions of the Award.
- (iii) Where leave entitlements to Sick Leave and Family and Community Services Leave are exhausted, the employer will grant up to five days per year of paid special leave to attend legal proceedings, counselling, appointments with a medical or legal practitioner and relocation and safety activities directly associated with alleviating the effects of family and domestic violence. This leave entitlement does not accumulate from year to year.
- (iv) Upon exhaustion of the paid leave entitlement, an employee may request further periods of unpaid leave, for the same activities for which paid leave would be available.
- (v) To access paid and unpaid leave, the employee must provide the employer with evidence, to the employer's satisfaction, substantiating the purpose of the leave and that the leave is related to alleviating the effects of family violence. The employer may accept a variety of agreed documentation in support of an application for leave. Supporting documentation may be presented in the form of an agreed document issued by the Police Force, a Court, a doctor, a Family Violence Support Service or a lawyer.
- (vi) Matters related to family violence can be sensitive. Information collected by the employer will be kept confidential. No information relating to the details of the family violence will be kept on an employee's personnel file without their express permission. However, records about the use of family violence leave will need to be kept.
- (vii) The employer, where appropriate, may facilitate flexible working arrangements subject to operational requirements. This may include changes to working times and locations, telephone numbers and email addresses.
- (viii) The employer will co-operate with all legal orders protecting an employee experiencing domestic violence.

34. Mobility, Excess Fares and Travelling

For the purpose of this clause accustomed place of work shall mean the location where an employee is regularly required to commence duty by the employer.

- (i) An employee shall be required to proceed to the accustomed place of work and return home once on each ordinary working day or shift in the employee's own time and at the employee's own expense.
- (ii)
 - (a) Where an employee is directed to report for duty to a place of work other than the employee's accustomed place of work the employee shall travel to and from the alternative place of work in the employer's time for those periods in excess of time normally taken to travel to and from the accustomed place of work.

- (b) If the excess of travelling time on a particular day or shift is greater than the prescribed ordinary hours of duty for the particular category of staff for that day or shift, then the excess of hours shall be paid at the ordinary rate of pay to the extent of travelling time.
 - (c) Fares incurred by such employee in excess of the fares normally incurred in travelling to the employee's accustomed place of work and returning home from the accustomed place of work shall be reimbursed.
 - (d) Where the employee is required to report to an alternative place of work and has the prior approval of the employer to travel by their own mode of conveyance, the employee shall be paid a kilometre allowance for kilometres travelled in excess of the kilometres the employee normally travels between the accustomed place of work and home. The kilometre allowance will be prescribed from time to time by the Crown Employees (Public Service Conditions of Employment) Award 2009, as varied or replaced from time to time.
- (iii)
- (a) Where an employer has determined that an employee or employees should report to a new accustomed place of work on a permanent basis, the decision must be discussed with the affected employee(s) and the local branch of the Union prior to notice of changed accustomed place of work being given.
 - (b) The employer shall give the employee reasonable notice of the requirement to report to a new accustomed place of work. For the purpose of this subclause "reasonable notice" shall be one calendar month prior to the date the employee is first required to report to the new accustomed place of work.
 - (c) Where the accustomed place of work is changed on a permanent basis by the employer, the employee shall report to the new accustomed place of work on the date specified by the employer.
 - (d) If there is disagreement about such a decision after such discussion or if a significant number of employees are involved, the matter should be referred to the Secretary, who will discuss the matter with the Union and will determine the date upon which notice will be given to employee(s).
- (iv)
- (a) The provision of this clause shall not apply to an employee appointed to regularly perform relief duties or to employees specifically employed to perform duties at more than one place of work except as provided in (b) hereunder.
 - (b) If a reliever incurs fares in excess of \$5.18 per day in travelling to and from the relief site, the excess shall be reimbursed.

Where a reliever, with the prior approval of the employer, travels by their own mode of conveyance and incurs travelling costs in excess of \$5.18 per day to and from the relief site, such excess shall be reimbursed. The rate applicable shall be the kilometre allowance prescribed from time to time in the Crown Employees (Public Service Conditions of Employment) Award less \$5.18.

This \$5.18 shall be reviewed annually by the employer.
- (v) No payment shall be made under this clause unless the employer is satisfied that the employee has incurred additional expenditure in having to report to an alternative place of work, at the direction of the employer.
 - (vi) Travel to an alternative place of work, either by public transport or own mode of conveyance, shall in all instances be by the most direct route.

35. Labour Flexibility

- (i) The employer may direct an employee to carry out such duties as are reasonable, and within the limits of the employee's skill, competence and training consistent with employee's classification, grouping and/or career stream provided that such duties are not designed to promote deskilling.
- (ii) The employer may direct an employee to carry out such duties and use such tools and equipment as may be required provided that the employee has been properly trained or has otherwise acquired the necessary skills in the use of such tools and equipment.
- (iii) Any direction issued by the employer pursuant to subclause (i) and (ii) shall be consistent with the employer's responsibilities to provide a safe and healthy work environment.
- (iv) Existing provisions with respect to the payment of higher duties allowances shall apply in such circumstances.

36. Salary Packaging

- (i) By agreement with their employer, employees may elect to package part or all of their salary in accordance with this clause, to obtain a range of benefits as set out in the NSW Health Policy Directive PD2018_044 *Salary Packaging*, as amended from time to time. Such election must be made prior to the commencement of the period of service to which the earnings relate. Where an employee also elects to salary sacrifice to superannuation under this Award, the combined amount of salary packaging/sacrificing may be up to 100 per cent of salary.

Any salary packaging above the fringe benefit exemption cap will attract fringe benefits tax as described in paragraph (iv) below.

- (ii) Where an employee elects to package an amount of salary:
 - (a) Subject to Australian taxation law, the packaged amount of salary will reduce the salary subject to PAYE taxation deductions by that packaged amount.
 - (b) Any allowance, penalty rate, overtime payment, payment for unused leave entitlements, weekly workers' compensation, or other payment other than any payment for leave taken in service, to which an employee is entitled under this Award or statute which is expressed to be determined by reference to an employee's salary, shall be calculated by reference to the salary which would have applied to the employee under this Award in the absence of any salary packaging or salary sacrificing made under this Award.
 - (c) 'Salary' for the purpose of this clause, for superannuation purposes, and for the calculation of Award entitlements, shall mean the Award salary as specified in Clause 2 - Salaries, and which shall include 'approved employment benefits' which refer to fringe benefit savings, administration costs, and the value of packaged benefits.
- (iii) Any pre-tax and post-tax payroll deductions must be taken into account prior to determining the amount of available salary to be packaged. Such payroll deductions may include but are not limited to superannuation payments, HECS payments, child support payments, judgement debtor/garnishee orders, union fees, and private health fund membership fees.
- (iv) The salary packaging scheme utilises a fringe benefit taxation exemption status conferred on public hospitals and Local Health Districts, which provides for a fringe benefit tax exemption cap of \$17,000 per annum. The maximum amount of fringe benefits-free tax savings that can be achieved under the scheme is where the value of benefits when grossed-up, equal the fringe benefits exemption cap of \$17,000. Where the grossed-up value exceeds the cap, the employer is liable to pay fringe benefits tax on the amount in excess of \$17,000 but will pass this cost on to the employee. The employer's share of savings, the combined administration cost, and the value of the package benefits are deducted from pre-tax dollars.

- (v) The parties agree that the application of the fringe benefits tax exemption status conferred on public hospitals and area health services is subject to prevailing Australian taxation laws.
- (vi) If an employee wishes to withdraw from the salary packaging scheme, the employee may only do so in accordance with the required period of notice as set out in the NSW Health Policy Directive PD2018_044 *Salary Packaging*, as amended or replaced from time to time.
- (vii) Where an employee ceases to salary package, arrangements will be made to convert the agreed package amount to salary. Any costs associated with the conversion will be borne by the employee, and the employer shall not be liable to make up any salary lost as a consequence of the employee's decision to convert to salary.
- (viii) Employees accepting the offer to salary package do so voluntarily. Employees are advised to seek independent financial advice and counselling to apprise them of the implications of salary packaging on their individual personal financial situations.
- (ix) The employer and the employee shall comply with the procedures set out in the NSW Health Policy Directive PD2018_044 *Salary Packaging*, or as amended from time to time.

37. Reasonable Hours

- (i) Subject to subclause (ii) the employer may require an employee to work reasonable overtime at overtime rates unless or as otherwise provided for under the Award.
- (ii) The employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working hours which are unreasonable.
- (iii) For the purposes of subclause (ii) what is unreasonable or otherwise will be determined having regard to:
 - (a) any risk to employee health and safety.
 - (b) The employee's personal circumstances including any family and carer responsibilities.
 - (c) The needs of the workplace or enterprise.
 - (d) The notice (if any) given by the employer of the overtime and by the employee of their intention to refuse it; and
 - (e) Any other relevant matter.

38. Salary Sacrifice to Superannuation

- (i) Notwithstanding the salaries prescribed in Clause 2, Salaries, as varied from time to time, an employee may elect, subject to the agreement of the employee's employer, to sacrifice a part or all of the salary payable under the salaries clause 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 together with any salary packaging arrangements under Clause 36 Salary Packaging, of this Award may be made up to one hundred (100) per cent of the salary payable under the salaries clause, or up to one hundred (100) per cent of the currently applicable superannuable salary, whichever is the lesser.

In this clause, 'superannuable salary' means the employee's salary as notified from time to time to the New South Wales public sector superannuation trustee corporations.

- (ii) Any pre-tax and post-tax payroll deductions must be taken into account prior to determining the amount of available salary to be packaged. Such payroll deductions may include but are not limited to superannuation payments, HECS payments, child support payments, judgement debtor/garnishee orders, union fees and private health fund membership fees.

- (iii) Where the employee has elected to sacrifice a part or all of the available payable salary to additional employer superannuation contributions:
- (a) The employee shall be provided with a copy of the signed agreement. The salary sacrifice agreement shall be terminated at any time at the employee's election and shall cease upon termination of the employee's services with the employer;
 - (b) Subject to Australian taxation law, the amount of salary sacrificed will reduce the salary subject to appropriate PAYE taxation deductions by the amount sacrificed; and
 - (c) Any allowance, penalty rate, overtime, payment for unused leave entitlements, weekly workers' compensation, or other payment, other than any payment for leave taken in service, to which an employee is entitled under the relevant Award or any applicable Award, Act, or statute which is expressed to be determined by reference to an employee's salary, shall be calculated by reference to the salary which would have applied to the employee under the salaries clause in the absence of any salary sacrifice to superannuation made under this Award.
- (iv) The employee may elect to have the specified amount of payable salary which is sacrificed to additional employer superannuation contributions:
- (a) paid into the superannuation scheme established under *the First State Superannuation Act 1992* as optional employer contributions; or
 - (b) subject to the employer's agreement, paid into a private sector complying superannuation scheme as employer superannuation contributions.
- (v) Where an employee elects to salary sacrifice in terms of subclause (iv) above, the employer will pay the sacrificed amount into the relevant superannuation fund.
- (vi) Where the employee is a member of a superannuation scheme established under:
- (a) the *Police Regulation (Superannuation) Act 1906*;
 - (b) the *Superannuation Act 1916*;
 - (c) the *State Authorities Superannuation Act 1987*;
 - (d) the *State Authorities Non-contributory Superannuation Act 1987*; or
 - (e) the *First State Superannuation Act 1992*.

The employee's employer must ensure that the amount of any additional employer superannuation contributions specified in subclause (i) above is included in the employee's superannuable salary which is notified to the New South Wales public sector superannuation trustee corporations.

- (vii) Where, prior to electing to sacrifice a part or all of their salary to superannuation, an employee had entered into an agreement with their employer to have superannuation contributions made to a superannuation fund other than a fund established under legislation listed in subclause (v) above, the employer will continue to base contributions to that fund on the salary payable under Clause 2, Salaries, of this Award to the same extent as applied before the employee sacrificed that amount of salary to superannuation. This clause applies even though the superannuation contributions made by the employer may be in excess of the superannuation guarantee requirements after the salary sacrifice is implemented.

39. No Extra Claims

Other than as provided for in the *Industrial Relations Act 1996* and the Industrial Relations (Public Sector Conditions of Employment) Regulation 2014, there shall be no further claims/demands or proceedings instituted before the Industrial Relations Commission of New South Wales for extra or reduced wages, salaries,

rates of pay, allowances or conditions of employment with respect to the employees covered by the Award that take effect prior to 30 June 2022 by a party to this Award.

40. Area, Incidence and Duration

- (i) This Award takes effect from 1 July 2021 and shall remain in force for a period of one year. The allowances in the last column in Table 1 of Part B - Monetary rates will apply from the first full pay period on or after (ffppoa) 1 July 2021.
- (ii) This Award rescinds and replaces the Hospital Scientists (State) Award 2019 published 6 March 2020 (386 I.G. 1121) and all variations thereof.
- (iii) This Award shall apply to persons employed in classifications contained herein employed in the NSW Health Service under section 115(1) of the *Health Services Act 1997*, or their successors, assignees or transmittes.

PART B

Table 1 - Allowances

Item No.	Clause No.	Description	Rate to apply prior to ffppoa 01/07/2021 \$	Rate from first full pay period on or after 01/07/21 \$
1	7	On call - per 24 hours or any part thereof	12.54	12.80
2	10	Meals allowance for overtime		
		(a) Breakfast at or before 6.00 a.m.* (each)	31.25	31.95
		(b) Evening at least 1 hour after normal ceasing time and extends beyond or is worked wholly after 7.00 p.m.* (each)	31.25	31.95
		(c) Lunch beyond 2.00 p.m. Saturdays, Sundays or Holidays* (each)	31.25	31.95
3	20(iii), (iv)	Uniform and Laundry Allowance		
		Uniform (per week)	2.69	2.72
		Laundry (per week)	2.80	2.83
4	21(i)	Climatic and Isolation Allowance for persons employed in hospitals upon or west of the line commencing at Tocumwal, etc. (per week)	3.83	3.87
4	21(ii)	Climatic and Isolation Allowance for persons employed in hospitals upon or west of the line commencing at Murray River etc. (per week)	7.45	7.53

* NB: These allowances are varied in accordance with Treasury Circular C2021-03 *Meal, Traveling and other Allowances for 2020-21*, as varied or replaced from time to time.

N. CONSTANT, *Chief Commissioner*

Printed by the authority of the Industrial Registrar.

CROWN EMPLOYEES (PLANNING OFFICERS) AWARD 2021

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Review of Award pursuant to Section 19 of the *Industrial Relations Act 1996*.

(Case No. 178982 of 2021)

Before Commissioner Sloan

8 November 2021

REVIEWED AWARD**Arrangement**

PART A

Clause No.	Subject Matter
1.	Title
2.	Definitions - General
3.	General Conditions of Employment
4.	Classifications and Salary Structures
5.	Working Hours
6.	Flex Leave
7.	Appeals Mechanism - Soft Barrier
8.	Anti-Discrimination
9.	Grievance and Dispute Resolution Procedures
10.	Savings of Rights
11.	Area, Incidence and Duration

PART B

MONETARY RATES

Table 1 - Salaries

ANNEXURE A

Planning Flexible Working Hours Agreement 2021

PART A**1. Title**

This Award will be known as the Crown Employees (Planning Officers) Award 2021.

2. Definitions - General

"Act" means the *Government Sector Employment Act 2013*.

"Award" means the Crown Employees (Planning Officers) Award 2021.

"Association" means the Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales.

"Common Salary Point (CSP)" means the salary points summarised under the CE (Public Service - Salaries) Award.

"Department" means the NSW Department of Planning, Industry and Environment.

"Director" means an employee of the Department with management responsibilities for a region, branch, unit or discrete group of people, who has delegation, as determined from time to time, to perform some the functions of the Industrial Relations Secretary.

"Group Deputy Secretary, People, Performance and Culture" means the person in charge of the Human Resource function of the Department.

"Employee" means and includes all persons employed from time to time under the provisions of the *Government Sector Employment Act 2013*.

"Executive Director" means a Public Service Senior Executive employee of the Department with significant management responsibilities, heading up a division of the Department, who has delegation, as determined from time to time, to perform the functions of the Industrial Relations Secretary.

"Hard Barrier" means a barrier to a higher level within a classification that can only be accessed by merit through a competitive selection process.

"Industrial Relations Secretary" means the Industrial Relations Secretary, as established under the *Government Sector Employment Act 2013*.

"Normal Work" for the purposes of clause 9, Grievance and Dispute Resolution Procedures of this Award, means the work carried out in accordance with the employee's role or role description at the location where the employee was employed, at the time the grievance or dispute was notified by the employee.

"Planning Officer or PO" means a person employed on an ongoing or temporary basis in the Department either as a full-time or part-time employee, in any capacity under the provisions Part 4 of the Act, performing those professional planning including employees on probation. This does not include the Secretary, statutory appointees or Public Service Senior Executives employees as defined under the Act.

"Role" means a role pursuant to Part 1, Section 3(1) of the *Government Sector Employment Act 2013*.

"Salary Rates" means the ordinary time rate of pay for the employees grading excluding shift allowance, weekend penalties and all other allowances not regarded as salary.

"Secretary" means the Department Head of the Department as listed in Part 1, Schedule 1 Public Service Agencies, of the Act.

"Soft Barrier" means an identified progression requirement (as distinct from normal incremental progression) to move from one year to the next within the same level. This progression is not automatic but based on meeting specific performance or skill competency requirements as set out in this Award.

"Student Planner" means a person temporarily employed in the Department either as a full-time or part-time employee, in any capacity under the provisions of Part 4 of the Act and performing student planning functions. The student planner must be currently enrolled in university and studying a relevant degree or discipline.

"Supervisor" means an employee of the Department with supervisory responsibilities who has delegation, as determined from time to time, to perform the functions of the Secretary.

3. General Conditions of Employment

3.1 Except as otherwise provided by this Award the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 will apply.

3.2 The following awards and agreements will continue to apply to employees covered by this Award:

Crown Employees (Transferred Employees Compensation) Award

Crown Employees (Public Sector - Salaries 2021) Award or an award replacing it.

- 3.3 Conditions of employment other than those fixed by this Award are determined by the Act and the Government Sector Employment Regulation 2014.

4. Classifications and Salary Structures

- 4.1 All Planning Officers (Professional) will be paid in accordance with the Crown Employees (Public Sector - Salaries 2021) Award or any award replacing it. The salary rates applicable to classifications identified in this award are duplicated in Table 1 - Salaries in Part B of this Award.

- 4.2 Employees known as Planning Officers (Professional) will have a title that reflects their functional responsibility as shown in subclauses 4.5 and 4.12 of this clause.

- 4.3 No employee is to be disadvantaged by the application of this Award.

- 4.4 Increments

Incremental progression for all employees will be subject to a satisfactory performance report recommending progression other than for soft barrier progression where set criteria as detailed in this Award need to be satisfied.

- 4.5 Planning Officer (Professional), Levels 1(a) and 1(b)

4.5.1 The Planning Officer (Professional) classification and salary structure replaces the former Town Planner/Specialist and Legal Officer classifications for those employees performing planning functions under this Award.

4.5.2 Employees eligible to be assigned to a role as a Planning Officer (Professional)

Assignment to a role in the Planning Officer (Professional) classification requires a university degree qualification or a qualification deemed by the Secretary to be equivalent except as otherwise specified in sub-paragraphs (a), (b) and (c) of this subclause.

- (a) Employees working directly in property and development activities must have an accredited property related qualification as well as demonstrated expertise and experience developed from a range of property disciplines and backgrounds such as but not limited to engineering, surveying, valuing, real estate, land economics and architecture.
- (b) Roles with special requirements such as Aboriginality may not require a degree qualification.
- (c) Employees already assigned to a Planning Officer role on an ongoing basis do not have to satisfy the tertiary qualification criterion when applying for other Planning Officer roles.

- 4.6 Planning Officer (Professional) Level 1(a)

4.6.1 Roles may be established as Level 1(a) and where so established assignment to role to Level 1(a) will be through competitive selection.

4.6.2 Planning Officer (Professional) Level 1 is an entry level classification.

4.6.3 When Level 1(a) Planning Officers are directed to perform work commensurate with Level 1(b) due to absences or some other reason, they may be paid at the appropriate higher rate by way of an allowance for Temporary Assignment to a Higher Role under Division 4, Clause 20, Government Sector Employment Regulation 2014.

4.7 Planning Officer (Professional) Level 1(b)

4.7.1 Roles may be established as Level 1(b) and where so established assignment to role to Level 1(b) will be through competitive selection.

4.7.2 A soft barrier progression from Level 1(a) Year 5 to Level 1(b), Year 1, is for the purpose of 'grand fathering' remaining substantive roles. Where the employee was assigned as a Planning Officer (Professional) Level 1, Year 1 - 9 (whether before or after the introduction of Level 1(a) and Level 1(b)) progression will be conditional on the Secretary being satisfied that the employee has been employed at Level 1 Year 5 or Level 1(a) Year 5 for at least twelve (12) months and has demonstrated competency in three or more of the following criteria:

- (i) The ability to work independently and without regular supervision; and/or
- (ii) Good communication skills; and/or
- (iii) Well developed specialist or other skills; and/or
- (iv) Project management skills; and/or
- (v) The ability to provide high quality advice; and
- (vi) The demonstrated ability to identify issues and provide practical options.

4.8 Planning Officer (Professional) Level 2

Roles may be established as Level 2 and assignment to a role or progression to Level 2 will be through competitive selection (hard barrier)

4.9 Planning Officer (Professional) Level 3

4.9.1 Roles may be established as Level 3 and assignment to role or progression to Level 3 will be through competitive selection. (hard barrier)

4.9.2 Progression to Level 3, Year 4 (soft barrier) requires the Secretary being satisfied that the employee has been employed at Level 3, Year 3 for a period of twelve (12) months and has demonstrated competency in three or more of the following criteria:

- (i) Management of employees; and/or
- (ii) Strategic policy/program development and implementation; and/or
- (iii) Representing the Department on substantial matters; and/or
- (iv) Project/program management skills; and/or
- (v) Relevant technical skills.

4.10 Planning Officer (Professional) Level 4

Roles may be established as Level 4 and assignment to a role or progression to Level 4 will be through competitive selection (hard barrier).

4.11 Planning Officer (Professional) Level 5

Roles may be established as Level 4 and assignment to a role or progression to Level 4 will be through competitive selection (hard barrier).

4.12 Student Planners

The commencing salary rate for an employee appointed as a Student Planner will normally be Year 1 of the Student Planner salary rates set out in Table 1 - Salaries of Part B, Monetary Rates of this Award.

5. Working Hours

- 5.1 These conditions will be determined and may be varied by local arrangement in terms of clause 10 of the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009. Working hours of Planning Officers under clause 4 of this Award will be covered by the Planning Flexible Working Hours Agreement 2021 or its successor.
- 5.2 An employee, if directed to work or travel outside the usual hours of duty may be entitled to the 'Overtime' provisions or the 'Excess travelling time' provisions of the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009.
- 5.3 A flexible and adaptable approach to working hours will be adopted to meet peak demands, out of hours client demands, and the personal circumstances of employees of the Department.
- 5.4 Flexible working hours will only be available on the condition that an adequate service is maintained at all times. Services provided by the Department will not be withdrawn to accommodate the absence of employees under any flexible working hours arrangements.
- 5.5 At all times, the business needs of the Department must have priority.

6. Flex Leave

The Flexible leave entitlements in Annexure A to this Award have been developed in recognition of the additional hours worked to meet the needs of the Department. Hours worked and flex leave taken are at the convenience of both the Department and the employee. The working hours of employees are those prescribed in the Planning Flexible Working Hours Agreement 2021.

7. Appeals Mechanism - Soft Barrier

- 7.1 An employee has the right to appeal any decision made by the Department in relation to a soft barrier progression under the provisions of this Award.
- 7.2 Employees will submit a written submission outlining their case to the Group Deputy Secretary, People, Performance and Culture within 28 days of the written notification of the decision.
- 7.3 The Group Deputy Secretary, People, Performance and Culture or their delegate will convene and chair an appeals committee made up of (in addition to the convenor) one Management representative who was not a party to the decision, one representative nominated by the Association and one peer who is acceptable to both Management and the Association.
- 7.4 The appeal will be heard within 28 days of the submission being lodged and the recommendation of the committee will be forwarded to the Secretary or delegate for approval.
- 7.5 The decision of the Secretary or delegate will be forwarded to the employee concerned within seven (7) working days of the appeal being heard.
- 7.6 This appeals mechanism does not cover matters that are properly dealt with by the NSW Industrial Relations Commission or the Department's grievance handling policy.
- 7.7 In the event the appeal committee cannot reach a majority decision the matter will be decided by the Secretary or delegate.

8. Anti-Discrimination

- 8.1 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, responsibilities as a carer.
- 8.2 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.
- 8.3 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.
- 8.4 Nothing in this clause is to be taken to affect:
- (a) any conduct or act which is specifically exempted from anti-discrimination legislation;
 - (b) offering or providing junior rates of pay to persons less than 21 years of age;
 - (c) any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*;
 - (d) a party to this Award from pursuing matters of unlawful discrimination in any State or Federal jurisdiction.
- 8.5 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.
- 8.6 Employers and employees may also be subject to Commonwealth anti-discrimination legislation.
- 8.7 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."

9. Grievance and Dispute Settling Procedures

- 9.1 All grievances and disputes relating to the provisions of this Award will 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 appropriate department, if required.
- 9.2 An employee is required to notify in writing their immediate manager, as to the substance of the grievance, dispute or difficulty, request a meeting to discuss the matter, and if possible, state the remedy sought.
- 9.3 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 employee to advise their immediate manager, the notification may occur to the next appropriate level of management, including where required, to the Secretary or delegate.
- 9.4 The immediate manager, or other appropriate employee, will 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 their attention.
- 9.5 If the matter remains unresolved with the immediate manager, the employee may request to meet the appropriate person at the next level of management in order to resolve the matter. This manager will

respond within two (2) working days, or as soon as practicable. The employee may pursue the sequence of reference to successive levels of management until the matter is referred to the Secretary.

- 9.6 The Secretary may refer the matter to the Industrial Relations Secretary for consideration.
- 9.7 If the matter remains unresolved, the Secretary will provide a written response to the employee 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.
- 9.8 An employee, at any stage, may request to be represented by the Association.
- 9.9 The employee or the Association on their behalf or the Secretary may refer the matter to the NSW Industrial Relations Commission if the matter is unresolved following the use of these procedures.
- 9.10 The employee, Association, Department and, Industrial Relations Secretary must agree to be bound by any order or determination by the NSW Industrial Relations Commission in relation to the dispute.
- 9.11 Whilst the procedures outlined in subclauses 9.1 to 9.10 of this clause are being followed, normal work undertaken prior to notification of the dispute or difficulty will continue unless otherwise agreed between the parties, or, in the case involving work health and safety, if practicable, normal work will proceed in a manner which avoids any risk to the health and safety of any employee or member of the public.

10. Savings of Rights

- 10.1 At the time of the making of this Award no employee covered by this Award will suffer a reduction in his or her rate of pay or any loss or diminution in his or her conditions of employment as a consequence of the making of this Award.
- 10.2 Should there be a variation to the Crown Employees (Public Sector - Salaries 2019) Award or an Award replacing that Award employees of the Department will maintain the same salary relationship to the rest of the public service. Any such salary increase will be reflected in this Award either by variation to it or by the making of a new Award.

11. Area, Incidence and Duration

- 11.1 This Award will apply to those employees of the NSW Department of Planning, Industry and Environment employed in classifications as listed in clause 4, Classification and Salary Structures of the Award.
- 11.2 This award is made following a review under section 19 of the *Industrial Relations Act 1996* and rescinds and replaces the Crown Employees (Planning Officers) Award 2016 published 17 April 2020 (387 I.G. 674), as reviewed.
- 11.3 The changes made to the award pursuant to the Award Review pursuant to section 19(6) of the *Industrial Relations Act 1996* and Principle 26 of the Principles for Review of Awards made by the Industrial Relations Commission of New South Wales on 28 April 1999 (310 I.G. 359) take effect on and from 30 November 2021

This award remains in force until varied or rescinded, the period for which it was made having already expired.

PART B
MONETARY RATES

Table 1 - Salaries

This award is listed in Schedule A of the Crown Employees (Public Sector - Salaries 2021) Award and salaries payable to employees must be in accordance with that award or any award replacing it. The rates set out in Part B, Table 1 are subject to the rates as set by the Crown Employees (Public Sector - Salaries 2021) Award or any award replacing it.

Operative from the beginning of the first full pay period to commence on or after 1.7.2021.

Classification		1 July 2021 Per Annum \$
Student Planner		2.04%
Year 1	CSP 23	\$54,049
Year 2	CSP 28	\$56,394
Year 3	CSP 32	\$58,481
Year 4	CSP 40	\$62,839
PLANNING OFFICER (PROFESSIONAL) - Level 1(a)		
Year 1	CSP 59	\$74,893
Year 2	CSP 69	\$82,690
Year 3	CSP 76	\$88,457
Year 4	CSP 80	\$91,964
Year 5	CSP 84	\$95,539
Soft barrier progression (clause 4.7.2)		
PLANNING OFFICER (PROFESSIONAL) - Level 1(b)		
Year 1	CSP 90	\$101,427
Year 2	CSP 94	\$105,559
Year 3	CSP 97	\$108,874
Year 4	-	\$114,291
PLANNING OFFICER (PROFESSIONAL) - Level 2		
Year 1	CSP 108	\$121,288
Year 2	-	\$124,804
Year 3	CSP115	\$129,819
PLANNING OFFICER (PROFESSIONAL) - Level 3		
Year 1	CSP 117	\$132,395
Year 2	-	\$137,946
Year 3	CSP 124	\$142,087
Soft barrier progression (clause 4.9.2)		
Year 4	CSP 128	\$148,270
Year 5	-	\$154,181
PLANNING OFFICER (PROFESSIONAL) - Level 4		
Year 1	-	\$169,984
Year 2	-	\$177,106
Year 3	-	\$184,371
PLANNING OFFICER (PROFESSIONAL) - Level 5		
Year 1	-	\$194,157
Year 2	-	\$198,988

APPENDIX A

PLANNING FLEXIBLE WORKING HOURS AGREEMENT 2021

1. Title of the Agreement

This Agreement will be known as the Planning Flexible Working Hours Agreement 2021.

2. Arrangements

Clause No.	Subject Matter
1.	Title of the Agreement
2.	Arrangements
3.	Definitions
4.	Parties
5.	Area, incidence, duration and purpose
6.	Ordinary hours
7.	Contract hours
8.	Business hours
9.	Staffing levels and rosters
10.	Bandwidth
11.	Core time
12.	Varying hours of duty
13.	Settlement period
14.	Principles underlying flex leave and banking of accrued flex leave
15.	Flex leave
16.	Flex leave arrangements (Banking of flex leave)
17.	Meal breaks
18.	Accumulation, carry over and compensation for full-time employees
19.	Pro-rata flex leave accumulations and carry over for part-time employees
20.	Transfers
21.	Breaches of flexible working hours arrangements
22.	Termination of service
23.	Grievance Management

3. Definitions

"The Department" means the NSW Department of Planning, Industry and Environment.

"Employees" means all employees employed under the *Government Sector Employment Act 2013* with the exception of those employed under Part 4, Division 4 - Public Service Senior Executives.

"Part-time employee" means any employee whose ordinary hours of work are less than 140 hours per settlement period.

"Flexible Working Hours" - for the purposes of this Agreement, flexible working hours hereinafter referred to as flex time, is a system of attendance at an office or worksites of the Department within which an individual employee may select their starting and finishing time on each normal working day, subject to the concurrence of the Department, and in accordance with conditions set out in this Agreement.

"Union" means The Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales.

"Award" means the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009.

4. Parties

The parties to this Agreement are:

- (i) The Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales;
- (ii) The NSW Department of Planning, Industry and Environment
- (iii) The Industrial Relations Secretary

The parties will co-operate in the monitoring of the operation of the Agreement by bringing identified operational and administrative problems, and any matters which cannot be resolved in the first instance at the workplace level, to the Department's Joint Consultative Committee.

5. Area, Incidence, Duration and Purpose

This Agreement is made pursuant to clause 10, Local Arrangements of the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009, with the approval of the Industrial Relations Secretary, between the NSW Department of Planning, Industry and Environment on the one part, and the Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales on the other part.

It replaces in part clause 11, Working Hours, of the Award. Unless otherwise stated in this Agreement, any remaining provisions of clause 11 of the aforementioned Award remain unaffected by this Agreement and will continue to apply for the nominal term. To the extent that any part of this Agreement conflicts with clause 11, this Agreement will prevail. This Agreement is to be read in conjunction with clauses 5 and 6 of the Crown Employees (Planning Officers) Award 2021.

The Agreement will take effect on and from 7th day of July 2008 and will remain in force for a period of twenty four months unless varied or terminated by consent earlier. The Agreement will continue to operate after the termination date unless varied by consent, or terminated by the provision of 3 months' notice by either party.

The parties to this Agreement are committed to the facilitation of an equitable arrangement for all employees employed by the Department to access, and utilise accumulated credit hours over and above their contract hours, as far as practicable, and arrange for the equitable administration of this Agreement throughout the Department.

The Department will endeavour to ensure that staffing levels and work rosters are adequate to ensure that employees have access to the provisions of the Agreement. The Union will ensure that employees co-operate by working within the operational requirements of the Department.

6. Ordinary Hours

For employees employed under the *Government Sector Employment Act 2013* the ordinary working hours for:

- (i) Full-time employees are 7 hours per day, 35 hours per week (140 hours per 4 week settlement period).
- (ii) Part-time employees will be set out in their part-time arrangements. (These arrangements are agreed to and documented.)

Employees who do not wish to work additional hours will suffer no discrimination or disadvantage.

7. Contract Hours

Contract hours are the minimum hours for which an employee would be required to be on duty during a settlement period. For the purposes of this Agreement the minimum contract hours required of a full-time employee for a settlement period will be 140 hours. Contract hours for part-time employees will be set out in their documented part-time arrangements.

8. Business Hours

Business hours are the span of hours during which the Department offices are open to members of the public, normally 9:30 am to 4:30 pm.

9. Staffing Levels and Rosters

- (i) The Department will ensure, and the Union will co-operate in the necessary arrangements, that adequate staffing levels are maintained during business hours to ensure a full range of client services are available during business hours.
- (ii) Managers and employees in individual offices or work sites of the Department may negotiate a roster system to ensure the equitable management of the flex time and/or flex leave system, so that no individual employee is disadvantaged in anyway in relation to the operation of this Agreement.
- (iii) Where formal roster arrangements are introduced or are already in operation, those roster arrangements, and the operation of the roster, will be negotiated between the responsible manager or supervisor and the employees concerned. Employees involved may request a Union delegate to assist with the negotiation of roster arrangements, if required.
- (iv) As far as practicable a timetable for roster arrangements, and operation of the roster for a period of three (3) months or more should be negotiated.

10. Bandwidth

- (i) The bandwidth (span of hours) operating during the term of this Agreement for normal working days will be between the hours of 7:00 am and 6:30 pm.
- (ii) The bandwidth may be varied by agreement with the appropriate director and the employee in a particular workgroup, unit, branch, region or directorate to suit operational, climatic needs or with specific individuals to assist with care responsibilities or other needs.
- (iii) An employee may select their starting and finishing times within the bandwidth subject to core time provisions and the Department's concurrence.
- (iv) Any time worked during a settlement period before or after the bandwidth, unless otherwise stated in this Agreement, will not be credited to the employee in any calculation of accumulated credit hours.
- (v) An employee who, for personal or family circumstances wishes to work outside the bandwidth or core time stated in Clause 11 on either a temporary or ongoing arrangement will apply to the appropriate executive director or director, in writing, for approval. Such arrangements made at the employee's request, will not attract any additional penalty rate payment.

11. Core Time

Core time is that period of the working day when all employees are required to be on duty unless on lunch break or approved leave.

The standard core time which will apply to all employees is 9:30 am to 3:30 pm.

Whilst employees need to attend the workplace only between 9:30 am and 3:30 pm, managers/supervisors and employees may negotiate a roster system to ensure equitable management of adequate employee levels during office hours to ensure a full range of client services are available during business hours (stipulated in Clause 8) and as stated in Clause 9 of this Agreement which provides for staffing levels and rosters.

Rosters should be reviewed at three (3) monthly intervals or at the request of individual employees.

In recognising that employees may need to meet their care responsibilities or other needs as well as the operational needs of the Department, any variation must be approved by branch managers. Approvals should be written and are to be reviewed every six (6) months or earlier at the request of the employee.

12. Varying Hours of Duties

Where an employee as a result of their care responsibilities, or urgent personal reasons is unable to observe the general hours operating in the Department, the employee may request a variation to their hours of attendance on a one off, short or long term subject to the following:

- (i) the variation does not adversely affect the operational requirements;
- (ii) variation in hours are the result of consultation between a manager and an employee;
- (iii) flexitime debit or credit hours are met at the end of the settlement period where applicable;
- (iv) ongoing arrangements are documented;
- (v) no overtime or meal allowances are made to an employee as a result of an agreement to vary the hours;
- (vi) a lunch break of one hour is available to an employee, unless an employee elects to reduce the break to not less than thirty (30) minutes; and
- (vii) the variation is approved by the manager.

13. Settlement Period

The 4 week period in which time is recorded commences on a Monday and concludes on a Friday.

14. Principles Underlying Flex Leave and Banking of Accrued Flex Leave

- (i) The parties to this Agreement acknowledge that there is a need for the manager or supervisor and employees to plan work. Tools such as a performance management system help with the planning of work. Managers and supervisors in consultation with employees, need to plan the hours to be worked in a settlement period, the flex leave to be taken in a settlement period, and the estimated additional paid hours of work in a particular settlement period.
- (ii) In planning working hours, account will be taken of past working hours and arrangements and agreement by the employee/workgroup, manager or supervisor on the estimated time required to satisfactorily undertake prescribed duties. Planning for these tasks will be on a regular basis, and any significant variation in estimated time will be identified by either the manager or employee and the plan jointly revised.
- (iii) All significant variations to the agreed estimated time to satisfactorily undertake prescribed duties will be agreed between the employee and manager prior to the time being worked.

15. Flex Leave

- (i) All flex leave granted will be at the convenience of the Department and the requirements of the Department's clients and the public. Requests for flex leave should be discussed and negotiated between an employee and their supervisor, reasonable notice should be given and their supervisor's approval obtained prior to proceeding on flex leave. This includes flex leave taken during transport disruptions or other emergencies.
- (ii) Flex leave may be taken as two (2) full days or four (4) half days or a combination of full and half days to a maximum of two days during a settlement period.
- (iii) It is not necessary for an employee to have a credit balance when taking flex leave.
- (iv) An employee working under an agreed roster may be rostered to take a flex leave entitlement on an identified normal working day, or days, during the roster period.
- (v) Flex leave may be taken immediately before, and/or after, a period of recreation leave and any other form of approved paid leave.

- (vi) Flex leave may be taken on consecutive working days, irrespective of whether these days are in different settlement periods.
- (vii) An employee may be requested by their manager to take flex leave if the maximum credit accrual is likely to be exceeded during or by the end of a settlement period.
- (viii) An employee will not be able to access banked flex days in instances whereby their recreation balance exceeds forty (40) days.

16. Flex Leave Arrangements - Banking of Flex Leave

In a number of instances workload demands will require employees to work long hours thus accruing significant extra flex credits. In order to achieve some compensation for employees who work extra hours, the following provision for the banking of flex leave will apply: These instances could include but are not necessarily limited to, budgeting, business planning, end of financial year, and emergency service activities.

- (i) Prior agreement on workload constraints should be reached between the employee and manager or supervisor in order for the employee to bank a flex day.
- (ii) Where workload demands have prevented an employee from taking flex leave (as provided for in Clause 15 (ii)) an employee may apply to bank the flex leave that was not taken - either a full or half day. The remaining hours of credit should be added to the normal flex credit.
- (iii) An employee does not have to be in credit to bank flex leave. When banking a full day flex leave an employee must not be more than three hours in debit. When banking a half day flex an employee must not be more than six and a half (6 1/2) hours in debit at the end of the settlement period. That is, the total debit may not exceed ten (10) hours.
- (iv) All flex leave banked is required to be in half or full days, subject to clause (ii) above.
- (v) Up to two (2) flex days may be accrued and banked per settlement period. Subject to clause (ii) above.
- (vi) An employee may bank up to a maximum of five (5) days (thirty-five (35) hours), which can be taken at a mutually convenient time, if the employee's recreation balance is less than forty (40) days.
- (vii) Banked flex leave can be taken in conjunction with other forms of approved paid leave.
- (viii) In addition to the entitlements under Clause 17.3.3 of the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009, any banked flexi leave may be taken during transport disruptions or other emergencies.

17. Meal Breaks

- (i) An employee will be required to take a meal break not more than five (5) hours after commencing work, or before 2:00 pm. whichever is the earlier.
- (ii) An employee will be entitled to a meal break of one (1) hour. Consultation with a manager/supervisor is necessary for a meal break in excess of this time.
- (iii) The minimum meal break permitted is thirty (30) minutes.
- (iv) The maximum meal break permitted is two and half (2 1/2) hours during the span of 11:30 am to 2:30 pm.

18. Accumulation and Carry Over for Full-Time Employees

- (i) An employee may accumulate credit or debit hours throughout a settlement period, and carry forward credit and debit hours between settlement periods provided that at the end of a settlement period the number of credit hours does not exceed ten (10) hours or debit hours does not exceed ten (10) hours.

- (ii) When an employee's accumulation of debit hours exceeds ten (10) hours at the end of a settlement period, the excess debit hours will be debited against any banked flex leave, or if none is available, accrued recreation leave, or if no such leave is available, debited as leave without pay.
- (iii) When an employee's accumulation of credit hours exceeds ten (10) hours at the end of a settlement period, the excess credit hours may be banked subject to Clause 16 above. Where the employee already has thirty five (35) hour banked any additional hours will be forfeited.
- (iv) The Department will make every effort to ensure that an employee does not consistently forfeit excess credit hours at the conclusion of settlement periods as a result of requests for flexi leave being refused.

19. Pro-Rata Flex Leave Accumulation and Carry Over for Part-Time Employees

- (i) An employee who is employed under a part-time work arrangement which does not require fixed starting or finishing times on all the normal working days may accrue up to the maximum pro-rata accumulated credit and debit entitlements under this Agreement.

Example: An employee who works twenty eight (28) hours per week would be entitled to accumulate a maximum credit or debit of eight (8) hours at the end of the settlement period i.e. normal carry - normal hours x actual hours (10/35 x 28) = 8.

- (ii) Contract hours for an employee working under a part-time Agreement will be calculated on the total number of agreed hours to be worked in a settlement period.

Example: An employee who works twenty-one (21) hours per week - their contract hours will be eighty-four (84) hours per settlement period i.e. actual hours worked x 4 (21 x 4) = 84.

- (iii) An employee who elects to change from full-time to part-time work, by agreement may be permitted to exhaust accumulated flex leave entitlements prior to commencing part-time work, or have any existing accumulated credit balance carried over. Future entitlements for flex leave from this accumulated credit hour balance carry over will be calculated on the basis of full-time work until exhausted.
- (iv) An employee who changes from part-time to full-time employment by agreement may be permitted to exhaust accumulated flex leave entitlements prior to commencing full-time work, or carry over the entitlement, which continues until exhausted.
- (v) A part-time employee working under flexible working hours arrangements may be entitled to up to two (2) full days or four (4) half days or a combination of full and half days to a maximum of two (2) days during a settlement period with the approval of their manager. The flex leave to cover the flex absence/s is the actual time absent from work.

Example: An employee who works twenty-eight (28) hours per week - i.e. seven (7) hours per day, four (4) days a week, the flex leave entitlement to cover one (1) days flex leave is seven (7) hours.

20. Transfers

An employee of the Department who transfers to another Department may transfer only ten (10) accumulated credit hours, if an employee has in excess of ten (10) hours an effort should be made to take the appropriate flex leave prior to transferring in order to reduce excess credit.

21. Breaches of Flexible Working Hours Arrangements

The Executive Directors, or Directors may only direct an employee to work standard hours where it is proven the employee has breached a provision of this Agreement, the remaining operative sub-clauses of clause 11, Working Hours of the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009

or an established administrative arrangement of the Department in connection with the operation of flexible working hours which was in operation at the time this Agreement was made.

22. Termination of Employment

- (i) The Department will ensure as far as practicable, that an employee is given the opportunity to eliminate accumulated credit hours, to the limits prescribed in Clause 18, by way of flex leave prior to the completion of their last day of employment with the Department through resignation or retirement.
- (ii) The Department will debit an employee's accumulated recreation leave or extended leave (minimum of a quarter day), or monies owing, against debit hours accumulated by an employee at the completion of the last day of employment with the Department.

23. Grievance Management of the Flexible Working Agreement

Employees who are in conflict or have a grievance with the coverage of this Agreement should use the procedures identified in the Department's grievance handling policy.

D. SLOAN, *Commissioner*

Printed by the authority of the Industrial Registrar.

HY-TEC INDUSTRIES PTY LTD - MAXI CONCRETE CONTRACT DETERMINATION

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Hy-Tec Industries Pty Ltd.

(No. IRC 989 of 2015)

Before Commissioner Stanton

5 July 2021

CONSOLIDATED DETERMINATION

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SCHEDULE 1 - RATES, SURCHARGES AND FEES

SCHEDULE 2 - RMS AUTHORISATION

1. Definitions and Interpretation

1.1 Definitions

In this Contract Determination:

"Agitator" means an assembly mounted on the chassis of the Vehicle (including, but not limited to, the barrel, hydraulic system, loading hopper and A-frame) with the rated mixing capacity and other specifications nominated by Hy-Tec;

"Agitator Party" means either Hy-Tec or the Contract Carrier as nominated by Hy-Tec;

"Approval" means any licence, permit, consent, approval, determination, certificate or permission from any Authority (including any conditions or requirements of any Approval);

"Authority" means any governmental or semi-governmental or local government authority, administrative or judicial body or tribunal, department, commission, public authority, agency, minister, statutory corporation or instrumentality;

"Breach" means any breach of the terms of this Contract Determination or any part of the Policies and Procedures or any Law;

"Business Day" means any day except Saturday or Sunday or a day that is a Public Holiday in New South Wales;

"Cartage Contract" means a contract between Hy-Tec and a Contract Carrier for the Contract Carrier to provide Services to Hy-Tec in accordance with the terms of this Contract Determination;

"Company Trucks" means trucks owned and operated by Hy-Tec;

"Concrete" means a mixed, blended or batched product that, regardless of any other constituent, contains:

- (a) cement, aggregate, sand and water;
- (b) mortar containing cement, sand and water;
- (c) grout containing cement, sand and water;
- (d) slurry containing cement and water; or
- (e) binders containing cement and sand,

regardless of the method of production, laying or description of the finished product in which that product is to be used;

"Contract Carrier" means a Contract Carrier operating a Maxi Truck engaged by Hy-Tec to provide the Services in accordance with the terms of this Contract Determination;

"Contract Carrier Driver" means a director and controlling shareholder of the Contract Carrier who is engaged by the Contract Carrier, with Hy-Tec's prior consent, as the driver of the Vehicle;

"Contract Carrier Executive" means the representatives nominated by a majority of the Contract Carriers from time to time;

"CPI" means the consumer price index, all groups, Sydney;

"Delivery Docket" means the docket issued by Hy-Tec to the Contract Carrier Driver setting out details of:

- (a) Hy-Tec's customer;
- (b) the delivery address;
- (c) the Concrete specifications;
- (d) the Concrete quantity;
- (e) whether delivery is to be on a cash on delivery (COD) basis; and

- (f) any other information which Hy-Tec considers necessary;

"Driver" means the Contract Carrier Driver and/or a Substitute Driver;

"Home Plant" means the Plant at which the Contract Carrier must start providing the Services on each Working Day;

"Hy-Tec Colours" means the colours determined by Hy-Tec from time to time;

"Hy-Tec Logos" means the logos determined by Hy-Tec from time to time;

"Hy-Tec's Fleet" means the fleet of vehicles used by Hy-Tec to deliver Concrete to Hy-Tec's customers (including Company Trucks, Mini Trucks and vehicles owned by Contract Carriers);

"Hy-Tec's Representative" means the representative nominated by Hy-Tec from time to time;

"Law" means national, federal (including Commonwealth), state, territory or local government legislation, statutes, ordinances and other laws including regulations, by-laws and other subordinate legislation or law;

"Mini Truck" means a truck with a maximum legal payload of less than 3 cubic metres;

"Maxi Truck" means a truck other than a Mini Truck;

"Normal Working Hours" means Monday to Friday 6am to 4pm, Saturday 6am to 12pm, and any scheduled additional hours;

"Policies and Procedures" means Hy-Tec's policies and procedures in relation to the Services as notified by Hy-Tec to the Contract Carrier from time to time;

"Plant" means the batching plant from which deliveries of Concrete are despatched;

"Public Holidays" means a day which is a gazetted public holidays in New South Wales (including Easter Saturday) and including up to a total of ten (10) public holidays per annum;

"Rate" means the rates set out in Schedule 1;

"Services" means using the Vehicle to deliver Concrete to Hy-Tec's customers in accordance with Hy-Tec's directions;

"Standby Time" means time which is spent by the Contract Carrier waiting for the Vehicle to be loaded with Concrete outside of Normal Working Hours when Hy-Tec has requested the Contract Carrier to provide Services outside of Normal Working Hours;

"Substitute Driver" refers to a driver engaged by the Contract Carrier, with Hy-Tec's prior written consent, for the purposes of providing temporary relief for the Contract Carrier Driver;

"Surcharges and Fees" means the surcharges and fees set out in Schedule 1;

"Vehicle" means the vehicle owned and operated by the Contract Carrier for the purposes of providing the Services;

"Vehicle Specification" means the specifications for the Vehicle as determined by Hy-Tec;

"Working Day" means each day of the Working Week;

"Working Week" means six (6) days per week, from Monday to Saturday, with Normal Working Hours; and

"Yard Delegate" means the representative nominated by the Contract Carriers in respect of any Plant from time to time.

1.2 Interpretation

In this Contract Determination, except where the context otherwise requires:

- (a) the singular includes the plural and vice versa, and a gender includes other genders;
- (b) another grammatical form of a defined word or expression has a corresponding meaning;
- (c) a reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of, or schedule or annexure to, this Contract Determination, and a reference to this Contract Determination includes any schedule or annexure;
- (d) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (e) a reference to A\$, \$A, dollar or \$ is to Australian currency;
- (f) a reference to time is to Sydney, New South Wales, Australia time;
- (g) a reference to a party is to a party to this Contract Determination, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assigns and substitutes;
- (h) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- (i) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (j) a word or expression defined in the Corporations Act has the meaning given to it in the Corporations Act;
- (k) the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions;
- (l) any agreement, representation, warranty or indemnity by two or more parties (including where two or more persons are included in the same defined term) binds them jointly and severally;
- (m) any agreement, representation, warranty or indemnity in favour of two or more parties (including where two or more persons are included in the same defined term) is for the benefit of them jointly and severally;
- (n) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this Contract Determination or any part of this Contract Determination; and
- (o) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day.

2. Duties and Responsibilities

2.1 Incorporation and ABN

The Contract Carrier must:

- (a) be an incorporated entity with the Contract Carrier Driver as a director and controlling shareholder at all times; and
- (b) maintain an Australian Business Number at all times.

2.2 Vehicle

The Contract Carrier must supply the Vehicle:

- (a) in accordance with the Vehicle Specifications;
- (b) in accordance with the legal requirements for the relevant maximum legal payload; and
- (c) which must not at any time be more than 14 years old.

2.3 Replacement Vehicle

The Contract Carrier must obtain Hy-Tec's prior written consent before the Contract Carrier replaces the Vehicle.

2.4 Replacement Vehicle Specifications

If the Contract Carrier replaces the Vehicle, the Contract Carrier must acquire, install, maintain and repair the rear mounted power take off:

- (a) to enable the Agitator Party to attach all equipment necessary to operate the Agitator; and
- (b) with flange suitable to attach a drive shaft,

and this will represent the limit of the Contract Carrier's responsibility to provide equipment in relation to the Agitator unless the Contract Carrier is the Agitator Party.

2.5 Labour

The Contract Carrier must supply all labour necessary to provide the Services in accordance with Hy-Tec's requirements.

2.6 Annual Minimum

The Contract Carrier must provide the Services for a minimum period of fifty (50) Working Weeks per year and must ensure the Contract Carrier Driver is the driver of the Vehicle for a minimum of (48) Working Weeks per year.

2.7 Standards

The Contract Carrier must:

- (a) ensure all Services are performed with reasonable skill, care and diligence at all times; and
- (b) comply with the Policies and Procedures at all times.

2.8 Home Plant

If an Existing Contract Carrier is, prior the commencement of this Contract Determination, already providing the Services by starting each Working Day at a particular Plant, that Plant will be the Contract Carrier's Home Plant. Hy-Tec may change the Contract Carrier's Home Plant at any time for business or operational reasons.

2.9 Plant Transfers

If Hy-Tec directs the Contract Carrier to work from a Plant other than the Contract Carrier's Home Plant for one or more Working Days up to a maximum of 12 Working Days, the Contract Carrier must work from the Plant nominated by Hy-Tec for those Working Days and Hy-Tec will pay the Contract Carrier the Truck Transfer Fee for the first Working Day unless Hy-Tec is able to provide an initial load to the Contract Carrier from the Home Plant in which case Hy-Tec will not pay any transfer fee to the Contract Carrier.

2.10 Loading Order

- (a) The initial daily starting order will be in accordance with a cyclic roster.
- (b) Thereafter all trucks will be loaded in order of their return to the plant with the exception of:
 - (i) Mini mix loads (less than 3 cubic metres)
 - (ii) Single load or message greater than the mixer capacity or legal carrying capacity of the truck next in line.
 - (iii) Trucks with returned concrete.
 - (iv) Notation: where the last load of the day or message can be sent in one (1) load so as to avoid extra cartage costs then Hy-Tec has the right to nominate a truck to take the load even though that truck is not the next in line in the roster. If sending the load in more than one truck will not involve extra cartage cost then the loading order will not change.
 - (v) the circumstances set out in paragraph 2.10(c) below.
- (c) Hy-Tec will operate a fleet of Company Trucks driven by Hy-Tec's employees. This fleet of Company Trucks will work in all rosters on the same basis as the Contract Carrier fleet in accordance with clauses 2.10 (a) and (b) provided that where the needs of the business make it necessary, Hy-Tec has the right to change the order of any Company Truck provided that Hy-Tec does not exercise this right to diminish the utilisation of any Contract Carrier in the cyclic roster.
- (d) Subject to paragraphs 2.10(b) and (c), Hy-Tec's Company Trucks will not be preferentially loaded.
- (e) The initial loading time and the initial plant from which such loading shall take place will be notified by Hy-Tec to each Contract Carrier before the close of business on the previous day.

2.11 Concrete

Concrete will always remain the property of Hy-Tec.

3. Introduction of Vehicles to the Fleet

3.1 Larger Vehicles

If Hy-Tec or one or more Contract Carriers wishes to introduce larger vehicles to Hy-Tec's Fleet then the following procedure and principles will apply:

- (a) Hy-Tec will have the right to introduce Hy-Tec's own larger vehicles to Hy-Tec's Fleet as Company Trucks;
- (b) there will be consultation between Hy-Tec and the Contract Carrier Executive before the vehicles are purchased and used in Hy-Tec's Fleet.
- (c) if as a result of the consultation process, Hy-Tec agrees one or more Contract Carrier may purchase a larger vehicle, each Contract Carrier will have the opportunity to purchase the larger vehicles on the basis of Plant seniority;
- (d) Hy-Tec will not unreasonably restrict any Contract Carrier from owning and operating larger vehicles in Hy-Tec's Fleet; and
- (e) the aim of introducing larger vehicles must be to improve the overall business of Hy-Tec.

3.2 New Contract Carriers

To avoid any doubt, Hy-Tec may, in its complete discretion, introduce additional Contract Carriers to Hy-Tec's Fleet.

4. Mini Trucks

- (a) If Hy-Tec wishes to add Mini Trucks to Hy-Tec's Fleet, there will be consultation between the parties before the Mini Trucks are purchased and used in Hy-Tec's Fleet.
- (b) Mini Trucks will operate on a cyclic roster applying only to Mini Trucks.

5. Operational Matters

5.1 Appearance

The Contract Carrier must ensure the Drivers always maintain a neat and clean appearance when providing the Services.

5.2 Deliveries

- (a) The Contract Carrier must not leave the Plant to deliver Concrete without the Delivery Docket.
- (b) The Contract Carrier must comply with Hy-Tec's reasonable requests regarding completion and management of Delivery Dockets.
- (c) The Contract Carrier must collect monies for COD deliveries in accordance with the Policies and Procedures.
- (d) The Contract Carrier must ensure that each load of Concrete is properly mixed and that the slump is as required by Hy-Tec.
- (e) The Contract Carrier must report, as soon as possible, all shortages, queries and incorrect slumps of Concrete to the person nominated by Hy-Tec.
- (f) Hy-Tec will maintain a written procedure on slump and ensure that a copy of the procedure is provided to the Contract Carrier.
- (g) Hy-Tec will endeavour to have the correct delivery address, map reference and any relevant delivery instructions clearly printed on all Delivery Dockets at all times.

5.3 Inability to Effect a Delivery

- (a) If a delivery is delayed or deferred for any reason, the Contract Carrier must immediately notify Hy-Tec to enable Hy-Tec to provide an explanation to Hy-Tec's customer.
- (b) Hy-Tec will advise the Contract Carrier, as early as possible, of any urgent or special instructions required for any particular customer.
- (c) If the Contract Carrier considers a delivery would involve an unreasonable risk of damage to property or injury to persons, the Contract Carrier must act in accordance with the Policies and Procedures.

5.4 Worksheets and Freight Notes

- (a) The Contract Carrier agrees to correctly complete, retain and forward to Hy-Tec all Delivery Dockets, worksheets and any other documents reasonably required by Hy-Tec.
- (b) The Contract Carrier agrees to make every endeavour to obtain a customer's signature on the Delivery Docket on delivery of Concrete.

5.5 Responsibility for Concrete

The Contract Carrier agrees to exercise all reasonable skill, care and diligence in the carriage and safe keeping of Concrete.

5.6 Damage to Concrete

The Contract Carrier will indemnify Hy-Tec for the cost of any Concrete which, as a result of the proven fault of the Contract Carrier, has:

- (a) a slump which does not comply with the requirements of AS1379; or
- (b) been damaged (as may be evidenced by a visual inspection which shows problems including, but not limited to, a change in colour, a change in proportion of stone or sand or a change in the size of the load).

6. Contract Carrier Driver and Substitute Driver

- (a) The Contract Carrier acknowledges that the duties and obligations of the Contract Carrier under this Contract Determination extend to the Contract Carrier Driver and any Substitute Driver engaged by the Contract Carrier
- (b) The Contract Carrier will be responsible and liable for all acts and omissions of the Contract Carrier Driver and any Substitute Driver as if the acts or omissions were acts or omissions of the Contract Carrier.
- (c) The Contract Carrier must obtain Hy-Tec's prior written approval before the Contract Carrier engages the Contract Carrier Driver or Substitute Driver.
- (d) If Hy-Tec reasonably considers the Contract Carrier Driver is, or has been, unable to drive for an extended period or consistently to Hy-Tec's roster, the Contract Carrier must make an application to Hy-Tec for approval to engage a Substitute Driver.
- (e) If the Contract Carrier requests Hy-Tec to approve a potential Substitute Driver, Hy-Tec may approve or reject the Substitute Driver in Hy-Tec's reasonable discretion after taking into consideration the Contract Carrier's obligations under this Contract Determination and any potential hardship to the Contract Carrier.

7. Fleet

- (a) Subject to clause 3, Hy-Tec may make changes to Hy-Tec's Fleet (including, but not limited to, changing the ratio of Contact Carriers to Company Trucks and changing the nature, size and configuration of trucks) after consultation with the Contract Carrier Executive.
- (b) Hy-Tec will not make changes to Hy-Tec's Fleet in accordance with subclause 7(a) without a sound business reason for doing so.

8. Painting of Vehicle

8.1 Painting and Logos

- (a) The Contract Carrier agrees to ensure that the Vehicle is painted with Hy-Tec's Colours prior to using the Vehicle to provide Services.
- (b) Hy-Tec will affix Hy Tec's Logos to the Vehicle prior to the Contract Carrier using the Vehicle to provide Services.

8.2 Repainting

- (a) Any repainting of the Vehicle will be at Hy-Tec's discretion.
- (b) The Contract Carrier must arrange for the Vehicle to be repainted with Hy-Tec's Colours and Hy-Tec's Logos by a vehicle painting contractor nominated by Hy-Tec, at Hy-Tec's expense, on Hy-Tec's direction.

8.3 Preparation for Repainting

The Contract Carrier must, at the Contract Carrier's expense, prepare the Vehicle for repainting including, but not limited to, by:

- (a) providing a sound painting surface; and
- (b) cleaning and removing rust and corrosion.

8.4 Removal of Agitator for Repainting

The Agitator Party must remove the Agitator for any repainting of the Vehicle and make good any damage to the Vehicle caused by the removal of the Agitator.

8.5 Delay Caused by Removal of Agitator for Repainting

After the Contract Carrier provides the Vehicle for repainting, Hy-Tec will either (in Hy-Tec's discretion):

- (a) supply a substitute vehicle, if available, to the Contract Carrier and the Contract Carrier will pay to Hy-Tec an amount equal to the running costs set out in the rise and fall of the Rate for the hire of the vehicle for the first eight Working Days and will then for the ninth Working Day, and each subsequent Working Day, the Contract Carrier will not pay to Hy-Tec any amount in respect of the hire of the vehicle; or
- (b) not supply a substitute vehicle and pay the Contract Carrier no compensation for the first eight Working Days and then pay the Contract Carrier the Agitator Breakdown Rate (for a maximum of 8 hours per Working Day) for the ninth Working Day, and each subsequent Working Day, which the Contract Carrier is unable to use the Vehicle to provide the Services due to the repainting of the Vehicle.

9. Maintenance

9.1 Vehicle and Equipment

- (a) The Contract Carrier must maintain the Vehicle in a safe and good order, condition and appearance at the Contract Carrier's expense.
- (b) The Contract Carrier must keep the Vehicle equipped at all times with all equipment which Hy-Tec reasonably considers necessary for the safe and proper provision of the Services.
- (c) Hy-Tec will provide all cleaning materials for the Contract Carrier to clean the Vehicle.

9.2 Roadworthiness

- (a) Hy-Tec may refuse to load the Vehicle with Concrete if Hy-Tec considers the Vehicle is unroadworthy or defective.
- (b) If Hy-Tec refuses to load the Vehicle in accordance with paragraph 9.2(a), the Contract Carrier must arrange for the Vehicle to be inspected by a qualified heavy vehicle mechanic nominated by Hy-Tec in consultation with the Contract Carrier Executive.
- (c) If an inspection of the Vehicle in accordance with paragraph 9.2(b) shows the Vehicle is not unroadworthy or defective, Hy-Tec will pay the Contract Carrier compensation at the Agitator Breakdown Rate for the period for which Hy-Tec refused to load the Vehicle with Concrete (up to a maximum of 8 hours per Working Day) excluding Public Holidays and designated non-Working Days for the Home Plant.

9.3 Agitator

- (a) The Agitator Party must provide regular maintenance of the Agitator at no cost to the other party.
- (b) The Contract Carrier must maintain the Agitator in a reasonable level of cleanliness.
- (c) Hy-Tec will inspect the Agitator regularly to monitor Concrete build up in the Agitator.
- (d) The Contract Carrier must provide to Hy-Tec a weighbridge certificate showing the gross weight of the Vehicle on each six-month anniversary of the Commencement Date.
- (e) Hy-Tec may weigh the Vehicle at any time to determine the Vehicle's gross weight and tare weights and reduce the Vehicle's load size in accordance with the outcome of any weight determination.
- (f) Hy-Tec will carry out de-dagging of the Agitator if Hy-Tec reasonably considers the Agitator needs de-dagging because of excessive build up of Concrete in the Agitator.
- (g) Hy-Tec will pay for one (1) de-dagging of the Agitator each calendar year and the Contract Carrier must pay the cost of all other de-dagging of the Agitator.
- (h) If there is an excessive build up of Concrete in the Agitator because of peculiarities of the Concrete rather than poor maintenance by the Contract Carrier, there will be consultation between the parties about payment of the Agitator de-dagging expenses.

9.4 Vehicle Costs

The Contract Carrier must pay all costs associated with the running of the Vehicle including, but not limited to, any registration or licence fees associated with any Approvals, road taxes and fines (if any) and all expenses for fuel, oil, tyres, insurances and other running costs.

9.5 Equipment Damage

If either Hy-Tec or the Contract Carrier damages the equipment of the other party, the party at fault will be responsible for the cost of repairs or replacement of the equipment.

10. Uniforms

- (a) The Contract Carrier must ensure the Contract Carrier Driver and any Substitute Driver wear uniforms at all times.
- (b) Hy-Tec will provide a satisfactory quantity of uniforms, with a minimum of six (6) days fresh apparel, and summer and winter options, for the Contract Carrier Driver.
- (c) Any uniforms provided by Hy-Tec to the Contract Carrier will remain the property of Hy-Tec.
- (d) Hy-Tec will replace items of uniforms which Hy-Tec provided to the Contract Carrier if reasonably necessary as a result of fair wear and tear (subject to return of old items).
- (e) If any item of uniform provided by Hy-Tec to the Contract Carrier needs to be replaced other than as a result of fair wear and tear, the Contract Carrier will repair or replace such items at the Contract Carrier's expense.
- (f) The Contract Carrier must ensure all uniforms are clean and tidy at all times.

11. Safety Equipment

- (a) The Contract Carrier must ensure the Contract Carrier Driver and any Substitute Driver wear appropriate safety equipment, including safety boots, at all times.
- (b) Hy-Tec will supply wet weather gear and safety gear, including safety boots for the Contract Carrier Driver.
- (c) Any wet weather gear and safety gear provided by Hy-Tec to the Contract Carrier will remain the property of the Hy-Tec.
- (d) Hy-Tec will replace items of wet weather gear and safety gear which Hy-Tec provided to the Contract Carrier if reasonably necessary as a result of fair wear and tear (subject to return of old items).
- (e) If any item of wet weather gear provided by Hy-Tec to the Contract Carrier needs to be replaced other than as a result of fair wear and tear, the Contract Carrier will repair or replace such items at the Contract Carrier's expense.

12. Insurance

12.1 Required Policies

The Contract Carrier must ensure the Contract Carrier maintains, at the Contract Carrier's expense, the following insurance policies in respect of the Vehicle and all Drivers:

- (a) compulsory third party insurance for the Vehicle as required by any relevant Law;
- (b) comprehensive insurance for the Vehicle for the Vehicle's market value;
- (c) third party property insurance for the Vehicle in the amount of \$20 million (or such higher amount as Hy-Tec may reasonably require from time to time) for each claim or occurrence;
- (d) comprehensive cover for loss and/or damage to the Agitator, which notes the interest of the Agitator Party in the Agitator;

- (e) public liability insurance for claims in respect of loss or damage to real or personal property and/or personal injury or death of any person arising from the performance of the Services in the amount of \$20 million (or such higher amount as Hy-Tec may reasonably require from time to time) for each claim or occurrence and with extensions to cover:
 - (i) damage caused by an Agitator fitted to the Vehicle; and
 - (ii) damage due to incorrect product delivery;
- (f) workers' compensation insurance as required by any relevant state legislation with extensions to cover:
 - (i) the Contract Carrier's liability at common law; and
 - (ii) Hy-Tec's liability (if any) in respect of persons engaged or employed by the Contract Carrier; and
- (g) such other insurances notified in writing by Hy-Tec to the Contract Carrier from time to time.

12.2 Obligation to Provide Copies

The Contract Carrier must provide copies of all insurance policies and certificates of currency in relation to the policies set out in subclause 12.1:

- (a) before the Commencement Date; and
- (b) immediately when the Contract Carrier renews each policy.

12.3 Variation to Required Policies

Hy-Tec may from time to time make reasonable variations to the requirements set out in subclause 12.1 by providing written notice to the Contract Carrier and subclause 12.1 will then operate as if the clause referred to the varied requirements.

12.4 Insured's Obligations

In respect of an insurance policy referred to in subclause 12.1, the Contract Carrier must ensure that the Contract Carrier:

- (a) pays all insurance premiums as and when they fall due;
- (b) complies with all terms of the insurance and all requirements of insurers including in particular those relating to the operation of the Vehicle by any Driver and those relating to disclosure;
- (c) gives immediate written notice to the insurer, with a copy to Hy-Tec, of anything required under any policy; and
- (d) makes available to Hy-Tec on demand copies of all policies, certificates of currency, renewal notes, premium receipts and correspondence relating to the insurance.

12.5 Recommended Policies

The Contract Carrier acknowledges Hy-Tec recommends the Contract Carrier and the Contract Carrier Driver maintains twenty-four hour personal accident and illness insurance.

13. Compliance with Laws

13.1 Compliance

The Contract Carrier must:

- (a) comply with all Laws in relation to the Services;
- (b) obtain all Approvals in relation to the Services;
- (c) ensure the Contract Carrier Driver and any Substitute Driver each hold a current drivers' licence appropriately endorsed or issued in respect of the correct class of vehicle (minimum heavy rigid);
- (d) immediately report any accident to Hy-Tec's Representative and attend to any legal requirements at the scene of the accident (and Hy-Tec will arrange wherever practicable for a representative to attend accidents involving substantial equipment damage or personal injury); and
- (e) ensure each Driver provides Hy-Tec with an executed copy of the approval set out in Schedule 2 prior to providing any Services, to enable Hy-Tec to obtain details from the Road and Traffic Authority of NSW in relation to licence status at random intervals.

13.2 Carrying Capacity

If there are any changes to Laws relating to truck carrying capacities, the Contract Carrier may modify the Vehicle at the Contract Carrier's expense to take advantage of the increased capacity providing that:

- (a) the Vehicle must comply with the Vehicle Specification; and
- (b) if the modifications may affect the configuration of the Vehicle (including, but not limited to, increasing from a six (6) wheel truck to an eight (8) wheel truck), the parties will comply with the procedure and principles set out in clause 3.

14. Payment of Contract Carrier

14.1 Payments

- (a) Hy-Tec will pay to the Contract Carrier the Rate and any applicable Surcharges and Fees on the 15th and last Working Day of the month into the account nominated by the Contract Carrier.
- (b) Hy-Tec will not make any deduction from any payment to the Contract Carrier other than:
 - (i) statutory deductions;
 - (ii) money owed by the Contract Carrier to Hy-Tec in accordance with a court order;
 - (iii) the Contract Carrier's fuel purchases from Hy-Tec; and
 - (iv) deductions authorised by the Contract Carrier in writing.
- (c) Hy-Tec will prepare and give to the Contract Carrier a Recipient Created Tax Invoice (RCTI) setting out daily data, and total data for the relevant period, including docket numbers, quantity of loads, kilometres, extra payments, payment per load and job address. The RCTI will itemise the gross cartage payments due as well as the net payment (after deductions).
- (d) Payment of kilometres travelled will be based on the shortest heavy rigid transport route to site rounded up to the nearest whole kilometre. Hy-Tec will provide an automated docket printout to display details of the relevant transport route. This route will be determined using a computerised mapping program nominated by Hy-Tec which will be considered as the distance calculator for travel routes or distances. If Hy-Tec directs the Contract Carrier to take a particular route, Hy-

Tec will pay the Contract Carrier on the basis of the kilometres travelled by the Contract Carrier in taking the route directed by Hy-Tec.

- (e) The Rates set out the method used to calculate the amount to be paid by Hy-Tec to the Contract Carrier for the Services.

15. Dispute Resolution

15.1 Notification of Dispute

If a dispute arises between Hy-Tec and the Contract Carrier, either Hy-Tec or the Contract Carrier may give a formal written notice of dispute to the other party identifying and setting out the details of the dispute.

15.2 Notification of Dispute

If Hy-Tec or the Contract Carrier receives a notification of dispute in accordance with subclause 15.1, Hy-Tec and the Contract Carrier must attempt to resolve the dispute in accordance with the following procedure:

- (a) The Contract Carrier must continue to provide the Services, and each party must comply with all of the party's obligations in accordance with this Contract Determination, at all times even if Hy-Tec and the Contract Carrier are in dispute.
- (b) Hy-Tec and the Contract Carrier must attempt to resolve the dispute as close to the source of the dispute as possible with graduated steps, with reasonable time limits, for further discussion at higher levels of authority.
- (c) If the dispute is not resolved in accordance with paragraph 15.2(b), Hy-Tec will attempt to resolve the dispute in discussion with the Yard Delegate and/or the Contract Carrier Executive.
- (d) If the dispute is not resolved in accordance with paragraph 15.2(c), either Hy-Tec or the Contract Carrier may appoint a third party to assist with the resolution of the dispute (and the Contract Carrier may appoint the TWU as the Contract Carrier's representative);
- (e) If the dispute is not resolved in accordance with paragraph 15.2(d), either Hy-Tec or the Contract Carrier or the TWU may refer the dispute to the Industrial Relations Commission of NSW in accordance with the *Industrial Relations Act 1996* (NSW).
- (f) Hy-Tec and the Contract Carrier will retain all of their rights under the *Industrial Relations Act 1996* NSW at all times.

16. Agitator

16.1 Ownership of Agitator

- (a) The Agitator is the property of the Agitator Party.
- (b) The Agitator Party must pay to install the Agitator on the Vehicle.
- (c) The Agitator Party must make good any damage caused by the removal of the Agitator from the Vehicle.

16.2 Removal of Agitator

If Hy-Tec is the Agitator Party:

- (a) upon receipt of written notice, the Contract Carrier must make available the Vehicle for a reasonable amount of time to allow for the removal of the Agitator and for the making good any damage to the Vehicle caused by removal of the Agitator; and
- (b) Hy-Tec will not be liable for any economic loss or damage suffered by the Contract Carrier as a consequence of Hy-Tec's removal of the Agitator provided that if Hy-Tec retains the Vehicle in excess of two (2) days, Hy-Tec will pay the Contract Carrier at the Agitator Breakdown Rate for each additional Working Day.

17. Finance

17.1 Finance

If the Contract Carrier obtains finance using the Vehicle as security, the Contract Carrier must immediately provide to Hy-Tec written evidence from the financier acknowledging:

- (a) the interest of the Agitator Party in the Agitator; and
- (b) Hy-Tec's interest in any contents of the Agitator.

17.2 Refinance

If the Contract Carrier refinances the Vehicle throughout the term of this Contract Determination, the Contract Carrier will provide the information set out in subclause 17.1 in respect of the new finance arrangement.

18. Environmental Protection

18.1 Hy-Tec's Responsibility

Hy-Tec will provide the Contract Carrier with a written procedure relating to the delivery of Concrete and will ensure that the procedure complies with all requirements of relevant laws in relation to environmental protection and pollution control.

18.2 Contract Carrier's Responsibility

The Contract Carrier must comply with Hy-Tec's reasonable written procedures in relation to environmental protection and pollution control.

19. Occupational Health and Safety

19.1 Hy-Tec's Responsibility

Hy-Tec will establish an occupational health and safety committee with duly elected representatives in each Plant.

19.2 Contract Carrier's Responsibility

The Contract Carrier must comply with Hy-Tec's occupational, health and safety policies and procedures.

19.3 Occupation Health and Safety Committee

- (a) Each Contract Carrier will be eligible for election for membership of the occupation health and safety committee through Hy-Tec's occupational health and safety committee election process.
- (b) Hy-Tec will pay any Contract Carrier elected to membership of the occupational health and safety committee for attendance at meetings of the committee at the rate of the Driver Only Rate.

20. Training

20.1 Acknowledgement

Hy-Tec and the Contract Carrier acknowledge the mutual benefits gained through training and each party commits to training programs to increase the competitive performance of the Hy-Tec and the Contract Carriers.

20.2 Contract Carrier's Responsibility

The Contract Carrier must complete training related to Services as determined by Hy-Tec.

20.3 Unpaid Training

The Contract Carrier must attend training which Hy-Tec reasonably considers essential to the operation of the Services without additional payment (including , but not limited to, driver training on the job, project site inductions, toolbox meetings, and blue card training).

20.4 Paid Training

If Hy-Tec requires the Contract Carrier to attend training in addition to the training set out in subclause 20.3, the training will take place mutually agreed times and Hy-Tec will pay the Contract Carrier the Driver Only Rate if such training takes place outside Normal Working Hours.

21. Liability

Neither Hy-Tec nor the Contract Carrier will not be responsible to the other for any indirect or consequential loss, damage or liability including, without limitation, any loss of (or loss of anticipated) use, production, opportunity, revenue, income, profits, business savings or business interruption resulting from Plant, Agitator, Vehicle or other breakdowns that are beyond the party's reasonable control.

22. Reporting

22.1 Reporting

The Contract Carrier must provide Hy-Tec with immediate verbal notification, followed by prompt written notification, if the Contract Carrier becomes aware of any matter relating to the Contract Carrier or any Driver of which Hy-Tec could reasonably expect to be advised including, but not limited to:

- (a) breakdowns;
- (b) accidents;
- (c) damage to plant or equipment;
- (d) defects in plant or equipment;
- (e) loss or theft of plant or equipment;
- (f) insolvency;
- (g) criminal offences; and
- (h) loss or suspension of driver's licence.

22.2 Requests for Information

The Contract Carrier must provide any further relevant information, explanation, advice and records requested by Hy-Tec in relation to any relevant matter which is the subject of a report by the Contract Carrier or any Driver to Hy-Tec.

23. Contract Administration

23.1 Contract Administration Personnel

Hy-Tec and the Contract Carrier will provide to each other, and maintain, a listing of key personnel and their responsibilities involved in the ongoing administration and performance of this Contract Determination including names, dates and contact numbers including mobile and home telephone numbers.

23.2 Confidential Information

The Contract Carrier acknowledges that all information relating to this Contract Determination and to the current or future business interests, methodology, Hy-Tec Customer and supplier details or affairs of Hy-Tec is and will remain the sole and exclusive property of Hy-Tec. The Contract Carrier must keep all such information confidential and in particular will not disclose such information to any other person except as required by law or with the written consent of Hy-Tec during until five years after termination of this Contract Determination.

23.3 Notices

- (a) Any notice under this Contract Determination must be in writing, in English and signed by a person duly authorised to provide the notice and hand delivered or sent by post or facsimile to the recipient's address for notices set out in this Contract Determination (as may be varied by either party providing written notice to the other party).
- (b) A notice given in accordance with this subclause 23.3 takes effect when taken to be received (or at a later time specified in it), and is taken to be received:
 - (i) if hand delivered, on delivery;
 - (ii) if sent by prepaid post, on the second Business Day after the date of posting;
 - (iii) if sent by facsimile, when the sender's facsimile system generates a message confirming successful transmission of the entire notice unless, within eight Business Day after the transmission, the recipient informs the sender that it has not received the entire notice,
 - (iv) but if the delivery, receipt or transmission is not on a Business Day or is after 5.00pm on a Business Day, the Notice is taken to be received at 9.00am on the next Business Day.

23.4 Tax Invoices

Hy-Tec as "Recipient" and the Contract Carrier as "Supplier" agree that in relation to supplies made pursuant to this Contract Determination, for the term of this Contract Determination:

- (a) the Recipient can issue tax invoices in respect of the supplies;
- (b) the Supplier will not issue tax invoices in respect of the supplies;
- (c) the Supplier acknowledges that it is registered for GST when it enters into this Contract Determination and that it will notify the Recipient if it ceases to be registered; and
- (d) the Recipient acknowledges that it is registered for GST when it enters into this Contract Determination and that it will notify the Supplier if it ceases to be registered for GST or if it

ceases to satisfy any of the requirements of any determinations or rulings issued in relation to any Recipient Created Tax Invoice.

23.5 GST

- (a) In this clause:

"Amount of the Consideration" means:

- (i) the amount of any payment for a supply; and
- (ii) in relation to non-monetary consideration, the GST exclusive market value of that in consideration.

"GST" means a goods and services tax or like tax payable in respect of a supply under this Contract Determination.

- (b) All payments to be made by Hy-Tec under this Contract Determination are calculated without regard to GST unless otherwise stated.
- (c) If a supply made by one party ("Supplier") to the other ("Recipient") under this Contract Determination is subject to GST, the Recipient agrees to pay to the Supplier an additional amount equal to the amount of the consideration for the supply multiplied by the prevailing GST rate.
- (d) The additional amount is payable at the same time and in the same manner as the consideration for the supply to which the additional amount relates.
- (e) The Supplier agrees to:
 - (i) comply with Part VB of the *Trade Practices Act 1974* (Cth); and
 - (ii) refund any overpayment made by the Recipient under this clause promptly after the actual amount of the overpayment is ascertained.

23.6 Privacy

The Contract Carrier agrees, and will ensure each Driver agrees:

- (a) Hy-Tec may treat, collect, maintain, use and disclose personal information disclosed to Hy-Tec in the manner set out in any privacy policy of Hy-Tec, as may be varied by Hy-Tec from time to time;
- (b) Hy-Tec may disclose information about the nature and extent of Services, including truck utilisation data, to any third parties (including other contract carriers) for the purposes of Hy-Tec's business operations;
- (c) the Contract Carrier will use any personal information Hy-Tec provides to the Contract Carrier, or which the Contract Carrier handles for Hy-Tec, only for the purpose of fulfilling the Contract Carrier's obligations under this Contract Determination;
- (d) the Contract Carrier will take reasonable steps to ensure that any personal information the Contract Carrier holds under this Contract Determination is protected against misuse and loss, and from unauthorised access, modification or disclosure;
- (e) the Contract Carrier will not disclose any personal information without Hy-Tec's written authority (except to the individual to whom the personal information relates) and notify Hy-Tec immediately if the Contract Carrier becomes aware that a disclosure of personal information may be required by law;

- (f) the Contract Carrier will comply with all legislation, principles, industry codes and policies by which the Contract Carrier is bound in connection with the personal information Hy-Tec discloses to the Contract Carrier;
- (g) the Contract Carrier will handle personal information in a manner as directed by Hy-Tec from time to time, provided that the direction will not cause the Contract Carrier to breach any legislation, principles, industry codes or policies by which the Contract Carrier is bound;
- (h) the Contract Carrier will notify Hy-Tec immediately if the Contract Carrier becomes aware that Contract Carrier has breached or will breach any of terms of this subclause 23.6; and
- (i) the Contract Carrier will not do anything with the personal information that will cause Hy-Tec to breach Hy-Tec's obligations under the *Privacy Act* 1988 (Cth).

23.7 Independent Contractor

The Contract Carrier acknowledges that the Contract Carrier is an independent contractor and nothing in this Contract Determination or any Cartage Contract establishes any employment or agency relationship.

23.8 Exclusivity

Each Contract Carrier must use the Vehicle to deliver concrete exclusively for Hy-Tec and must not use the Vehicle to deliver Concrete for any other persons, during term of the Cartage Contract.

24. Area Incidence and Duration

- 24.1 This Contract Determination will apply to Hy-Tec Industries Pty Ltd ABN 90 070 100 702 and Maxi Contract Carriers engaged by them within the State of New South Wales.
- 24.2 This Contract Determination operates to the exclusion of all other contract determinations made before or after the making of this Contract Determination.
- 24.3 This Contract Determination will commence to operate on the first full pay period on after 5 July 2021 and will have a nominal term of three years and continue thereafter in accordance with the *Industrial Relations Act* 1996.

SCHEDULE 1 - RATES, SURCHARGES AND FEES

1. Commercial Sensitivity of Cartage Rates

- 1.1 It is acknowledged by the parties to this Contract Determination that Hy-Tec's Rates, Surcharges and Fees are commercially sensitive for both Hy-Tec and the Contract Carriers.

2. Hy-Tec to Pay Current Rates, Surcharges and Fees

- 2.1 Subject to subclause 2.3 of this Schedule, Hy-Tec will:
 - (a) pay to the Contract Carriers the out of hours surcharges set out in the table at subclause 2.2 below;
 - (b) continue to pay to the Contract Carriers all other:
 - (i) Rates;
 - (ii) surcharges (except for any out of hours surcharges); and
 - (iii) fees, on the basis they were paid to the Contract Carriers as at the date this Contract Determination was made; and

- (c) continue to apply the periodic rise and fall formula on the basis it was applied to all Rates, Surcharges and Fees from the date this Contract Determination is varied.

2.2 Table of Out of Hours Surcharges

6 Wheeler		
Surcharge	Application	Amount
Surcharge 1	Monday to Friday after 5.00am and up to and including 6.00am Monday to Friday from 5.00pm and before 7.00pm	\$9.53 per m3 (min 3.0 m3)
Surcharge 2	Monday to Friday from 7.00pm and up to and including 5.00am Before 6.00am on a Saturday	\$15.24 per m3 (min 3.0 m3)
Surcharge 3	Saturday 1.00pm to 5.00pm	\$15.24 per m3 (min 3.0 m3)
Surcharge 4	Saturday after 5.00pm	\$22.54 per m3
Surcharge 5	Sunday	\$22.54 per m3
Surcharge 6	Public Holiday	\$30.05 per m3

8 Wheeler		
Surcharge	Application	Amount
Surcharge 1	Monday to Friday after 5.00am and up to and including 6.00am Monday to Friday from 5.00pm and before 7.00pm	\$8.46 per m3 (min 3.6 m3)
Surcharge 2	Monday to Friday from 7.00pm and up to and including 5.00am Before 6.00am on a Saturday	\$13.55 per m3 (min 3.6 m3)
Surcharge 3	Saturday 1.00pm to 5.00pm	\$13.55 per m3 (min 3.6 m3)
Surcharge 4	Saturday after 5.00pm	\$20.05 per m3
Surcharge 5	Sunday	\$20.05 per m3
Surcharge 6	Public Holiday	\$26.74 per m3

2.3 The Rates and/or Surcharges and Fees and/or the rise and fall formula referred to in subclauses 2.1 and 2.2 of this Schedule may be changed subject to:

- (a) agreement between Hy-Tec and the Contract Carrier Executive; or
- (b) variation of this Contract Determination in accordance with the *Industrial Relations Act 1996*.

SCHEDULE 2 - RMS AUTHORISATION

I,

Insert Full Name

of

.....

Insert Address

.....

Insert Drivers Licence Number

authorise the Roads and Maritime Services of NSW to provide to Hy-Tec Industries Pty Ltd ABN 90 070 100 70 details relating to the status of any drivers licence held by me at any time.

Signed by

Signature

Witness Signature

Name

Witness Name

Date

Date

J. D. STANTON, *Commissioner*

Printed by the authority of the Industrial Registrar.

LOCAL GOVERNMENT (STATE) AWARD 2020

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by New South Wales Local Government, Clerical, Administrative, Energy, Airlines & Utilities Union, Industrial Organisation of Employees.

(Case No. 223820 & 300284 of 2021)

Before Chief Commissioner Constant

26 August 2021

AWARD REPRINT

This reprint of the abovementioned award is published by the authority of the Industrial Registrar under section 390 of the *Industrial Relations Act 1996*, and under Rule 6.6 of the *Industrial Relations Commission Rules 2009*.

I certify that the form of this reprint, incorporating the variations set out in the schedule, is correct as at the latest date of effect therein mentioned.

I. HOSKINSON *Acting Industrial Registrar.*

Schedule of Award and Variations Incorporated

Award/Variation Serial No.	Date of Publication	Date of Taking Effect	Industrial Gazette	
			Vol.	Page
C9152	03/07/2020	1 July 2020	388	1038
C9159	23/10/2020	2 September 2020	389	1
C9165	19/02/2021	16 November 2020	389	227
C9218	19/02/2021	19 February 2021	389	229
C9336	19/11/2021	26 August 2021	390	1318
C9337	19/11/2021	26 October 2021	390	1320

AWARD**PART A****1. Arrangement**

Clause No.	Subject Matter
16.	Allowances, Additional Payments and Expenses
13.	Annualised Salaries
3.	Anti-discrimination
34.	Appointment and Promotion
46.	Area, Incidence and Duration
1.	Arrangement
27.	Casual Employment
33.	Consultative Committees
43.	Council Agreements
4.	Definitions
37.	Disciplinary Procedures
23.	Flexibility for Work and Family Responsibilities
36.	Grievance and Dispute Procedures
25.	Health and Wellbeing
21.	Holidays
19.	Hours of Work

28. Job Share Employment
31. Junior and Trainee Employment
29. Labour Hire
22. Leave Provisions
45. Leave Reserved
17. Motor Vehicle Arrangements
30. Multiple Employment
20. Overtime
26. Part-time Employment
11. Payment for Relief Duties/Work
12. Payment of Employees
10. Performance Evaluation and Reward
24. Phased Retirement
6. Rates of Pay
18. Residence
9. Resourcing and Directing Employees
14. Salary Sacrifice
7. Salary System
44. Savings and Transitional
5. Skill Descriptors
2. Statement of Intent
15. Superannuation and Related Arrangements
35. Term Contracts
40. Termination of Employment
42. Termination of Employment due to Redeployment and Redundancy
32. Training and Development
8. Use of Skills
38. Work Health and Safety
39. Workplace Bullying
41. Workplace Change

PART B

MONETARY RATES

Table 1 - Rates of Pay

Table 2 - Allowances

Schedule 1 - Minimum Standards of Caravan
Accommodation to be provided to Employees
Required to Camp Out.

2. Statement of Intent

The parties to the Award are committed to co-operating positively to increase the productivity, structural efficiency and financial sustainability of Local Government and to provide employees with access to more fulfilling, varied and better-paid work by providing measures to, for instance:

improve skill levels and establish skill-related career paths;

eliminate impediments to multi-skilling;

broaden the range of tasks which a worker may be required to perform;

achieve greater flexibility in workplace practices;

eliminate discrimination;

establish rates of pay and conditions that are fair and equitable;

work reasonable hours;

promote job security;

ensure and facilitate flexibility for work and family responsibilities;

ensure the delivery of quality services to the community and continuous improvement;

encourage innovation;

promote cooperative and open change management processes; and

promote the health and safety of workers and other people in the workplace.

3. Anti-Discrimination

- (i) 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* (NSW) 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.
- (ii) 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.
- (iii) Under the *Anti-Discrimination Act 1977* (NSW), 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.
- (iv) Nothing in this clause is to be taken to affect:
 - (a) any conduct or act which is specifically exempted from anti-discrimination legislation;
 - (b) offering or providing junior rates of pay to persons under 21 years of age;
 - (c) any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977* (NSW);
 - (d) a party to this Award from pursuing matters of unlawful discrimination in any State or federal jurisdiction.
- (v) 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

- (a) Employers and employees may also be subject to Commonwealth anti-discrimination legislation.
- (b) Section 56(d) of the *Anti-Discrimination Act 1977* (NSW) 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."

4. Definitions

Unless otherwise provided in the Award:

- (i) Association means Local Government NSW (LGNSW), which is also known as the Local Government and Shires Association of New South Wales.
- (ii) Council means a Municipal, City, Shire, County Council or Council within NSW as defined in the *Local Government Act 1993* (NSW). This definition shall be read subject to the allocation of responsibilities as specified in the *Local Government Act 1993* (NSW).
- (iii) Competency based training refers to training concerned with the attainment and demonstration of specified skills, knowledge and their application to meet industry standards.
- (iv) Complying superannuation fund has the same meaning as in the *Superannuation Industry (Supervision) Act 1993* (Cth).
- (v) Days - unless otherwise specified, any reference to 'days' shall mean calendar days.
- (vi) Employer means all employers in local government or in the local government industry within NSW that are covered by clause 46, Area, Incidence and Duration of this Award.
- (vii) General Manager shall mean a person appointed in accordance with section 334 of the *Local Government Act 1993* (NSW) to discharge the duties and responsibilities of the office of general manager as set out in section 335 of the *Local Government Act 1993* (NSW) and such other duties that a council may delegate to the general manager. When carrying out these duties, the general manager is acting on behalf of the council.
- (viii) Ordinary Pay means remuneration for the employee's normal weekly number of hours of work calculated at the ordinary time rate of pay. Ordinary pay shall include, but not be limited to the following penalties and allowances where they are regularly received:

Saturday, Sunday and shift penalties

hours of work flexibility agreements allowances

adverse working conditions allowances

climatic, west of the line allowances

civil liability allowance

tool allowances

on call allowance

first aid allowance

community language and signing work allowances

provided that subject to the exclusions below and at subclauses 11(ii), 22D(xi) and 22E(iii)(c), an employee's ordinary pay during periods of paid leave under this Award shall not be more or less than what the employee would have received had the employee not been on paid leave.

The following allowances shall be excluded from the composition of ordinary pay:

overtime payments

camping allowance

travelling allowances

sewer chokes allowance

vehicle allowances

meal allowances.

- (ix) Rostered Day Off means, a non-working day for full-time employees pursuant to an arrangement of ordinary hours under subclause 19A, where the employee:
- (a) within two weeks, is granted four days off and one additional day off (the "rostered day off"); or
 - (b) within three weeks, is granted six days off and one additional day off (the "rostered day off"); or
 - (c) within four weeks, is granted eight days off and one additional day off (the "rostered day off").
- (x) Seven day a week rotating roster system means a work roster system in which the employee is regularly required to work:
- (a) ordinary hours on each of the seven calendar days of the week; and
 - (b) ordinary hours on at least one Saturday and one Sunday in every four, or in the case of a seasonal worker an average of at least twelve Saturdays and twelve Sundays during a twelve-month period; and
 - (c) on Public Holidays; and
 - (d) at different agreed commencement times during the roster period (i.e. different shifts)
- provided that where, prior to the commencement of this Award, an employee regularly worked according to a roster system that the employer regarded as a seven day a week rotating roster system, and the employee continues to work according to the same roster system, the roster system shall be deemed to be a seven day a week rotating roster system for that employee.
- (xi) Superannuation contributions means all contributions to a complying superannuation fund, and includes (without limitation) any superannuation contributions required to be made under the *Superannuation Guarantee (Administration) Act 1992* (Cth), and any additional superannuation contributions made by way of salary sacrifice.
- (xii) Union means the New South Wales Local Government, Clerical Administrative, Energy, Airlines & Utilities Union (USU); the Local Government Engineers' Association of New South Wales (LGEA); the Development and Environmental Professionals' Association (depa); and the Nurses' and Midwives Association of New South Wales.

5. Skill Descriptors

The Award structure consists of skill-based bands and levels that are defined according to the following skill descriptors:

- (i) Operational Band 1, Level 1

Authority and accountability: Completion of basic tasks with work closely monitored by the team leader or supervisor.

Judgement and problem solving: Judgement is limited and coordinated by other workers.

Specialist knowledge and skills: Specialist knowledge and skills are obtained through on-the-job training and employer-based induction training. Off-the-job training may lead to trade, technical or professional qualifications.

Management skills: Not required.

Interpersonal skills: Limited to communications with other staff and possibly, with the public.

Qualifications and experience: Completion of School Certificate or the Higher School Certificate may be sought. Completion of an appropriate labour market program or similar short-term work/skills experience is desirable.

(ii) Operational Band 1, Level 2

Authority and accountability: Responsible for completion of basic tasks with individual guidance or in a team.

Judgement and problem solving: Applies standard procedures with normally few if any options in the application of skills.

Specialist knowledge and skills: Job specific skills and knowledge would normally be gained through on-the-job training and experience. Short courses may be completed at TAFE.

Management skills: Not required.

Interpersonal skills: Frequent communication with other staff and/or the public common but normally at a routine level.

Qualifications and experience: Incumbents may have attended short courses in specific work areas or be undertaking a technical college certificate as completion of structured training program in work-related area.

(iii) Operational Band 1, Level 3

Authority and accountability: Responsible for completion of regularly occurring tasks with general guidance on a daily basis.

Judgement and problem solving: Judgement is required to follow predetermined procedures where a choice between more than two options are present.

Specialist knowledge and skills: Application of skills, including machine-operation skills, following training "on the job" or accredited external training over a number of months.

Management skills: Some guidance/supervision may be required. May assist a co-ordinator/trainer with on-the-job training.

Interpersonal skills: Skills required for exchange of information on straightforward matters.

Qualifications and experience: Suitable experience or qualifications in a number of defined skill areas.

(iv) Operational Band 1, Level 4

Authority and accountability: Responsible for supervising staff in operational duties or for work requiring independence in the application of skills, subject to routine supervision. Responsible for quality of work function.

Judgement and problem solving: Option on how to approach tasks requires interpretation of problems and may involve precise judgement in operational areas.

Specialist knowledge and skills: The number of work areas in which the position operates makes the work complicated and a variety of skills are required in its completion. Position may require competence in operation of complex machinery.

Management skills: Supervisory skills in the communication of instructions, training and the checking of work may be required.

Interpersonal skills: Skills are required to convince and explain specific points of view or information to others and to reconcile differences between parties.

Qualifications and Experience: Experience to adapt procedures to suit situations and a thorough knowledge of the most complex operational work procedures to achieve work objectives.

(v) Administrative/Technical/Trades Band 2, Level 1

Authority and accountability: Responsible for the completion of work requiring the application of trades, administrative or technical skills.

Judgement and problem solving: Skills in assessing situations and in determining processes, tools and solutions to problems. Guidance is available.

Specialist knowledge and skills: Positions will have demonstrated competence in a number of key skill areas related to major elements of the job.

Management skills: Positions may require skills in the supervision or co-ordination of small groups.

Interpersonal skills: Communication skills to explain situations or advise others.

Qualifications and experience: Appropriate work-related trade, technical or administrative qualifications or specialist skills training.

(vi) Administrative/Technical/Trades Band 2, Level 2

Authority and accountability: Responsibility as a trainer/co-ordinator for the operation of a small section which uses staff and other resources, or the position completes tasks requiring specialised technical/administrative skills.

Judgement and problem solving: Skills to solve problems which require assessment of options with freedom within procedural limits in changing the way work is done or in the delegation of work. Assistance may be readily available from others in solving problems.

Specialist knowledge and skills: Positions will have specialised knowledge in a number of advanced skill areas relating to the more complex elements of the job.

Management skills: May require skills in supervising a team of staff, to motivate and monitor performance against work outcomes.

Interpersonal skills: In addition to interpersonal skills in managing others, the position may involve explaining issues/policy to the public or others and reconcile different points of view.

Qualifications and experience: Thorough working knowledge and experience of all work procedures for the application of technical/trades or administrative skills, based upon suitable certificate or post-certificate-level qualifications.

(vii) Administrative/Technical/Trades Band 2, Level 3

Authority and accountability: May be responsible to provide a specialised/technical service and to complete work which has some elements of complexity. Make recommendations within the employer and represent the employer to the public or other organisations.

Judgement and problem solving: Problem solving and judgements are made where there is a lack of definition requiring analysis of a number of options. Typical judgements may require variation of work priorities and approaches.

Specialist knowledge and skills: Positions have advanced knowledge and skills in a number of areas where analysis of complex options is involved.

Management skills: May supervise groups of operational and/or other administrative/trades/technical employees. Employees supervised may be in a number of different work areas, requiring motivation, monitoring and co-ordination to achieve specific outputs.

Interpersonal skills: Skills to communicate with subordinate staff and the public and/or negotiation/persuasive skills to resolve disputes with staff or the public.

Qualifications and experience: An advanced certificate, associate diploma, appropriate in-house training or equivalent combined with extensive experience in the application of skills in the most complex areas of the job.

(viii) Professional/Specialist Band 3, Level 1

Authority and accountability: Provides specialised/technical services to complete assignments or projects in consultation with other professional staff. May work with a team of technical or administrative employees requiring the review and approval of more complex elements of the work performed by others.

Judgement and problem solving: Problems require assessment of a range of options having elements of complexity in reaching decisions and making recommendations. Precedent is available from sources within the employer, and assistance is usually available from other professional/specialist staff in the work area.

Specialist knowledge and skills: Positions require considerable knowledge in a specific area with a sufficient level of skills and knowledge to resolve issues having elements of complexity that may not be clearly defined.

Management skills: Positions at this entry level to the Professional/Specialist Band are not required to possess management skills.

Interpersonal skills: Persuasive skills are required to participate in technical discussions to resolve problems, explain policy and reconcile viewpoints.

Qualifications and experience: Professional/specialist positions require professional qualifications to apply theoretical knowledge to practical situations.

(ix) Professional/Specialist Band 3, Level 2

Authority and accountability: Provides a specialised/technical service in the completion of work and/or projects which have elements of complexity (composed of many parts that may be more conceptual than definite).

Judgement and problem solving: Positions require the interpretation of information and development of suitable procedures to achieve agreed outcomes. Problem solving and decision making require analysis of data to reach decisions and/or determine progress.

Specialist knowledge and skills: Experience in the application of technical concepts and practices requiring additional training are required at this level.

Management skills: May manage a number of projects involving people and other resources requiring project control and monitoring as well as motivation and co-ordination skills.

Interpersonal skills: Interpersonal skills in leading and motivating staff in different teams/locations may be required, as well as persuasive skills to resolve problems or provide specialised advice.

Qualifications and experience: Positions at this level would have supplemented base level professional qualifications with additional skills training. Considerable practical experience or skills training would be required to effectively control key elements of the job.

(x) Professional/Specialist Band 3, Level 3

Authority and accountability: Provides a professional advisory role to people within or outside the employer. Such advice may commit the employer and have significant impact upon external parties dealing with the employer. The position may manage several major projects or sections within a department of the employer.

Judgement and problem solving: Positions have a high level of independence in solving problems and using judgement. Problems can be multi-faceted requiring detailed analysis of available options to solve operational, technical or service problems.

Specialist knowledge and skills: The skills and knowledge to resolve problems where a number of complex alternatives need to be addressed.

Management skills: May be required to manage staff, resolve operational problems and participate in a management team to resolve key problems.

Interpersonal skills: Interpersonal skills in leading and motivating staff may be required. Persuasive skills are used in seeking agreement and discussing issues to resolve problems with people at all levels. Communication skills are required to enable provision of key advice both within and outside the employer and to liaise with external bodies.

Qualifications and experience: Tertiary qualifications combined with a high level of practical experience and an in-depth knowledge of work.

(xi) Professional/Specialist Band 3, Level 4

Authority and accountability: Accountable for the effective management of major sections or projects within their area of expertise. As a specialist, advice would be provided to executive level and to the employer on major areas of policy or on key issues of significance to the organisation. The position's influence would have an important role in the overall performance of the function.

Judgement and problem solving: Positions would determine the framework for problem solving or set strategic plans with minimal review by senior management. At this level, the position may represent senior management or the employer in the resolution of problems. The oversight of problem solving and assessment of the quality of judgements made by less qualified staff will apply at this level.

Specialist knowledge and skills: Positions require knowledge and skills for the direction and control of a key function of the employer or major functions within a department. Positions require expert knowledge and skills involving elements of creativity and innovation in addressing and resolving major issues.

Management skills: Positions may direct professional or other staff in the planning, implementation and review of major programs, as well as participating as a key member of a functional team.

Interpersonal skills: Interpersonal skills in leading and motivating staff will be required at this level. Positions require the ability to negotiate on important matters with a high degree of independence. Positions are required to liaise with the public and external groups and organisations.

Qualifications and experience: Specialist tertiary qualifications in an appropriate field of study combined with extensive practical experience in all relevant areas in order to plan, develop and control major elements of work.

(xii) Executive Band 4

Authority and accountability: Accountable for the direction and control of the employer or a department or the like. Influence and commit the employer or a department or the like to long-term strategic directions. Lead policy development and implementation.

Judgement and problem solving: Positions solve problems through analytic reasoning and integration of wide-ranging and complex information, and have a high level of independence in determining direction and approach to issues.

Specialist knowledge and skills: The position requires the application of a range of specialist knowledge and skills, including relevant legislation and policies and other areas of precedent. Ability to provide authoritative advice to the employer.

Management skills: Application of corporate management skills in a diverse organisation to establish goals and objectives. Manage and control staff, budgets and work programs or major projects of the employer or a department or the like utilising leadership, evaluation and monitoring skills to facilitate achievement of objectives. Ability to generate innovative approaches to more effectively deploy resources, meet changing circumstances and improve service to the employer's clients.

Interpersonal skills: Positions use persuasive skills with external parties on major items of critical importance to the employer. They motivate managers and staff at all levels by leading and influencing others to achieve complex objectives. They influence the development of the employer.

Qualifications and experience: Positions will have a relevant degree or equivalent and management experience, combined with accredited management qualifications.

6. Rates of Pay

- (i) The rates of pay are established for positions with the skills descriptors as defined in Clause 5, Skill Descriptors, of this Award.
- (ii) The rates of pay are set out in Table 1 of Part B of this Award and are entry level rates of pay only, except for Operational Band 1, Level 1, which are actual rates of pay.
- (iii) The employer shall introduce a salary system to complement the skills-based structure and rates of pay of the Award.

7. Salary System

- (i) A salary system determines how employees are paid. An employee shall be paid the salary system rate of pay that recognises the skills the employee is required to apply on the job.
- (ii) The salary system shall have a structure that complements the entry level rates of pay and skill descriptors in the Award by identifying grades. Each grade shall contain a number of salary points/steps for progression that are over and above the entry level rates of pay.
- (iii) Positions shall be assigned a salary grade(s) within the structure. A position may extend across more than one grade in the employer's salary system or level as prescribed by Clause 5 Skills Descriptors of this Award.
- (iv) Progression through the salary system shall be based upon:
 - (a) the acquisition and use of skills; or
 - (b) employee performance, provided that progression beyond the award entry level based upon the acquisition and use of skills is also available.

- (v) Where skills based progression is not reasonably available within the salary range for the position, employees shall have access to progression based on the achievement of performance objectives relating to the position. Such performance objectives shall be set in consultation with the employee(s).
- (vi) Subject to subclauses (iv) and (v), skills for progression relevant to the position shall be assigned to each salary point/step within the grade, or set at the annual assessment provided that such criteria shall provide an opportunity to progress through the salary system.
- (vii) Except where otherwise provided, employees shall be assessed for progression through the salary range for their position at least annually or when they are required to use skills that would entitle them to progress in the salary system.
- (viii) The employer shall not be required to conduct annual assessments for those employees who have progressed through the salary system to the maximum point/step for their position, provided that if an employee on or above the maximum point/step for their position requests an annual assessment in writing, the employer will provide one.
- (ix) At the time of assessment, the employer shall advise the employee of the relevant skills and/or reasonably achievable performance objectives required for the employee to progress to the next salary point/step and shall review the employee's training needs consistent with clause 32.
- (x) The salary system shall include a process by which employees can appeal against their assessment.
- (xi) Employees shall have access to information regarding the grade, salary range and progression steps of the position.
- (xii) Where the employer changes its salary system structure, employees shall not suffer a reduction in pay or salary range. Further, employees shall not suffer a reduction in progression steps based on the acquisition and use of skill, unless otherwise agreed.

8. Use of Skills

- (i) The parties are committed to improving skill levels and removing impediments to multi skilling and broadening the range of tasks that the employee is required to perform.
- (ii) An employee shall be paid the salary system rate of pay that recognises the skills the employee is required to apply on the job.
- (iii)
 - (a) The skills paid for shall not be limited to those prescribed by the job description and may, where appropriate, include skills possessed by the individual which are required by the employer to be used as an adjunct to the employee's normal duties.
 - (b) Subject to subclauses (xii) and (xiii) of Clause 16, Allowances, Additional Payments and Expenses, employees who are required by the employer to use such additional skill(s) in the performance of their duties shall have the use of these skill(s) considered in the evaluation of the position.

9. Resourcing and Directing Employees

- (i) The employer shall provide adequate staff and other resources to enable employees to carry out their duties and functions over the course of working hours that are not unreasonable and support the implementation of the employer's community strategic plan and operational plan.
- (ii) The employer may direct the employee to carry out such duties that are within the limits of the employee's skill, competence and training.

10. Performance Evaluation and Reward

A. ENTERPRISE

- (i) It is the intention of the parties to create a flexible award in which employers can increase the overall efficiency and effectiveness of local government services.
- (ii) Employers should consider the development of enterprise key performance indicators which are specific to local needs.
- (iii) Where the employer develops enterprise key performance indicators regard shall be had to the following:
 - (a) measurement of the manner and process by which services are provided;
 - (b) measurement of both qualitative and quantitative aspects of service provision e.g. community satisfaction, timeliness, service quality, output and cost data.
- (iv) Employers shall discuss enterprise key performance indicators relating to human resources activities and/or job redesign with the consultative committee.
- (v) Employee(s) or the employer may seek assistance from the appropriate union or Association in developing and implementing enterprise key performance indicators.

B. INDIVIDUAL/TEAM

- (i) Enterprise key performance indicators may be used to develop performance targets for teams or individual employees.
- (ii) All employees need to know and have confirmed the role, accountabilities and performance standards that are expected of them. Role clarity, acceptance of goals and regular feedback are essential to effective performance. A key aim should be to provide a means of recognising and rewarding high performance and to provide an early assessment and response to substandard performance. A review system also provides a basis for identifying development needs for individuals, and can be used as an important input to promotion decisions.
- (iii) This Award recognises that all employees shall have on-going feedback about performance. The performance development process can be simplified to three stages:
 - (1) joint development on objectives and performance standards;
 - (2) progress reviews; and
 - (3) a formal performance review which is followed by decisions and outcomes.

C. BONUS AND ADDITIONAL PERFORMANCE PAYMENTS

- (i) Employers may make available access to bonus payments or other opportunities for additional reward for those employees who have progressed through the salary system to the maximum point/step for their position.
- (ii) Where a salary system provides for the payment of a performance component separate from a skills component, variations to payments under the performance component shall not affect payments under the skills component.

11. Payment for Relief Duties/Work

- (i) An employee required to relieve in a position which is at a higher level within the salary system shall be paid for that relief. The rate to be paid shall be determined by considering the skills/experience applied by the employee relieving in the position but shall be at least the minimum rate for that position in

accordance with the salary system except where the higher level skills have been taken into account within the salary of the relieving employee.

- (ii) Payment for use of skills relieving in a higher paid position shall be made for the time actually spent relieving in the higher position and is not payable when the relieving employee is absent on paid leave or an award holiday. An employee on annual leave or long service leave may be entitled to a higher rate of pay in accordance with the provisions of paragraphs 22D(xi) and 22E(iii)(c) of this Award.
- (iii) An award employee who is required to relieve in a senior staff position, so designated under the *Local Government Act 1993* (NSW), shall be paid an appropriate rate of pay commensurate with the duties and responsibilities of the relief work undertaken.
- (iv) An employee who is required to relieve an employee in a higher-level position, who is on a rostered day off, shall not be entitled to be paid for that relief, except for employees who were being paid for such relief prior to the operative date of this award.

12. Payment of Employees

- (i) Employees shall be paid either weekly or fortnightly, or any other period by agreement, on a fixed regular pay day.
- (ii) The employer shall fix a regular payday, between Monday and Friday inclusive. The employer may alter the payday if there is prior agreement with the employees affected and the employees shall not unreasonably withhold their agreement.
- (iii) Payment shall be by cash, cheque or direct credit to the employee's nominated account.
- (iv) The employer shall deduct and pay on behalf of the employee from any remuneration payable to the employee union membership fees where authorised by the employee in writing. The employer can deduct and pay on behalf of the employee from any remuneration payable to the employee such other amounts as the employee authorises in writing.
- (v) An employee's ordinary pay shall not be reduced when the employee is prevented from attending work due to bushfire or other climatic circumstances beyond their control, provided that this subclause shall not apply if:
 - alternative duties are available that the employee can usefully perform, or
 - the bushfire or other climatic circumstance occurred outside of the State of New South Wales, or
 - the employee has been unable to attend work for more than one week per bushfire or other climatic circumstance event. The employee may, in exceptional circumstances, apply to the employer for paid special leave and such request shall not be unreasonably refused.
- (vi) Where an employee takes a period of sick leave and subsequently becomes entitled to the payment of workers compensation for the same period but at a lesser amount than the sick leave already paid, the employer shall be entitled to deduct from the employee's remuneration the difference between the sick leave payment and the workers' compensation payment.

Note: In accordance with section 129(1)(a) of the *Industrial Relations Act 1996* (NSW) and regulation 10 of the *Industrial Relations (General) Regulation 2015* (NSW) an employer must keep daily records of the remuneration paid and the hours worked by employees. This includes:

- the number of hours worked by an employee during each day; and
- the times of starting and ceasing work each day.

13. Annualised Salaries

(i) Annual salary instead of award provisions

Notwithstanding any other provision of this Award, the employer and an employee may agree that the employer may pay the employee an annual salary in satisfaction of any or all payments arising under the following provisions of the Award:

- (a) Rates of Pay - clause 6;
- (b) Use of Skills - clause 8;
- (c) Performance Evaluation and Reward - clause 10
- (d) Payment for Relief Duties/Work - clause 11
- (e) Salary Sacrifice - clause 14
- (f) Allowances, Additional Payments and Expenses - clause 16
- (g) Residence - clause 18
- (h) Hours of Work - clause 19
- (i) Overtime - clause 20
- (j) Holidays - clause 21

(ii) Annual salary not to disadvantage employees

- (a) The annual salary must be no less than the amount the employee would have received under this Award for the work performed over the year for which the salary is paid (or if the employment ceases earlier over such lesser period as has been worked).
- (b) The annual salary of the employee must be reviewed by the employer at least annually to ensure that the compensation is appropriate having regard to the award provisions which are satisfied by the payment of the annual salary.
- (c) Employees shall not be denied the opportunity to apply for new or vacant positions as a result of the operation of this clause.

(iii) An annual salary agreement must:

- (a) be in writing and signed by both parties;
- (b) state the date on which the arrangement commences;
- (c) be provided to the employee;
- (d) contain a provision that the employee will receive no less under the arrangement than the employee would have been entitled to if all award obligations had been met, taking account of the value of the provision of matters not comprehended by the award such as private use of an employer provided motor vehicle;
- (e) be subject to an annual review;
- (f) contain details of any salary package arrangements, including the annual salary that is payable;

- (g) contain details of any other non-salary benefits provided to the employee such as an employer provided motor vehicle;
 - (h) contain details of any performance pay arrangements and performance measurement indicators;
 - (i) contain the salary for the purposes of accident make up pay (if applicable); and
 - (j) contain the award band and level for the role.
- (iv) An annual salary agreement may be terminated:
- (a) by the employer or the employee giving four weeks' notice of termination, in writing, to the other party and the agreement ceasing to operate at the end of the notice period; or
 - (b) at any time, by written agreement between the employer and the employee.
- (v) On termination of an annual salary agreement, the employee will revert to the Award entitlements unless a new annual salary agreement is reached.
- (vi) Notwithstanding the above, annualised salary arrangements entered into prior to 1 July 2014 may continue to operate in accordance with their terms.

14. Salary Sacrifice

- (i) The employer and an employee may agree to enter into a salary sacrifice arrangement, which allows an employee to receive a part of their pre-tax salary as a benefit rather than salary. Such agreement shall not unreasonably be withheld.
- (ii) Benefits that may be salary sacrificed include, but shall not be limited to, child care facilities operated by the employer on its premises; and additional superannuation and motor vehicles supplied by the employer under lease back arrangements where the amount to be salary sacrificed for leaseback of the employer's motor vehicle is that part of the lease back fee that exceeds the employer's fringe benefit tax liability.
- (iii) The value of the benefits shall be agreed between the employer and employee and shall include fringe benefits tax where applicable.
- (iv)
 - (a) The salary sacrifice arrangement, including the benefits to be salary sacrificed and their value including fringe benefit(s) tax, shall be in writing and signed by both the employer and the employee.
 - (b) The employee may request in writing to change the benefits to be salary sacrificed once each year and the employer shall not unreasonably refuse the request.
- (v) The employee's gross pay is their pre-tax ordinary pay less the values of the salary sacrifice benefit including fringe benefit(s) tax.
- (vi) The value of a salary sacrifice benefit and applicable fringe benefit tax, shall be treated as an approved benefit for superannuation purposes and shall not reduce the employee's salary for employer contributions.
- (vii) The value of salary sacrifice benefits and applicable fringe benefits tax shall be ordinary pay for calculating overtime and termination payments.
- (viii) The employee is responsible for seeking appropriate financial advice when entering into any arrangement under this clause.

- (ix)
 - (a) The employer will ensure that the salary sacrifice arrangement complies with taxation and other relevant laws.
 - (b) The employer has the right to vary and/or withdraw from offering salary sacrifice to employees with appropriate notice if there is any alteration to relevant legislation that is detrimental to salary sacrifice arrangements.
- (x) A salary sacrifice arrangement shall cease on the day of termination of employment.
- (xi) A salary sacrifice arrangement shall be suspended during periods of leave without pay.
- (xii) The employer may maintain and/or enter into other salary sacrifice arrangements with employees.

15. Superannuation and Related Arrangements

- (i) Superannuation Fund Contributions
 - (a) Subject to the provisions of the *Industrial Relations Act 1996* (NSW), the employer shall make superannuation contributions to the Local Government Superannuation Scheme and not to any other superannuation fund.
- (ii) Salary Sacrifice Arrangements specific to Superannuation
 - (a) For the purposes of this subclause:
 - i. "Eligible employee" means an employee with at least five (5) years continuous service with the employer who has an accrued entitlement to long service leave under the Award that is in excess of the long service leave entitlement that the employee would have accrued if covered by section 4 of the *Long Service Leave Act 1955* (NSW). For the purpose of this subclause, long service leave is deemed to accrue under the LSL Act at the rate of 0.867 weeks per year of service.
 - ii. "Excess LSL" means the long service leave that an employee has accrued under the Award that is in excess of the long service leave that the employee would have accrued if covered by section 4 of the *Long Service Leave Act 1955* (NSW).
 - iii. "LSL" means Long Service Leave.
 - iv. "LSL Act" means the *Long Service Leave Act 1955* (NSW).
 - v. "Ordinary Time Earnings" has the same meaning as in section 6(1) of the *Superannuation Guarantee (Administration) Act 1992* (Cth).
 - vi. "Superannuation Fund" means the Local Government Superannuation Scheme.
 - (b) Subject to this clause, eligible employees may, with the consent of the employer, cash out some or all of their Excess LSL.
 - (c) Any Excess LSL cashed out in accordance with this clause shall be paid to the employee at the employee's ordinary pay.

Example: A full-time employee with 10 years' continuous service with the employer accrues 13 weeks LSL under the Award, whereas they would have only accrued 8 weeks LSL if covered by s.4 of the LSL Act. After 10 years' service, the employee would have up to 5 weeks Excess LSL which may, with the consent of the employer, be cashed out.

- (d) Eligible employees who have Excess LSL cashed out under this clause must enter into a Salary Sacrifice Arrangement for the equivalent amount to be paid into the Superannuation Fund as Ordinary Time Earnings, unless the employee has reached their concessional contribution cap.
- (e) Notwithstanding subclause 14(vi) of the Award, any Salary Sacrifice Arrangement made under this clause shall not be treated as an approved benefit for superannuation purposes.

16. Allowances, Additional Payments and Expenses

- (i) Level 1 Adverse Working Conditions Allowance
 - (a) A level 1 adverse working conditions allowance in addition to the weekly rate of pay shall be payable to designated employees to compensate for the special disabilities associated with working outdoors and/or for moderately obnoxious, offensive or dirty working conditions.
 - (b) The level 1 adverse working conditions allowance shall be paid at the rate set out in Table 2 of Part B of this Award and shall be paid for all purposes of the Award but shall not attract any penalty.
 - (c) All employees in Levels 2, 3 and 4 of the Operational Band 1 and employees engaged in the gardening, building, metal and mechanical trades of the Administrative/Technical/Trades Band 2 shall be paid the level 1 adverse working conditions allowance for all hours worked, excepting staff engaged in the following functions:
 - Administration
 - Civic Centre, Recreation and Theatre
 - Community Services
 - Finance
 - Garbage, Sanitary and Sullage
 - Managing Saleyards
 - Noxious Plant Inspection
 - Ordinance Control
 - Public Relations
 - Supervising in Band 2
 - Technical Services
 - Works Supervisor
- (d)
 - (1) Designated employees in Operational Band 1 and Administrative / Technical / Trades Band 2 who do not qualify for the allowances at paragraphs 16(i)(c) and 16(ii)(a) shall be paid the level 1 adverse working conditions allowance for the actual time worked by direction performing the following work, with a minimum payment of one (1) hour per day on which the work is performed:

Childcare employees - whilst changing nappies

Employees whose duties involve animal destruction - whilst destroying companion animals and/or manual handling the remains or faeces of such companion animals. For the purpose of this subclause, companion animals means cats and dogs.

- (2) The employer may make an average payment equivalent to an agreed number of hours per week where the employee is regularly required to perform such work.

(ii) Level 2 Adverse Working Conditions Allowance

- (a) All employees classified in the Operational Band 1, of this Award (except for supervisors), who are employed in garbage, sanitary and sullage collection work or engaged at garbage tips, in street sweeping and in cleaning offensive materials from gutters or storm water drains, shall in addition to their weekly rate of pay, be paid a level 2 adverse working conditions allowance at the rate set out in Table 2 of Part B of this Award. This allowance shall be paid for all purposes of the Award but shall not attract any penalty.
- (b) The level 2 adverse working conditions allowance is to compensate for the special disabilities associated with the hours worked and the offensive, filthy and obnoxious nature of duties performed by employees engaged in this work.

(iii) Sewer Chokes

The sewer choke allowance is to compensate for the highly obnoxious working conditions associated with the clearing of blockages in live sewers, which typically includes:

- (a) the clearing of blockages in sewer mains (of any diameter) carrying raw or partially treated sewerage to sewerage treatment plants, often in circumstances where direct contact with the raw sewerage is unavoidable; and
- (b) the clearing of blockages in other parts of the sewerage system where disassembly is required and direct contact with raw sewerage is unavoidable.

Employees clearing sewer chokages and/or other parts of the sewerage system as provided above shall be paid at the rate set out in Table 2 of Part B of this Award whilst so engaged.

For the purposes of this subclause, a live sewer shall mean part of a sewerage system that transports raw or partially treated sewerage from a building to a septic tank or sewerage treatment works, typically at or below ground surface level.

For the purposes of this subclause, a sewer choke shall mean a partial or total blockage that may result in a spill to the external environment from the sewer system.

The sewer choke allowance is paid per shift, including overtime shifts which are not continuous with an ordinary shift.

The sewer choke allowance shall not be paid in addition to the septic tanks allowance at subclause 16(iv) or sewerage treatment works allowance at subclause 16(v) of this Award.

(iv) Septic Tanks

Employees shall be paid treble rates in addition to their normal rates for all time occupied on work in connection with the cleaning of septic tanks, and/or septic closets and/or chemical closets by other than mechanical means. Payments made in accordance with this subclause shall be in substitution of overtime rates and any other penalty.

(v) Sewerage Treatment Works

Employees required during their ordinary hours of work to enter and clean or enter and maintain digestion tanks at sewerage treatment works, aeration ponds or wet wells at sewer pump stations, where

direct contact with raw sewerage is unavoidable, shall be paid at the rate of double ordinary rates for all time worked. Payments made in accordance with this subclause shall be in substitution of overtime rates and any other penalty.

(vi) Employee Providing Tools

- (a) Where the employee and the employer agree that the employee shall supply their own tools, a tool allowance shall be paid as follows:

	PER WEEK \$
Bricklayer	Table 2 of Part B
Carpenter and Plumber	Table 2 of Part B
Metals and Mechanical Trades	Table 2 of Part B
Painter and Signwriter	Table 2 of Part B
Plasterer	Table 2 of Part B

- (b) Complete Tool Kits - allowances paid to employees in accordance with this clause shall be deemed to apply in respect of a full range of tools ordinarily used in carrying out the trade, occupation, duties and functions.
- (c) Special Purpose Tools - allowances prescribed by this clause shall not cover tools required for special uses or purposes outside of the ordinary trade functions of the employee's classification.
- (d) Compensation of Tools - The employer shall reimburse the employee to a maximum per annum as set out in Table 2 of Part B for loss of tools by breaking and entering whilst securely stored at the employer's premises or on the job site or if the tools are lost or stolen while being transported by the employee at the employer's direction, or if the tools are stolen during an employee's absence after leaving the job because of injury or illness. Provided that an employee transporting their own tools shall take all reasonable care to protect those tools and prevent theft or loss.
- (e) Provided for the purposes of this clause:
- (1) Only tools used by the employee in the course of their employment shall be covered by this clause;
 - (2) The employee shall, if requested to do so, furnish the employer with a list of tools so used;
 - (3) Reimbursement shall be at the current replacement value of new tools of the same or comparable quality;
 - (4) The employee shall report any theft to the police prior to making a claim on the employer for replacement of stolen tools.

(vii) Telephone

Where an employee and the employer agree that a fixed line telephone installed at the employee's residence can be used as a means of communication to such employee and there is no reliable and accessible mobile network telephone coverage at the residence, the employer shall reimburse the employee the annual rental of such fixed line telephone and for the actual charge made for all outward calls made on the employer's behalf.

(viii) Expenses

All reasonable expenses, including out-of-pocket, accommodation and travelling expenses, incurred in connection with the employee's duties shall be paid by the employer and, where practicable shall be included in the next pay period. The method and mode of travelling or the vehicle to be supplied or to be used shall be arranged mutually between the employer and the employee. Travelling arrangements shall be agreed between the employer and the employee.

(ix) Certificates, Licences and other Approvals

- (a) Where an employee in Operational Band 1 or Administrative/Technical Trades Band 2 of the Award is required by the employer to hold a WorkCover NSW approved certificate or licence the employer shall reimburse the employee for the cost of such certificate or licence.
- (b) Where an employee in Operational Band 1 or Administrative/Technical Trades Band 2 of the Award is required by the employer to hold a drivers licence other than a Class C (car) or Class R (rider) licence, the employer shall reimburse the employee the difference between the cost of the licence and the cost of a Class C (car) drivers licence.
- (c) Where an employee engaged in child-related work is required by the employer to undertake a Working with Children Check as provided by the *Child Protection (Working with Children) Act 2012* (NSW), the employer shall reimburse the employee for the cost of such Working with Children Check.

(x) Travelling Allowance

- (a) This subclause shall apply to employees who are required to start and/or finish work at a location away from the employer's depot, workshop or other agreed normal place of work, and travel to and/or from such location in their own time.
- (b) For the purposes of this subclause "normal place of work" shall mean:
 - (1) the employer's workshop or depot;
 - (2) an office or building of the employer to which the employee is usually assigned;
 - (3) any other agreed starting and/or finishing point.
- (c) Unless otherwise provided, each employee will be assigned to one normal place of work only.
- (d) An employee may be assigned to more than one normal place of work by agreement.
- (e) An employee may be transferred to a different normal place of work at any time by agreement or by the giving of reasonable notice provided that the relocation is reasonable in the circumstances and does not unreasonably disadvantage the employee. In the event of a dispute Clause 36, Grievance and Dispute Procedures, shall apply.
- (f) Where an employee is required to commence and/or finish work at a location away from the employee's normal place of work and the distance travelled is greater than the distance usually travelled by the employee between their place of residence and normal place of work, the employee shall be paid a travelling allowance for each journey of excess travel, according to the following scale, provided that reasonable transport is available:

EXCESS DISTANCE TRAVELLED	ENTITLEMENT
Less than 3kms	Nil
3km but not more than 10km	Table 2 of Part B
More than 10km but not more than 20km	Table 2 of Part B
More than 20km but not more than 33km	Table 2 of Part B
More than 33km but not more than 50km	Table 2 of Part B
Plus (See Table 2 of Part B) for each additional 10km in excess of 50kms	Table 2 of Part B

Note: On and from 1 July 2014, an employee may be entitled to two travelling allowances on the one day.

- (g) For the purpose of this subclause a residence shall not be reckoned as such unless it is situated within the council area. Where the employee resides outside the council area the travelling allowance is payable from the council boundary of the employer by which they are employed.

- (h) For the purpose of this subclause distance shall mean the nearest trafficable route to work.
- (i) Where transport is provided by the employer the conveyance shall have suitable seating accommodation and a cover to protect the employees from the weather. Explosives shall not be carried on vehicles which are used for the conveyance of employees.
- (j) Where the employer and employee agree that the employee is to use their own vehicle to transport other employee(s) or materials to and/or from a worksite located away from the employee's normal place of work, a vehicle allowance for the use and depreciation of the vehicle shall be paid as follows:

	Kilometres travelled transporting other employee(s) or materials Cents per kilometre
Under 2.5 litres (nominal engine capacity)	Table 2 of Part B
2.5 litres (nominal engine capacity) and over	Table 2 of Part B

Such vehicle allowance shall be paid in addition to travelling allowances provided by this subclause.

For the purposes of this subclause, materials shall not include incidental items (including but not limited to keys, mobile phones, laptop computers and personal protective clothing).

Where the employer provides transport but the employee elects to make their own travel arrangements, the vehicle allowances in this subclause shall not apply.

- (k) This subclause does not apply to employees who travel where management and employees agree on a flat rate per week to be paid for travelling. In the event of a dispute, the Grievance and Disputes Procedure in Clause 36 of this Award shall be applied.
 - (l) This subclause does not apply to travelling involved in after hours on-call work or to employees recalled to work overtime.
 - (m) Unless otherwise agreed, an employee shall not be entitled to travel related allowances except those provided for in this subclause. Nothing in this subclause shall be construed so as to require the reduction or alteration of more advantageous benefits or conditions under any existing travel arrangements.
- (xi) Camping Allowance

- (a) Employees who are required by the employer to camp out or where no reasonable transport facilities are available to allow them to proceed to and from their homes each day shall be paid a camping allowance at a rate set out in Table 2 of Part B for each night the employee camps out.
- (b) The employer shall pay the camping allowance in advance if requested, where the employer requires the employee to camp out for all of the rostered working days in a week. The employer shall be reimbursed the camping allowance that has been paid in advance excepting where the camp has been shortened or cancelled for reasons beyond the employee's control.
- (c) When employees are required to camp, all travelling between their respective depots and camp site at the beginning and/or completion of the camp be undertaken during normal working hours. If the employees are required to travel outside normal working hours they shall be paid the appropriate travelling allowance in accordance with subclause (xi) of this clause.
- (d) All time occupied in setting up or in shifting camps during the ordinary working hours shall be paid for at ordinary rates. Should employees be required to shift camp at times other than during their ordinary hours of work they shall be paid time and a half rates for the time occupied.

- (e)
- (1) The employer shall provide transport for employees, who are required to camp out from the employer depot at the commencement of each working week and to return to such depot at the finish of each working week or when the employees are camped for a period less than one week at the commencement and finish of the period in which the employees are required to camp out.
 - (2) Notwithstanding (1) above, transport may be mutually arranged between the employer and the employee(s) and shall remain at all times with those employee(s) required to camp.
- (f) The employer shall provide free transport once each week to enable commodities for use in camp to be obtained by the employees from the nearest suitable location. For the purpose of this subclause, the camping allowance prescribed in paragraph (a) shall be payable to the employees so concerned.
- (g) No employee shall be required to camp without at least 24 hours' notice unless such employee agrees to do so.
- (h) Where reasonably practicable to do so the employer shall arrange for perishable foods to be purchased on the morning prior to the time of departure on that day.
- (i) Minimum standards of caravan accommodation to be provided to employees required to camp out are contained in Schedule 1 to this Award.
- (j) Where the employee is required to work more than five (5) hours onsite on the final day of camping out and a meal has not been provided by the employer, the employee shall be entitled to a meal allowance at the rate set out in Table 2 of Part B.
- (xii) Community Language, and Signing Work
- (a) Employees using a community language skill as an adjunct to their normal duties to provide services to speakers of a language other than English, or to provide signing services to those with hearing difficulties, shall be paid an allowance in addition to the weekly rate of pay as set out in Table 2 of Part B. The allowance may be paid on a regular or irregular basis, according to when the skills are used.
 - (b) Such work involves an employee acting as a first point of contact for non-English speaking residents or residents with hearing difficulty. The employee identifies the resident's area of inquiry and provides basic assistance, which may include face-to-face discussion and/or telephone inquiry.
 - (c) Such employees convey straightforward information relating to services provided by the employer, to the best of their ability. They do not replace or substitute for the role of a professional interpreter or translator.
 - (d) Such employees shall record their use of a community language according to the employer's established policy.
 - (e) Where an employee is required by the employer to use community language skills in the performance of their duties:

The employer shall provide the employee with the opportunity to obtain accreditation from a language aide accreditation agency

Such training shall form part of the employer's training plan and budget, in accordance with the requirements of Clause 32 of this Award

The employee shall be prepared to be identified as possessing the additional skill(s)

The employee shall be available to use the additional skill(s) as required by the employer.

(f) Savings

These provisions identify minimum criteria only, and shall not be construed so as to require the reduction or alteration of more advantageous benefits or conditions under any arrangement existing at the date the award was varied to give effect to this clause. They shall not however be cumulative upon such existing payments.

(xiii) First Aid in the Workplace

General

- (a) The parties to the Award recognise that providing immediate and effective first aid to employees or others who have been injured or become ill at the workplace may reduce the severity of the injury or illness and promote recovery. In some instances, it could mean the difference between life and death.
- (b) All employees must be able to access a first aid kit.
- (c) First aid requirements will vary from one workplace to the next, depending on the nature of the work, the type of hazards, the workplace size and location, as well as the number of people at the workplace. These factors must be taken into account when deciding what first aid arrangements need to be provided.
- (d) Employers must ensure that an adequate number of employees are trained to administer first aid at the workplace or that employees have access to an adequate number of other people who have been trained to administer first aid.
- (e) Employers are encouraged to make available to employees, training in basic first aid, which may include, for example, training in:

administering first aid;

Cardio Pulmonary Resuscitation (CPR); or

use of defibrillators.

For further information, refer to the SafeWork NSW 'First aid in the workplace code of practice'.

First aid work allowance

- (f) Where an employee who holds an appropriate first aid qualification is appointed by the employer to perform first aid duty and be in charge of a first aid kit, such employee shall be paid an allowance in addition to the weekly rate, as set out in Table 2 of Part B.
- (g) This clause shall not apply where it is a requirement of the position for the employee to hold an appropriate first aid qualification and perform first aid duty, if the skills have been paid for in accordance with the employer's salary system.

(xiv) Meal Allowance

- (a) A meal allowance set out in Table 2 of Part B shall be paid to employees instructed to work overtime:
 - (i) for two hours or more prior to their agreed commencing time, or

- (ii) for two hours immediately after their agreed finishing time and after subsequent periods of four hours, or
- (iii) after each four hours on days other than ordinary working days

provided that a meal allowance is not payable where, by agreement, a meal is provided by the employer.

(xv) Civil Liability - Engineering Professionals

- (a) Subject to this clause, engineering professionals directly involved in the application of engineering principles to the asset management of the employer's assets that give rise to liability under the *Civil Liability Act 2002* (NSW) shall be paid a 3.5% allowance in addition to the weekly salary system rate of pay.
- (b) This allowance was introduced to ensure that engineering professionals whose work value had changed in response to the *Civil Liability Act 2002* (NSW) are paid for that change in work value. This allowance applies to functional management positions as well as engineering professionals working in asset management at the operational level.
- (c) This allowance is not payable where such responsibilities and the exercise of such skills have been specifically and demonstrably paid for in accordance with the salary system established by the employer.
- (d) Direct involvement in the application of engineering principles to the management of the employer's assets includes:
 - the planning for;
 - designing;
 - maintenance;
 - replacing;
 - rehabilitation; or
 - disposingof the employer's assets which may give rise to liability under the *Civil Liability Act 2002* (NSW).
- (e) To qualify for the payment of this allowance the position in question must be evaluated in accordance with the skill descriptors for Professional/Specialist Band 3 or Executive Band 4 of the Award.
- (f) The parties to the Award acknowledge that implementation of this allowance has been guided by the Joint Statement on the Implementation of the Civil Liability Allowance issued by the parties in October 2007. The parties remain committed to this document as a guide for the application of the allowance.
- (g) From 1 January 2015, claims for the payment of the civil liability allowance under this clause shall be made within 30 days of the work being performed, and any claims for back-payment of the civil liability allowance shall be limited to the date on which the employee made the claim. This subclause does not apply where it can be demonstrated that the employer incorrectly made representations to an employee that the civil liability allowance had already been paid for in accordance with their rate of pay and/or the salary system established by the employer.

- (h) This clause shall not be construed so as to require the reduction or alteration of more advantageous benefits or conditions under any arrangements existing at the date the Award was varied to give effect to this clause.
- (xvi) Accreditation of employees as Chartered Professional Engineers
- (a) Where an engineering employee is required by the employer to be accredited as a Chartered Professional Engineer the employer shall:
- (1) pay the reasonable costs associated with obtaining and/or maintaining such accreditation, including the cost of accreditation fees and compulsory continued professional development training/course fees, and
 - (2) grant leave, without loss of pay, to attend course requirements in accordance with subclause (iv) of Clause 32, Training and Development, of this Award.
- (b) Subclause (a) shall continue to be observed while the employee is on paid leave and/or unpaid parental leave.
- (c) The employer may grant an engineering employee undertaking a course to obtain accreditation as a Chartered Professional Engineer, although not at the employer's request, assistance in accordance with subclause (v) of Clause 32 of this Award.
- (xvii) Accreditation of employees by the Building Professionals Board
- (a) Where an employee is required by the employer to be accredited by the Building Professionals Board under the *Building Professionals Act 2005* (NSW) the employer shall:
- (1) pay the reasonable costs associated with obtaining and/or maintaining such accreditation, including the cost of accreditation fees and compulsory continued professional development training/course fees, and
 - (2) grant paid leave to attend course requirements in accordance with subclause (iv) of Clause 32, Training and Development, of this Award.
- (b) Subclause (a) shall continue to be observed while the employee is on paid leave and/or unpaid parental leave.

17. Motor Vehicle Arrangements

A. VEHICLE ALLOWANCES

- (i) Where, by agreement, the employer requires an employee to use their own vehicle in or in connection with the performance of their duties for official business, such employee will be paid an allowance for each kilometre of authorised travel as follows:
- (a) motor vehicle under 2.5 litres (normal engine capacity) - refer to Table 2 of Part B; and
 - (b) 2.5 litres (normal engine capacity) and over - refer to Table 2 of Part B.
- (ii) The employer may require an employee to record full details of all such official travel requirements in a log book.
- (iii) Minimum quarterly payment - Where the vehicle is used for official business and is available continuously when the employee is on duty the employee shall be paid the allowance in subclause 17A(i)(b) but with a minimum payment as set out in Table 2 of Part B. Periods of sick leave in excess of 3 weeks, annual leave in excess of 4 weeks, long service leave, paid and unpaid parental or maternity leave shall not be counted when calculating the minimum quarterly payment.

- (iv) Where the vehicle is used for official business on an intermittent, irregular or casual basis, the employee shall be paid the allowance for the number of kilometres travelled on official business as set out in paragraph (i) only and shall not be entitled to the minimum payment as set out in paragraph (iii).
- (v) Any agreement to pay the allowance under this clause may only be terminated by 12 months' notice by either party or by the employee's termination of employment.

B. LEASEBACK VEHICLES

(i) GENERAL

The parties to this Award recognise that leaseback vehicles may be provided to employees as a condition of employment (e.g. as an incentive for accepting employment) or as a discretionary benefit that is not a condition of employment.

A leaseback vehicle will be considered to be a condition of employment for an employee unless the employer can establish that it was not provided on such a basis at the time that it was provided.

(ii) TERMINATION OF LEASEBACK VEHICLE ARRANGEMENT

- (a) Condition of employment - Unless otherwise provided in this clause, where the employer and an employee enter into a leaseback vehicle arrangement and the employee is entitled to a leaseback vehicle as a condition of employment, the arrangement may only be terminated by agreement.
- (b) Not a condition of employment - Unless otherwise provided, where the employer and an employee enter into a leaseback vehicle arrangement and the employee is not entitled to a leaseback vehicle as a condition of employment, the employer shall give a minimum of six (6) months written notice of termination of the arrangement.

Notwithstanding the above, where the leaseback vehicle agreement was entered into prior to 1 November 2010, the employer shall give a minimum of 12 months' notice to terminate the agreement.

- (c) Other - The employer may terminate or suspend access to a leaseback vehicle arrangement immediately on termination of employment, loss of licence, serious breach of the leaseback vehicle agreement or if the employee accepts a new position with the employer that does not include access to a leaseback vehicle. The employer may also terminate or suspend a leaseback vehicle arrangement where an employee is demoted, for the period of demotion, provided that at least two weeks' notice is given.

(iii) VARIATION OF LEASEBACK VEHICLE ARRANGEMENTS

- (a) Variations to leaseback arrangements - Proposals to vary leaseback vehicle arrangements, including the formula for calculating the leaseback vehicle fees shall be referred to the consultative committee in accordance with clause 33 of this Award, before a definite decision is made.
- (b) Variations to leaseback fees - Where an employer proposes to increase the leaseback fee an employee is required to pay in any twelve (12) month period by more than the percentage movement in the index figure published by the Australian Bureau of Statistics for Eight Capitals, private motoring sub-group (Cat No 6401.0), the employer shall provide in writing to the employee the reasons for the increase.

In any event the employer shall not increase the leaseback vehicle fee an employee is required to pay in any twelve (12) month period by more than 10%.

This subclause shall not apply where the leaseback vehicle fee is adjusted to reflect changes in the type of vehicle being used (including changes in vehicle options, the class, model or make of vehicle).

- (c) Variations in hours of work and/or extended periods of absence - Where an employee's hours of work change significantly or the employee is absent on approved leave for an extended period, the employer and the employee shall discuss whether the employee will be allowed to retain possession of the vehicle and/or whether the leaseback vehicle fee is to be adjusted. In the event that the leaseback vehicle fee is to be adjusted, paragraph (v) above shall not apply.

In the absence of agreement, clause 36, Grievance and Disputes Procedures, shall apply.

C. NOVATED LEASES

A novated lease is a type of motor vehicle lease common in Australia between an employee, employer, and finance company, with the responsibility for the lease lying with the employee and the lease payments being made from the employee's pre-tax income.

The employer shall not make it a job requirement that an employee enter into a novated lease agreement for the use of a motor vehicle.

18. Residence

Where an employee is supplied by the employer with a residence, it shall be of a reasonable standard. The rental value of such residence shall be agreed upon between the employer and the employee. The rental value as agreed may be deducted from the pay of the employee.

19. Hours of Work

A. ORDINARY HOURS

- (i) Except as otherwise provided, the ordinary hours of work shall be 38 hours per week arranged on one of the following bases:

38 hours within one week provided that at least two days off shall be granted; or

76 hours within two weeks provided that at least four days off shall be granted; or

114 hours within three weeks provided that at least six days off shall be granted; or

152 hours within four weeks provided that at least eight days off shall be granted.

- (ii) The ordinary hours of work for employees engaged in the following functions shall be 35 hours per week:

Administration;

Building Surveying;

Community Services (Professional/Specialist Band 3);

Engineering (Professional and Trainees);

Executive Band;

Finance;

Health Surveying;

Library;

Public Relations;

Technical Services; and

Town Planning.

The ordinary hours for employees working 35 hours per week shall be arranged on one of the following bases:

35 hours within one week provided that at least two days off shall be granted; or

70 hours within two weeks provided that at least four days off shall be granted; or

105 hours within three weeks provided that at least six days off shall be granted; or

140 hours within four weeks provided that at least eight days off shall be granted.

(iii) Except as otherwise provided, the ordinary hours for all employees shall be between Monday and Sunday.

(iv) Where the employer seeks to alter the spread of ordinary hours for a new or vacant position from Monday to Friday to Monday to Sunday for any of the following functions:

Crematoriums and Cemeteries;

Road Constructions and Maintenance;

Sale Yards;

Stores and Depots;

Trade functions;

Building Surveyors;

Engineering (Professional and Trainees);

Finance;

Health Surveyors;

Town Planning; and

General Administration

(a) The employer shall refer the proposal to alter the spread of ordinary hours to the consultative committee prior to advertising the new or vacant position(s); and

(b) If the employer is satisfied that there are suitably qualified employees employed by the employer that can be redeployed to the new or vacant position(s) the employer shall call for expressions of interest from those employees for redeployment into the new or vacant position(s).

(c) Employees employed prior to 1 July 2014 in the functions of Crematoriums and Cemeteries; Road Construction and Maintenance; Sale Yards; Stores and Depots; and Trade Functions, whose ordinary hours of work are from Monday to Friday shall not be compelled to agree to work ordinary hours of work on Saturdays and/or Sundays.

(d) Employees employed prior to 1 July 2020 in the functions of Building Surveyors; Engineering (Professional and Trainees); Finance; Health Surveyors; Town Planning; and General Administration, whose ordinary hours of work are from Monday to Friday shall not be compelled to agree to work ordinary hours of work on Saturdays and/or Sundays.

- (v) An employee's commencement and/or finishing times may be altered by agreement or by the employer with the provision of reasonable notice where there are genuine operational or safety reasons supporting the variation. For the purpose of this sub-clause, reasonable notice shall be determined having regard to:

the employee's personal circumstances including any family and carer responsibilities; and

the needs of the workplace, including any genuine operational or safety reasons.

Unless otherwise agreed, at least two weeks prior to the proposed alteration the employer shall provide the employee with the reasons for the proposed alteration to commencement and/or finishing times in writing. At least one week prior to the proposed alteration the employee shall provide reasons in writing if they do not agree with the proposed alteration, provided that an employee shall not unreasonably withhold agreement. In the event of a dispute, Clause 36, Grievance and Disputes Procedures, shall apply.

This subclause only applies in relation to changes to commencement and/or finishing times and does not apply to changes in the days that an employee is required to work.

- (vi) The day of a rostered day off can be altered by mutual consent at any time and may be altered by the employer on two weeks' notice where there are genuine operational or safety reasons and the alteration does not unreasonably disadvantage the employee. Where an employee works on a rostered day off, subclause 20A, Overtime, shall apply.
- (vii) An employee will not be required to work more than five (5) hours without receiving an unpaid meal break of at least 30 minutes. Thereafter, a paid meal break not exceeding 20 minutes shall be given and taken after a further five hours continuous work. By agreement, or in the case of unforeseen circumstances (including where the taking of the meal break would cause unreasonable interference in operations), the meal break may be delayed and shall be taken as soon as practicable, subject to the observance of appropriate work health and safety standards.
- (viii) Ordinary hours of work shall not exceed twelve (12) hours in any one-day exclusive of unpaid meal breaks.

B. SATURDAY AND SUNDAY WORK

- (i) Except as otherwise provided, ordinary hours worked on a Saturday shall attract a 25% penalty in addition to the ordinary hourly rate of pay and ordinary hours worked on a Sunday shall attract a 50% penalty in addition to the ordinary hourly rate of pay.
- (ii) The ordinary hours worked by employees engaged in the following functions shall attract a 50% penalty in addition to the ordinary hourly rate of pay for work on a Saturday and a 100% penalty in addition to the ordinary hourly rate of pay for work on a Sunday:

Beach inspectors;

Cleaning;

Crematoriums and Cemeteries;

Garbage;

Mechanical Trades (Workshops);

Parks and Reserves;

Rangers and parking officers;

Road Construction and Maintenance;

Sale Yards;
 Sanitary;
 Sewerage;
 Stores and Depots;
 Sullage;
 Trade functions;
 Waste; and
 Water

- (iii) An employee may request to work ordinary hours on a Saturday and/or a Sunday in lieu of the ordinary hours the employee would otherwise be rostered to work.
- (a) An employee's request must be in writing and must outline a period within which the arrangement is to be reviewed;
- (b) The employer will not unreasonably withhold agreement to such a request;
- (c) Any such agreement shall not apply to new or vacant provisions;
- (d) Where an employee requests to work ordinary hours on a Saturday and/or a Sunday under the provisions of this subclause, the employer shall not be required to pay the penalty rate provided by paragraphs (i) and/or (ii).

C. SHIFT WORK

- (i) Except as otherwise provided ordinary hours worked outside the span of 6:00am to 6:00pm Monday to Friday shall attract a 20% shift penalty in addition to the ordinary hourly rate of pay for the actual time worked outside the span of hours specified in this subclause.
- (ii) Subject to paragraph 19C(iii), employees engaged in the following functions will be entitled to a 20% shift penalty in addition to the ordinary hourly rate of pay for the actual time worked outside the following times:

Aerodromes	5:00am to 10:00pm
Caretakers	5:00am to 10:00pm
Childcare and community care	5:00am to 8:00pm
Cleaners	5:00am to 9:00pm
Entertainment, Events, Theatres and Hospitality	5:00am to 11:00pm
Libraries	8:00am to 9:00pm
Leisure Centres	5:00am to 11:00pm
Media and communication	5:00am to 11:00pm
Museums and galleries	5:00am to 9:00pm
Parking Station Attendants	6:00am to 10:00pm
Pools	5:00am to 11:00pm
Rangers and parking officers	5:00am to 10:00pm
Security/watchpersons	5:00am to 10:00pm

- (iii) Notwithstanding the provisions in subparagraph 19(c)(ii), employees employed prior to 1 July 2020 in the following functions shall retain their entitlement to a shift penalty in addition to their ordinary hourly rate of pay as it existed under the Local Government (State) Award 2017:

- (a) Childcare and community care;
 - (b) Entertainment, Events, Theatres and Hospitality;
 - (c) Media and communication; and
 - (d) Museums and galleries
- (iv) Shift penalties shall be payable for ordinary work performed between Monday and Friday and shall not be paid on weekends.
- (v) With the exception of staff engaged in the function of street sweeping, employees in receipt of the Level 2 Adverse Working Conditions allowance provided under clause 16(ii) of this Award shall not also receive shift penalties for work performed outside the hours of 6:00am to 6:00pm Monday to Friday as provided by paragraph (i).
- (vi) An employee may request to work ordinary hours outside the span of 6:00am and 6:00pm or any of the other spans detailed in paragraph 19C(ii), in lieu of the ordinary hours the employee would otherwise be rostered to work.
- (a) An employee's request must be in writing and must outline a period within which the arrangement is to be reviewed;
 - (b) The employer will not unreasonably withhold agreement to such a request;
 - (c) Any such agreement shall not apply to new or vacant positions;
 - (d) Where an employee requests to work ordinary hours outside the relevant span of hours the employer shall not be required to pay a shift penalty for the actual time worked.

D. FACILITATIVE PROVISIONS

The employer and the Union may agree on hours of work, weekend penalties and shift penalties other than those prescribed in this clause.

20. Overtime

A. GENERAL

- (i) Except where otherwise provided all time worked by direction before the agreed commencement of ordinary hours, or later than the agreed completion of ordinary hours, shall be paid for at the rate of time and a half for the first two hours and double time thereafter.
- (ii) Overtime worked on Saturday shall be paid for at the rate of time and a half for the first two hours and double time thereafter, provided any overtime worked after 12 noon Saturday shall be at double time.
- (iii) Overtime worked on Sunday shall be paid for at the rate of double time.
- (iv) Overtime shall be claimed within 30 days of it being worked. The employer shall keep a record of such overtime. Accrued time in lieu of overtime shall not be forfeited and shall be paid at the appropriate overtime rate on termination or at other agreed time.
- (v) An employee (other than a casual) who:
 - (a) works four or more hours overtime after the completion of an ordinary shift and does not receive ten (10) consecutive hours off duty in the fourteen (14) hours immediately preceding the commencement of their next ordinary shift, or

- (b) works overtime after the completion of two consecutive ordinary shifts without receiving ten (10) consecutive hours off duty,

shall be released after the completion of such overtime until they have had ten consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

If an employee is instructed to resume work without receiving the ten consecutive hours off duty, the employee shall be paid at double ordinary rates until released from duty and then shall be entitled to a ten-hour break without loss of pay.

Remote response - This subclause shall not apply where an employee works for less than four hours remote response on any one day.

(vi)

- (a) Where there is prior agreement between the employer and the employee, an employee directed to work in excess of ordinary hours may elect either to be paid the appropriate overtime rate or be granted time in lieu equivalent to the actual hours worked.

- (b) The employer may direct an employee to take accrued time in lieu of overtime by the giving of at least two (2) weeks' notice in the following circumstances:

- (1) Where the employee has accumulated in excess of one (1) weeks' time in lieu of overtime or,
- (2) A period of annual close down of up to and including two (2) weeks where the employee does not have sufficient annual leave to cover the relevant close down period. The employer shall be able to rely on this provision prior to considering the provision of meaningful alternate duties.

- (c) Time in lieu of overtime accruals standing to an employee's credit on termination of employment shall be paid at the appropriate overtime rate.

(vii) Employees classified in the Executive Band 4 of this Award may be required, in addition to their ordinary hours, to attend meetings of council and standing and/or special committee meetings. For the purpose of this subclause, an employee who is required to attend meetings of the council and standing and/or special committee meetings shall be entitled to claim overtime for actual hours worked after 11:00 pm.

(viii)

- (a) Subject to paragraph (b), the employer may require an employee to work reasonable overtime at overtime rates.

- (b) An employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working hours which are unreasonable.

- (c) For the purposes of paragraph (b), what is unreasonable or otherwise will be determined having regard to:

any risk to the employee;

the employee's personal circumstances including any family and carer responsibilities;

the needs of the workplace;

the notice, if any, given by the employer of the overtime and by the employee of their intention to refuse it; and

any other matter.

B. EXCESS HOURS AGREEMENTS

- (i) Subject to subclause (ii) of this clause, the employer and an individual employee in Professional/Specialist Band 3 or Executive Band 4 may agree to an ‘Excess Hours Agreement’ whereby the employee is paid an allowance of at least ten (10) percent of the employee’s weekly salary system rate of pay in substitution for all overtime penalties under this Award.
- (ii) An employee shall be entitled to overtime in accordance with subclause 20A of this Award where the employee is directed to work additional hours that are in excess of the hours of work reasonably contemplated by the employer and the employee at the time the Excess Hours Agreement was made. The hours of work reasonably contemplated by the employer and the employee shall be determined having regard to the quantum of the allowance paid.
- (iii) Where the employer and an engineering professional employee who satisfies the eligibility criteria for payment of the civil liability allowance at subclause 16(xv) of this Award agree to an Excess Hours Agreement, the employee shall continue to be paid the civil liability allowance in addition to any allowance that is payable under the Excess Hours Agreement.
- (iv) An Excess Hours Agreement is subject to the following conditions:
 - (a) An employee who can demonstrate that they are required to routinely work unpaid additional hours in order to fulfil the requirements of their position has the right to request, in writing, to enter into an Excess Hours Agreement. Where the employer does not agree to the request the employer shall discuss the request with the employee with a view to reaching agreement on:
 - (1) reasonable ways to reduce the excess unpaid hours or
 - (2) alternative ways of compensating the employee for the excess hours.

In the event that no agreement is reached, the employer shall advise the employee, in writing, of the arrangements that will be made so that they are no longer required to work the excess hours.
 - (b) The employer and the individual employee must have genuinely made the Excess Hours agreement without coercion or duress.
 - (c) The Excess Hours Agreement must:
 - (1) be in writing;
 - (2) name the parties to the agreement and be signed by the employer and the individual employee;
 - (3) result in the employee being better off overall in comparison to the Award at the time the agreement is made than the employee would have been if no Excess Hours Agreement had been agreed to;
 - (4) state the date the agreement commences to operate.
 - (d) The employee shall work such reasonable hours as are necessary to carry out the duties and functions of the position and the employee’s obligations under their contract of employment, provided that the employee may refuse to work additional hours in circumstances where the working of such additional hours would result in the employee working hours which are unreasonable. For the purposes of this subclause, what is unreasonable or otherwise will be determined having regard to:

any risk to the employee;

the employee's personal circumstances including any family and carer responsibilities;

the needs of the workplace;

the notice, if any, given by the employer of the requirement for the employee to work additional hours and by the employee of their intention to refuse it; and

any other matter.

- (e) The employer may require the employee to attend work for the employer during core business hours and to attend meetings of the council/employer and standing and/or special committee meetings, provided that such requirement does not result in the employee working hours which are unreasonable.
 - (f) The employer must give the individual employee a copy of the agreement and keep the original signed agreement as a time and wages record.
 - (g) An employer seeking to enter into an agreement under this clause must provide a written proposal to the employee. Where the employee's understanding of written English is limited the employer must take measures, including translation into an appropriate language, to ensure the employee understands the proposal.
- (v) An Excess Hours Agreement may be terminated:
- (a) by the employer or the individual employee giving 28 days' notice of termination, in writing, to the other party and the agreement ceasing to operate at the end of the notice period; or
 - (b) at any time, by written agreement between the employer and the individual employee.
- (vi) The allowance paid under this clause shall be paid for all purposes of the Award but shall not attract any penalty.

C. ON CALL

- (i) For the purposes of this Award, an employee shall be deemed to be on-call if required by the employer to be available for duty outside of ordinary hours at all times in order to attend emergency and/or breakdown work and/or supervise the call-out of other employees.
- (ii) Employees who are required to be on-call are not required to remain at their usual place of residence or other place appointed by the employer. However, an on-call employee must be able to be contacted and be able to respond in a timely manner. Employees who are unable to respond in a timely manner may at the discretion of the employer be removed from an on-call roster.
- (iii) Employees required to be on call on days when they would ordinarily work, or would have ordinarily worked but for a public holiday, in accordance with Clause 19, Hours of Work, shall be paid an on call allowance at a rate set out in Table 2 of Part B of this Award for each such day the employee is required to be on call.
- (iv) Employees required to be on call on days other than their ordinary working days shall be paid an on-call allowance at a rate set out in Table 2 of Part B of this award for each such day the employee is required to be on call.
- (v) Provided that the on-call allowances in paragraphs (iii) and (iv) of this subclause shall not total more than the rate set out in Table 2 of Part B of this award for any one week.
- (vi) Employees on call who are required to work outside their ordinary hours shall be entitled to be paid overtime at the appropriate rate for the actual time worked. Subject to paragraph 20C(vii), actual time worked shall be deemed to include 'travelling time' by the most direct route from:

- (a) the location where an employee departs to the place of overtime work, and
 - (b) the place of overtime work to the employee's normal place of residence.
- (vii) Where an employee resides outside of the employer's local government area, the employer and employee may agree, in writing, that the 'travelling time' to and from the place of overtime work commences and ends at the boundary of the employer's local government area, provided that an employee who was required to be included on the on-call roster as at 1 July 2020 and whose residence was located outside of the employer's local government area shall not suffer any reduction to their award entitlement for recognition of travel time while the employee continues to reside at that residence.
- (viii) On call employees are not subject to the minimum payment provisions of a public holiday. For each public holiday an employee is required to be on-call, the employee shall be granted one-half day's leave to be taken at an agreed time, provided that where there is prior agreement the employer may pay the employee an additional one-half day's pay in lieu of the one-half day's leave.

D. CALL BACK

- (i) For the purposes of this Award, an employee shall be deemed to be on a call back if the employee is recalled to work overtime without receiving notice before ceasing work.
- (ii) Any employee who is called back to work as defined in subclause (i) shall be paid for a minimum of four hours work at the appropriate overtime rate for each time so recalled. Provided that any subsequent call backs occurring within a four hour period of a call back shall not attract any additional payment. An employee working on a call back shall be paid the appropriate overtime rate from the time that such employee departs for work.

Except in the case of unforeseen circumstances arising, the employee shall not be required to work the full four hours if the job that the employee was recalled to perform is completed within a shorter period. This subclause shall not apply in cases where the call back is continuous subject to a reasonable meal break with the commencement of ordinary hours.

E. REMOTE RESPONSE

- (i) An employee who is in receipt of an on call allowance and available to immediately:
 - (a) respond to phone calls or messages;
 - (b) provide advice ('phone fixes');
 - (c) arrange call out/rosters of other employees; and
 - (d) remotely monitor and/or address issues by remote telephone and/or computer access,

will be paid the applicable overtime rate for the time actually taken in dealing with each particular matter, except where the employee is recalled to work (Note: paragraph 20C(vi) applies where an on-call employee is recalled to work).

- (ii) An employee remotely responding will be required to maintain and provide to the employer a time sheet of the length of time taken in dealing with each matter remotely for each day commencing from the first remote response. The total overtime paid to an employee for all time remotely responding in any day commencing from the first response will be rounded up to the nearest 15 minutes.
- (iii) The employer may, by agreement, make an average payment equivalent to an agreed period of time per week where the employee is regularly required to remotely respond as defined in paragraph (i) of this subclause.

21. Holidays

A. GENERAL

- (i) The days on which holidays shall be observed are as follows: New Years' Day; Australia Day; Good Friday; Easter Saturday; Easter Sunday; Easter Monday; Anzac Day; Queen's Birthday; Labour Day; Christmas Day; Boxing Day and all locally proclaimed holidays within the council's area, and all special days proclaimed as holidays to be observed throughout the whole of the State of NSW.
- (ii) In addition to paragraph (i), employees who are Aboriginal and Torres Strait Islanders shall be entitled to one day during NAIDOC week so that they can participate in National Aboriginal and Islander Day celebrations. Eligible employees shall provide the employer with at least seven (7) days' notice of their intention to take the holiday in accordance with this subclause, provided that if less than seven (7) days' notice is given such leave shall not be unreasonably refused.
- (iii) Where any of the holidays prescribed by this Award fall on a day ordinarily worked by the employee, the employee shall not have a reduction in ordinary pay.
- (iv) Except as otherwise provided, where an employee is required to work on a holiday as prescribed by this award, the employee shall be paid at double time and a half inclusive of payment for the day with a minimum payment of four hours worked.
- (v) All employees classified in the Operational Band 1 of this Award employed in garbage, sanitary and sullage (other than the supervisor) who are required to work on Good Friday or Christmas Day shall be paid at triple time inclusive of payment for the day with a minimum payment of four hours work.
- (vi) Where an employee is required to work ordinary hours on a holiday as prescribed by this Award, the employer and the employee may agree that the employee be paid time and a half for the hours worked on a holiday and in addition, be granted equivalent time off in lieu to be paid at ordinary time for each holiday worked. Such leave shall be taken at a mutually convenient time.
- (vii) If a rostered day off falls on a public holiday as prescribed in paragraph 21A(i), the next working day will be substituted, or another day by agreement, except for employees engaged on a seven (7) day a week rotating roster system.
- (viii) An employee who prior to the operative date of this award was entitled to move a day off which was not a rostered day off where it fell on a public holiday shall retain that right.
- (ix) The employer may direct an employee to take accrued time in lieu for work on a public holiday by the giving of at least two (2) weeks' notice in the following circumstances:
 - (a) Where the employee has accumulated in excess of one (1) weeks' time in lieu for work on a public holiday, or where the employee has accumulated a total of in excess of one (1) weeks' time in lieu when combining:
 - (1) time in lieu for work on public holiday's; and
 - (2) time in lieu of overtime under subparagraph 20A(vi)(a).
 - (b) A period of annual close down of up to and including two (2) weeks where the employee does not have sufficient annual leave to cover the relevant close down period. The employer shall be able to rely on this provision prior to considering the provision of meaningful alternate duties.

B. UNION PICNIC DAY

- (i) Union Picnic Day shall for the purposes of this Award be regarded as a holiday for employees who are financial members of the union(s). The Union Picnic Day shall be on such day as is agreed between the employer and the union(s).

- (ii) The union(s) shall advise the employer of financial members as at the time of the Union Picnic Day. Such advice must be given at least two weeks prior to the Union Picnic Day.
- (iii) Employees who are not financial members of the union(s) and who are required to work on Union Picnic Day, shall be paid ordinary pay for their normal working day.
- (iv) Employees who are not financial members of the union(s) and who are not required to work on Union Picnic Day, may apply to the employer to take annual leave, long service leave, time off in lieu of overtime, leave without pay, such other leave as may be approved by the employer, or may be required by the employer to make up time.

22. Leave Provisions

A. SICK LEAVE

- (i) Employees who are unable due to illness or injury to attend for duty shall be entitled during each year of service to sick leave of 3 weeks at the ordinary rate of pay.
- (ii) Where a person is employed on a fixed-term or temporary basis of less than twelve (12) months duration the employee shall be entitled to one (1) weeks sick leave on commencement. The employee shall be entitled to a further one (1) weeks sick leave after each four (4) months of continuous service.
- (iii) The entitlement to sick leave is subject to the employer being satisfied that the illness or injury;
 - (a) is such that it justifies the time off; and
 - (b) does not arise from engaging in other employment.
- (iv) The employer may require an employee to provide proof that the illness or injury is such that it justifies the time off work, subject to the following:
 - (a) In each year of service proof of illness or injury to justify payment shall not be required for the first 3 separate periods of absence, provided such periods are not more than 2 working days, unless:
 - (1) It is reasonable for the employer to require the employee to provide proof of illness or injury having regard to the employee's pattern of sick and/or amount of sick leave taken by the employee, and
 - (2) The employer has provided the employee with prior written notice of the requirement to provide proof of illness or injury.
 - (b) The type of proof of injury or illness required by the employer must be reasonable having regard to the circumstances of the employer and the employee and may include, for example, certification from a qualified medical/health practitioner registered with the appropriate government authority or statutory declaration; and
 - (c) when requested, proof of illness shall indicate the employee's inability to undertake their normal duties.
- (v) The employer may require employees to attend a qualified medical/health practitioner nominated by the employer at the employer's cost.
- (vi) Sick leave shall accumulate from year to year so that any balance of leave not taken in any one year may be taken in a subsequent year or years.
- (vii) The employer may, at its discretion, grant an employee sick leave at half pay if satisfied that extenuating circumstances exist. Where a public holiday falls during a period of sick leave at half pay, the public

holiday shall also be paid at half pay. Further, all entitlements shall accrue during periods of sick leave at half pay on a proportionate basis.

- (viii) Accumulated sick leave shall be transferable on change of employment from employer to employer within New South Wales up to 13 weeks, provided that an employee shall only be entitled to transfer sick leave accumulated since the employee's last anniversary date on a pro-rata basis. Such accumulated sick leave shall only be transferable if the period of cessation of service with the employer and appointment to the service of another employer does not exceed three months. The sick leave entitlement transferred shall not exceed the maximum amount transferable as prescribed by the appropriate award at the time of transfer.
- (ix) Where an employee has had five (5) years' service with the present employer and the sick leave entitlement as prescribed has been exhausted, that employer may grant such additional sick leave as, in its opinion, the circumstances may warrant.
- (x) Section 50 of the *Workers Compensation Act 1987* (NSW) dealing with the relationship between sick leave and workers compensation applies.
- (xi) Where an employee had an entitlement under awards rescinded and replaced by this Award for the payment of unused sick leave arising out of the termination of employment due to ill-health or death and where such entitlement existed as at 15 February 1993 the following provisions shall apply
 - (a) In the event of the termination of service of an employee on account of ill health and the employer is satisfied that such ill-health renders the employee unable in the future to perform the duties of such appointed classification, the termination shall not be effected earlier than the date on which the employee's credit of leave at full pay shall be exhausted unless the employee is paid any accrued sick leave at full pay to which such employee would be entitled under this clause.
 - (b) When the service of an employee is terminated by death, the employer shall pay to the employee's estate, the monetary equivalent of any untaken sick leave standing to the employee's credit at the time of death.
 - (c) Payment under this clause is limited to sick leave calculated to retirement age in accordance with relevant legislation and shall not be payable if the injury or illness arises out of or in the course of employment such that it is compensable under the *Workers Compensation Act 1987* (NSW).
 - (d) For the purposes of this subclause such entitlement to payment of untaken sick leave shall be paid be in accordance with clause 14 of Schedule 4 of the *Industrial Relations Act 1996* (NSW).
- (xii) This sub-clause applies where an employer is satisfied that an employee has a terminal illness being a diagnosed disease or condition which cannot be cured and is likely to lead to death. The sub-clause is also limited in application to those employees who are not covered by subclause (xi) above. In the event that such an employee is unable to attend work or perform the duties of the position in the foreseeable future on account of their condition, then the employee shall be entitled to request continued access to the employee's accrued sick leave until the leave is exhausted, the employee dies or the employee uses 48 weeks of accrued sick leave whichever occurs first. The employer shall not unreasonably refuse such a request.

B. CARER'S LEAVE

- (i) Use of Sick Leave: An employee, other than a casual employee, with responsibilities in relation to a class of person set out in subclause (v)(b) below 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 subclause 22A, Sick Leave, of this 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.

- (ii)
 - (a) Carer's leave is not intended to be used for long term, ongoing care. In such cases, the employee is obligated to investigate appropriate care arrangements where these are reasonably available.
 - (b) Where more than two weeks sick leave in any year of service 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.
 - (c) Where the parties are unable to reach agreement the grievance and disputes procedures at Clause 36 of this Award should be followed.
- (iii) In normal circumstances, an employee must not take carer's leave under this clause where another person has taken leave to care for the same person.
- (iv) The employer may require the employee to provide proof of the need for carer's leave as follows:
 - (a) Less than two weeks - Where less than two weeks sick leave in any year of service is sought to be used for caring purposes the employer may require the employee to 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) More than two weeks - Where more than two weeks sick leave in any year of service is sought to be used for caring purposes the employer may require the employee to produce a medical certificate from a qualified medical/health practitioner showing the nature of illness of the person concerned and such other information as may be reasonably necessary to demonstrate that the illness is such as to require care by the employee and that no other appropriate care arrangements are reasonably available, or
 - (c) 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.
- (v) 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 step child, foster child or an ex nuptial child), parent (including a foster parent, step parent and legal guardian), parents of spouse, grandparent, grandchild or sibling (including half, foster and step 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 paragraph:
 - (a) 'relative' means a person related by blood, marriage or affinity;

- (b) 'affinity' means a relationship that one spouse because of marriage has to blood relatives of the other; and
 - (c) 'household' means a family group living in the same domestic dwelling.
- (vi) 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 (v)(b) above who is ill or who requires care due to an unexpected emergency.
- (vii) 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.
- (viii) Carer's Entitlement for Casual Employees
 - (a) Subject to the evidentiary and notice requirements in paragraphs (iv) and (vii) 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 (v)(b) of this clause who are sick and require 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) The employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of the employer to engage or not to engage a casual employee are otherwise not affected.
- (ix) Time off in Lieu of Payment for Overtime: An employee may, with the consent of the employer, elect to take time in lieu of payment of overtime accumulated in accordance with the provisions of subclause 20A of this Award for the purpose of providing care and support for a person in accordance with paragraph (v) above.
- (x) Make-up time: An employee 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 a later time, within the spread of ordinary hours provided in the Award, at the ordinary rate of pay for the purpose of providing care and support for a person in accordance with paragraph (v) above.
- (xi) Annual Leave and Leave Without Pay: An employee may elect with the consent of the employer to take annual leave or leave without pay for the purpose of providing care and support for a person in accordance with paragraph (v) above. Such leave shall be taken in accordance with subclause 22D, Annual Leave and subclause 22L, Special Leave of this Award.
- (xii) An employee, other than a casual employee, with responsibilities for an assistance animal, may in accordance with this subclause, use any current or accrued sick leave entitlement, for absences where an assistance animal that is ill or injured requires veterinary care.

For the purposes of this subclause an 'assistance animal' is defined in a manner consistent with section 9 of the *Disability Discrimination Act 1992* (Cth) to be guide dogs, hearing assistance dogs and trained animals (excluding working dogs) that are trained:

- (a) to assist a person with a disability to alleviate the effect of the disability; and
- (b) to meet standards of hygiene and behaviour that are appropriate for an animal in a public place.

C. EMERGENCY SERVICES LEAVE

- (i) Subject to subclause (ii) of this clause, an employee, other than a casual, who engages in a ‘voluntary emergency management activity’ shall be entitled to up to five (5) days paid emergency services leave per calendar year from their accrued sick leave balance to participate in such activity.
- (ii) An employee is not entitled to paid emergency services leave under this clause if:
- (a) the employee has less than 12 months continuous service with the employer; or
 - (b) the taking of the emergency services leave will result in the employee having an accumulated sick leave balance of less than three (3) weeks.
- Note: An employee who does not qualify for Emergency Services Leave under this clause may apply for special leave under subclause 22L of this Award.
- (iii) For the purposes of this clause, an employee engages in a ‘voluntary emergency management activity’ if, and only if:
- (a) the employee engages in an activity that involves dealing with an emergency or natural disaster; and
 - (b) the employee engages in the activity on a voluntary basis (Note: the activity is not on a voluntary basis if the employee receives remuneration from the recognised emergency management body for lost wages or salary); and
 - (c) the employee is a member of, or has a member-like association with, a recognised emergency management body; and
 - (d) either:
 - (1) the employee was requested by or on behalf of the body to engage in the activity; or
 - (2) no such request was made, but it would be reasonable to expect that, if the circumstances had permitted the making of such a request, it is likely that such a request would have been made.
- (iv) For the purposes of this clause, a ‘recognised emergency management body’ is:
- (a) a body, or part of a body, that has a role or function under a plan that:
 - (1) is for coping with emergencies and/or disasters; and
 - (2) is prepared by the Commonwealth, a State or a Territory; or
 - (3) a fire-fighting, civil defence or rescue body, or part of such a body; or
 - (b) any other body, or part of a body, a substantial purpose of which involves:
 - (1) securing the safety of persons or animals in an emergency or natural disaster; or
 - (2) protecting property in an emergency or natural disaster; or
 - (3) otherwise responding to an emergency or natural disaster.
- (v) For the purposes of this clause, an ‘emergency’ means an event, actual or imminent, which endangers or threaten to endanger life, property or the environment and which requires a significant and coordinated response.

- (vi) The employer may require proof of participation in the voluntary emergency management activity to justify payment under this clause.

D. ANNUAL LEAVE

Amount of Annual Leave

- (i) For each year of service an employee (other than a casual) is entitled to:
- (a) 4 weeks of paid annual leave; or
 - (b) 5 weeks of paid annual leave if the employee is regularly required to work a seven day a week rotating roster system.

Accrual of leave

- (ii)
- (a) An employee's entitlement to paid annual leave accrues progressively during a year of service according to the employee's ordinary hours of work, and accumulates from year to year.
 - (b) Paid annual leave accrues up to when the employment ends.

Taking paid annual leave

- (iii) Unless otherwise provided, paid annual leave may be taken for a period agreed between the employee and the employer.
- (iv) The employer must not unreasonably refuse to agree to a request by the employee to take paid annual leave.

Annual leave at full pay, half pay or double pay

- (v)
- (a) This subclause applies to an employee who is an employee of a 'council' within the meaning of the *Local Government Act 1993* (NSW).
 - (b) An employee who is entitled to annual leave may, with the consent of the employer, take annual leave:
 - (1) on full pay; or
 - (2) on half pay; or
 - (3) on double pay.
 - (c) When an employee takes annual leave, the leave entitlement will be deducted on the following basis:
 - (1) a period of leave on full pay - the number of days so taken; or
 - (2) a period of leave on half pay - half the number of days so taken; or
 - (3) a period of leave on double pay - twice the number of days so taken.
 - (d) When an employee takes annual leave, the period of service for the purpose of leave accruals shall be as follows:

- (1) a period of leave on full pay - the number of days so taken; or
 - (2) a period of leave on half pay - half the number of days so taken; or
 - (3) a period of leave on double pay - the number of days so taken.
- (e) The entitlement to taken annual leave at double pay is only available to an employee if, after taking the period of leave, the employee will have an accrued annual leave entitlement of not less than four (4) weeks.
- (f) Employees that take annual leave at half pay or double pay shall not be disadvantaged nor obtain a windfall gain in relation to superannuation contributions.

Payment in lieu of annual leave

(vi)

- (a) This subclause applies to an employee who is an employee of a 'council' within the meaning of the *Local Government Act 1993* (NSW).
- (b) An employee and an employer may agree to a payment in lieu of a period of annual leave to which the employee is entitled only if:
 - (1) after the payment the employee will have an accrued annual leave entitlement of not less than four (4) weeks; and
 - (2) the payment in lieu of a period of annual leave is not less than the employee's ordinary pay.
- (c) Periods of annual leave that are cashed out shall not attract any accruals.
- (d) Employees that are paid in lieu of annual leave shall not be disadvantaged nor obtain a windfall gain in relation to superannuation contributions.

Requirement to take annual leave

- (vii) The employer may direct an employee to take annual leave by giving at least four weeks prior notification in the following circumstances:
- (a) where the employee has accumulated in excess of eight weeks annual leave
 - (b) a period of annual close-down of up to and including two (2) weeks.

Provided that:

- (1) Where an employee has accrued more annual leave than the period of the annual close down, the balance of such leave shall be taken in accordance with subclause (i) of this clause.
- (2) In the case of employees who are not entitled to annual leave or do not have an entitlement sufficient to cover the period of the close-down, the employer shall endeavour to provide meaningful duties as are within the limits of the employee's skill, competence and training for the whole or part of the close-down.
- (3) In the event that meaningful duties are not available the employee may be directed to take leave without pay, or by agreement with the employer may take annual leave in advance of the entitlement provided that in the event of the employee leaving employment before the entitlement becomes due, such annual leave shall be repaid by a deduction from the employee's termination pay.

- (4) In the event that leave without pay is directed to be taken, such leave shall be regarded as service for the purpose of the accrual of long service leave, sick leave and annual leave.
- (5) Any arrangements concerning annual close down made under previous Awards will continue to apply unless otherwise agreed, provided that any request to change the arrangement shall not be unreasonably refused.

Employee not taken to be on paid annual leave on Public Holidays

- (viii) If the period during which an employee takes paid annual leave includes a day or part-day that is a declared public holiday in the place where the employee is based for work purposes, the employee is taken not to be on paid annual leave on that declared public holiday.

Payment for annual leave

- (ix) Unless otherwise provided, if an employee takes a period of paid annual leave, the employer must pay the employee at the employee's ordinary rate of pay for the period of annual leave either before the commencement of the employee's annual leave, or by agreement through the usual pay periods.

Resignation or termination of employment

- (x) On resignation or termination of employment, the employer shall pay to the employee their ordinary rate of pay for all accrued untaken annual leave.

Varying rates of pay

- (xi) Where an employee receives a varying rate of pay for 6 months or more in the aggregate in the preceding 12 month period, the employee's ordinary rate of pay shall be deemed to be the average weekly rate of pay earned during the period actually worked over the 12 months immediately preceding the annual leave or the right to payment under this clause.

E. LONG SERVICE LEAVE

(i)

- (a) An employee shall be entitled to Long Service Leave at the ordinary rate of pay as follows:

LENGTH OF SERVICE	ENTITLEMENT
After 5 years' service	6.5 weeks
After 10 years' service	13 weeks
After 15 years' service	19.5 weeks
After 20 years' service	30.5 weeks
For every completed period of 5 years' service thereafter	11 weeks

- (b) Where an employee has completed more than five years' service with the employer and is terminated for any cause, long service leave shall be deemed to have accrued for the employee's total length of service and an amount equivalent to such long service leave, less such leave already taken, computed in monthly periods and equivalent to 1.3 weeks for each year of service up to 15 years and 2.2 weeks for each year of service from 15 years onwards.
- (c) Where an employee has completed more than five (5) years of service with the employer, the employee shall be entitled to apply for long service leave accrued between each completed five (5) years of service on a pro rata basis calculated monthly. Such an application shall not be unreasonably refused.

(ii)

- (a) An employee who is entitled to long service leave may, with the consent of the employer, take long service leave:
 - (1) on full pay; or
 - (2) on half pay; or
 - (3) on double pay.
 - (b) When an employee takes long service leave, the leave entitlement will be deducted on the following basis:
 - (1) a period of leave on full pay - the number of days so taken; or
 - (2) a period of leave on half pay - half the number of days so taken; or
 - (3) a period of leave on double pay - twice the number of days so taken.
 - (c) When an employee takes long service leave, the period of service for the purpose of leave accruals shall be as follows:
 - (1) a period of leave on full pay - the number of days so taken; or
 - (2) a period of leave on half pay - half the number of days so taken; or
 - (3) a period of leave on double pay - the number of days so taken.
 - (d) Employees that take long service leave at half pay or double pay shall not be disadvantaged nor obtain a windfall gain in relation to superannuation contributions.
- (iii)
- (a) Long service leave shall be taken at a time mutually convenient to the employer and employee, provided that all long service leave accruing on or after 23 June 1988 shall be taken within five years of it falling due. The employer may direct an employee to take long service leave accrued on or after 23 June 1988 and not taken within five years of it falling due provided that at least four weeks' notice is given to the employee.
 - (b) Payment to an employee proceeding on long service leave shall be made by the employer at the employee's ordinary rate of pay calculated according to how the leave is taken (i.e. either full, half, or double ordinary pay) for the period of long service leave either before the commencement of the employee's long service leave, or by agreement through the usual pay periods.
 - (c) Where an employee receives a varying rate of pay for 6 months or more in the aggregate in the preceding 12 month period, the employee's ordinary rate of pay shall be deemed to be the average weekly rate of pay earned during the period actually worked over the 12 months immediately preceding the long service leave or the right to payment under this subclause.
 - (d) An employee who has become entitled to a period of leave and the employee's employment is terminated by resignation, death or dismissal for any cause shall be deemed to have entered upon leave at the date of termination of the employment and shall be entitled to payment accordingly.
- (iv)
- (a) For the purpose of calculating long service leave entitlement in accordance with subclause (i) of this clause all prior continuous service with any other employer within New South Wales shall be deemed to be service with the employer by which the employee is currently employed.
 - (b) Continuity of service shall be deemed not to have been broken by transfer or change of employment from one employer to another provided the period between cessation of service with

one employer and appointment to the service of another employer does not exceed three months and such period is covered by accrued annual and long service leave standing to the credit of the employee at the time of the transfer, provided further that the employee concerned does not engage in work of any kind during the period of paid leave between the cessation of service with one employer and appointment to the service of another employer.

- (v) (a) An employee who is entitled to long service leave, may, with the consent of the employer, cash out a particular amount of Excess Long Service Leave. Excess long Service Leave means the long service leave that an employee has accrued under the Award that is in excess of the long service leave that the employee would have accrued if covered by section 4 of the *Long Service Leave Act 1955*, (the "LSL Act"). For the purpose of this subclause, long service leave is deemed to accrue under the LSL Act at the rate of 0.867 weeks per year of service.
- (b) Each cashing out of a particular amount of Excess Long Service Leave must be by separate agreement between the employer and the employee.
- (vi) For the purpose of this clause, service shall include the following periods: -
 - (a) Any period of service with any of Her Majesty's Forces provided that the employee enlisted or was called up direct from the service of the employer.
 - (b) In the case of an employee, transferred to the service of an employer of a new or altered area - any period of service with the employer from which such employee was transferred.
 - (c) Service shall mean all service with the employer irrespective of the classification under which the employee was employed.
- (vii) There shall be deducted in the calculation of the employee's service all leave of absence without payment not specifically acknowledged and accepted by the employer as service at the time leave was taken.
- (viii) When an employee transfers from one employer to another, the former employer shall pay to the newly employing employer the monetary equivalent of all long service leave accruing to the employee at the time of transfer, up to a maximum of five (5) years of accrual, calculated at the rate(s) of accrual applying to leave accrued in the five (5) years immediately prior to the transfer. By agreement between the former employer and the newly employing employer, more than the monetary equivalent of five (5) years of accrued long service leave may be transferred. However, an employee who at the time of transfer has completed at least five years continuous service may elect to be paid the monetary equivalent of the entitlement. Employees who at the time of transfer elect to be paid the monetary equivalent of their long service leave entitlement shall have that entitlement calculated by multiplying in completed years and months their period of continuous service with the employer(s). A statement showing all prior continuous service with the employer(s) of the employee concerned shall be furnished together with details of the assessment of the amount of money that shall be paid into a Long Service Leave Reserve Account and appropriate notations made in the employer 's Long Service Leave Record.
- (ix) The employer which has received under subclause (viii) of this clause a monetary equivalent of long service leave entitlement to cover an employee's period of service with a previously employing employer(s) shall if the employee subsequently leaves the service of that employing employer to seek employment outside New South Wales Local Government before a long service leave entitlement has become due, refund to such previously employing employer (s) the amount paid.
- (x) Long service leave shall be exclusive of annual leave and any other holidays as prescribed by clause 21, Holidays of this Award, occurring during the taking of any period of long service leave, provided that where a public holiday falls during a period where the employee has taken long service leave on half pay, the public holiday shall also be paid at half pay.
- (xi) When the service of an employee is terminated by death the employer shall pay to the employee's estate the monetary equivalent of any untaken long service leave standing to the employee's credit at the time of the employee's decease.

- (xii) Where an employee's service is terminated at the end of a season or through shortage of work, material or finance or through illness certified by a duly qualified medical practitioner and such employee is re-employed by the same employer within 12 months of termination of service, prior service shall be counted for the purpose of this clause.

F. PARENTAL LEAVE (GENERAL)

Relationship with federal legislation - Subclauses 22F, 22G, 22H and 22I of this Award shall apply in addition to:

- (i) Chapter 2, Part 2-2, Division 5 - 'Parental leave and related entitlements' of the National Employment Standard (NES) under the *Fair Work Act 2009* (Cth); and
- (ii) the *Paid Parental Leave Act 2010* (Cth).

Note:

Division 5 of the *Fair Work Act 2009* (Cth) relates to:
 unpaid parental leave, including unpaid adoption leave
 unpaid special maternity leave
 transfer to a safe job and no safe job leave

G. PAID PARENTAL LEAVE

- (i) Definitions - in this clause:
- (a) PPL instalments shall mean instalments paid during the paid parental leave period under the *Paid Parental Leave Act 2010* (Cth).
- (b) parental leave make-up pay shall mean the employee's ordinary pay, inclusive of PPL instalments. Where an employee works a varying number of ordinary hours for 6 months or more in the aggregate in the 12 month period immediately preceding leave associated with the birth of a child, the employee's ordinary hours shall be deemed to be the average weekly number of ordinary hours worked during the 12 month period.

- (ii) Eligibility

This clause shall apply to an employee who is receiving PPL instalments as a primary or secondary claimant under the *Paid Parental Leave Act 2010* (Cth) and who has had 12 months continuous service with the employer immediately prior to the commencement of paid parental leave.

- (iii) Entitlement to parental leave make-up pay

- (a) An employee shall be entitled to parental leave make-up pay for the period that they are receiving PPL instalments, up to a maximum of 18 weeks.
- (b) The period of parental leave make-up pay shall be counted as service for the purposes of long service, annual and sick leave accruals and superannuation. Superannuation is calculated on the employee's ordinary rate of pay.
- (c) Requalification period - An employee shall not be entitled to a further period of parental leave make up pay unless the employee has returned to work for the employer for at least 3 months since their previous period of parental leave.

- (iv) Employee's right to choose

- (a) An employee who satisfies the eligibility criteria for paid maternity leave or paid special maternity leave under subclause 19F, Paid Maternity Leave, of the Local Government (State) Award 2007, may elect to receive paid maternity leave and/or paid special maternity leave (9 weeks full pay or 18 weeks half pay) in accordance with the provisions of the Local Government

(State) Award 2007 in lieu of the entitlement to parental leave make-up pay under this Award, provided that the requalification period in subclause (iii) above shall apply.

- (b) This subclause shall not apply where another employee of the employer receives parental leave make-up pay in connection with the pregnancy or birth of the child.

H. CONCURRENT PARENTAL LEAVE

An employee, other than a casual, who is a supporting parent shall be entitled to up to two weeks paid concurrent parental leave from their accrued sick leave balance at the time their partner gives birth to a child or at the time the employee adopts a child provided that the employee has had 12 months continuous service with the employer immediately prior to the commencement of their concurrent parental leave.

I. ADOPTION LEAVE

(i) Eligibility

This clause applies to an employee who is entitled to adoption-related leave under the *Fair Work Act 2009* (Cth).

(ii) Pre-adoption Leave

- (a) An employee, other than a casual, who is entitled to unpaid pre-adoption leave under the *Fair Work Act 2009* (Cth) is entitled to up to 2 days paid pre-adoption leave at ordinary pay for the period of such leave.

- (b) An employee who is entitled to a period of paid pre-adoption leave is entitled to take the leave as:

- (1) single continuous period of up to 2 days; or
- (2) any separate periods to which the employee and the employer agree.

(iii) Adoption Leave

- (a) Subject to subclause (c), an employee, other than a casual, who has or will have primary responsibility for the care of an adopted child is entitled to paid adoption leave at ordinary pay from the date the child is placed with the employee for adoption according to the following scale:

AGE OF CHILD AT THE DATE OF PLACEMENT	ENTITLEMENT
Less than 5 years of age	9 weeks full pay, or 18 weeks half pay
Between 5 years of age and less than 16 years of age	4 weeks full pay, or 8 weeks half pay

- (b) Notwithstanding the above, where the adopted child is aged between 5 years of age and less than 16 years of age at the date of placement with the employee and there are special needs and reasons in the child's life, the employer shall not unreasonably refuse to grant up to nine weeks paid adoption leave at full pay or 18 weeks paid adoption leave at half pay.

- (c) An employee is not entitled to paid adoption leave under this clause where the employee receives parental leave make-up pay in connection with the adoption of the child.

(iv) Family reunion leave

- (a) An employee, other than a casual, able to establish that they were adopted under a "closed adoption" practice shall be entitled to up to five (5) days family reunion leave from their accumulated sick leave balance to reunite with their biological parent(s) for the first time.

- (b) For the purpose of this sub-clause "closed adoption" means an adoption whereby the record of the biological parent(s) is kept sealed and the adopted child is thereby prevented from knowing the identity of such biological parent(s).

J. BEREAVEMENT LEAVE

- (i) Subject to this clause, where an employee, other than a casual, is absent from duty because of the death of a person and provides satisfactory evidence to the employer of such, the employee shall be entitled to bereavement leave as follows:
 - (a) Up to four days paid bereavement leave upon the death of a member of the employee's immediate family; or
 - (b) Up to two days paid bereavement leave upon the death of a member of the employee's extended family;
- (ii) For the purposes of this clause, immediate family shall mean the following:
 - (a) a spouse or de facto partner of the employee;
 - (b) a child of the employee;
 - (c) a parent of the employee;
 - (d) a sibling of the employee;
 - (e) a grandchild of the employee;
 - (f) a child of the spouse or de facto partner of the employee;
 - (g) a parent of the spouse or de facto partner of the employee;
 - (h) a sibling of the spouse or de facto partner of the employee;
 - (i) a grandchild of the spouse or de facto partner of the employee;
 - (j) a member of the employee's extended family living in the same domestic dwelling as the employee.
- (iii) For the purposes of this clause, extended family shall mean the following:
 - (a) a niece of the employee;
 - (b) a nephew of the employee;
 - (c) an uncle of the employee;
 - (d) an aunt of the employee;
 - (e) a grandparent of the employee;
 - (f) a grandparent of the spouse or de facto partner of the employee;
 - (g) the spouse or de facto partner of a sibling of the employee;
 - (h) the spouse or de facto partner of the employee's child (son in law or daughter in law).
- (iv) The employer may grant an employee additional bereavement leave if satisfied that extenuating circumstances exist.

- (v) Bereavement Entitlements for Casual Employees
- (a) Subject to providing satisfactory evidence to the employer, casual employees are entitled to not be available to attend work, or to leave work upon the death of a person as provided in paragraphs (i) to (iv) of subclause 22J, Bereavement Leave.
 - (b) The casual employee is not entitled to any payment for the period of non-attendance.
 - (c) The employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of the employer to engage or not engage a casual employee are otherwise not affected.

K. OTHER PAID LEAVE

(i) Jury Service Leave

An employee required to attend for jury service during the employee's ordinary working hours shall be reimbursed by the employer an amount equal to the difference between the amount in respect of the employee's attendance for such jury service and the amount of wage the employee would have received in respect of the ordinary time the employee would have worked had the employee not been on jury service. An employee shall notify the employer as soon as possible of the date upon which the employee is required to attend for jury service. Further the employee shall give the employer proof of attendance, the duration of such attendance and the amount received in respect of such jury service.

(ii) Union Training Leave

- (a) An eligible employee shall be entitled to five (5) days paid leave to attend courses which are specifically directed towards relevant training for eligible employees.
- (b) For the purpose of this clause relevant training for eligible employees is training directly related to:
 - (1) Eligible employees' rights and responsibilities in their capacity as union delegates.
 - (2) Understanding this Award, enterprise agreements, council agreements, and council policies.
 - (3) Grievance and dispute procedures, and disciplinary procedures;
 - (4) Code of Conduct;
 - (5) Bullying, harassment, and discrimination.
- (c) Such leave will be available to an individual eligible employee once only during their employment, provided that the employer shall not unreasonably refuse additional training where:
 - (1) There is a change in relevant provisions of this Award; or
 - (2) More than three (3) years has elapsed since the eligible employee last took leave for the purpose of this clause.
- (d) An eligible employee is defined as a full-time or part-time employee:
 - (1) Who is a union delegate, who has been duly appointed by a union and the employer has been formally notified of that appointment; and
 - (2) Who has completed 12 months continuous service with the current employer, unless otherwise agreed.

- (e) An eligible employee must comply with the following notice requirements:
 - (1) Provide the employer with at least four (4) weeks prior notice in writing of their request to attend a training course;
 - (2) Outline details of the type, content and duration of the course to be attended in the written notice.
 - (f) The employer will consider a request for leave in accordance with this clause having regard to:
 - (1) The operational requirements of the employer; and
 - (2) The capacity of the employer to make adequate staffing arrangements among current employees during the proposed period of leave.
 - (g) An employer must not unreasonably refuse to agree to a request by the employee to take training leave.
 - (h) An employer will not be liable for any additional expenses associated with an employee's attendance at a course other than the payment of ordinary hourly ordinary time rate for such absence.
 - (i) An eligible employee will be required to provide the employer with proof of attendance at, and satisfactory completion of, the course to qualify for payment of leave.
 - (j) Nothing in this subclause prevents an employer and employee from agreeing to additional union training leave either with or without pay.
 - (k) Leave granted pursuant to this clause counts as service for all purposes of this award.
- (iii) Union Conference Leave

Accredited delegates to the unions' annual conferences shall be granted paid leave for the duration of the conference provided that the employer's operational requirements are met and the union notifies the employer of the accredited delegates nominated to attend the conference at least one month prior to the commencement of the conference.

L. SPECIAL LEAVE

- (i) The employer may grant special leave, either with pay or without pay, to an employee for a period as determined by the employer to cover any specific matter approved by the employer, including but not limited to:
 - (a) leave for victims of family and domestic violence;
 - (b) leave for engaging in a voluntary emergency management activity;
 - (c) compassionate leave for employees facing unforeseen circumstances such as injury or terminal illness; or
 - (d) leave to attend to duties as a member of the Australian Defence Force.
- (ii) Periods of leave without pay shall not be regarded as service for the purpose of computing entitlements under this Award. Such periods of leave without pay shall not however, constitute a break in the employee's continuity of service.
- (iii) An employee shall not be entitled to any payment for public holidays during an absence on approved leave without pay.

M. FAMILY AND DOMESTIC VIOLENCE LEAVE**(i) Definitions****(a) In this clause:**

"family and domestic violence" means violent, threatening or other abusive behaviour, by a family member of an employee or another person living in the same household as the employee, that seeks to coerce or control the employee and that causes them harm or to be fearful.

"family member" means:

- (1) a spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the employee; or
- (2) a child, parent, grandparent, grandchild or sibling of a spouse or de facto partner of the employee; or
- (3) a person related to the employee according to Aboriginal or Torres Strait Islander kinship rules.

- (b) A reference to a spouse or de facto partner in the definition of family member in subparagraph (i)(a) of this clause includes a former spouse or de facto partner.

(ii) Entitlement to paid leave

- (a) Subject to paragraph (iii) of this clause, an employee, other than a casual employee, is entitled to up to 10 days' paid leave to deal with the impact of family and domestic violence, as follows:

- (1) the leave is available in full at the start of each 12 month period of the employee's employment; and
- (2) the leave does not accumulate from year to year.

- (b) Casuals, whilst not eligible for paid leave under this clause, may make themselves unavailable for work without consequence to deal with the impact of family and domestic violence.

(iii) Taking paid leave

An employee may take paid leave to deal with family and domestic violence if the employee:

- (a) is experiencing family and domestic violence; and
- (b) requires flexibility to deal with the impact of the family and domestic violence.

Note: The reason(s) for which an employee may take leave include making arrangements for their safety or the safety of a family member (including relocation), attending urgent court hearings, or accessing police services.

(iv) Service and continuity

The time an employee is on paid leave to deal with family and domestic violence counts as service and does not break the employee's continuity of service.

(v) Notice and evidence requirements

(a) Notice

An employee must give their employer notice of the taking of leave by the employee under this clause. The notice:

- (1) must be given to the employer as soon as practicable (which may be a time after the leave has started); and
- (2) must advise the employer of the period, or expected period, of the leave.

(b) Evidence

An employee who has given their employer notice of the taking of leave under this clause must, if required by the employer, give the employer evidence that would satisfy a reasonable person that the leave is taken for the purpose specified in paragraph (iii) of this clause.

Note: Depending on the circumstances such evidence may include a document issued by police, a court or a family violence support service, or a statutory declaration.

23. Flexibility for Work and Family Responsibilities

- (i) In recognition of the commitment to provide flexibility for work and family responsibilities and the need to retain skills and experience within the industry, employers are encouraged to develop and promote flexible work and leave arrangements to enable their employees to better manage their work and family responsibilities.

RIGHT TO REQUEST CHANGES IN WORKING ARRANGEMENTS

- (ii) An employee may request a change in working arrangements if:

- (a) The employee is the parent, or has responsibility for the care, of a child who is of school age or younger;
- (b) The employee is a carer (within the meaning of the *Carer Recognition Act 2010* (Cth));
- (c) The employee has a disability;
- (d) The employee is 55 or older;
- (e) The employee is experiencing violence from a member of the employee's immediate family;
- (f) Such other circumstances where an employee can demonstrate a genuine need for flexible work and leave arrangements to attend to work and family responsibilities.

- (iii) The employee is not entitled to make the request unless:

- (a) For an employee other than a casual employee - the employee has completed at least 12 months of continuous service with the employer immediately before making the request.

Formal requirements

- (iv) The request must:

- (a) be in writing; and
- (b) set out the details of the change sought and of the reasons for the change

Considering the request

- (v) The employer must give the employee a written response to the request within 21 days, stating whether the employer grants or refuses the request.
- (vi) The employer may refuse the request only on reasonable business grounds. Business grounds will include but not be limited to:
 - (a) that the new working arrangements requested by the employee would be too costly for the employer;
 - (b) that there is no capacity to change the working arrangements of other employees to accommodate the new working arrangements requested by the employee;
 - (c) that it would be impractical to change the working arrangement of other employees, or recruit new employees, to accommodate the new working arrangements requested by the employee;
 - (d) that the new working arrangements requested by the employee would be likely to result in a significant loss in efficiency or productivity; and
 - (e) that the new working arrangements requested by the employee would be likely to have significant negative impact on customer service.
- (vii) If the employer refuses the request, the written response must detail the reasons for the refusal.
- (viii) Flexible work and leave arrangements include but are not limited to:
 - (a) make up time;
 - (b) flexi time;
 - (c) time in lieu;
 - (d) leave without pay;
 - (e) annual leave;
 - (f) part-time work;
 - (g) job share arrangements;
 - (h) variations to ordinary hours and rosters;
 - (i) purchased additional annual leave arrangements;
 - (j) working from home arrangements; and
 - (k) arrangements to accommodate breastfeeding women.
- (ix) The terms of agreed changes to working arrangements, including flexible work and leave arrangements shall be in writing and may be varied from time to time, by agreement, to suit the specific needs of either party.

24. Phased Retirement

- (i) In recognition of the ageing workforce in local government and the need to retain skills and experience within the industry, employers are encouraged to develop and promote flexible work and leave arrangements to enable their employees to better manage their transition into retirement.

- (ii) Examples of flexible work and leave arrangements include:
 - (a) Part-time work;
 - (b) Flexi time;
 - (c) Leave without pay;
 - (d) Job sharing arrangements;
 - (e) Variations to ordinary hours and rosters;
 - (f) Job redesign; and
 - (g) Purchased additional annual leave arrangements.
- (iii) The terms of a flexible work and leave arrangements shall be in writing and may be varied from time to time, by agreement, to suit the specific needs of either the employer or the employee.

25. Health and Wellbeing

- (i) The parties to the Award recognise that workplace health and wellbeing programs can lead to positive outcomes such as improved employee work performance and productivity, improved employee recruitment and retention, reduced absenteeism, and other benefits.
- (ii) Employers are encouraged to develop workplace health and/or wellbeing programs that are suited to the needs and resources of the employer.
- (iii) An employee may, with the consent of the employer, take up to two (2) days paid leave per calendar year from their accrued sick leave balance to participate in a health and/or wellbeing activity, subject to the following:
 - (a) the granting of paid leave under this clause is at the discretion of the employer; and
 - (b) the taking of paid leave under this clause must not result in the employee having an accumulated sick leave balance of less than two (2) weeks; and
 - (c) the employer may require proof of participation in the health and/or wellbeing activity to justify payment under this clause.

26. Part-Time Employment

- (i) A part-time employee shall mean an employee who is engaged on the basis of a regular number of hours which are less than the full-time ordinary hours in accordance with Clause 19, Hours of Work, of this Award.
- (ii) Prior to commencing part-time work the employer and the employee shall agree upon the conditions under which the work is to be performed including:
 - (a) The hours to be worked by the employee, the days upon which they shall be worked and the commencing times for the work.
 - (b) The nature of the work to be performed.
 - (c) The rate of pay as paid in accordance with this Award
- (iii) The conditions may also stipulate the period of part-time employment.
- (iv) The conditions may be varied by consent.

- (v) The conditions or any variation to them must be in writing and retained by the employer. A copy of the conditions and any variations to them must be provided to the employee by the employer.
 - (a) Where it is proposed to alter a full-time position to become a part-time position such proposal shall be referred to the consultative committee for information.
 - (b) In such cases the employer and the employee shall agree upon the conditions, if any, of return to full-time work.
- (vi) A part-time employee may work more than their regular number of hours at their ordinary hourly rate by agreement. Where an employee works hours outside the spread of hours in clause 19, Hours of Work, of this Award, the provisions of clause 20, Overtime, shall apply.
- (vii) Part-time employees shall receive all conditions prescribed by the Award on a pro-rata basis of the regular hours worked. An adjustment to the accrued leave entitlements may be required at the conclusion of each service year based on the proportion of actual hours worked.
- (vii) Where a public holiday falls on a day where a part-time employee would have regularly worked the employee shall be paid for the hours normally worked on that day.
- (ix) A change to full-time employment from part-time employment or to part-time employment from full-time employment shall not constitute a break in the continuity of service. All accrued entitlements shall be calculated in proportion to the hours worked in each employment arrangement.

27. Casual Employment

- (i) A casual employee shall mean an employee engaged on a day to day basis.
- (ii)
 - (a) A casual employee shall not:
 - (1) replace an employee of the employer on a permanent basis; or
 - (2) be engaged by the employer on a permanent basis.
 - (b) An employee engaged under this clause for a period in excess of 12 months may request that the employer review the nature of their engagement.
 - (1) A review under subclause (ii)(b) shall examine whether or not the position is more appropriately filled by a permanent employee. In undertaking this review the employer shall have regard to the following matters:
 - the genuine operational reasons that align with the nature of the role;
 - the service requirements of the position;
 - the seasonal nature of the role;
 - if the position is contingent upon external funding; and
 - any other relevant matter.
 - (2) As a result of a review conducted under paragraph (ii)(b) an employee may be invited to apply for a permanent position with the employer.
- (iii) A casual employee shall be paid the hourly rate for ordinary hours worked in accordance with clause 19, Hours of Work.

- (iii) Casual employees who work on Saturday and/or Sunday are entitled to penalty rates prescribed by subclause 19B. The penalties are calculated on the ordinary hourly rate.
- (iv) Casual employees who work outside the relevant spread of hours identified at paragraphs 19C(i), (ii) and (iii) are entitled to a shift penalty. The penalty is calculated on the ordinary hourly rate.
- (v) Subject to paragraph 20A(viii), a casual employee will not be offered to work overtime in a position held by a permanent employee of the employer, if such permanent employee is available to work that overtime. Overtime shall be paid where a casual employee works outside the ordinary hours for that position. In cases where there are no ordinary hours for the position, overtime shall be paid for the hours worked in excess of those prescribed in Clause 19, Hours of Work.
- (vi) In addition to the amounts prescribed by subclause (iii) of this clause, a twenty-five percent loading, calculated on the ordinary hourly rate, shall be paid. This loading shall not attract any penalty. This loading shall be paid in lieu of all leave (including but not limited to annual leave, long service leave and sick leave) and severance pay, except for paid parental leave prescribed by the Award. Casual loading is not payable on overtime.
- (vii) Casual employees engaged on a regular and systematic basis shall:
 - (a) Have access to annual assessment under the employer's salary system.
 - (b) Have their service as a casual counted as service for the purpose of calculating long service leave where the service as a casual employee is continuous with their appointment to a permanent position on employer's structure. In calculating the long service leave entitlement in such cases there shall be a deduction of the long service leave accrued whilst the employee was employed as a casual.
- (viii) A casual employee shall not replace an employee of the employer on a permanent basis.
- (ix) Carer's entitlements shall be available for casual employees as set out in paragraph (viii) of subclause B, Carers Leave of clause 22, Leave Provisions, of this Award.
- (x) Bereavement entitlements shall be available for casual employees as set out in paragraph (v) of subclause 22J of this Award.

28. Job Share Employment

- (i) Job sharing is a form of part-time employment where more than one employee shares all the duties and responsibilities of one position.
- (ii)
 - (a) Job sharing shall be entered into by agreement between the employer and the employees concerned.
 - (b) Such agreement shall be referred to the consultative committee for information.
- (iii) The employer and the job sharers shall agree on the allocation of work between job sharers.
- (iv)
 - (a) The ordinary hours of work of the position shall be fixed in accordance with clause 19, Hours of Work, of this Award.
 - (b) The job sharers in conjunction with the employer shall agree on the hours to be worked. Such agreement shall specify the regular number of ordinary hours to be worked by each job sharer.
- (v)
 - (a) In the absence of a job sharer the remaining job sharer(s) may be required by the employer to relieve the absent job sharer provided the remaining job sharer(s) are reasonably available.

- (b) In such cases the relieving job sharer(s) shall be paid their ordinary rate of pay for the time relieving.
- (vi) A job sharer may work more than their regular number of hours at their ordinary hourly rate by agreement. Where an employee works hours outside the spread of hours in clause 19, Hours of Work, of this Award the provisions of clause 20, Overtime, shall apply.
- (vii) The employer must establish appropriate communication mechanisms between the job sharers to facilitate the handing over of tasks from one job sharer to another.
- (viii)
 - (a) Job sharers shall have access to all provisions of this Award including training and development.
 - (b) Job sharers shall receive pro-rata pay and conditions in proportion to the ordinary hours worked by each job sharer.
 - (c) An adjustment to accrued leave entitlements may be required at the conclusion of each service year based on the proportion of actual hours worked.
 - (d) A change to job sharing from full-time or part-time employment or from job sharing to full-time or part-time employment shall not constitute a break in the continuity of service. All accrued entitlements shall be calculated in proportion to the hours worked in each employment arrangement.
- (ix) In the event of a job sharer vacating the position the employer shall review the position and shall consider filling the vacancy or offering the remaining job sharer(s) increased hours.
- (x) The terms of a job share arrangement or any variation to it must be in writing. A copy of the arrangement and any variation to it must be provided to the job sharer(s) by the employer.

29. Labour Hire

- (i) Labour hire staff employed by a labour hire business shall not be engaged on a permanent basis in work functions ordinarily filled by permanent employees of the employer. In ensuring that labour hire staff are not engaged on a permanent basis the employer shall review the use of labour hire services on an annual basis.
- (ii) This clause does not apply to the employment of apprentices and/or trainees by a group training business.
- (iii) For the purpose of this clause:
 - (a) a "labour hire business" is a bona fide labour hire business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which supplies staff employed or engaged by it to the employer on an on-hire basis for the purpose of such staff performing work or services for that employer. Provided that a business is not a labour hire business if:
 - (1) the staff of that business are not performing the specific duties of a position(s) covered by the employer's organisation structure;
 - (2) the business is providing professional business services which cannot reasonably be fulfilled by the employer's employees, for a specified period of time or for a specific task (for example, legal, financial or accounting services);
 - (3) the business is a bona fide contractor providing both equipment and employees to the employer; or

- (4) the business is another entity covered by this Award.
- (b) a "group training business" is a bona fide group training 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 apprentices and/or trainees to the employer for the purpose of such staff performing work or services as an apprentice or trainee for that employer.
- (iv) Notwithstanding the provisions of subclause (i), the employer and the relevant union may agree in writing that the employer may replace an employee of the employer on a permanent basis with the employee of a labour hire business.

30. Multiple Employment

Where an employee is employed in a second position with the employer the second position shall, for all purposes of the Award, be regarded as a separate and distinct employment engagement from the original employment provided that:

- (i) the positions involve different duties or are in different work function areas; and
- (ii) the employee agreed to the employment in the second position.

31. Junior and Trainee Employment

A. GENERAL

- (i) The rates of pay specified in Band 1/Level 1 are actual not minimum rates.
- (ii) Employees engaged at the T3 rate of pay or above may be required to possess a Provisional or Class C Drivers Licence.

B. JUNIOR EMPLOYMENT

- (i) The rates of pay as provided in Band 1/Level 1 are payable to juniors (15-18 years old).
- (ii) A junior employee shall be appointed to Band 1/Level 1 according to either their age or educational qualification, whichever provides for the higher rate of pay.
- (iii) Progression along the scale is automatic up to and inclusive of T4, according to the employee's age.

C. TRAINEE EMPLOYMENT AND APPRENTICESHIPS

- (i) The rates of pay as provided for in Band 1/Level 1 are payable to employees undertaking entry level training.
- (ii) An employee shall be appointed to Band 1/Level 1 according to either their age or educational qualification, whichever provides for the higher rate of pay.
- (iii) Progression along the scale is not automatic but, is subject to successful completion of appropriate training modules and satisfactory service.
- (iv) If the employment is to be continued beyond the training period upon the successful completion of training, the employee shall proceed to the appropriate band and level in the structure.
- (v) In addition to the vocational training direction, the employer shall provide an apprentice with the conditions of the apprenticeship in writing and these conditions shall include:
 - (a) the term of the apprenticeship;

- (b) the course of studies to be undertaken by the apprentice;
- (c) the course of on the job training to be undertaken by the apprentice.

D. SCHOOL BASED TRAINEES AND APPRENTICES

- (i) The object of Part D of this clause is to assist persons who are undertaking a traineeship or apprenticeship under a training contract while also enrolled in the Higher School Certificate. Such school based traineeships/apprenticeships are undertaken at a minimum Certificate II Australian Qualifications Framework (AQF) qualification for traineeship level and a minimum Certificate III Australian Qualifications Framework (AQF) qualification for apprenticeship level as specified in the relevant Vocational Training Order pursuant to the *Apprenticeship and Traineeship Act 2001* (NSW).
- (ii) The hourly rates for school based trainees/apprentices for total hours worked including time deemed to be spent in off-the-job training shall be calculated by dividing the applicable weekly rate for full time apprentices as set out in Band 1/Level 1 by 38 or 35 in accordance with clause 19, Hours of Work.
- (iii) For the purpose of subclause (ii), where a school based trainee/apprentice is a full time school student, the time spent in off-the-job training for which the school based trainee/apprentice is paid is deemed to be 25 per cent of the actual hours worked on-the-job each week. The wages paid for training time may be averaged over the school term or year.
- (iv) School based trainees/apprentices progress through the rates of pay set out in Band 1/Level 1 subject to successful completion of appropriate training modules and satisfactory service.
- (v) Except as provided by this Award, school-based trainees/apprentices are entitled to pro rata entitlements of all other conditions of employment.

E. GOVERNMENT FUNDED TRAINEESHIPS

- (i)
 - (a) Part E of this clause does not apply to apprentices or trainees who are already trained and job ready.
 - (b) A government funded traineeship shall not commence until the relevant Training Agreement has been registered with the relevant State Training Authority.
 - (c) Trainees shall not displace existing employees from employment.
- (ii)
 - (a) Except as in hereinafter provided, all other terms and conditions of this Award shall apply.
 - (b) Nothing in this subclause shall be taken to replace the prescription of training requirements for all other employees bound by this Award.
- (iii) The trainee shall attend an approved training course or training program prescribed in the Training Agreement or as notified to the trainee by the relevant State Training Authority in accredited and relevant Traineeship Schemes.
- (iv) The employer shall ensure that the trainee is permitted to attend the training course or program provided for in the Training Agreement and shall ensure that the trainee receives the appropriate on-the-job training in accordance with the Training Agreement.
- (v) The employer shall provide a level of supervision in accordance with the Training Agreement during the traineeship period.

- (vi) The trainee shall be permitted to be absent from work without loss of continuity of employment and/or wages to attend the training in accordance with the Training Agreement.
- (vii) A full-time trainee shall be engaged for a maximum of one year's duration, except in respect of AQF III and AQF IV traineeships which may extend up to two years full time, provided that a trainee shall be subject to a satisfactory probation period of up to one month which may be reduced at the discretion of the employer. By agreement in writing, and with the consent of the relevant State Training Authority, the relevant employer and the trainee may vary the duration of the Traineeship and the extent of approved training provided that any agreement to vary is in accordance with the relevant Traineeship Scheme.
- (viii) Where the trainee completes the qualification in the Training Agreement earlier than the time specified in the Training Agreement then the traineeship may be concluded by mutual agreement.
- (ix)
 - (a) The employer shall not terminate the trainee's service without providing written notice of termination in accordance with the training agreement and subsequently to the relevant State Training Authority as appropriate.
 - (b) Where the employer chooses not to continue the employment of a trainee upon the completion of the traineeship, it shall notify the relevant state training authority as appropriate, of its decision.
- (x) A trainee who fails to complete the traineeship or who cannot for any reason be placed in full-time employment with the employer on the successful completion of the traineeship, shall not be entitled to any severance payments payable pursuant to termination, change or redundancy provisions or provisions similar thereto.
- (xi) Where the employment of a trainee by the employer is continued after the completion of the traineeship period, such traineeship period shall be counted as service with the employer for the purposes of this Award or any other legislative entitlements.
- (xii) Wages:
 - (a) The weekly amount of pay payable to trainees shall be as provided in Table 1 of Part B, Traineeship Rates, of this Award.
 - (b) The trainee wage rates contained in this Award are minimum rates and shall only apply to trainees while they are undertaking an approved traineeship which includes approved training as prescribed above.

32. Training and Development

- (i) The parties to this Award recognise that increasing the efficiency and productivity of the industry requires an ongoing commitment to education, training and skill maintenance, development and enhancement. Accordingly, the parties commit themselves to:
 - (a) developing a more highly skilled and flexible workforce
 - (b) providing employees with opportunities through appropriate education and training to acquire additional skills and
 - (c) removing barriers to the utilisation of skills in accordance with employers' training plans.
- (ii)
 - (a) All employees shall have reasonable and equitable access to education and training, such education and training shall:

- (1) be consistent with the employer's training plan
 - (2) enable employees to acquire the range of skills they are required to apply in their positions
 - (3) enhance employees' opportunities for career path development and mobility through employer's organisation structures, through participation in the employers' training plans.
 - (4) Employees who are required to either hold professional qualifications or complete further professional qualifications and whose positions are evaluated in Band 3 or Band 4 of this Award, shall have access to continuing professional development (CPD) that is consistent with the training plan for their position as follows:
 - (i) 10 hours per annum, or
 - (ii) in accordance with legislated CPD requirements,
whichever is the greater.
- (b) Nothing in this clause prevents an employer and employee from agreeing to additional CPD training.
- (iii) Training Plan and Budget
- (a) The employer shall develop a training plan and budget consistent with:
 - (1) the current and future skill requirements of the employer.
 - (2) the size, structure and nature of the operations of the employer.
 - (3) the need to develop vocational skills relevant to the employer and the Local Government industry.
 - (b) In developing the training plan, the employer shall have regard to corporate, departmental and individual training needs.
 - (c) The training plan shall be designed in consultation with the consultative committee.
 - (d) The training plan shall, where appropriate, provide for training that is consistent with the relevant National Training Package.
 - (e) The training plan, shall provide for the assessment and recognition of employee's current competencies where possible.
 - (f) Selection of participants to receive the employer's required training in accordance with employer's training plan is to be based on merit and the needs of the employee as identified in the employee's performance appraisal.
- (iv) If an employee is required by the employer to undertake training in accordance with the employer's training plan:
- (a) the employer shall grant the employee paid leave to attend course requirements, including examinations, where the training is undertaken during ordinary working hours;
 - (b) where the course requirements contain more than a 15% off-the-job component calculated over any 12 month period the extent to which the employer will grant paid leave to attend such course requirements shall be specified in the training plan;
 - (c) the employer shall pay course fees at the commencement of each stage but shall not pay course fees if the employee is repeating;

- (d) the employer shall either provide transport or pay reasonable travelling expenses to enable employees to attend course requirements;
 - (e) reasonable travel arrangements shall be agreed; and
 - (f) where an employee is required to complete major assignment(s) the employer and the employee shall agree upon appropriate flexible work and study arrangements as are practicable.
- (v) The employer may grant an employee undertaking a course consistent with the employer's training plan, although not at the employer's requirement, leave with pay or leave without pay to attend course requirements provided that the employee gives reasonable notice of such requirements. Where the employee is not granted such leave the employer shall give preference in granting annual leave or other accrued leave to attend course requirements provided that the employee gives reasonable notice of such requirements. The employer may pay course fees at its discretion.
- (vi) The parties shall continue to engage with the VET system to ensure that the skills needs of local government are addressed in training package development.

33. Consultative Committees

A. AIM

The parties to the Award are committed to consultative and participative processes. There shall be a consultative committee at each employer which shall:

- (i) provide a forum for consultation between the employer and its employees that encourages a free and open exchange of views;
- (ii) positively co-operate in workplace reform to enhance the efficiency and productivity of the employer and to provide employees with access to career opportunities and more fulfilling, varied and better paid work.

B. SIZE AND COMPOSITION

- (i) The size and composition of the consultative committee shall be representative of the employer's workforce and agreed to by the employer and the local representatives from the following unions: USU; depa and the LGEA and such agreement shall not be unreasonably withheld.
- (ii) The consultative committee shall include but not be limited to employee representatives of each of the unions who have members employed at the employer.
- (iii) Officers of the union(s) or Association(s) may attend and provide input to meetings of the consultative committee, at the invitation of the consultative committee or their respective members.

C. SCOPE OF CONSULTATIVE COMMITTEES

- (i) The functions of the consultative committee include:
 - (a) Award implementation
 - (b) training
 - (c) consultation with regard to organisation restructure
 - (d) job redesign
 - (e) salary systems
 - (f) communication and education mechanisms

- (g) performance management systems
 - (h) changes to variable working hours arrangements for new or vacant positions
 - (i) local government reform
 - (j) proposed variations to leaseback vehicle arrangements
 - (k) health and wellbeing programs.
- (ii) The consultative committee shall not consider matters which are being or should be processed in accordance with Award clause 36, Grievance and Disputes Procedures.

D. MEETINGS AND SUPPORT SERVICES

- (i) The consultative committee will make recommendations based upon consensus. Where there is no consensus on a particular item, the recommendation to the employer should note the dissenting views.
- (ii) The consultative committee shall meet as required.

34. Appointment and Promotion

- (i) Where an employer is required by section 348 of the *Local Government Act 1993* (NSW) to advertise a position within the organisation structure of the Council, prior to advertising the position externally, the Council may consider advertising the position internally if such an approach enables suitably qualified persons to apply for the position.
- (ii) Where an internal applicant has applied for a new or vacant position and their application is unsuccessful, the employee may:
 - (a) request in writing the reason(s) as to why they were not appointed, and upon such request, the employer shall provide the reason(s) in writing; and
 - (b) request a review of their individual education and training needs.

35. Term Contracts

- (i) The employer may only employ a person on a term contract of employment in the following situations:
 - (a) for the life of a specific task or project that has a definable work activity, or
 - (b) to perform the duties associated with an externally funded position where the length of the employment depends on the length of the funding, or
 - (c) to perform the duties associated with a vacant position until the vacant position is filled on a permanent basis, provided that the duration is no longer than is reasonably necessary to undertake recruitment for the vacant position, or
 - (d) to temporarily replace an employee who is on approved leave, secondment, workers compensation, acting in a different position or working reduced hours under a flexible work and leave arrangement, or
 - (e) to undertake training and work as part of an apprenticeship, traineeship or student work experience program in conjunction with an education institution, or
 - (f) to trial a new work area, provided that the duration is no longer than is reasonably necessary to trial the new work area, or

- (g) to perform the duties associated with a vacant position during the intervening period between when the employer has made a definite decision to introduce major changes in production, program, organisation structure or technology that are likely to have significant effects on the employment in the vacant position and the date that the changes are implemented; or
 - (h) to accommodate time limitations imposed by law or sought by the employee (e.g. visa restrictions); or
 - (i) to perform seasonal work (also see subclause 21E(xi) of this Award).
- (ii) As of the first full pay period on or after 1 July 2020, employers shall identify in the letter of offer/contract of employment offered to a prospective employee, and the position description (where appropriate), the relevant situation identified in subclause (i) above that gives rise to employment pursuant to a fixed or maximum term contract.

36. Grievance and Dispute Procedures

- (i) At any stage of the procedure, the employee(s) may be represented by their union or its local representative/delegate and the employer represented by the Association.
- (ii) The union delegate shall have reasonable time, without loss of pay, to discuss a grievance, dispute, or concern regarding workplace bullying with management at the local level where prior approval is sought. Such approval shall not be unreasonably withheld.
- (iii) A grievance or dispute shall be dealt with as follows:
 - (a) The employee(s) shall notify the supervisor, or other authorised officers of any grievance or dispute and the remedy sought, in writing.
 - (b) A meeting shall be held between the employee(s) and the supervisor to discuss the grievance or dispute and the remedy sought within two working days of notification.
 - (c) If the matter remains unresolved, the employee(s) may request the matter be referred to the head of the department or other authorised officer for discussion. A further meeting between all parties shall be held as soon as practicable.
 - (d) If the matter remains unresolved the general manager shall provide the employee(s) with a written response. The response shall include the reasons for not implementing any proposed remedy.
 - (e) Where the matter remains unresolved, it may be referred to the employee's union or representative and by the general manager or other authorised officer to the Association for further discussion between the parties.
- (iv) The Industrial Registrar may be advised of the existence of a dispute at any stage of this procedure.
- (v) During this procedure and while the matter is in the course of negotiation, conciliation and/or arbitration, the work practices existing prior to the dispute shall as far as practicable proceed as normal. Nothing in this clause shall prevent the employer from temporarily adjusting work practices, where appropriate, to eliminate or control work, health and safety risks.

37. Disciplinary Procedures

A. EMPLOYEE'S RIGHTS

Notwithstanding the procedures below, an employee shall:

- (i) Have access to their personal files and may take notes and/or obtain copies of the contents of the file.

- (ii) Be entitled to sight, note and/or respond to any information placed on their personal file which may be regarded as adverse.
- (iii) Be entitled to make application to delete or amend any disciplinary or other record mentioned on their personal file which the employee believes is incorrect, out-of-date, incomplete or misleading.
- (iv) Be entitled to request the presence of a union representative and/or the involvement of their union at any stage.
- (v) Be entitled to make application for accrued leave for whole or part of any suspension during the investigation process.

B. EMPLOYER'S RIGHTS AND OBLIGATIONS

Notwithstanding the procedures contained below, the employer shall:

- (i) Be entitled to suspend an employee with or without pay during the investigation process provided that:
 - (a) the suspension shall not be for longer than is reasonably necessary to conduct a proper investigation.
 - (b) the suspension shall be limited to circumstances where suspected unsatisfactory work performance or conduct, if substantiated, would constitute a serious breach of the employer's code of conduct, policies, procedures, or the employee's contract of employment.
 - (c) suspension without pay during an investigation shall be for a period of not more than two weeks, except where the progress of the investigation is delayed due to the unavailability of the employee and/or their representative in which case the period of suspension without pay may be extended for a further period of up to 7 days or such greater period by agreement.
 - (d) If, after investigation, the reasons for the suspension are found to be inappropriate, the employee shall not suffer any loss of pay for the period under suspension.
 - (e) The suspension shall not affect the employee's continuity of service for the purposes of accruing leave entitlements.
 - (f) The employer shall not unreasonably refuse an application for paid leave under this provision.
 - (g) By agreement an employee may be transferred to another position or place of work.
- (ii) Be entitled to request the presence of an Association and/or union representative at any stage.

C. WORKPLACE INVESTIGATIONS

- (i) The parties to the Award have agreed on guidelines ("guidelines") concerning workplace investigations.
- (ii) Failure to comply with the guidelines may be used as evidence that a person or employer has failed to properly conduct or speedily conclude a workplace investigation. However, a person or employer cannot be prosecuted only because of a failure to comply with the guidelines.
- (iii) Upon becoming aware of possible unsatisfactory work performance or conduct by an employee the employer may decide to investigate.
- (iv) Workplace investigations are a process by which employers gather information to assist the employer to make an informed decision. Workplace investigations typically involve enquiring, collecting information and ascertaining facts.

- (v) When deciding whether to investigate possible unsatisfactory work performance or conduct, factors that the employer should consider include:

The seriousness of the possible unsatisfactory work performance or conduct;

How recent the possible unsatisfactory work performance or conduct occurred;

Potential implications in not undertaking an investigation;

Whether there have been concerns, threats or allegations made against the employee previously by any complainant;

Whether the complaint itself has been copied to others, thereby indicating that any allegation about work performance or conduct may be vexatious, punitive or harassment; and

Whether there are any mitigating factors (for example drug/alcohol dependency, health issues including mental health issues, or family/domestic violence issues).

- (vi) Employers shall properly conduct and speedily conclude workplace investigations concerning possible unsatisfactory work performance or conduct.

D. DISCIPLINARY PROCEDURES

- (i) Where an employee's work performance or conduct is considered unsatisfactory, the employee shall be informed in the first instance of the nature of the unsatisfactory performance or conduct and of the required standard to be achieved, by the employee's immediate supervisor or other appropriate officer of the employer. The employer and employee will discuss the reason(s) for the unsatisfactory work performance or conduct including matters external to the workplace, and, where appropriate, measures to assist the employee to improve their work performance or conduct. Such measures may include, for example, training, counselling and provision of an Employee Assistance Program (EAP).
- (ii) Unsatisfactory work performance or conduct shall include, but not be limited to, neglect of duties, breach of discipline, absenteeism and non-compliance with safety standards. A written record shall be kept on the appropriate file of such initial warning. The employee shall be entitled to sight and sign such written record and add any notations regarding the contents of such record.
- (iii) Where there is re-occurrence of unsatisfactory work performance or conduct, the employee shall be warned formally in writing by the appropriate officer of the employer and counselled. Counselling should reinforce the standard of work or conduct expected and, where the employee is failing to meet these required standards, a suitable review period for monitoring the employee's performance; the severity of the situation; and whether disciplinary action will follow should the employee's work performance or conduct not improve. A written record shall be kept of such formal warning and counselling. The employee shall be entitled to sight and sign such written record and add any notations regarding the contents of such record.
- (iv) If the employee's unsatisfactory work performance or conduct continues or resumes following the formal warning and counselling, the employee shall be given a final warning in writing giving notice of disciplinary action should the unsatisfactory work performance or conduct not cease immediately.
- (v) If the employee's work performance or conduct does not improve after the final warning further disciplinary action may be taken.
- (vi) All formal warnings shall be in writing.
- (vii) Delegates shall be provided reasonable time without loss of pay, to represent members in disciplinary matters at the local level, provided prior approval is sought. Such approval shall not be unreasonably withheld.

E. PENALTIES

- (i) After complying with the requirements above, the employer may:
 - (a) Demote the employee to a lower paid position or a lower salary point/step provided that the employee shall not suffer a reduction in the rate of pay for 2 weeks from the date of the demotion.
 - (b) Suspend the employee without pay from work for a specified period of time.
 - (c) Terminate the employment of the employee in accordance with Clause 40, Termination of Employment, of this Award.
- (ii) Notwithstanding the above, the employer may take appropriate disciplinary action before and/or during the procedures in subclause 37D in cases of misconduct or where the employee's performance warrants such action.

38. WORK HEALTH AND SAFETY**A. STATEMENT OF INTENT**

The parties to the Award are committed to co-operating positively to:

- (i) promote the safety and welfare of workers and other people in the workplace;
- (ii) eliminate unsafe work practices; and
- (iii) ensure that employers and employees understand and comply with their obligations under the *Work Health and Safety Act 2011 (NSW)*, *Work Health and Safety Regulation 2011 (NSW)* and associated codes of practice.

B. SPECIFIC PROVISIONS

In the case of extreme and unusual weather conditions which could be assessed as hazardous, employers will review and conduct a risk assessment to determine what action, if any, needs to be put in place to minimise unnecessary exposure and risks to its employees during such unusual occurrences.

C. FURTHER INFORMATION AND RESOURCES

Further information and resources are available from the following organisations:

- (i) Workcover NSW: www.workcover.nsw.gov.au
- (ii) Safe Work Australia: www.safeworkaustralia.gov.au

39. Workplace Bullying

- (i) The parties to the Award are committed to:
 - (a) eliminating bullying in the workplace; and
 - (b) pursuing legislative change to give the Industrial Relations Commission of New South Wales the power to make any order it considers appropriate (other than an order requiring payment of a pecuniary penalty amount) to prevent workers from being bullied at work.
- (ii) 'Bullying' shall mean conduct at work where a person or group of people repeatedly act unreasonably towards an employee or group of employees, and that behaviour creates a risk to health and safety.

- (a) Bullying behaviour may involve, but is not limited to, any of the following types of behaviour:
- Aggressive, threatening or intimidating conduct;
 - Belittling or humiliating comments;
 - Spreading malicious rumours;
 - Teasing, practical jokes or ‘initiation ceremonies’;
 - Exclusion from work-related events;
 - Unreasonable work expectations, including too much or too little work, or work below or beyond an employee’s skill level;
 - Displaying offensive material; and
 - Pressure to behave in an inappropriate manner.
- (iii) Reasonable management action carried out in a reasonable manner shall not constitute bullying behaviour.
- (a) Examples of reasonable management action may include, but are not limited to:
- Performance management practices;
 - Disciplinary action for misconduct;
 - Informing an employee about unsatisfactory work performance or inappropriate work behaviour;
 - Directing an employee to perform duties in keeping with their job;
 - Maintaining reasonable work goals and standards;
 - Legitimately exercising a regulatory function; and
 - Legitimately implementing a council policy or administrative process.

Where bullying behaviour is alleged, the grievance and dispute procedures of clause 36 will apply.

40. Termination of Employment

- (i)
- (a) An employee in Operational Band 1 or the Administrative/Technical Trades Band 2 shall give to the employer two (2) weeks’ notice of their intention to terminate their employment.
- (b) The notice of intention to terminate for an employee in Professional/Specialist Band 3 or Executive Band 4 of the Award shall be the same as that required of the employer in subclause (iv) of this clause.
- If no such notice is provided, the employer shall be entitled to deduct pay equivalent to the required notice from any entitlements payable under this Award.
- (ii) The employer and an employee may agree to a shorter period of notice for the purpose of this subclause.

- (iii) In cases of serious misconduct, the employer may summarily dismiss an employee following a proper investigation and provided the employee is afforded procedural fairness. Where an employee is summarily dismissed, subclause (iv) shall not apply.
- (iv) The employer shall give to an employee a period of notice of termination in accordance with the following scale or by payment in lieu thereof:

EMPLOYEE'S PERIOD OF CONTINUOUS SERVICE	PERIOD OF NOTICE
Less than 2 years	At least 2 weeks
2 years and less than 3 years	At least 3 weeks
3 years and less than 5 years	At least 4 weeks
5 years and beyond	At least 5 weeks

- (v) The provision of this clause shall be read subject to the provisions of Clause 41, Workplace Change, of this Award.

41. Workplace Change

(i) Definitions

- (a) In this clause:

"Significant effects include:

termination of employment; or

major changes in the composition, operation or size of the employer's workforce or in the skills required; or

the loss of or reduction in, job or promotion opportunities or job tenure; or

the alteration of hours of work; or

the need for employees to be retrained or transferred to other work or locations; or

job restructuring.

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

(ii) Pre-Proposal Stage

- (a) An employer may consult with relevant employees and/or unions, where appropriate, when developing options for proposed workplace change.
- (b) Consultation under subclause (ii)(a) does not need to occur in writing.

(iii) Proposal Stage

- (a) Employer's duty to notify a proposed workplace change that is likely to have significant effects - Subject to the exceptions identified at subclause (v) of this clause, where the employer proposes a workplace change that is likely to have significant effects, the employer shall provide notice in writing and transmitted electronically (where available), to the employees who may be affected by the proposed change and the unions to which they belong at least twenty-eight (28) days prior to making a definite decision.

- (b) Notice of proposed workplace change under paragraph (ii)(a) shall include:
- (1) the nature of the proposed change;
 - (2) the reasons for the proposed change;
 - (3) the positions likely to be affected; and
 - (4) such other information as is reasonable in the circumstances.
- (c) Employer's duty to discuss proposed workplace change - The employer shall discuss with the employees likely to be affected and the unions to which they belong, what effects the proposed change is likely to have on the employees and any alternative proposals. The employer shall give prompt consideration to matters raised by the employees and their unions in relation to the proposed change. These discussions shall commence as early as practicable.
- (d) The employers shall provide all relevant information to the employees and the union to which they belong.
- (e) The employers may reconsider the original proposed workplace change.
- (f) Competitive tendering - Where employees who are adversely affected by the proposed changes request the employer's assistance to submit an in-house bid and the employer refuses that request, the employer shall provide the reasons in writing.
- (iv) Decision and Implementation Stage
- (a) Employer's duty to notify a definite decision that has significant effects - Subject to the exceptions identified at subclause (v) of this clause, where the employer has made a definite decision to introduce major workplace change that has significant effects on employees, the employer shall provide notice in writing and transmitted electronically (where available), to the employees who will be affected by the change and the unions to which they belong at least seven (7) days before a definite decision is implemented.
- (b) The purpose of the Decision and Implementation Stage is for the employer to discuss with affected employees and the unions to which they belong, measures to minimise or mitigate the adverse effects of the definite decision. At this Stage the employer is not bound to give any further consideration to matters raised by the employees and their unions in relation to the proposed workplace change.
- (c) Notice of a definite decision under paragraph (iv)(a) shall include (where applicable):
- (1) the nature of the definite change;
 - (2) the reasons for the definite change;
 - (3) the positions to be affected;
 - (4) in the case of termination of employment:

The number and category of employees whose employment is to be terminated;
and

The period over which the terminations are likely to be carried out;
 - (5) such other information as is reasonable in the circumstances.

- (d) Employer’s duty to discuss - The employer shall discuss with the employees affected and the unions to which they belong, measures to avert or mitigate any adverse effects of the change on employees and shall give prompt consideration to matters raised by employees and their unions.
- (e) The discussions shall take place as soon as practicable after the employer has made a definite decision and shall cover measures to avoid or minimise any adverse effects on the employees. Measures to mitigate adverse effects on employees may include, consideration of re-training opportunities; redeployment (including redeployment into positions occupied by casual and labour hire staff); recruitment advice; the payment of relocation allowances; provision of additional notice; access to an employee assistance program; financial advice and such other assistance as may be reasonably available.
- (f) Implementation - Subject to subclause (v) of this clause, the employer shall not implement a definite decision to introduce major workplace change that has significant effects on employees until the obligations under paragraphs (iv)(a) and (iv)(d) of this clause have been met.

(v) Exceptional circumstances

- (a) Notwithstanding the provisions of subclauses (iii) and (iv) of this clause, workplace change may be implemented in accordance with the timelines in column B that relate to the circumstances set out in column A in the table below:

A	B
If affected employees consent to workplace change	Immediately
If all unions with coverage of the affected employees consent to the workplace change	Immediately
Exceptional Circumstances	14 days after the provision of Written Notice

- (b) For the purpose of this subclause Exceptional Circumstances refers to workplace change that is the result of something that is unexpected and beyond the employer’s control that results in a significant loss of funding for positions or no useful work for employees in the foreseeable future.
- (c) For the purpose of this subclause Written Notice means notification that is in writing and transmitted electronically (where available) to the employees affected by the change and the unions to which they belong. The Written Notice shall include (where applicable):
 - (1) the nature of the definite change;
 - (2) the reasons for the definite change;
 - (3) the positions to be affected;
 - (4) in the case of termination of employment:

The number and category of employees whose employment is to be terminated;
and

The period over which the terminations are likely to be carried out;

- (5) such other information as is reasonable in the circumstances.

42. Termination of Employment and Redeployment Due to Redundancy

(i) Notice of Termination

- (a) Where the employer terminates an employee’s employment due to redundancy, the employer shall provide the employee with notice of termination as following:

- (1) Subject to subparagraph (i)(a)(2) of this clause, five (5) weeks' notice to terminate or pay in lieu thereof; or
- (2) Where the employee's employment is terminated because of the introduction of technology, three (3) months' notice to terminate or pay in lieu thereof,

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

- (b) Notice or payment of notice under this paragraph shall be deemed to be service with the employer for the purposes of calculating leave entitlements under this Award.

(ii) Notice to Centrelink

Where a decision has been made to terminate fifteen (15) or more employees for reasons of an economic, technological, structural or similar nature, or for reasons including such reasons, the employer shall notify Centrelink as soon as possible giving relevant information as provided at section 530 of the *Fair Work Act 2009* (Cth).

(iii) Severance Pay

- (a) This subclause shall apply where an employee is terminated due to redundancy except where the employee concerned has been offered, but has refused to accept, an alternative position within the employer's organisation structure of comparable skill and accountability levels and remuneration no less than the position previously held by the employee.
- (b) In addition to any required period of notice, and subject to subclause (i) of this Clause, the employee shall be entitled to severance pay as follows:

COMPLETED YEARS OF SERVICE WITH THE EMPLOYER	ENTITLEMENT
Less than 1 year	Nil
1 year and less than 2 years	5 weeks pay
2 years and less than 3 years	9 weeks pay
3 years and less than 4 years	13 weeks pay
4 years and less than 5 years	16 weeks pay
5 years and less than 6 years	19 weeks pay
6 years and less than 7 years	22 weeks pay
7 years and less than 8 years	25 weeks pay
8 years and less than 9 years	28 weeks pay
9 years and less than 10 years	31 weeks pay
10 years and thereafter	34 weeks pay

- (iv) An employee who resigns during the period of notice is entitled to the same redundancy payments provided in this clause as if they had remained in the employer's employment until the expiry of the notice period.
- (v) During a period of notice of termination given by the employer, an employee shall be allowed up to one day off without loss of pay during each week of notice for the purpose of seeking other employment. Where required by the employer the employee shall provide proof of attendance at an interview.
- (vi) A redundant employee shall be entitled to the payment of a job search allowance of up to the rate set out in Table 2 of Part B of this Award to meet expenses associated with seeking other employment subject to proof of expenditure or on production of an invoice, and/or other appropriate documentation. The employee's entitlement to claim the job search allowance is limited to a period of up to 12 months from their termination of service with the employer or until the employee secures alternative employment, whichever is the sooner.

- (vii) If the employee agrees to be redeployed by the employer into a lower paid position, the employee's existing salary and conditions shall be maintained for a period equivalent to the amount of notice and severance pay that the employee would be entitled to under this Award. Provided that should the employee resign during the period of salary maintenance, as provided for by this subclause, the balance of any notice and severance pay that the employee would have been entitled to for the remainder of the period of salary maintenance shall be paid on termination.
- (viii) The employer shall, upon receipt of a request from an employee to show employment has been terminated, provide to the employee a written statement specifying the period of the employee's employment and the classification or the type of work performed by the employee.
- (ix) The employer shall, upon receipt of a request from an employee whose employment has been terminated, provide to the employee an "Employment Separation Certificate" in the form required by the Department of Human Services.
- (x) In the event that the employer determines that a position is redundant, the employer where practicable, shall firstly offer such redundancy on a voluntary basis.
- (xi) Nothing in this Award shall be construed so as to require the reduction or alteration of more advantageous benefits or conditions which an employee may be entitled to under any existing redundancy arrangement, taken as a whole, between the industry unions and the employers bound by this Award.
- (xii) Subject to an application by the employer and further order of the Industrial Relations Commission of New South Wales, the employer may pay a lesser amount (or no amount) of severance pay than that contained in subclause (iii) above if the employer obtains acceptable alternative employment for an employee.
- (xiii) Nothing in this clause shall restrict an employee with ten years' service or more and the employer from agreeing to further severance payments.
- (xiv) Nothing in this clause restricts the elected council and/or general manager from exercising their right under the *Local Government Act 1993* (NSW) to determine and/or re-determine the organisation structure from time to time, and to implement such determinations.

43. Council Agreements

- (i) The parties agree to review operations at the council level on an ongoing basis with a view to providing enhanced flexibility and efficiency and to meet the particular working needs of the employer and its employees.
- (ii) The terms of any agreement reached between the parties shall substitute for the provisions of the Award provided that:
 - (a) the extent of the agreement shall be limited to the Award's Clause 10, Performance Evaluation and Reward; Clause 12, Payment of Employees; Clause 16, subclauses (x) and (xi), Travelling and Camping Allowances; Clause 19, Hours of Work; Clause 20, Overtime; Clause 21, Holidays; Clause 26, Part-Time Employment; and Clause 28, Job Share Employment.
 - (b) the agreement does not provide less than the entry level rates of pay;
 - (c) the agreement is consistent with the *Industrial Relations Act 1996* (NSW) and current wage fixing principles; and
 - (d) the agreement shall be processed in accordance with subclause (iii) of this clause. Provided further that, where the agreement proposes to vary award provisions other than those nominated in paragraph (a) above, the agreement shall be processed in accordance with the Principles for Approval of Enterprise Agreements.

- (iii) A council agreement shall be processed as follows:
- (a) the unions shall be notified prior to the commencement of negotiations;
 - (b) the agreement has been genuinely arrived at by negotiation without compulsion;
 - (c) the agreement shall be committed to writing and shall include a date of operation and a date of expiration;
 - (d) the employer and the appropriate union(s) shall sign the agreement and a copy sent to the Association;
 - (e) Any party to a council agreement may at any stage during the above process refer the matter to the Industrial Relations Commission of NSW.
- (iv)
- (a) Section 44 of the *Industrial Relations Act 1996* (NSW) relating to the termination of enterprise agreements shall apply to the termination of council agreements made in accordance with this clause, and a council agreement may be terminated in the same manner as an enterprise agreement.
 - (b) Where a council agreement is terminated at or after the end of its nominal term by the giving of written notice to each other party to the agreement, at least three (3) months' notice shall be given. The notice may be served before the end of the nominal term.
 - (c) Termination of a council agreement is not effective until all of the parties to the agreement have been given written notice of the approval to terminate or of service of the notice of intention to terminate.

44. Savings and Transitional

- (i) The employer must ensure that employees engaged on incremental scales on or before 8 June 1992, continue to be paid in accordance with the incremental scales as adjusted. This subclause does not apply in the following circumstances:
- (a) if the employer has an operative training plan which is sufficient to allow progression at least equal to that under the previous incremental scales;
 - (b) if an employee chooses not to undertake training consistent with the employer's training plan; and
 - (c) if the incremental scale provides a rate of pay less than the Award entry level rate of pay.
- (ii)
- (a) No employee shall receive a reduction in pay as a result of the implementation of this Award or transfer to a salary system.
 - (b) Unless otherwise agreed, employees, including seasonal workers, who are in regular receipt of penalty rates and/or shift penalties, aggregate rates of pay or other arrangements that compensate for hours of work shall either continue to receive such benefits or the payments prescribed by clause 18, whichever is the higher.
 - (c) The provisions in paragraph (ii)(b) shall apply where council and enterprise agreements are terminated.
 - (d) The provisions in paragraph (ii)(b) shall apply in addition to the Award increases prescribed by clause 46.

- (iii) Where employees, employed in areas where the employer's office is situated upon or to the west of a line starting from a point on the right bank of the Murray River opposite Swan Hill (Victoria), thence by straight lines passing through the following towns or localities in the order stated, viz: Conargo, Argoon, Hay, Rankin's Springs, Marsden, Condobolin, Peak Hill, Nevertire, Gulargambone, Coonabarabran, Narrabri, Moree, Warialda, Ashford and Bonshaw; at the time of making this Award had an entitlement to receive one week's leave of absence with pay in addition to the annual leave provided at subclause 22D(i) of this Award, the employee shall retain this entitlement whilst still employed by the employer at which they were working at the time of the making this Award.
- (iv)
- (a) West of the Line Allowance
- Where employees of the undermentioned council areas and those employers situated to the west thereof at the time of making this Award were paid at the rate per week as set out in Table 2 of Part B in addition to their rate of pay, those employees shall retain this entitlement whilst they continue to be employed by the employer at which they were working, at the time of the making of this Award; Moree Plains, Walgett, Narrabri, Coonamble, Warren, Lachlan, Carrathool, Leeton, Murrumbidgee, Windouran, Murray and Griffith.
- (b) Climatic Allowance
- Where employees working within the area bounded by the Shires of Snowy River, Tumut and Tumbarumba at the time of the making of this Award, were paid per week as set out in Table 2 of Part B or part thereof, those employees shall retain this entitlement whilst still employed by the employer at which they were working, at the time of the making of this Award.
- (c) In addition to what is provided in paragraphs (a) and (b) of this subclause, the allowances shall be paid to those employees during periods of absence on paid sick leave, public holidays and annual leave, but not otherwise.
- (v) Where an employee prior to 11 May 1995, had an entitlement to transfer accumulated sick leave from one employer to another employer in New South Wales, under the Local Government Senior Officers' Award the employee shall retain this entitlement.
- (vi) The implementation of this Award shall not result in the removal of any existing arrangement for an additional payment made by the employer for the payment of wages, excepting when such payment relates to FID.
- (vii) Where an on-call employee has been paid a minimum payment for a public holiday on a regular basis, such arrangements shall continue, unless otherwise agreed.
- (viii) Where a casual employee engaged in a position on a regular and systematic basis has been paid casual loading on overtime prior to 1 November 2007, such arrangements shall continue while such employee is engaged in that position, unless otherwise agreed.

45. Leave Reserved

- (i) Leave is reserved for the parties to the Award to apply to vary tool allowances as set out in paragraph 16(vi)(a) and compensation of tools as set out in paragraph 16(vi)(d) of this Award in line with the Crown Employees (Skilled Trades) Award.
- (ii) Following any adjustment to the federal Local Government Industry Award 2010, leave is reserved for the parties to apply to amend the vehicle allowances as set out in paragraph 17A(i), paragraph 17A(iii) and paragraph 16(x)(j) of this Award to reflect such adjustment. The relevant adjustment factor for this purpose is the percentage movement in the index figure published by the Australian Bureau of Statistics for Eight Capitals, private motoring sub-group (Cat No 6401.0).
- (iii) Following any adjustment to the federal Local Government Industry Award 2010, leave is reserved for the parties to apply to amend the meal allowance set out in subclause 16(xiv) to reflect such adjustment.

The relevant adjustment factor for this purpose is the percentage movement in the index figure published by the Australian Bureau of Statistics for Eight Capitals, take away and fast foods sub-group (Cat No 6401.0).

- (iv) Leave is reserved for the parties to the Award to apply to vary the traineeship wage rates in paragraph 31E(xii) in accordance with the pay scales derived from the federal Local Government Industry Award 2010.
- (v) Leave is reserved for the parties to the Award to apply to vary Clause 31, Junior and Trainee Employment, to reflect industry training needs.
- (vi) Leave is reserved for the parties to apply to vary the Award consistent with the principles of the Industrial Relations Commission of New South Wales in relation to the accreditation of employees by the Building Professionals Board.
- (vii) Leave is reserved for the parties to apply to vary the Award to reflect legislative changes that relate to parental leave.
 - (viii) Leave is reserved for the parties to apply to vary subparagraph 17B(iii)(b), variations to leaseback fees, to reflect future changes to fringe benefits tax.
- (ix) Leave is reserved for the parties to apply to vary subclause 22D, Annual Leave, to reflect variations to the *Annual Holidays Act 1944 (NSW)* in relation to payment in lieu of annual leave or the taking of annual leave at full, half or double pay.
- (x) Leave is reserved for the parties to apply to vary the Award to reflect legislative changes (statute and/or regulations) concerning the registration of professional engineers.
- (xi) The parties agree to commence a thorough review of the following allowances within 12 months of the commencement of the Award and have leave reserved to apply to the Industrial Relations Commission of New South Wales during the life of the Award for a determination of the arrangements to apply in the next award to succeed this Award:

Level 1 Adverse Working Conditions Allowance - subclause 16(i) of the Award

Level 2 Adverse Working Conditions Allowance - subclause 16(ii) of the Award

Sewer Chokes - subclause 16(iii) of the Award

Septic Tanks - subclause 16(iv) of the Award

Sewerage Treatment Works - subclause 16(v) of the Award

46. Area, Incidence and Duration

- (i) This Award shall apply to all employers and employees:
 - (a) in local government in New South Wales; and
 - (b) in the local government industry in New South Wales as defined in this clause.
- (ii) In this Award "local government industry in New South Wales" means all activities undertaken by local government entities, including activities undertaken by corporations controlled by one or more local government entities. For the purposes of this subclause a corporation is controlled by one or more local government entities if one or more local government entities have the capacity to determine the outcomes of decisions about the corporation's financial and operating policies.

- (iii) The Award does not cover those employers and employees:
- (a) whose positions are determined pursuant to section 332 of the *Local Government Act 1993* (NSW) to be senior staff positions;
 - (b) covered by the Local Government (Electricians) State Award;
 - (c) covered by the Nursing Homes, &c., Nurses' (State) Award;
 - (d) covered by the Local Government, Aged, Disability and Home Care (State) Award;
 - (e) covered by the Miscellaneous Workers Home Care Industry (State) Award;
 - (f) employed by The City of Sydney;
 - (g) employed by Wollongong City Council;
 - (h) employed by Broken Hill City Council (that being the County of Yancowinna);
 - (i) employed by Newcastle City Council and covered by the Entertainment and Broadcasting Industry - Live Theatre and Concert (State) Award;
 - (j) employed by the Moree Artesian Aquatic Centre and principally engaged in the duties of the MAAC Ltd Wellness Centre within the premises known as the MAAC Ltd; and
 - (k) employed by Newcastle Airport Pty Limited.
- (iv) This Award shall rescind and replace the Local Government (State) Award 2020 published the seventeenth day of 3 July 2020 (388 I.G. 1038) and all variations thereof.
- (v) This Award shall operate from the commencement of the first pay period on or after the 1 July 2020 and shall remain in force for a period of three years.
- (vi) The Award in column (a) of Table 1 of Part B provides for a 1.5% increase in rates of pay to operate from the first full pay period to commence on or after 1 July 2020.
- (vii) The Award in column (b) of Table 1 of Part B provides for a 2.0% increase in rates of pay to operate from the first full pay period to commence on or after 1 July 2021.
- (viii) The Award in column (c) of Table 1 of Part B provides for a 2.0% increase in rates of pay to operate from the first full pay period to commence on or after 1 July 2022.
- (ix) The increases in rates of pay provided by this Award shall apply to the rates of pay in employer's salary system.
- (x) The increases granted by this Award may be absorbed into enterprise increases granted since 29 May 1991 exceeding any award increases since that date, that is an \$8 safety net adjustment and increases of 6%, 2.5%, 2.5%, 3.5%, 3.25%, 3.25%, 2.7%, 3.3%, 3.25%, 3.25%, 4.0%, 3.5%, 3%, 3.2%, 3.2%, 3.2%, 2.6%, 2.15%, 3.25%, 3.25%, 2.6%, 2.7%, 2.8%, 2.35%, 2.5% and 2.5% provided that the following increases shall not be absorbed:
- (a) placement or progression within the employer's salary system;
 - (b) increases in hours of work; and
 - (c) incorporation of penalty rates and shift or other allowances into the employee's rate of pay.
- (xi) In agreeing to increases in rates of pay for the term of this Award, the parties recognise that employers and employees have and shall continue to engage in enterprise bargaining.

PART B**MONETARY RATES - TABLE 1****CLAUSE 6 - RATES OF PAY**

Band/Level	(a) Rate Per Week \$	(b) Rate Per Week \$	(c) Rate Per Week \$
	First Pay Period 01/07/20	First Pay Period 01/07/21	First Pay Period 01/07/22
Operational Band 1			
Level 1 (Juniors and Trainees)			
T1 at 15 years of age	415.90	424.20	432.70
T2 at 16 years of age	519.10	529.50	540.10
T3 at 17 years of age	610.60	622.80	635.30
T4 at 18 years of age or over or HSC	713.80	728.10	742.70
T5	817.60	834.00	850.70
T6	882.60	900.30	918.30
T7	926.10	944.60	963.50
T8	970.60	990.00	1009.80
T9	1015.40	1035.70	1056.40
T10	1061.60	1082.80	1104.50
Level 2	871.10	888.50	906.30
Level 3	927.80	946.40	965.30
Level 4	1026.80	1047.30	1068.20
Administrative/Technical/Trades Band 2			
Level 1	1015.40	1035.70	1056.40
Level 2	1164.40	1187.70	1211.50
Level 3	1393.60	1421.50	1449.90
Professional/Specialist Band 3			
Level 1	1164.40	1187.70	1211.50
Level 2	1393.60	1421.50	1449.90
Level 3	1622.70	1655.20	1688.30
Level 4	1967.40	2006.70	2046.80
Executive Band 4			
Level 1	1852.20	1889.20	1927.00
Level 2	2311.30	2357.50	2404.70
Level 3	2884.40	2942.10	3000.90
Level 4	3457.50	3526.70	3597.20

Note: T stands for Trainee

CLAUSE 31E (XII) - TRAINEESHIP WAGE RATES

	Highest Year of School Completed		
	Year 10 \$	Year 11 \$	Year 12 \$
School Leaver	347.10	382.20	455.30
Plus 1 year out of school	382.20	455.30	529.90
Plus 2 years	455.30	529.90	616.60
Plus 3 years	529.90	616.60	706.00
Plus 4 years	616.60	706.00	

Plus 5 years or more	706.00		
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MONETARY RATES - TABLE 2 ALLOWANCES

	First Pay Period 01/07/20 \$	First Pay Period 01/07/21 \$	First Pay Period 01/07/22 \$
Clause 16(i) Level 1 Adverse Working Conditions Allowance	0.44 p.h. or 16.40 p.w.	0.45 p.h. or 16.70 p.w.	0.46 p.h. or 17.00 p.w.
Clause 16(ii) Level 2 Adverse Working Conditions Allowance	1.15 p.h. or 43.30 p.w.	1.17 p.h. or 44.20 p.w.	1.19 p.h. or 45.10 p.w.
Clause 16(iii) Sewer Chokes	9.35 p.s.	9.54 p.s.	9.73 p.s.
Clause 16(vi)(a) Tool Allowances			
Bricklayer	23.50 p.w. from first pay period 11/02/21 24.00 p.w.	24.00 p.w. from first pay period 26/08/21 24.20 p.w.	24.20 p.w.
Carpenter & Plumber	32.90 p.w. from first pay period 11/02/21 33.60 p.w.	33.60 p.w. from first pay period 26/08/21 33.90 p.w.	33.90 p.w.
Metal & Mechanical Trades	32.90 p.w. from first pay period 11/02/21 33.60 p.w.	33.60 p.w. from first pay period 26/08/21 33.90 p.w.	33.90 p.w.
Painter & Signwriter	8.00 p.w. from first pay period 11/02/21	8.20 p.w. from first pay period 26/08/21	8.30 p.w.
	8.20 p.w.	8.30 p.w.	
Plasterer	32.90 p.w. from first pay period 11/02/21 33.60 p.w.	33.60 p.w. from first pay period 26/08/21 33.90 p.w.	33.90 p.w.
Clause 16(vi)(d) Insurance Value	1907.10 p.a. from first pay period 11/02/21 1945.15 p.a.	1945.15 p.a. from first pay period 26/08/21 1963.00 p.a.	1963.00 p.a.
Clause 16(x)(f) Travelling Allowances			
3 - 10 km	5.26 p.j.	5.37 p.j.	5.48 p.j.
11 - 20 km	8.32 p.j.	8.49 p.j.	8.66 p.j.
21 - 33 km	12.05 p.j.	12.29 p.j.	12.54 p.j.
34 - 50 km	18.43 p.j.	18.80 p.j.	19.18 p.j.
Each additional 10kms	4.96 p.j.	5.06 p.j.	5.16 p.j.
Clause 16(x)(j) Vehicle Allowance (cents per km)			
Under 2.5 litres	0.68 p.km.	0.68 p.km. from first pay period 26/08/21 0.70 p.km.	0.70 p.km.
2.5 litres and over	0.78 p.km.	0.78 p.km. from first pay period 26/08/21 0.80 p.k.m	0.80 p.km.
Clause 16(xi)(a) Camping Allowance	68.56 p.n.	69.93 p.n.	71.33 p.n,
Clause 16 (xii)(a) Community Language Allowance	23.20 p.w.	23.70 p.w.	24.20 p.w.
Clause 16(xiii)(a) First Aid Allowance	15.70 p.w.	16.00 p.w.	16.30 p.w.

Clause 16(xiv) Meal Allowance	15.94 from 16/11/20 16.28	16.28 from first pay period 26/08/21 16.53	16.53
Clause 16(xv) Civil Liability Allowance (payable from the first pay period commencing on or after 15 December 2006)	3.5%	3.5%	3.5%
Clause 17A(i) Vehicle Allowances (cents per km)			
Under 2.5 litres	0.68 p.km.	0.68 p.km from first pay period 26/10/21 0.70 p.km.	0.70 p.km.
2.5 litres and over	0.78 p.km.	0.78 p.km. from first pay period 26/10/21 0.80 p.km.	0.80 p.km.
Clause 17A(iii) Minimum quarterly payment	2145.00	2145.00	2145.00
Clause 20C(iii) On Call Allowance on ordinary working days	20.61 p.d.	21.02 p.d.	21.44 p.d.
Clause 20C(iv) On Call Allowance - on other days	40.36 p.d.	41.17 p.d.	41.99 p.d.
Clause 20C(v) On Call Allowance - maximum per week	183.80 p.w.	187.50 p.w.	191.30 p.w.
Clause 42(vi) Job Search Allowance	2728.70	2783.30	2839.00
Clause 44(iv) Savings and Transitional			
(a) West of the Line Allowance	3.90 p.w.	3.90 p.w.	3.90 p.w.
(b) Climatic Allowance	3.90 p.w.	3.90 p.w.	3.90 p.w.

Key:

- p.h. = per hour
p.a. = per annum
p.d. = per day
p.w. = per week
p.n. = per night
p.km. = per kilometre
p.j. = per journey
p.s. = per shift

SCHEDULE 1**MINIMUM STANDARDS OF CARAVAN ACCOMMODATION TO BE PROVIDED TO EMPLOYEES REQUIRED TO CAMP OUT**

Where employees camp out the employer shall provide suitable caravan accommodation for the employees concerned in accordance with the following minimum standards:

- (a) Caravans shall be of such size as to provide adequate space for each employee and no more than two employees should be accommodated in any one caravan.

- (b) The walls and ceilings of the caravan shall be of sound construction and shall be insulated. Fly screen doors and windows shall be fitted and all openings adequately sealed against dust and/or weather conditions. Adequate steps shall be provided at each door.
- (c) The floor is to be covered with vinyl tiles, linoleum or other acceptable standard floor covering.
- (d) Reverse cycle or refrigerated air conditioning or other agreed cooling device and/or heater shall be provided in each caravan and shall be appropriately maintained.
- (e) Two separately located suitable bedding shall be provided together with suitable mattresses.
- (f) A fixed separate table shall be provided with two separate seats and brackets so as to provide for the taking of meals comfortably.
- (g) A wardrobe shall be provided for each employee, ensuring adequate clothes hanging space, fitted with shelf.
- (h) A personal bed locker shall be located at each bed. This shall consist of at least one shelf and door.
- (i) Each camp shall be supplied with an electric generator or other suitable power source that is of the low decibel type and the generator shall be housed in such a manner so as to provide for noise insulation. The generator shall be sufficiently powerful so as to service each appliance that is within or is associated with the use of the van. Generators shall be appropriately maintained.
- (j) Adequate electric lighting shall be installed in the caravan and sufficient external lighting shall be provided so as to allow for safe access to toilet facilities and vehicles.
- (k) Each caravan shall be equipped with a suitable refrigerator; a stovette with two burners and a griller and, where such stovette is an LPG stovette, shall be fitted with safety tap. A sink with basin pump connected to a storage water tank of sufficient capacity shall be provided. The water tank shall have an external tap. An adequate supply of cool drinking water shall be provided.
- (l) A food and utensils storage cabinet suitably equipped with pots, pans and kettle and sufficient bench space shall be provided to allow for the preparation of meals.
- (m) Showering facilities shall be included in the caravan. Each shower cubicle shall be provided with a shower curtain and rod, soap holder, hot and cold water and non-slip floor. Soap and other suitable cleaning agents shall be provided for employees taking showers, such cleaning agents should be of a type that will safely remove an unwanted substance with which the employee has come in contact. Adequate lighting and ventilation shall be provided in the shower area.
- (n) The carrying and storage of fuel and employer stores within the internal frame of the caravan will not be permitted under any circumstances. Employers shall provide for the safe keeping of employees tool kits and personal belongings, including when employees are off the site. Provision shall be made to allow for safe storage of hand tools and other equipment during meal and other breaks.
- (o) Kerosene heating, cooking and/or lighting are not considered to be suitable facilities.
- (p) Suitable cleaning equipment shall be provided together with storage facilities for such equipment.
- (q) Access to and egress from all amenities shall be kept clear at all times.
- (r)
 - (i) Garbage bins, which are vermin/fly proof with secure lids shall be provided together with removable and sealable bin liners.
 - (ii) Adequate toilet facilities shall be provided and positioned to provide privacy and so as to preclude odours reaching meal and/or accommodation facilities.

- (s) Washing facilities shall be provided under cover and an adequate supply of soap and paper towels shall be provided and replaced as needed. A vermin/fly proof garbage bin with removable liner and secure lid shall be provided in the vicinity of the washing facilities and emptied when necessary.
- (t) Caravans shall be regularly inspected for maintenance purposes and a record book kept by employer indicating the age of the vans and maintenance work carried out on the vans.

N. CONSTANT, *Chief Commissioner*

Printed by the authority of the Industrial Registrar.

(1931)

SERIAL C9328

TARONGA CONSERVATION SOCIETY AUSTRALIA RETAIL AND RESTAURANT EMPLOYEES' AWARD 2019 - 2022

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Taronga Conservation Society Australia.

(Case No. 202462 of 2021)

Before Chief Commissioner Constant

12 August 2021

AWARD REPRINT

This reprint of the abovementioned award is published by the authority of the Industrial Registrar under section 390 of the *Industrial Relations Act 1996*, and under Rule 6.6 of the *Industrial Relations Commission Rules 2009*.

I certify that the form of this reprint, incorporating the variations set out in the schedule, is correct as at the latest date of effect therein mentioned.

I. HOSKINSON *Acting Industrial Registrar.*

Schedule of Award and Variations Incorporated

Award/Variation Serial No.	Date of Publication	Date of Taking Effect	Industrial Gazette	
			Vol.	Page
C9163	08/05/2020	First full pay period on or after 1 July 2019	387	1132
C9303	19/11/2021	First pay period on or after 1 July 2021	390	1321

1. Title

The Award is called the Taronga Conservation Society Australia Retail and Restaurant Employees' Award 2019-2022

2. Arrangement

Clause No.	Subject Matter
1.	Title
2.	Arrangement
3.	Definitions
4.	Application
5.	Area, Incidence and Duration
6.	No Extra Claims
7.	General Conditions of Employment
8.	Availability of Award
9.	Dispute Resolution
10.	Workplace Flexibility and Multi-skilling
11.	Types of Employment
12.	Multiple Contracts
13.	Leave
14.	Wage Increases and Wage Rates
15.	Payment of Wages
16.	Wage Sacrifice for Superannuation

17. Classification Requirements
18. Allowances
19. Insurance of Tools
20. Rosters
21. Ordinary Hours of Work
22. Rest Period
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25. Call Back
26. Starting and Finishing Work
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30. Parental Leave
31. Long Service Leave
32. Public Holidays and Picnic Days
33. Uniforms, Personal Protective Clothing and Equipment
34. Secure Employment
35. Contractors and Volunteers
36. Anti-discrimination
37. Delegates and Trade Union Activities

Schedule 1 - Wage Rates (Weekly)

Schedule 2 - Allowances

Appendix A - Classifications

Appendix B - Additional Leave Entitlements - Taronga Retail and Restaurant Award

3. Definitions

"Award" means the Taronga Conservation Society Australia Retail and Restaurant Employees' Award 2019 - 2022.

"Supervisor" means a person who supervises an employee or employees covered by the Award.

"Employer" means the Department of Planning, Industry and Environment at Taronga Conservation Society Australia (Taronga).

"Employee" means a person employed by the Department of Industry, Planning and Environment at Taronga Conservation Society Australia (Taronga) within the scope of this Award.

"Restaurant" means any restaurant or food outlet.

"Retail" means any retail outlet.

"Taronga" means any site operated by the Taronga Conservation Society Australia.

"TZ" means Taronga Zoo, Bradley's Head Road, Mosman, New South Wales.

"TWPZ" means Taronga Western Plains Zoo, Obley Road, Dubbo, New South Wales.

"Union" means the United Voice.

4. Application

4.1 The parties to the Award are Taronga and the United Voice.

- 4.2 The Award applies to and is binding on the parties to the Award and all ongoing, temporary, casual and apprentice employees, employed by the Department of Industry, Planning and Environment at Taronga in the classifications of: Retail Sales Assistant, Retail Sales Supervisor, Retail Sales Coordinator, Wait Staff, Kitchen Hand, Cook, Apprentice Chef, Chef, Senior Chef and Duty Officer.
- 4.3 The Award will regulate the terms and conditions of employment which were previously regulated by the Restaurant & Employees (State) Award 2015 and the Shop Employees (State) Award 2015.
- 4.4 There will be effective means of consultation on matters of interest and concern, both formal and informal, at all levels of the organisation, between the parties to this Award and Employees.

5. Area, Incidence and Duration

- 5.1 This Award has effect from the beginning of the first full pay period on or after 1 July 2019 and will remain in force until 30 June 2022 and rescinds and replaces the Taronga Conservation Society Australia Retail and Restaurant Employees' Award published 8 May 2020 (387 I.G. 1132).

6. No Extra Claims

- 6.1 The parties agree that, during the term of this award, there will be no extra wage claims, claims for improved conditions of employment or demands made with respect to the employees covered by the award and, further, that no proceedings, claims or demands concerning wages or conditions of employment with respect to those employees will be instituted before the Industrial Relations Commission or any other industrial tribunal.
- 6.2 The terms of the preceding paragraph do not prevent the parties from taking any proceedings with respect to the interpretation, application or enforcement of existing award provisions.

7. General Conditions of Employment

- 7.1 It is the intention of the parties to this Award that all other conditions not specified in this Award will be in accordance with the *Government Sector Employment Act 2013* and the *Government Sector Employment Regulation 2013* as amended from time to time.

8. Availability of Award

- 8.1 A copy of the Award will be made available on the Taronga intranet. A printed copy can be obtained from the Human Resources area if required.

9. Dispute Resolution

- 9.1 A dispute under this clause is a dispute about the interpretation or application of the Award.
- 9.2 The Vocational Training Order for Apprentices made under the *Apprenticeship and Traineeship Act 2001* will override any conflicting steps contained in this clause.
- 9.3 The objective of the procedures contained in this clause is the timely resolution of disputes at the level they occur in the workplace.
- 9.4 Every effort will be made to resolve a dispute as quickly as is practicably possible.
- 9.5 Without prejudice to any party, while the procedures contained in this clause are being followed, no stoppage of work or other form of limitation or work ban will be applied.
- 9.6 Where a bona fide and critical work health or safety issue exists, an employee will not work in an unsafe environment and where appropriate will accept alternative suitable work while the procedures contained in this clause are being applied.

- 9.7 An employee who is a member of a Union may seek the advice or assistance of their Union at any stage of the application of procedures contained in this clause.
- 9.8 A Union, Taronga or an employee must receive reasonable notice, of not less than 24 hours, of any meeting they are required to attend as part of the application of the procedures contained in this clause.
- 9.9 A matter in dispute will first be discussed between an employee and their Supervisor with the aim of trying to resolve the matter within 5 working days. If the dispute cannot be resolved at this level or is of such a nature that it cannot be dealt with at this level, the following subclause will apply.
- 9.10 The matter in dispute will be discussed between the employee and/or their Union representative and the relevant manager with the aim of trying to resolve the matter within 5 working days. If the dispute cannot be resolved at this level the following subclause will apply.
- 9.11 The matter in dispute will be discussed with the employee and/or their Union representative and representatives of the relevant manager and/or the Director People, Culture and Learning or their delegate with the aim of trying to resolve the matter within 5 working days.
- 9.12 Only when all the above procedures contained in this clause have been exhausted and the dispute remains unresolved, a Union or Taronga may submit the dispute to the Industrial Relations Commission of New South Wales.

10. Workplace Flexibility and Multi-Skilling

- 10.1 The Union and Taronga are committed to workplace flexibility and multi-skilling so that employees may perform a wide range of work, including work that is incidental or peripheral to their main tasks or function, and/or requested by Taronga to contribute to the development of a more strategic and visitor-oriented operation. Taronga may direct an employee to carry out such duties as are within the limits of the employee's skill, competence and training consistent with the classification structure of this award.
- 10.2 Employees will be trained in basic skills that were previously regarded as the work of the various trades. Regard will be had for the training requirements of Apprentices. Taronga will also support employees obtaining transferable accreditation and recognised certificates when this is relevant to their work and to Taronga Conservation Society Australia operational requirements.
- 10.3 Employees will perform work that is within their skill, competence and training, provided that such work is not designed to promote deskilling.
- 10.4 Employees will fully co-operate with all other employees (including those not covered by the Award) to ensure there are no artificial demarcations in work and will communicate and consult with one another in a timely and open manner in an endeavour to achieve this.
- 10.5 Taronga may direct employees to perform duties and use the required tools and equipment, if they have been properly trained in their use, provided that the direction is consistent with the provision of a safe and healthy working environment.
- 10.6 Employees will not impose any limitation on supervisors or technical personnel, who are qualified to do so, demonstrating the use of new equipment or machinery.
- 10.7 Employees in one classification may be required by Taronga to temporarily perform the duties of another classification, provided they have been suitably trained to do so, and subject to the temporary assignment provisions of the Award.

11. Types of Employment

- 11.1 An employee will be engaged as an ongoing, temporary, casual or apprentice employee.
- 11.2 An employee may be required by Taronga to perform their duties on sites other than Taronga Conservation Society Australia premises.

11.3 Taronga may dismiss an employee without notice for serious misconduct or wilful disobedience.

11.4 If Taronga terminates an employee's employment, Taronga will supply the employee with a statement of service if they request it.

Ongoing Employment

11.5 An ongoing employee is an employee engaged for a continuing period of time subject to a probationary period on appointment.

11.6 A probationary period may be for a period of up to 6 months and may be extended for a further period not exceeding 12 months.

11.7 During a probationary period, Taronga may terminate the employment of an ongoing employee giving one week's notice.

11.8 An ongoing employee may terminate their employment giving 2 weeks' notice or the payment/forfeiture of 2 weeks wages in lieu of notice.

11.9 If an ongoing employee's role becomes redundant, New South Wales Government policy will apply.

11.10 After the probationary period, Taronga may terminate the employment of an ongoing employee in accordance with the Dealing with Misconduct and Dealing with Unsatisfactory Performance clauses in this Award.

Temporary Employment

11.11 A temporary employee is an employee engaged for a specified term fixed at the outset of their employment.

11.12 A temporary employee will be advised in writing that their employment is temporary.

11.13 Taronga or the employee may terminate the employment of a temporary employee giving one week's notice.

Casual Employment

11.14 A casual employee is an employee engaged to perform work by the hour and paid on an hourly basis, employed by Taronga on a short or irregular basis, where Taronga has no intention of continuing the employment and the employee has no reasonable expectation of the employment continuing.

11.15 A casual Retail employee will receive a 15% casual loading in addition to the relevant wage rate prescribed in Schedule 1 of the Award to compensate them for the casual nature of their employment and leave, except long service leave and annual leave. A casual Retail employee will also receive an allowance of 1/12th of the ordinary hourly rate to compensate for annual leave.

11.16 A casual Restaurant employee will receive a 20% casual loading in addition to the relevant wage rate prescribed in Schedule 1 of the Award to compensate them for the casual nature of their employment and leave, except long service leave and annual leave. A casual Restaurant employee will also receive an allowance of 1/12th of the ordinary hourly rate to compensate for annual leave.

11.17 The casual loading and casual annual leave allowance will not be paid on overtime.

11.18 Casual employees will be engaged for a minimum shift of 3 hours. A shift may be terminated at or after 3 hours due to operational requirements.

11.19 Taronga or the employee may terminate the employment of a casual employee by giving one hour's notice.

11.20 Where practicable, Taronga will provide casual employees with reasonable notice for cancellation of a shift. However due to the unforeseen circumstances and the nature of the tourism industry, shifts may need to be varied or cancelled within this timeframe. A minimum of 2 hours notice is required by an employee to cancel a shift.

Apprentices and Trainees

11.21 The Vocational Training Order made under the *Apprenticeship and Traineeship Act 2001* will override any conditions of employment for an Apprentice or Trainee otherwise prescribed in the Award.

11.22 An apprentice will be paid in accordance with Schedule 1 of the Award.

11.23 Progression within the rates prescribed for the years of service for Apprentices and Trainees will be in accordance with the *Vocational Training Order made under the Apprenticeship and Traineeship Act 2001*.

Adult Apprentice

11.24 An adult apprentice is an Apprentice engaged by Taronga Conservation Society Australia after turning 21 years of age.

11.25 An adult apprentice is to be paid the higher of the following rates:

- (a) Year 1 80% of the level 3 adult minimum wage (Miscellaneous Award 2010 MA000104, Apprentice Minimum Wages)
- (b) Years 2, 3 and 4 to be paid under the adult minimum wage outlined in the above mentioned Miscellaneous Award.

12. Multiple Contracts

12.1 An employee may be engaged by Taronga in more than one type of employment or the same type of employment but in a different classification under the Award (multiple contracts).

12.2 Multiple contracts are separate and distinct contracts of employment where each stands alone in relation to the application of the Award or other relevant industrial instruments, including for the purposes of payment of ordinary hours, overtime and penalties. Employees working in multiple roles cannot claim payment of the same allowance across different roles. The conditions for employees working under multiple contracts can be no less favourable than the applicable Award.

12.3 An employee will not be engaged under multiple contracts for work relating to the employee's area of expertise where such work would normally attract the payment of overtime rates or shift loadings.

12.4 When rostering employees under multiple contracts consideration will be given to fatigue management.

13. Leave

13.1 General leave conditions of employees under this Award will be regulated in accordance with the provisions contained within this Award, the GSE Act and Regulations and the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 (Section 6 Leave).

13.2 Employees employed on a part-time basis will accrue any leave on a pro-rata basis, which will be determined on the number of approved contract hours worked in a pay period.

14. Wage Increases and Wage Rates

14.1 This increase in remuneration or other conditions of employment will be processed as soon as practicable after the finalisation of the award negotiations and on the certification of the new award by the IRC.

- 14.2 Schedule 1 of the Award sets out the weekly wage rates for employees engaged full-time in each classification and grade according to the wage increases prescribed in this clause. The hourly wage rate for employees engaged part-time will be calculated by dividing the relevant weekly wage rate by 38.
- 14.3 The wage increases provided for in the Award, insofar as they apply will only be paid to those employees who are employed at the date of the making of the Award.

15. Payment of Wages

- 15.1 Wages will be paid fortnightly to employees on a day specified by Taronga and paid by direct deposit into a recognised financial institution account nominated by the employee.
- 15.2 Taronga will provide employees with pay advice electronically. An employee may, on application to Taronga, be provided with the advice in paper form.
- 15.3 When a Public Holiday occurs in the lead up to pay day, payment of additional monies such as overtime, shift loadings and allowances may be paid in the following pay period.
- 15.4 Where there is an overpayment of wages, shift loadings or allowances, the employee will be notified and consulted about repayment. The following factors will be considered in determining the period over which repayment is to be made:
- (a) the employee's financial circumstances and commitments;
 - (b) the circumstances involved in the overpayment; and
 - (c) the amount of the overpayment.

16. Wage Sacrifice for Superannuation

- 16.1 If Taronga agrees, an employee may elect to sacrifice part of their wages payable under Schedule 1 of the Award, for additional employer superannuation contributions.
- 16.2 The election is subject to the rules of the employees' superannuation fund allowing Taronga to pay additional employer contribution and the payment not attracting Fringe Benefit or any other tax.
- 16.3 The election must be made before the period of service to which the earnings relate.
- 16.4 Additional employer contributions are subject to the age based limits set by the Australian Taxation Office.
- 16.5 Any allowance, loading, payment for unused leave, weekly worker's compensation or other payment based on an employee's wage, except payment for leave taken in service, to which an employee is entitled under the Award or an Act, will be calculated by reference to the wage which would have applied had the election not been made.

17. Classification Requirements

- 17.1 Refer to Appendix A for full coverage of classifications and rates of pay.

18. Allowances

- 18.1 The allowances provided for in this clause are set out in Schedule 2 of the Award.
- 18.2 Where an allowance is specified as a weekly rate and an employee who is entitled to the allowance is engaged part time, the allowance will be paid on a pro rata basis by dividing the weekly rate by 38 for an hourly rate to a maximum of the weekly allowance.

Tool Allowance

- 18.3 A weekly tool allowance will be paid to a Chef and an Apprentice for providing and maintaining their own hand tools. All tools owned by employees and Apprentices need to comply with WHS regulations and meet Taronga's WHS processes.

Temporary Assignment Allowance

- 18.4 Temporary assignment is the process of assigning an employee to a role for a defined period with a specified end date. Temporary assignment may be at level, or to a higher or lower classification.
- 18.5 Above-level temporary assignment

Above-level temporary assignments may attract payment of a temporary assignment allowance. Above-level temporary assignments of up to 12 months may be made on the basis of a suitability assessment which includes

Pre-screening for essential requirements such as a qualification or licence

Resume

At least two capability-based assessments, one of which is an interview and

Referee checks against the pre-established standards for the role

Above-level temporary assignments for longer than 12 months must be based on a comparative assessment resulting from external advertising across the NSW Public Service. Comparative assessments require a minimum of three capability based assessments, one of which is an interview.

The amount of the allowance payable to the employee who is temporarily assigned to another role is the difference between the salary of the employee's usual role and the point in the salary range of the other role.

The proportionate temporary assignment allowance paid is proportionate to the duties to be performed. This is to be determined by the agency head and by mutual agreement with the employee before the employee starts the temporary assignment.

First Aid Allowances

- 18.6 A weekly senior first aid allowance will be paid to an employee who holds a current Senior First Aid Certificate and who is appointed by Taronga to carry out the duties of a Senior First Aid Officer.
- 18.7 A weekly Occupational First Aid allowance will be paid to an employee who holds a current Occupational First Aid Certificate and is appointed by Taronga as an Occupational First Aid Officer.
- 18.8 An employee who is temporarily appointed by Taronga to perform the duties of a First Aid Officer while the appointed First Aid Officer is on leave for one week or more, will be paid the relevant first aid allowance for the period appointed.
- 18.9 The allowances will be paid as a flat rate on all ordinary hours worked.

Laundry Allowance

- 18.10 A weekly laundry allowance will be paid to an employee when they are required by Taronga to wear a uniform, including overalls, and where the cost of any laundering is not borne by Taronga.
- 18.11 The laundry allowance will be paid as a weekly allowance when an employee engaged full-time works any part of a week or as a pro rata allowance for any part time or casual employees.

18.12 The laundry allowance is not payable when an employee is on leave.

Overnight allowance

18.13 An overnight allowance will be paid where Taronga requests, and an employee agrees to stay overnight on Taronga premises for a period outside/between the employee's normal rostered hours of duty.

The overnight allowance is deemed to provide compensation for the overnight stay and also includes compensation for being on call during the period and any work required to be completed up to a total of 1 hour duration. Additional work required outside a total of 1 hour will be paid at overtime rates.

This allowance is payable when employees stay overnight such as, but not limited to Roar and Snore, Billabong Camp and Zoofari.

The allowance applicable is only when required to sleep over.

Bus Allowance

18.14 A bus allowance will be paid on a per shift basis where an employee is appropriately licensed and is required to drive a passenger bus on a rostered shift.

19. Insurance of Tools

19.1 Taronga will insure an employee's tools, used by them in the course of their employment, against loss or damage by fire while on Taronga Conservation Society Australia premises.

19.2 An employee will provide a list of the tools insured if requested by Taronga.

19.3 An employee will ensure that their tools are cared for and kept safely.

19.4 Taronga will reimburse an employee for loss of tools, if the tools are lost by theft from breaking and entering while they are being stored on the job at the direction of Taronga.

20. Rosters

20.1 Employees may be rostered to suit Taronga Conservation Society Australia operational requirements.

20.2 Taronga will prepare rosters that are fair and equitable and meet work health and safety requirements.

20.3 In rostering employees, consideration will be given to the preferences and personal commitments of individuals, wherever possible.

20.4 In developing a roster for the next period, Taronga and employees will have regard to the roster for the previous and subsequent periods.

20.5 Rosters will be prepared 7 days in advance.

20.6 Rosters may be changed as long as they comply with the terms set out in Clause 21 - Ordinary Hours of Work of the Award.

20.7 Changes to published rosters may be made inside 7 days by agreement between the Manager and an employee.

20.8 An employee will not be rostered to work more than one shift in any period of 24 hours, except by mutual agreement.

20.9 Taronga requires employees to provide a minimum availability to meet operational requirements and business needs. These requirements will be communicated to employees during the recruitment and

selection process and will form part of the employment contract. Availability requirements may change over time in accordance with operational requirements.

21. Ordinary Hours of Work

- 21.1 The ordinary hours of work of fulltime employees are 152 hours in a 28 day period. Part time employees will be contracted to work less than 152 hours in a four week period however may be rostered up to 152 hours in any four week period.
- 21.2 All full-time and part-time employees will be rostered their ordinary hours of work on the following basis:
- (a) At least once every two weeks an employee will be granted two consecutive days off
 - (b) Full-time and part-time employees will work not more than 5 days per week or, by agreement between the employer and the employee, not more than 20 days in a 4 week period.
 - (c) By agreement between the employer and the employee, the maximum number of ordinary hours which may be worked on any one day will be 12 hours (inclusive of meal breaks).
 - (d) There will be not less than a ten-hour break between finishing work (including overtime) one day or shift and the commencement of work on the next day or shift.
- 21.3 Where a Restaurant employee works a broken shift, Taronga will pay the employee for not less than 8 hours worked on any one shift. The shift will be spread over not more than 2 periods within a span of not more than 14 hours inclusive of meal breaks.
- 21.4 Restaurant employees working a broken shift will be paid an allowance of one half of the hourly ordinary rate of pay at the Wait Staff classification.

22. Rest Period - Restaurant Employees

- 22.1 An employee will be given a meal break of between 30 minutes and 1 hour after working not more than 5 hours. The first meal break taken on any shift will be unpaid. The second meal break will be a paid break, and the employee will be paid a meal allowance for the second break the amount of which is set out in the Allowances Table or given a meal.
- 22.2 If, because the work the employee is doing means that the employee cannot take a meal break by the end of 5 hours, the employer can ask the employee to work up to a further hour before the employee takes the break, and that break will become a paid break.
- 22.2 In addition to the employee's meal break(s), an employee will be given a paid rest break of ten minutes once during each work period of 5 hours.

22A. Rest Period - Retail Employees

- 22A.1 When and where it can be conveniently arranged by Taronga, an employee who works more than four ordinary hours on any day will be allowed a paid rest break of ten minutes.
- 22A.2 No rest break will be given or taken within one hour of the employee's commencing or ceasing time or within one hour before or after any meal break.
- 22A.3 An unpaid meal break of between 30 minutes and one hour will be given to employees who are rostered for more than five hours.
- 22A.4 An employee who works nine hours or more on any day will be allowed two rest breaks (each of ten minutes duration) if only one meal break is taken; or one rest break of ten minutes if two meal breaks are taken.

23. Shift Loadings

- 23.1 If Taronga requires an employee to work, the employee will be paid the following shift loadings:
- (a) on a Saturday time and a quarter of the ordinary rate of pay for all ordinary hours worked (except if the Restaurant employee works a regular night shift referred to in subclause 23.2, or if the employee is a casual Retail employee referred to in subclause 23.3),
 - (b) on a Sunday time and a half of the ordinary rate of pay for all ordinary hours worked,
 - (c) on a Public Holiday two and a half times the ordinary rate of pay for all ordinary hours worked.
- 23.2 Where a Restaurant employee works ordinary hours between midnight and 6.00am, they are to be paid an extra 30% penalty for all time worked during these hours. If the hours worked between midnight and 6.00am is greater than 50% of the total shift, the employee will be paid a loading of 30% for all hours worked. This loading excludes shifts worked on a Sunday or Public Holiday.
- 23.3 Retail casual employees working on a Saturday will be paid an applicable allowance as outlined in the Allowances Table in addition to the day's pay.
- 23.4 The penalties and loadings prescribed in this clause will not be taken into consideration in calculating any payment for overtime or public holidays, or for any period of leave including sick leave, annual leave and long service leave.

24. Overtime

- 24.1 Hours worked at the direction of Taronga outside ordinary hours of work as set out in this Award, will be overtime.
- 24.2 Taronga may direct an employee to work a reasonable amount of overtime taking into account:
- (a) an employee's prior commitments outside the workplace, particularly their family responsibilities, community obligations and study arrangements; and
 - (b) the urgency of the work required to be performed, the impact on Taronga's operational requirements and the effect on customer services.
- 24.3 Overtime rates of pay for Retail employees will be time and one-half for the first two hours on any one day and at the rate of double time thereafter, except on a Sunday which will be paid for at the rate of double time.
- 24.4 Overtime rates of pay for Restaurant employees will be time and one half of the ordinary rate of pay for the first 2 hours worked and after that double time.
- 24.5 If their manager agrees, an ongoing or temporary employee who works overtime may elect to take time off work in lieu of payment for all or part of the overtime. The time off will be calculated at the same rate as would have applied to the payment of the overtime. The following provisions will apply to time off in lieu:
- (a) Before the overtime is worked, or as soon as practicable on completion of overtime, the employee will advise their manager, or the manager's delegate, that they intend to take time off in lieu of payment.
 - (b) The time off in lieu must be taken at the convenience of Taronga, except when it is being taken to look after a sick family member in accordance with Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 (Section 6 Leave).
 - (c) Time off in lieu accrued for overtime worked on days other than Public Holidays, will be given and taken within three months of accrual. At the employee's election, time off in lieu for

overtime worked on a Public Holiday may be added to the employee's annual leave credits and may be taken in conjunction with annual leave.

- (d) An employee will be paid for the balance of any overtime entitlement not taken as time off in lieu.

25. Call Back

- 25.1 An employee recalled to work overtime for any reason after leaving the premises (whether notified before or after leaving the premises) will be paid for a minimum of 3 hours.
- 25.2 For employees, where the recall is for the purpose of a disciplinary and/or counselling interview and/or administrative procedures, an employee will be paid a minimum of 2 hours at the relevant rate for each recall.
- 25.3 Where the actual time worked is less than 3 hours on each recall, overtime worked in the circumstances specified in this clause will not be regarded as overtime for the purposes of Clause 22, Rest Period - Restaurant Employees and Clause 22A, Rest Period - Retail Employees.
- 25.4 Time worked will be calculated as one continuous period when an employee returns to the workplace on a number of occasions in the same day and the first or subsequent minimum pay period overlaps into the next call out period. Payment will be calculated from the start of the first recall until either the end of work, or the minimum pay period from the start of the last recall, whichever is the greater.
- 25.5 A recall to work starts when the employee starts work and finishes when the work is completed i.e. it does not include time spent travelling to and from the place at which work is to be done.
- 25.6 This clause does not apply if an employee is regularly required to return to Taronga premises to perform a specific job outside rostered hours or if overtime is continuous (subject to a reasonable meal break) with the end or the beginning of a rostered shift.

26. Starting and Finishing Work

- 26.1 An employee's starting and finishing times of ordinary hours of work will be calculated from the time they arrive at the actual job or work station or signing on point, or from the time they are rostered to commence work.
- 26.2 If an employee is required to collect Taronga equipment before going to the work site or return Taronga equipment at the end of work from a location other than the actual work site or sites, then the starting and finishing times will operate from the point of collection or return.

27. Annual Leave

- 27.1 Taronga employees are entitled to 4 weeks annual leave for working a whole year or pro rata for part time employees.

28. Annual Leave Loading

- 28.1 Employees are entitled to an annual leave loading of 17.5% of the base salary of up to 4 weeks annual leave accrued in a leave year.
- 28.2 For the purpose of calculating annual leave loading, the leave year will start on 1 December of each year and end on 30 November of the following year.
- 28.3 Payment of annual leave loading will not be made on any annual leave taken in the first leave year of employment, i.e. from the date of employment to the following 30 November. The loading accrued in the first leave year will be paid during the second leave year of employment.

- 28.4 Leave loading will be paid on the first occasion in a leave year (other than the first leave year) when at least 2 consecutive weeks of annual leave is taken.
- 28.5 In the event that a 2 week period of annual leave is not taken by 30 November each year, then the monetary value of the annual leave loading accrued over the previous year will be paid as soon as practicable.
- 28.6 An annual leave loading will not be paid on resignation/dismissal arising from misconduct.
- 28.7 Annual leave loading will be paid on retirement or termination by Taronga, except for misconduct, if the loading would have been due had the employee taken 2 weeks annual leave.

29. Sick Leave

- 29.1 Taronga employees are entitled to sick leave provisions in accordance with the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 (Section 6 Leave).

30. Parental Leave

- 30.1 Taronga employees are entitled to parental leave provisions in accordance with the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 (Section 6 Leave).

31. Long Service Leave

- 31.1 Taronga employees are entitled to long service leave provisions in accordance with NSW *Long Service Leave Act 1955*.

32. Public Holidays and Picnic Days

- 32.1 Public Holidays are: New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Sunday, Easter Monday, Anzac Day, Queen's Birthday, Labour Day, Christmas Day, Boxing Day, and any such other holiday that may be proclaimed as a Public Holiday applicable to the operation of the Award.
- 32.3 The first Monday in August each year will be a Picnic Day (in lieu of the Public Service Holiday) and will be treated as a Public Holiday.
- 32.4 For an employee who works according to an ordinary hours roster that covers every day of the week, if a Public Holiday occurs on a rostered day off they will be paid for an additional 7 hours and 36 minutes ordinary hours. Employees who do not work the seven-day roster will not be entitled to this payment.

33. Uniforms, Personal Protective Clothing and Equipment

- 33.1 Where an employee is required to wear a uniform, Taronga will provide employees with appropriate uniforms that will be allocated in accordance with the work patterns of employees.
- 33.2 Allocations to employees engaged part-time, and/or who are casual employees, will be determined by Taronga according to the employee's work patterns.
- 33.3 Employees are required to wear uniforms provided by Taronga at all times when performing their functions and will maintain their uniforms in a neat, clean and presentable manner.
- 33.6 Protective equipment and clothing, together with replacement uniform items, are provided as needed. Unserviceable uniforms and equipment must be returned when a request for replacement is made.
- 33.7 Uniforms, protective clothing and other equipment issued by Taronga to employees will remain the property of Taronga.

- 33.8 An employee will return all items of protective equipment and clothing together with any keys, identification cards and other items issued to them by Taronga when they cease employment with Taronga.
- 33.9 If an employee fails to return any uniform or protective clothing issued to them by Taronga when they cease employment, Taronga may deduct the monetary value of the uniform or protective clothing from the employee's separation pay if the employee has given Taronga prior written authority to do so. Taronga may require an employee to sign a written authority on engagement or on receipt of the next issue of uniform and protective clothing.

34. Secure Employment

34.1 Objective of this clause

The objective of this clause is for Taronga to take all reasonable steps to provide its employees with secure employment by maximising the number of ongoing roles in Taronga's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

34.2 Casual Conversion:

- (a) A casual employee engaged by Taronga on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of 6 months will thereafter have the right to elect to have his or her casual contract of employment converted to ongoing full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (b) Taronga will give the casual employee notice in writing of the provisions of this subclause within 4 weeks of the employee having attained such period of 6 months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (c) Any casual employee who has a right to elect under subclause 34.2(a), upon receiving notice under subclause 34.2(b) or after the expiry of the time for giving such notice, may give 4 weeks' notice in writing to Taronga that he or she seeks to elect to convert his or her casual contract of employment to ongoing full-time or part-time employment, and within 4 weeks of receiving such notice from the employee, Taronga will consent to or refuse the election, but will not unreasonably so refuse. Where Taronga refuses an election to convert, the reasons for doing so will be fully stated and discussed with the employee concerned, and a genuine attempt will be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment will be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (d) Any casual employee who does not, within 4 weeks of receiving written notice from Taronga, elect to convert his or her casual contract of employment to ongoing full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (e) 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 Taronga.
- (f) 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 subclause 34.2(c), Taronga and the employee will in accordance with this subclause, and subject to subclause 34.2(c), discuss and agree upon
- (i) whether the employee will convert to full-time or part-time employment; and
- (ii) 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 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 Taronga and the employee.

- (g) Following an agreement being reached pursuant to subclause 34.2(f), the employee will 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 will be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (h) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.

35. Contractors and Volunteers

- 35.1 Contractors may be engaged to perform work if it is impracticable for the work to be carried out by employees because specialist skills and/or tools, plant or equipment are unavailable; or the timeframe is unacceptable; or there are competing priorities.
- 35.2 Where contractors are engaged, Taronga will ensure that all relevant awards and agreements are observed.
- 35.3 Employees may be required to work cooperatively with contractors and such work will not give rise to any claims for extra payments.
- 35.4 Taronga will continue to support the efforts of volunteers whose services aim to enhance the public's experience while visiting Taronga.
- 35.5 Employees may be required to work co-operatively with volunteers and/or students and such work will not give rise to any claims for extra payments.

36. Anti-Discrimination

- 36.1 The parties bound by the Award respect and value equity and diversity in the workplace.
- 36.2 It is the intention of the parties bound by the 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, pregnancy, physical or mental disability, homosexuality, transgender identity, age, and carer's responsibilities.
- 36.3 It follows that in fulfilling their obligations under the dispute resolution procedures prescribed in the Award, the parties have obligations to take all reasonable steps to ensure that the operation of the provisions of the 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.
- 36.4 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.
- 36.5 Nothing in this clause is to be taken to affect any conduct or act which is specifically exempted from anti-discrimination legislation;
 - (a) offering or providing junior rates of pay to persons under 21 years of age;

- (b) any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*
- (c) a party to the Award from pursuing matters of unlawful discrimination in any State or Federal jurisdiction.

36.6 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.

37. Delegates and Trade Union Activities

Right of Entry of Union Officials

- 37.1 A Union official or officer may enter Taronga property at any time during working hours for the purposes of conducting Union business provided that prior to an anticipated visit they make contact with the nominated manager, or other senior manager, to outline the reason for and timing of the visit.
- 37.2 A Union official or officer has the right to meet with their members when they are not working. Where they request to meet with their members during work time this is subject to the needs of Taronga operations and must be approved by the relevant manager.
- 37.3 A Union official or officer will at all times be bound by the rules and standards of Taronga whilst on Taronga property including undertaking site inductions when they intend to visit the site on a regular or ongoing basis and complying with security procedures for admission onto the property.
- 37.4 A Union official will have regard for the provisions of the *Industrial Relations Act 1996*.

Delegates

- 37.5 A delegate is an employee who has been elected by fellow employees to be their Union representative and whose name has been registered with Taronga by the relevant Union.
- 37.6 A Union official may contact a delegate at work if they first contact the relevant manager, or other Taronga nominated representative, to make arrangements for the contact with the delegate at a convenient time.
 - (a) Taronga will cooperate with a Union to release and pay delegates, at ordinary hours rates of pay, for up to 12 days over two years per union, to attend agreed Union courses in cases where there is prior consultation with Taronga about the course content and the ability to release particular employees from the job;
 - (b) the course is aimed at improving industrial relations and deals with relevant matters including SafeWork NSW and Work Health and Safety;
 - (c) where relevant, there is an opportunity for Taronga participation in or contribution to the course.

Payroll Deductions for Union Membership Subscriptions

- 37.7 Taronga will make fortnightly deductions of the fortnightly union membership fee from the pay of an employee who is a member of a Union in accordance with the Union's rules, provided that
 - (a) the employee has authorised Taronga to make such deduction;
 - (b) a Union has provided Taronga with a schedule setting out union fortnightly membership fees payable by members of the Union in accordance with the Union's rule
 - (c) the Union has advised Taronga of any change of the fortnightly membership fee, consequent upon a variation of the annual union membership fee as provided in the Union rules, at least one

month in advance of the variation taking effect, with no more than two variations to be effected in any financial year;

- (d) deduction of the fortnightly membership fee will only occur in each pay period in which payment has or is to be made to an employee;
- (e) as soon as practicable after the fortnightly pay period has been processed, monies deducted from employees' pay will be forwarded fortnightly to the Union by way of electronic funds transfer, together with all necessary information to enable the Union to reconcile and credit subscriptions to employees' Union membership accounts;
- (f) no fortnightly membership fee will be deducted for periods where an employee is absent on leave without pay, including unpaid parental, sick or carers' leave;
- (g) for casual employees the fortnightly membership fee will only be deducted, if the casual employee has worked within the relevant fortnightly pay period; and
- (h) where an employee has already authorised the deduction of union membership fees from their pay prior to this clause taking effect, nothing in this clause will be read as requiring the employee to make a fresh authorisation in order for such deductions to continue.

SCHEDULE 1

Classification	Weekly 8 July 19	Weekly 13 July 20	Weekly 5 July 21
Retail Sales Assistant	799.38	801.80	818.2
Retail Sales Supervisor	825.99	828.50	845.4
Retail Coordinator – TWPZ	840.32	842.80	860.0
Retail Coordinator – TZ	1050.88	1054.00	1075.5
Kitchen Hand	728.85	731.00	745.9
Wait Staff	751.91	754.20	769.6
Duty Officer	915.63	918.40	937.1
Cook	787.33	789.70	805.8
Apprentice Chef (% of Level 1 Chef wage)			
Year 1 – 46%	395.67	396.90	405.0
Year 2 – 54%	464.49	465.90	475.4
Year 3 – 67%	576.31	578.00	589.8
Chef			
Level 1	860.16	862.70	880.3
Level 2	915.64	918.40	937.1
Level 3	944.92	947.80	967.1
Senior Chef	1026.18	1029.30	1050.3
Applicable Junior rates for Retail Sales Assistant, Wait Staff and Kitchen Hand:			
Age:			
17 years and under - 62%			
18 years of age - 70%			
19 years of age - 80%			
20 years of age - 90%			

SCHEDULE 2

Allowances

	8 July 19	13 July 20	5 July 21
Laundry Allowance	\$12.88 per week	\$12.90 per week	\$13.15 per week
Meal Allowance	\$14.74 per meal	\$14.80 per meal	\$15.10 per meal
Apprentice's Tool Allowance	\$0.92 per week	\$0.90 per week	\$0.95 per week

First Aid Allowance	\$16.63 per week	\$16.70 per week	\$17.05 per week
Overnight Allowance	\$30.84 per shift	\$30.95 per shift	\$31.60 per shift
Bus Allowance	\$5.38 per shift	\$5.50 per shift	\$5.60 per shift
Insurance of Tools	\$1,495.00	\$14,95.00	\$14,95.00
Retail Employees Saturday allowance			
Under 21 years - shift length up to 4 hours	\$5.70 per week	\$5.70 per week	\$5.80 per week
Adult - shift length up to 4 hours	\$8.73 per week	\$8.75 per week	\$8.95 per week
Under 21 years - shift length 4 hours and over	\$9.74 per week	\$9.75 per week	\$9.95 per week
Adult - shift length 4 hours and over	\$17.90 per week	\$17.95 per week	\$18.30 per week

APPENDIX A: CLASSIFICATIONS

The provisions of this clause will not limit Taronga from allocating to an employee other duties consistent with Clause 10 – Workplace Flexibility and Multi-skilling of the Award or changing with written advice, the expected nature and mix of duties consistent with the classification requirements. The classification requirements outlined below list key duties employees are expected to perform or have the ability to perform. All employees are expected to comply with Taronga’s policies and procedures, Customer Service Charter and Work, Health and Safety Charter.

Retail Sales Assistant

The role of the Retail Sales Assistant is to enhance the guest experience and maximise retail sales by providing excellent customer service in Taronga’s retail stores and animal experience stations. Key duties include but are not limited to:

Greeting guests who enter the retail outlet

Having strong product knowledge of Taronga’s retail offerings to be able to up sell and explain the link with Taronga’s vision

Responsible for cash and card payments

Receiving and preparing sale and display of goods including maintaining store presentation (including prams), light cleaning and stocking shelves

Enhancing guest experience by providing photography opportunities with animal encounters

Retail Sales Supervisor

The role of the Retail Sales Supervisor is to lead the retail sales team to maximise retail sales and enhance the visitor experience through high level customer service. In addition to the duties of the Retail Sales Assistant, key duties include but are not limited to:

Leading, mentoring and coaching the Retail Sales team to deliver high quality customer service experiences.

Demonstrating high levels of store operational management including cash management, balancing cash registers, receipts and daily takings, visual merchandising, stock level management, housekeeping, staff direction and daily briefings, customer service and end of day reporting,

Retail Sales Coordinator TWPZ

The role of the Retail Sales Coordinator TWPZ is to lead the retail sales team to maximise retail sales and enhance the guest experience through high levels of customer service. In addition to the duties of the Retail Sales Supervisor, key duties include but are not limited to:

Maintaining and coordinating the retail outlet to maximise sales and ensure efficient day to day operations

Supervising and rostering the Retail Sales team to deliver high quality customer service experiences in order to provide excellent guest experience and promote repeat visitation

Managing the stock deliveries, stock taking and store merchandising

Retail Sales Coordinator TZ

The role of the Retail Sales Coordinator TZ is to lead the retail sales team to maximise retail sales and enhance the guest experience through high levels of customer service. In addition to the duties of the Retail Sales Supervisor, key duties include but are not limited to:

Daily coordination and operational communication of all TZ shops

Operational management of the TZ Top Shop

Coordination of operations of retail outlets during events

Support the Retail Sales Manager with recruitment and staff management as required

Possess and maintain a current Senior First Aid Certificate or Occupational First Aid Certificate;

Kitchen Hand

The role of the Kitchen Hand is to provide support for kitchen staff in all areas of kitchen operation by maintaining high levels of quality customer service with all stakeholders. The duties of the Kitchen Hand include but are not limited to:

Obtaining and maintaining a NSW Statement of Attainment in Food Handling

Cleaning, tidying and setting up of kitchen, food preparation and customer service areas

Washing and cleaning equipment, crockery and utensils

Assembly and preparation of ingredients for cooking

Setting, clearing and wiping down tables

Handling, sorting, storing and distributing food items

Maintaining a high level of food safety by following all food safety processes

Wait Staff

In addition to the duties of the Kitchen Hand, the role of the Wait Staff is to deliver high quality customer service to provide excellent guest experience and promote repeat visitation by providing excellent front-of-house waiting and bar services. The duties of the Wait Staff include but are not limited to:

Undertaking general waiting food and beverage duties, including preparing and clearing tables, greeting and seating guests, taking orders, serving food and beverages and general cleaning

Heating pre-prepared meals and/or preparing simple food items such as sandwiches and salads

Receipting of monies (cash and electronic), giving change and operating cash registers

Supplying, dispensing or mixing of liquor, including cleaning of bar areas and equipment, preparing the bar for service, taking orders and serving drinks and assisting in the cellar

Obtaining and maintaining a NSW Responsible Service of Alcohol when required to supply, dispense or mix liquor, including cleaning of bar areas and equipment, preparing the bar for service, taking orders and serving drinks and assisting in the cellar

Receiving, storing and distributing goods

Maintaining a high level of food safety

Cook

The role of the Cook is to prepare, cook and present a range of food items that are of the highest quality at all times to provide a first class culinary guest experience. The duties of the Cook include but are not limited to:

Obtaining and maintaining a NSW Statement of Attainment in Food Handling
Preparing and cooking a range of food items such as breakfasts, grills and snacks for guests, whilst delivering high quality customer service.

Maintaining a high level of food safety.

Maintaining consistently high levels of guest satisfaction ensuring a high quality cost effective service is provided

Providing instruction to the Apprentice chef, Kitchen Hand and Wait Staff

Apprentice Chef

The role of the apprentice chef is to assist the chef in providing a high standard of food by way of preparation, cooking and presentation whilst ensuring best practice food and kitchen hygiene practices are met. The duties of the apprentice chef include but are not limited to:

Obtaining and maintaining a NSW Statement of Attainment in Food Handling

Undertaking and learning all the different aspects of Commercial Cookery that is required as part of the Chef Apprenticeship including appropriate TAFE role requirements, training and assessments

Ensuring work carried out meets Taronga stakeholder needs and legislative and statutory requirements.

Identifying and communicating issues impacting on operations and guests

Chef

The role of the Chef is to manage the day to day operational activities within the Kitchens of Taronga by providing a high standard of food preparation, cooking and presentation whilst ensuring best practice food and kitchen hygiene practices are met. Progression between Chef Level 1 to Chef Level 2 to Chef Level 3 will be based on merit selection processes when vacancies arise or on an operation requirements and business needs basis. The duties of a Chef include but are not limited to:

Obtaining and maintaining a NSW Food Safety Supervisor Certificate

Completion of an apprenticeship or appropriate trade qualifications in cookery, butchery, baking or pastry cooking

Establishing and maintaining a first class culinary experience across multiple food outlets including preparing and cooking food as per Taronga menus

Planning menus and determining food and labour costs in consultation with stakeholders

Demonstrating techniques to apprentices and advising on cooking procedures

Maintaining and enforcing a high level of food safety

Manage complex stakeholder relations, expectations and competing priorities in a busy hospitality environment.

Maintain professionalism, tact and diplomacy when working within a high paced environment.
Supervising and training staff

Senior Chef

In addition to the duties of Chef, the key duties of the Senior Chef include but are not limited to:

Completion of appropriate additional training

Supervising other trade qualified cooks, recruitment, training and rostering
Coordinate stocktake across all departments

Purchase and maintain equipment kitchen items including cooking utensils, dishwashers

Budgeting including raising purchase orders, investigating Profit/Loss

Liaising with internal and external stakeholders including current and potential suppliers and contractors

Create and implement policies and best practices for food safety, hygiene and Work Health Safety

Possess and maintain a current Senior First Aid Certificate or Occupational First Aid Certificate;

Duty Officer

The role of the Duty Officer is to provide and maintain high quality customer service standards. Key duties include but are not limited to:

Managing complex stakeholder relations, competing priorities and visitor expectations

Delivering a high quality customer service experience to guests at Taronga

Assisting in coordinating, training and supervising employees

Resolving guest issues to ensure that complaints are dealt with effectively and complex issues are escalated accordingly.

Ensuring the smooth operation of the day-to-day operations of the three accommodation outlets in the absence of senior management and assisting the frontline teams in these areas to address, report, and escalate any issues.

Responding to emergencies and initiating the appropriate response in accordance with Taronga Emergency and after-hours procedures.

Obtain and maintain a Senior First Aid or Occupational First Aid Certificate

Monitoring and ensuring compliance with RSA regulations during bar service.

Be responsible for the daily reconciliation of in-house and departing guest accounts across the accommodation outlets, ensuring compliance with Taronga cash handling and finance procedures.

APPENDIX B: ADDITIONAL LEAVE ENTITLEMENTS - TARONGA RETAIL AND RESTAURANT AWARD

The table below outlines all the leave provisions contained in the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 (Section 6 Leave) which employees covered by the Taronga Retail and Restaurant Award have access to.

The Taronga Retail and Restaurant Award outlines entitlements to Annual Leave, Annual Leave Loading, Long Service Leave and Public Holidays.

Leave Type (from Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009)
Family and Community Service Leave
Leave Without Pay
Military Leave
Observance of Essential Religious or Cultural Obligations
Parental Leave (including maternity leave, adoption leave and other parent leave)
Purchased Leave
Sick Leave
Sick Leave – Requirements for Evidence of Illness
Sick Leave to care for a family member
Sick Leave – Workers Compensation
Sick Leave – Claims other than Workers Compensation
Special Leave (including Jury Service, Witness at Court, Examination Leave, Union Activities)
Leave for Matters Arising from Domestic Violence

Printed by the authority of the Industrial Registrar.

N. CONSTANT, *Chief Commissioner*

Printed by the authority of the Industrial Registrar.

(1923)

SERIAL C9334

HY-TEC INDUSTRIES PTY LTD - MAXI CONCRETE CONTRACT DETERMINATION

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Hy-Tec Industries Pty Ltd.

(Case No. 180627 of 2021)

Before Commissioner Stanton

30 September 2021

VARIATION

1. Delete clause 2, Hy-Tec to Pay Current Rates, Surcharges and Fees of Schedule 1, of the determination published 15 January 2016 (378 I.G. 1599) and insert in lieu thereof the following:

2. Hy-Tec to Pay Current Rates, Surcharges and Fees

- 2.1 Subject to clause 2.3 of this Schedule, Hy-Tec will:

- (a) pay to the Contract Carriers the out of hours surcharges set out in the table at subclause 2.2 below;
- (b) continue to pay to the Contract Carriers all other:
 - (i) Rates;
 - (ii) surcharges (except for any out of hours surcharges); and
 - (iii) fees, on the basis they were paid to the Contract Carriers as at the date this Contract Determination was made; and
- (c) continue to apply the periodic rise and fall formula on the basis it was applied to all Rates, Surcharges and Fees from the date this Contract Determination is varied.

- 2.2 Table of Out of Hours Surcharges

6 Wheeler		
Surcharge	Application	Amount
Surcharge 1	Monday to Friday after 5.00am and up to and including 6.00am Monday to Friday from 5.00pm and before 7.00pm	\$9.53 per m3 (min 3.0 m3)
Surcharge 2	Monday to Friday from 7.00pm and up to and including 5.00am Before 6.00am on a Saturday	\$15.24 per m3 (min 3.0 m3)
Surcharge 3	Saturday 1.00pm to 5.00pm	\$15.24 per m3 (min 3.0 m3)
Surcharge 4	Saturday after 5.00pm	\$22.54 per m3
Surcharge 5	Sunday	\$22.54 per m3
Surcharge 6	Public Holiday	\$30.05 per m3

8 Wheeler		
Surcharge	Application	Amount
Surcharge 1	Monday to Friday after 5.00am and up to and including 6.00am Monday to Friday from 5.00pm and before 7.00pm	\$8.46 per m3 (min 3.6 m3)
Surcharge 2	Monday to Friday from 7.00pm and up to and including 5.00am Before 6.00am on a Saturday	\$13.55 per m3 (min 3.6 m3)
Surcharge 3	Saturday 1.00pm to 5.00pm	\$13.55 per m3 (min 3.6 m3)
Surcharge 4	Saturday after 5.00pm	\$20.05 per m3
Surcharge 5	Sunday	\$20.05 per m3
Surcharge 6	Public Holiday	\$26.74 per m3

- 2.3 The Rates and/or Surcharges and Fees and/or the rise and fall formula referred to in clauses 2.1 and 2.2 of this Schedule may be changed subject to:
- (a) agreement between Hy-Tec and the Contract Carrier Executive; or
 - (b) variation of this Contract Determination in accordance with the Industrial Relations Act 1996.
2. This variation shall commence to operate on and from 5 July 2021.

J. D. STANTON, *Commissioner*

Printed by the authority of the Industrial Registrar.

LOCAL GOVERNMENT (STATE) AWARD 2020

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by New South Wales Local Government, Clerical, Administrative, Energy, Airlines & Utilities Union, Industrial Organisation of Employees.

(Case No. 223820 of 2021)

Before Chief Commissioner Constant

26 August 2021

VARIATION

1. Delete Clause 31E (XII), Traineeship Wage Rates of Part B, Monetary Rates, of the Award published 3 July 2020 (388 I.G. 1038) and insert in lieu thereof the following:

CLAUSE 31E (XII) - TRAINEESHIP WAGE RATES

	Highest Year of School Completed		
	Year 10 \$	Year 11 \$	Year 12 \$
School Leaver	347.10	382.20	455.30
Plus 1 year out of school	382.20	455.30	529.90
Plus 2 years	455.30	529.90	616.60
Plus 3 years	529.90	616.60	706.00
Plus 4 years	616.60	706.00	
Plus 5 years or more	706.00		

2. Delete Table 2 - Allowances of Part B, Monetary Rates, and insert in lieu thereof the following:

MONETARY RATES - TABLE 2 ALLOWANCES

	First Pay Period 01/07/20 \$	First Pay Period 01/07/21 \$	First Pay Period 01/07/22 \$
Clause 16(i) Level 1 Adverse Working Conditions Allowance	0.44 p.h. or 16.40 p.w.	0.45 p.h. or 16.70 p.w.	0.46 p.h. or 17.00 p.w.
Clause 16(ii) Level 2 Adverse Working Conditions Allowance	1.15 p.h. or 43.30 p.w.	1.17 p.h. or 44.20 p.w.	1.19 p.h. or 45.10 p.w.
Clause 16(iii) Sewer Chokes	9.35 p.s.	9.54 p.s.	9.73 p.s.
Clause 16(vi)(a) Tool Allowances			
Bricklayer	23.50 p.w. from first pay period 11/02/21 24.00 p.w.	24.00 p.w. from first pay period 26/08/21 24.20 p.w.	24.20 p.w.
Carpenter & Plumber	32.90 p.w. from first pay period 11/02/21 33.60 p.w.	33.60 p.w. from first pay period 26/08/21 33.90 p.w.	33.90 p.w.
Metal & Mechanical Trades	32.90 p.w. from first pay period 11/02/21 33.60 p.w.	33.60 p.w. from first pay period 26/08/21 33.90 p.w.	33.90 p.w.
Painter & Signwriter	8.00 p.w. from first pay period 11/02/21	8.20 p.w. from first pay period 26/08/21	8.30 p.w.

	8.20 p.w.	8.30 p.w.	
Plasterer	32.90 p.w. from first pay period 11/02/21 33.60 p.w.	33.60 p.w. from first pay period 26/08/21 33.90 p.w.	33.90 p.w.
Clause 16(vi)(d) Insurance Value	1907.10 p.a. from first pay period 11/02/21 1945.15 p.a.	1945.15 p.a. from first pay period 26/08/21 1963.00 p.a.	1963.00 p.a.
Clause 16(x)(f) Travelling Allowances			
3 - 10 km	5.26 p.j.	5.37 p.j.	5.48 p.j.
11 - 20 km	8.32 p.j.	8.49 p.j.	8.66 p.j.
21 - 33 km	12.05 p.j.	12.29 p.j.	12.54 p.j.
34 - 50 km	18.43 p.j.	18.80 p.j.	19.18 p.j.
Each additional 10kms	4.96 p.j.	5.06 p.j.	5.16 p.j.
Clause 16(x)(j) Vehicle Allowance (cents per km)			
Under 2.5 litres	0.68 p.km.	0.68 p.km. from first pay period 26/08/21 0.70 p.km.	0.70 p.km.
2.5 litres and over	0.78 p.km.	0.78 p.km. from first pay period 26/08/21 0.80 p.k.m	0.80 p.km.
Clause 16(xi)(a) Camping Allowance	68.56 p.n.	69.93 p.n.	71.33 p.n,
Clause 16 (xii)(a) Community Language Allowance	23.20 p.w.	23.70 p.w.	24.20 p.w.
Clause 16(xiii)(a) First Aid Allowance	15.70 p.w.	16.00 p.w.	16.30 p.w.
Clause 16(xiv) Meal Allowance	15.94 from 16/11/20 16.28	16.28 from first pay period 26/08/21 16.53	16.53
Clause 16(xv) Civil Liability Allowance (payable from the first pay period commencing on or after 15 December 2006)	3.5%	3.5%	3.5%
Clause 17A(i) Vehicle Allowances (cents per km)			
Under 2.5 litres	0.68 p.km.	0.68 p.km.	0.68 p.km.
2.5 litres and over	0.78 p.km.	0.78 p.km.	0.78 p.km.
Clause 17A(iii) Minimum quarterly payment	2145.00	2145.00	2145.00
Clause 20C(iii) On Call Allowance on ordinary working days	20.61 p.d.	21.02 p.d.	21.44 p.d.
Clause 20C(iv) On Call Allowance - on other days	40.36 p.d.	41.17 p.d.	41.99 p.d.
Clause 20C(v) On Call Allowance - maximum per week	183.80 p.w.	187.50 p.w.	191.30 p.w.
Clause 42(vi) Job Search Allowance	2728.70	2783.30	2839.00
Clause 44(iv) Savings and Transitional			
(a) West of the Line Allowance	3.90 p.w.	3.90 p.w.	3.90 p.w.
(b) Climatic Allowance	3.90 p.w.	3.90 p.w.	3.90 p.w.

5. This variation shall operate from the commencement of the first full pay period on or after 26 August 2021 and shall remain in force for a period identical to the Local Government (State) Award 2020 (388 I.G. 1038).

N. CONSTANT, *Chief Commissioner*

(308)

SERIAL C9337**LOCAL GOVERNMENT (STATE) AWARD 2020**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by New South Wales Local Government, Clerical, Administrative, Energy, Airlines & Utilities Union, Industrial Organisation of Employees.

(Case No. 300284 of 2021)

Before Chief Commissioner Constant

26 October 2021

VARIATION

1. Delete clause 17A(i) Vehicle Allowances (cents per km) of Table 2 Allowances of Part B, Monetary Rates, of the Award published 3 July 2020 (388 I.G. 1038) and insert in lieu thereof the following:

Clause 17A(i) Vehicle Allowances (cents per km)			
Under 2.5 litres	0.68 p.km.	0.68 p.km from first pay period 26/10/21 0.70 p.km.	0.70 p.km.
2.5 litres and over	0.78 p.km.	0.78 p.km. from first pay period 26/10/21 0.80 p.km.	0.80 p.km.

2. This variation shall operate from the commencement of the first full pay period on or after 26 October 2021 and shall remain in force for a period identical to the Local Government (State) Award 2020 (388 I.G. 1038).

N. CONSTANT, *Chief Commissioner*

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(1931)

SERIAL C9303

TARONGA CONSERVATION SOCIETY AUSTRALIA RETAIL AND RESTAURANT EMPLOYEES' AWARD 2019 - 2022

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Taronga Conservation Society Australia.

(Case No. 202462 of 2021)

Before Chief Commissioner Constant

12 August 2021

VARIATION

1. Delete the title of the award published 8 May 2020 (387 IG. 1132) and insert in lieu thereof the following:

TARONGA CONSERVATION SOCIETY AUSTRALIA RETAIL AND RESTAURANT EMPLOYEES' AWARD 2019 - 2022

2. Delete clause 1, Title, and insert in lieu thereof the following:

1. Title

The Award is called the Taronga Conservation Society Australia Retail and Restaurant Employees' Award 2019 - 2022.

3. Delete the definition of "Award" in clause 3, Definitions, and insert in lieu thereof the following:

"Award" means the Taronga Conservation Society Australia Retail and Restaurant Employees' Award 2019 - 2022.

4. Delete the definition of "Employer" and "Employee" in clause 3, Definitions, and insert in lieu thereof the following:

"Employer" means the Department of Planning, Industry and Environment at Taronga Conservation Society Australia (Taronga).

"Employee" means a person employed by the Department of Industry, Planning and Environment at Taronga Conservation Society Australia (Taronga) within the scope of this Award.

5. Delete subclause 4.4 of clause 4, Application, and insert in lieu thereof the following:

- 4.4 There will be effective means of consultation on matters of interest and concern, both formal and informal, at all levels of the organisation, between the parties to this Award and Employees.

6. Delete subclause 5.1 of clause 5, Area, Incidence and Duration and insert in lieu thereof the following:

- 5.1 This Award has effect from the beginning of the first full pay period on or after 1 July 2019 and will remain in force until 30 June 2022 and rescinds and replaces the Taronga Conservation Society Australia Retail and Restaurant Employees' Award published 8 May 2020 (387 I.G. 1132).

7. Substitute the word 'shall' with the word 'will' wherever it appears in subclauses 13.1, 21.2, 21.2 (a), 21.2 (c), 21.2 (d), 21.4, 22.1, 22A.1, 22A.2, 22A.3, 22A.4, 23.4, 24.3, 34.2 (a), 34.2 (b), 34.2 (c), 34.2 (f), 34.2 (g).

8. Substitute TWPZ for TZ in the first paragraph of the classification of Retail Sales Coordinator TZ of Appendix A: Classifications.
9. Delete Schedules 1 and 2 and insert in lieu thereof the following:

SCHEDULE 1

Classification	Weekly 8 July 19	Weekly 13 July 20	Weekly 5 July 21
Retail Sales Assistant	799.38	801.80	818.2
Retail Sales Supervisor	825.99	828.50	845.4
Retail Coordinator – TWPZ	840.32	842.80	860.0
Retail Coordinator – TZ	1050.88	1054.00	1075.5
Kitchen Hand	728.85	731.00	745.9
Wait Staff	751.91	754.20	769.6
Duty Officer	915.63	918.40	937.1
Cook	787.33	789.70	805.8
Apprentice Chef (% of Level 1 Chef wage)			
Year 1 – 46%	395.67	396.90	405.0
Year 2 – 54%	464.49	465.90	475.4
Year 3 – 67%	576.31	578.00	589.8
Chef			
Level 1	860.16	862.70	880.3
Level 2	915.64	918.40	937.1
Level 3	944.92	947.80	967.1
Senior Chef	1026.18	1029.30	1050.3
Applicable Junior rates for Retail Sales Assistant, Wait Staff and Kitchen Hand:			
Age:			
17 years and under - 62%			
18 years of age - 70%			
19 years of age - 80%			
20 years of age - 90%			

SCHEDULE 2

Allowances

	8 July 19	13 July 20	5 July 21
Laundry Allowance	\$12.88 per week	\$12.90 per week	\$13.15 per week
Meal Allowance	\$14.74 per meal	\$14.80 per meal	\$15.10 per meal
Apprentice's Tool Allowance	\$0.92 per week	\$0.90 per week	\$0.95 per week
First Aid Allowance	\$16.63 per week	\$16.70 per week	\$17.05 per week
Overnight Allowance	\$30.84 per shift	\$30.95 per shift	\$31.60 per shift
Bus Allowance	\$5.38 per shift	\$5.50 per shift	\$5.60 per shift
Insurance of Tools	\$1,495.00	\$14,95.00	\$14,95.00
Retail Employees Saturday allowance			
Under 21 years - shift length up to 4 hours	\$5.70 per week	\$5.70 per week	\$5.80 per week
Adult - shift length up to 4 hours	\$8.73 per week	\$8.75 per week	\$8.95 per week
Under 21 years - shift length 4 hours and over	\$9.74 per week	\$9.75 per week	\$9.95 per week
Adult - shift length 4 hours and over	\$17.90 per week	\$17.95 per week	\$18.30 per week

10. This variation will take effect from the first full pay period to commence on or after 1 July 2021.

N. CONSTANT, *Chief Commissioner*

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(1598)

SERIAL C9332

**SKILLED TRADES STAFF - DEPARTMENT OF COMMUNITIES AND
JUSTICE - AGEING, DISABILITY AND HOME CARE (STATE)
AWARD 2020**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Construction, Forestry, Maritime, Mining and Energy Union (New South Wales Branch),
Industrial Organisation of Employees.

(Case No. 192282 of 2021)

Before Commissioner Webster

13 September 2021

ORDER OF RESCISSION

The Industrial Relations Commission of New South Wales orders that the Skilled Trades Staff - Department of Communities and Justice - Ageing, Disability and Home Care (State) Award 2020 published 23 April 2021 (389 I.G. 404) as varied, be rescinded on and from 13 September 2021.

J. WEBSTER, *Commissioner*

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Key to Abbreviations Used:

<i>(ACC)</i>	—	<i>Award of Conciliation Commissioner/Committee.</i>
<i>(AIC)</i>	—	<i>Award of Industrial Commission.</i>
<i>(AIRC)</i>	—	<i>Award of Industrial Relations Commission.</i>
<i>(AR)</i>	—	<i>Award Reprint (Consolidation).</i>
<i>(ART)</i>	—	<i>Award of Retail Trade Industrial Tribunal.</i>
<i>(CD)</i>	—	<i>Contract Determination.</i>
<i>(CORR)</i>	—	<i>Correction..</i>
<i>(ERR)</i>	—	<i>Erratum.</i>
<i>(OCC)</i>	—	<i>Order of Conciliation Commissioner.</i>
<i>(OIC)</i>	—	<i>Order of Industrial Commission.</i>
<i>(OIRC)</i>	—	<i>Order of Industrial Relations Commission.</i>
<i>(OIR)</i>	—	<i>Order of Industrial Registrar.</i>
<i>(RIRC)</i>	—	<i>Reviewed Award.</i>
<i>(RVIRC)</i>	—	<i>Variation - Reviewed Award.</i>
<i>(VCC)</i>	—	<i>Variation by Conciliation Commissioner/Committee.</i>
<i>(VCD)</i>	—	<i>Variation of Contract Determination.</i>
<i>(VIC)</i>	—	<i>Variation by Industrial Commission.</i>
<i>(VIR)</i>	—	<i>Variation by Industrial Registrar.</i>
<i>(VIRC)</i>	—	<i>Variation by Industrial Relations Commission.</i>
<i>(VRT)</i>	—	<i>Variation by Retail Trade Industrial Tribunal.</i>
<i>(VSW)</i>	—	<i>Variation following State Wage Case.</i>

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