

Vol. 386, Part 1

24 January 2020

Pages 1 – 407



NEW SOUTH WALES  
**INDUSTRIAL GAZETTE**

Printed by the authority of the  
**Industrial Registrar**  
47 Bridge Street, Sydney, N.S.W.

ISSN 0028-677X

# CONTENTS

Vol. 386, Part 1

24 January 2020

Pages 1 — 407

		Page
Awards and Determinations —		
Broken Hill City Council Consent Award 2018	RIRC	1
Crown Employees (Fire & Rescue NSW Tradespersons) Award 2019	AIRC	59
Crown Employees (Office of Environment and Heritage - National Parks and Wildlife Service) Conditions of Employment Award 2015	RIRC	90
Crown Employees (Transport Drivers, &c.) Award	RIRC	136
Farm Assistants (Department of Education and Communities) Wages and Conditions Award	RIRC	142
Health Employees' Medical Radiation Scientists (State) Award 2019	AIRC	155
Health Managers (State) Award 2019	AIRC	174
Local Government (Electricians) (State) Award	RIRC	184
Motels, Accommodation and Resorts, &c. (State) Award	RIRC	222
NSW Health Service Allied Health Assistants (State) Award 2019	AIRC	263
Nurses (Private Sector) Superannuation (State) Award	RIRC	269
Nursing Homes, &c., Nurses' (State) Award	RIRC	273
Public Hospitals (Medical Superintendents) Award 2019	AIRC	319
Public Hospitals Dental Assistants (State) Award 2019	AIRC	345
Shop Employees (State) Award	RIRC	349
Transport Industry - Quarried Materials, &c., Carriers Interim Contract Determination	VCD	396
Nurses' (Private Sector) Training Wage (State) Award	RVIRC	398
Transport Industry (State) Award	RVIRC	400
Award Reprints -		
City of Ryde (Christmas Leave) Award	AR	405
Enterprise Agreements Approved by the Industrial Relations Commission		406
Industrial Committees -		
Clothing Trades (State) Industrial Committee		407

NEW SOUTH WALES

**INDUSTRIAL GAZETTE**

*Printed by the authority of the Industrial Registrar*



**INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES**

**CHIEF COMMISSIONER**

Commissioner P. M. KITE

**MEMBERS**

Commissioner J. D. STANTON

Commissioner J. V. MURPHY

Commissioner N. CONSTANT

Commissioner D. SLOAN

Commissioner J. WEBSTER

**INDUSTRIAL REGISTRAR**

MS M. MORGAN

---

**BROKEN HILL CITY COUNCIL CONSENT AWARD 2018**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

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

(Case No. 288209 of 2018)

Before Chief Commissioner Kite

11 December 2018

**REVIEWED AWARD****Arrangement**

This Award is arranged as follows:

Clause No.	Subject Matter
1.	Title
2.	Statement of Intent
3.	Definitions
4.	Area, Incidence and Duration
5.	Anti-Discrimination
6.	Hours of Work - General Provisions
7.	Ordinary Hours of Work for Employees Engaged Prior to 21 December 2015
7A.	Saturday and Sunday Work for Employees Engaged Prior to 21 December 2015
8.	Ordinary Hours for Employees Engaged on or after 21 December 2015
8A.	Saturday and Sunday Work for Employees Engaged On or After 21 December 2015
9.	Shift Work
10.	Starting Point
11.	Garaging
12.	Part Time Employees
13.	Casual Employees
14.	Overtime
14A.	On Call Allowance
14B.	Remote Response
14C.	Call Back
14D.	Quick Shift
14E.	Broken Shift
15.	Meal Breaks
16.	Annualised Salary Agreements (ASA)
17.	Council Agreements
19.	Skills Based System of Pay and Rates of Pay
20.	Skill Descriptors
20.	Annual Assessment and Progression Rules
21.	Allowances and Reimbursements
22.	Use of Skills
23.	Salary Packaging and Sacrifice
24.	Superannuation
25.	Payment of Employees
26.	Annual Leave - General Provisions
27.	Annual Leave - Employees Engaged Prior to 21 December 2015

28. Annual Leave - Employees Engaged on or after 21 December 2015
29. Long Service Leave
30. Sick Leave
31. Carer's Leave
32. Bereavement Leave
33. Parental Leave
34. Paid Maternity Leave
35. Leave Without Pay
36. Family and Domestic Violence Leave
37. Flexibility for Work and Family Responsibilities
38. Public Holidays
39. Trade Union Training Leave
40. Trade Union Conference Leave
41. Jury Service Leave
42. Army Reserve Training
43. Consultative Committee Aim
44. Dispute Resolution Procedure
45. Termination of Employment
46. Redundancy - General Application, Process and Consultation
47. Redundancy - Employees Engaged Prior to 21 December 2015
48. Redundancy - Employees Engaged on or after 21 December 2015
49. Work, Health and Safety
50. Labour Hire and Contract Businesses
51. Outsourcing
52. Accident Pay
53. Further Education
55. Leave Reserved and No Further Claims

#### SCHEDULES

Schedule 1 - Weekly Rates of pay

Schedule 2 - Allowances

Schedule 3 - Progression guidelines

### **PART 1**

## **APPLICATION AND OPERATION OF THIS AWARD**

### **1. Title**

This Award is the Broken Hill City Council Consent Award 2018.

### **2. Statement of Intent**

The parties to the Award are committed to cooperate in a positive manner to increase the productivity, structural efficiency, financial sustainability and competitiveness of Local Government service provision within Broken Hill and to provide employees with access to fulfilling and varied work by providing measures to, for instance:

Ensure the efficient delivery of quality services to the community;

Improve knowledge and skill levels;

Establish skill related career paths;

Eliminate impediments to multiskilling and broaden the range of tasks which an employee may be required to perform;

Eliminate discrimination;

Maintain rates of pay, conditions and hours which are fair, equitable and competitive;

Ensure and facilitate flexible work practices;

Encourage innovation and continuous improvement; and

Promote cooperation and open communication and change management

### 3. Definitions

In this Award, unless the contrary intention appears:

"Act" means the *Industrial Relations Act 1996* (NSW) as amended.

"ASA" means Annualised Salary Agreement and operates in accordance with clause 16 of this Award.

"Award" means the Broken Hill City Council Consent Award 2018.

"Council" means the Broken Hill City Council.

"Employee" means a person employed by Broken Hill City Council.

"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, and not be limited to the following penalties and allowances where they are regularly received.

Saturday, Sunday and shift penalties;

Tool allowances;

On call allowance;

First Aid allowance; and

Community language and signing work allowances.

Overtime payments and all other allowances shall be excluded from the composition of ordinary pay.

"Salaried Office Employee" means an employee engaged in one of the following functions:

Administration;

Building Surveying;

Engineering (Professional);

Executive Band;

Finance;

Health Surveying;

Library;



Public Relations;  
Technical Services;  
Tourism; and  
Town Planning.

"Union" means the means the Barrier Industrial Council (BIC) and its affiliated unions: the Broken Hill Federated Municipal Employees Union (BHMEU), the Construction, Forestry, Mining, Energy & Union (Mining and Energy Division) NSW South Western District (CFMEU), New South Wales Local Government, Clerical, Administrative, Energy, Airlines and Utilities Union (USU).

"Wages Employee" means an employee engaged in any functions not otherwise specified in the definition of salaried office employee.

#### 4. Area, Incidence and Duration

- 4.1 This Award shall apply to all employees of Broken Hill City Council, excluding those employees defined as senior staff by the *Local Government Act 1993* (NSW).
- 4.2 This Award shall rescind and replace the Broken Hill City Council Consent Award 2015 published 15 January 2016 (378 I.G. 768) and all variations thereof.
- 4.3 This Award shall take effect from 1 December 2018 and will remain in force until 1 December 2021.
- 4.4 In Schedule 1 the Award provides for a 2.75% increase in rates of pay to operate from the first full pay period to commence on or after 1 July 2019.
- 4.5 In Schedule 1 the Award provides for a 2.75% increase in rates of pay to operate from the first full pay period to commence on or after 1 July 2020.
- 4.6 In Schedule 1 the Award provides for a 2.75% increase in rates of pay to operate from the first full pay period to commence on or after 1 July 2021
- 4.7 This award shall be made by the Industrial Relations Commission of New South Wales and be known as the Broken Hill City Council Consent Award 2018. The parties to the Award are as follows:

Broken Hill City Council;

The Barrier Industrial Council;

Broken Hill Federated Municipal Employees Union;

The Construction, Forestry, Mining and Energy Union (NSW South Western District); and

The United Services Union.

#### 5. Anti-Discrimination

- 5.1 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.
- 5.2 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.

- 5.3 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.
- 5.4 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 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.
- 5.5 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.

#### 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."

## PART 2

### HOURS OF WORK, OVERTIME AND RELATED MATTERS

#### 6. Hours of Work - General Provisions

- 6.1 Employment with Council is subject to the satisfactory completion of a probationary period.
- (a) The probationary period shall be for three (3) months duration; however Council may require a maximum period of six (6) months for employees above Grade 16 (Band 3 Level 2).
  - (b) During the probation period, employees shall be provided with the appropriate training and instruction to enable them to perform the duties and functions of the position.
  - (c) During the probation period the employee will be advised of any areas of concern and expected performance outcomes.
  - (d) At the successful conclusion of the probation period, the employee shall be offered a permanent position by Council in accordance with the employee's original appointment status, i.e. in a full-time or part-time capacity.
- 6.2 The ordinary hours of work for full time Salaried Office Employee shall be 70 per fortnight.
- 6.3 The ordinary hours of work for full time Wages employees shall be no more than 76 hours per fortnight.
- 6.4 Employees shall be entitled to a rostered day off once in every two (2) week period.

- (a) It is essential that all employees working a nine (9) day fortnight be aware that the first priority is the maintenance of acceptable work flows. Accordingly there will need to be co-operation between Council employees and managers in the planning of rostered working days so that adequate staff resources are available to all time to service public needs as well as providing interdepartmental office communication and services.
- (b) Rosters are to be prepared by managers and/or departmental heads at least two weeks in advance.
- (c) When a public holiday clashes with a rostered day off, the general rule will be to take the next working day as a rostered day off.
- (d) Approval to accumulate rostered days off may be granted in special circumstances by the employee's manager and/or departmental head.

#### **7. Ordinary Hours of Work for Employees Engaged Prior to 21 December 2015**

- 7.1 A Salaried Office employee engaged prior to 21 December 2015 shall continue to commence at 8.30am and finish at 5.00pm and work for 7 hours and 46 minutes exclusive of a 44 minute unpaid meal break.
- 7.2 A Wages employee engaged prior to 21 December 2015 shall continue to commence at 7.00am and finish at 3.26pm and work for 8 hours and 26 minutes inclusive of a paid meal break.
- 7.3 Notwithstanding subclauses 7.1 and 7.2, an employee engaged prior to 21 December 2015 may alter their commencement and/or finishing times by agreement. Such agreement must be in writing and be genuine with no compulsion to agree.
- 7.4 Where Council seeks to vary an employee's commencement and finishing times outside the span of hours of 6am to 6pm there must be prior agreement with the employee and Council, in consultation with the union.
- 7.5 Except as otherwise provided, the ordinary hours for all employees shall be between Monday and Friday.

#### **7A. Saturday and Sunday Work for Employees Engaged Prior to 21 December 2015**

- 7.6 The ordinary hours for employees engaged in the following functions and positions shall be between Monday and Sunday:
  - (a) Council's Visitor Information Centre;
  - (b) The Library;
  - (c) The Entertainment Centre;
  - (d) The Geo Centre;
  - (e) The Art Gallery;
  - (f) Waste Services including Street sweeping;
  - (h) Pool Attendants;
  - (i) Pool Cleaners;
  - (j) Airport Reporting Officers;
  - (k) Dog Control Officers; and
  - (l) The Living Desert Rangers.

- 7.7 Except as otherwise provided, ordinary hours worked by a full time or permanent part time employee at the Visitors Information Centre, Library, Entertainment Centre, Geo Centre and Art Gallery on a Saturday shall attract a 25% penalty in addition to the ordinary hourly rate of pay. Ordinary hours worked on a Sunday shall attract a 50% penalty in addition to the ordinary hourly rate of pay.
- 7.8 Ordinary hours worked on a Saturday or a Sunday by Waste Service Employees shall attract a 50% penalty for work between midnight on Friday and midnight Saturday, and a 100% penalty for work between midnight on Saturday and midnight on Sunday. Where a full time or part time Waste Service employee who works ordinary hours on the weekends is in receipt of an over-award payment, they shall not receive the penalty.
- 7.9 An employee may request to work ordinary hours on a Saturday and/or Sunday in lieu of ordinary hours the employee would otherwise be rostered to work.
- (a) An employee's request must be in writing and be forwarded to Council and the Union. In addition the request must outline a period within which the arrangement is to be reviewed by Council and the Union;
  - (b) Council and the Union 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 on a Saturday and/or a Sunday under the provisions of this sub-clause, Council shall not be required to pay the penalty rate prescribed by subclauses 7.8, and 7.9
- 7.10 Where an employee and Council agree, an employee engaged prior to 1 November 2015 may request to be permanently transferred to a Monday to Sunday spread and where such a request is agreed, the employee shall be entitled to receive the penalties in accordance with clause 7.8 and 7.9.
- 7.11 Where an employee engaged prior to 21 December 2015 applies for and is successful in a vacant or new position in any of the functions listed in 8.7, they shall receive the penalties in accordance with subclauses 8.8, 8.9 and 8.10.

### **8. Ordinary Hours for Employees Engaged on Or After 21 December 2015**

- 8.1 The ordinary hours of work for full time Salaried Office Employee shall be 70 per fortnight.
- 8.2 The ordinary hours of work for full time Wages employees shall be no more than 76 hours per fortnight.
- 8.3 A salaried office employee shall be entitled to an unpaid meal break of 44 minutes.
- 8.4 A wages employee shall be entitled to a paid 26 minute meal break.
- 8.5 The ordinary hours shall not exceed 10 in any one day inclusive of paid/unpaid meal breaks and shall, except as otherwise provided, be worked between 6am and 6pm.
- 8.6 Except as otherwise provided, the ordinary hours for all employees shall be between Monday and Friday.
- 8.7 The ordinary hours for employees engaged in the following functions shall be between Monday and Sunday:
- (a) Tourism Services, including the Visitor Information Centre;
  - (b) Entertainment Services, including Entertainment Centre operations, Hospitality;
  - (c) Cultural Services, including Geo Centre employees, Art Gallery employees, Library and Living Desert Ranger;

- (d) Waste Services;
- (e) Aquatic facilities, including pool attendants/ cleaners;
- (f) Airport staff including Airport reporting officer;
- (g) Rangers/ Enforcement Officers;
- (h) Parks and Open Spaces;
- (i) Crematorium and Cemetery;
- (j) Trade functions;
- (k) Road construction and maintenance;
- (l) Cleaning.

#### **8A. Saturday and Sunday Work for Employees Engaged on Or After 21 December 2015**

- 8.8 Except as otherwise provided, ordinary hours worked by full time and permanent part time employees employed in Tourism and Cultural services, Aquatic facilities, Ranger/ Enforcement Officers and Entertainment Services 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.
- 8.9 Ordinary hours worked on a Saturday or a Sunday by Waste Services, Parks and Open Spaces, Crematorium and Cemetery, Trade Functions, Road Construction and Maintenance; Airport Staff and Cleaning employees shall attract a 50% penalty for work between midnight Friday and midnight Saturday and a 100% penalty for work between midnight Saturday and midnight Sunday.
- 8.11 An employee may request to work ordinary hours on a Saturday and/or Sunday in lieu of ordinary hours the employee would otherwise be rostered to work.
- (a) An employee's request must be in writing and be forwarded to Council and the Union. In addition the request must outline a period within which the arrangement is to be reviewed by Council and the Union;
  - (b) Council and the Union 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 on a Saturday and/or a Sunday under the provisions of this subclause, Council shall not be required to pay the penalty rate prescribed by sub-clauses 8.8, 8.9 and 8.10

#### **9. Shift Work**

- 9.1 Except as otherwise provided ordinary hours worked by employees, outside the span referred to in subclause 6.4 shall attract a 20% shift penalty in addition to the ordinary hourly rate of pay for the actual time worked outside the span.
- 9.3 Employees engaged in the following functions shall 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:

Cleaners	5.00am to 9.00pm
Entertainment Services (including Entertainment Centre Operations, Hospitality)	6.00am to 11.00pm
Libraries	8.00am to 9.00pm

Aquatic facilities	5.00am to 9.00pm
Living Desert Ranger	6.00am to 9.00pm

- 9.4 Shift penalties shall be payable for ordinary work performed between Monday and Friday and shall not be paid on weekends.
- 9.5 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 sub-clauses 9.1, 9.2 and 9.3 in lieu of the ordinary hours the employee would otherwise be rostered to work.
- (a) An employee's request must be in writing and be forwarded to Council and the Union. In addition the request must outline a period within which the arrangement is to be reviewed by Council and the Union;
  - (b) Council and the Union will not unreasonably withhold agreement to such a request;
  - (c) Any such agreement shall not then apply to new or vacant positions;
  - (d) Where an employee requests to work ordinary hours outside the relevant span of hours under the provisions of this sub-clause, Council shall not be required to pay a shift penalty for the actual time worked.

### **10. Starting Point**

- 10.1 All employees shall start and finish at the various council depots and facilities. Employees may be required to start and finish at the work site if practical.

### **11. Garaging**

- 11.1 All time necessary in garaging of machines shall be included in Council's time.

### **12. Part Time Employees**

- 12.1 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 subclauses 6.2 and 6.3 of the Award.
- 12.2 Prior to commencing part-time work Council and the employee shall agree upon the conditions of work 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.
- 12.3 The conditions may also stipulate the period of part-time employment and may be varied by consent.
- 12.4 The conditions or any variation to them must be in writing and retained by Council. A copy of the conditions and any variations to them must be provided to the employee by Council.
- 12.5 Unless otherwise provided 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.
- 12.6 By agreement a part-time employee may work more than their regular number of hours at the ordinary hourly rate. The maximum amount of hours that a part-time employee may work at the ordinary hourly rate is the hours prescribed by sub-clauses 6.2 and 6.3.

- 12.7 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.

### 13. Casual Employees

- 13.1 A casual employee shall mean an employee engaged on a day to day basis.
- 13.2 A casual employee will be paid for a minimum of three hours, for each engagement, except for attendance at scheduled employee or team meetings, for which payment will be made at the appropriate rate for time actually worked, with a minimum of one (1) hour.
- 13.3 A casual employee shall be paid the hourly rate for ordinary hours worked.
- 13.4 A casual employee shall be entitled to a 25 per cent loading, calculated on the ordinary hourly rate. This loading shall not attract any penalty. This loading shall be paid in lieu of all leave and severance pay, except paid maternity leave. Casual loading is not payable on overtime.
- 13.5 A casual employee may work a maximum amount of hours as prescribed by sub-clauses 6.2 and 6.3 at ordinary time. Overtime shall be paid where a casual employee works outside the ordinary hours for the 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 sub-clauses 6.2 and 6.3
- 13.6 Subject to the reasonable overtime provisions of sub-clause 14.1, a casual employee will not be offered to work overtime in a position held by an employee of Council, if the employee of Council is available to work that overtime.
- 13.7 Casual employees who work on Saturday and/or Sunday are entitled to the penalty rates prescribed by the relevant subclauses 7.8, 7.9, 8.8 or 8.9. The penalties are calculated on the ordinary hourly rate.
- 13.8 Casual employees who work outside the relevant span of hours are entitled to the relevant shift penalties prescribed by the relevant subclauses 7.8, 7.9, 8.8 or 8.9. The shift penalty is calculated on the ordinary hourly rate.
- 13.9 Casual employees engaged on a regular and systematic basis shall:
- (a) Have access to annual assessment under council'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 council's structure. In calculating the long service leave entitlement of casual employees, there shall be a deduction of the long service leave accrued whilst the employee was employed as a casual and paid the loading identified in sub-clause 13.4
- 13.10 A casual employee shall not replace an employee of council on a permanent basis.
- 13.11 Carer's entitlements shall be available for casual employees as set out in sub-clause 31.9 of this Award.
- 13.12 Bereavement entitlements shall be available for casual employees as set out in sub-clause 31.2 of this Award.
- 13.13 Parental leave entitlements shall be available for casual employees in accordance with Clause 34 and Part 4, Parental Leave, of the *Industrial Relations Act 1996* (NSW).

### 14. Overtime

- 14.1 Except where otherwise provided Council may require an employee to work reasonable overtime.

- (a) 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.
- (b) What constitutes unreasonable working hours will be determined having regard to:
- any risk to the employee;
  - the employee's personal circumstances including any family and carer's responsibilities;
  - the needs of the workplace;
  - the notice, if any, given by Council of the overtime and by the employee of their intention to refuse it; and any other matter.
- 14.2 Overtime shall be paid at double time, inclusive of the days pay.
- 14.3 Any employee who has completed normal and regular hours of work and is on the premises at the time of the request, and is called to work overtime, other than planned overtime, of less than four (4) hours, shall be paid for the time worked.
- 14.4 Where an employee is required to work after finishing time for a period in excess of 1 ½ hours, then the employee shall be provided with a meal, or alternatively, the employee shall be paid the allowance set out in the Table in Schedule 2.
- If overtime continues beyond 1 ½ hours then, for each additional four hours worked an additional meal shall be provided or, alternatively, the employee shall be paid the allowance set out in the Table in Schedule 2.
- 14.5 Except as otherwise provided, where a meal is due and overtime is to extend beyond that time, a paid break of twenty (20) minutes shall be allowed in which to eat the meal.
- 14.6 Transport shall be provided for all employees required to work on other than planned work which is outside their normal working time.
- 14.7 A wages employee shall receive a paid thirty (30) minute meal break or in lieu, an allowance, as set out in the Table in Schedule 2, after four (4) continuous hours on any or all overtime worked on Saturdays and Sundays.
- 14.8 Council shall keep a record of all overtime worked and shall pay for authorised overtime.
- 14.9 For the purposes of calculating overtime each day shall stand alone, provided however that where any period is continuous and extends beyond midnight, all overtime hours in this period shall be regarded as if they had occurred within the day first occurring.
- 14.10 Consistent with Council's travel policy, the above provisions do not apply to those employees required to travel for work.

#### **14A. On Call Allowance**

- 14.11 An employee shall be deemed to be on-call if required by Council to be available for duty outside of ordinary hours at all times in order to attend emergency and/or breakdown work.
- 14.12 Employees who are required to be on-call are not required to remain at their usual place of residence or other place appointed by Council. However, an on-call employee must be able to be contacted and be able to respond within a reasonable time.
- 14.13 Employees required to be on-call on days when they would ordinarily work, or would have ordinarily worked but for a public holiday, shall be paid an allowance in accordance with Schedule 2.



- 14.14 Employees required to be on-call on days other than their ordinary working days shall be paid an on-call allowance in accordance with Schedule 2
- 14.15 The on-call allowances in sub-clauses 14.13 and 14.14 shall not total more than the amount as stated in Schedule 2, in any one week.
- 14.16 Employees on-call who are required to work outside their ordinary hours shall be entitled to be paid overtime at the appropriate rate for hours worked and such rate shall be paid from the time that the employee departs for work. On-call employees are not subject to the minimum payment provisions of sub-clause 37.5 on a public holiday.

#### **14B. Remote Response**

- 14.17 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: subclause 14.16 applies where an on-call employee is recalled to work)
- 14.18 An employee remotely responding will be required to maintain and provide 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.
- 14.19 The employer, may be 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 subclause 14.17.

#### **14C. Call Back**

- 14.20 Any employee of Council who has completed their normal and regular hours of work and is off the premises at the time of request, is called to work overtime, other than planned overtime, of less than four hours, shall be paid the appropriate overtime rate for a minimum of four (4) hours.

#### **14D. Quick Shift**

- 14.21 An employee who works so much overtime between the completion of ordinary work on one shift and the commencement of ordinary work on the next shift that they have not had at least eight consecutive hours off duty between shall be paid double time if instructed to resume work or released from work and entitled to an eight hour break without loss of pay.

#### **14E. Broken Shift**

- 14.22 A permanent employee called upon to work a broken shift shall be paid the indexed allowance based upon that currently applicable per shift in addition to their ordinary pay. A broken shift shall not exceed a span of twelve (12) hours.

### **15. Meal Breaks**

- 15.1 Council must not require an employee to work for more than 5 hours continuously without an interval of at least 30 minutes for a meal.

- 15.2 Except as otherwise provided, a meal allowance as set out in the Table in Schedule 2 shall be paid to employees instructed to work overtime:
- (a) for 1½ hours or more prior to their agreed commencing time
  - (b) for 1½ hours immediately after their agreed finishing time and after subsequent periods of four hours
  - (c) after each four hours on days other than ordinary working days.

### **16. Annualised Salary Agreements (ASA)**

- 16.1 Notwithstanding any other provision of this Award, the Council and an employee may agree that the Council 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 19
  - (b) Use of Skills - clause 22
  - (c) Salary Packaging and sacrifice - clause 24
  - (d) Allowances and reimbursements - clause 21
  - (e) Hours of Work - clause 6 and 7
  - (f) Overtime - clause 14
  - (g) Public Holidays - clause 38
- 16.2 Where an employee and Council seek to enter into an ASA, the employee is entitled to seek industrial/legal advice prior to entering into such an arrangement.
- 16.3 Where an employee and Council enter into an ASA, the annual salary shall not disadvantage the 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 less period as has been worked);
  - (b) The annual salary of the employee must be reviewed by Council 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.
- 16.4 An annual salary agreement must:
- (a) be in writing and signed by the employee and Council;
  - (b) state the date upon 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;

- (e) be subject to 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 performance pay arrangements and performance measurement indicators;
- (i) contain the salary for the purposes of accident make up pay; and
- (j) contain the award band and level for the role.

16.5 An Annualised salary agreement may be terminated:

- (a) by Council 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 Council and the employee.

16.6 On termination of an annualised salary agreement, the employee will revert to the Award entitlements unless a new annualised salary agreement is reached.

16.7 Notwithstanding the above, annualised salary arrangements entered into prior to 1 November 2015 may continue to operate in accordance with their terms.

### **17. Council Agreements**

17.1 The parties may enter into a council agreement, which may apply to parts of Council's workforce.

17.2 The terms of any agreement reached between the parties shall substitute for the provisions of the award provided that:

- (a) the extent of the council agreement shall be limited to:

Payment of employees;

Hours of work;

Overtime;

Holidays;

Part-time employment;

Job share employment;

Performance, evaluation and reward

- (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 17.3 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 Enterprise Arrangement Principle.

17.3 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 between the Council and the Union;
- (c) the agreement shall be committed to writing and shall include a date of operation and a date of expiration;
- (d) the council and the appropriate union(s) shall sign the agreement; and
- (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.

17.4 Council agreements can be terminated in the following manner:

- (a) Section 44 of the *Industrial Relations Act 1996* (NSW) relating to the termination of enterprise agreements shall apply to the termination of a council agreement 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' written 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.

#### **A. General**

- 18.1 Trainee, Apprentice or Cadet employees may be required to possess a Provisional or Class C Drivers Licence.
- 18.2 In the circumstances as to which a FTE position be filled with a Trainee, Apprentice or Cadet formal consultation practices will be followed in line with the consultation practices of Clause 42 of this Award.
- 18.3 Upon cessation of an apprenticeship, traineeship, or cadetship and the incumbent is not employed on a permanent ongoing basis, council will fill the position with another apprenticeship, traineeship or cadetship, or that of a full time position maintaining organisational FTE. If council intends to not fill the position formal consultation practices under Clause 42.

#### **B. School Based Trainees and School Based Apprentices**

- 18.4 The objective 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 AQF qualification for apprenticeship level as specified in the relevant Vocational Training Order pursuant to the *Apprenticeship and Traineeship Act 2001*.
- 18.5 The hourly rate for apprentices/trainees including time deemed to be spent in off the job training shall be calculated by dividing the applicable weekly rate for the full time apprentices as set out in Table 2 by 38 or 35 in accordance with clause 6, Hours of Work.
- 18.6 The purpose of clause 18.12, 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 deemed to be 25%

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.

- 18.7 School based trainees/ school based apprentices progress through the rates of pay subject to successful completion of appropriate training modules and satisfactory service.

**C. Trainee employment and apprenticeships**

- 18.8 This clause relates to employees considered trainees or apprentices
- 18.9 Employees within this clause may undertake specific government funded programs under a recognised Training Agreement that is registered with the relevant training authority. Employees within this clause may undertake programs funded by the Council.
- 18.10 The rates of pay as provided for in table two and table three are payable to employees undertaking entry level training
- 18.11 Apprentices are paid according to their educational qualification and experience.
- 18.12 Trainees are paid according to the time agreed to be taken complete their study in annual increments.
- 18.13 Progression along the scale is not automatic, but is subject to successful completion of appropriate training modules and satisfactory service.
- 18.14 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.
- 18.15 In addition to the vocational training direction, the employer shall provide an apprentice and/or trainee with the conditions of the apprenticeship/traineeship in writing and these conditions shall include:
- (a) the term of the apprentice and/or trainee;
  - (b) the course of studies to be undertaken by the apprentice and/or trainee;
  - (c) the course of on the job training to be undertaken by the apprentice and/or trainee.
  - (d) A government funded apprentice and/or trainee shall not commence until the relevant Training Agreement has been registered with the relevant State Training Authority.
- 18.16 Except as herein provided, all other terms and conditions of this Award shall apply.
- 18.17 The apprentice and/or trainee shall attend approved training courses or training programs prescribed in the Training Agreement or as notified to the trainee by the relevant State Training Authority in accredited and relevant Traineeship Schemes.
- 18.18 Council shall ensure that the trainee is permitted to attend the training courses or programs provided for in the Training Agreement and shall ensure that the trainee received the appropriate on-the-job training in accordance with the Training Agreement.
- 18.19 Council shall provide a level of supervision in accordance with the Training Agreement during the traineeship/apprenticeship period.
- 18.20 The apprentice and/or trainee shall be permitted to be absent from work without loss of continuity of employment and/or waged to attend the training in accordance with the Training Agreement.
- 18.21 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 Council. By agreement in writing, and with the consent of the relevant State Training Authority, Council

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.

18.22 A full time Apprentice shall be engaged for a period up to 4 years depending on their level of achievement and skills when entering employment; inline with AQF III

18.23 Where the apprentice and/or trainee completes the qualification in the Training Agreement earlier than the time specified in the Training Agreement, then the Apprenticeship and/or Traineeship may be concluded by mutual agreement.

18.24

(a) Council shall not terminate the trainee's or apprentice's service without providing written notice of the termination in accordance with the training agreement and subsequently to the relevant State Training Authority as appropriate.

(b) Where Council decides to terminate a Council funded apprentice and/or trainee notice shall be provided in accordance with this Award.

(b) Where Council chooses not to continue the employment of a apprentice and/or trainee upon the completion of the traineeship or apprenticeship, it shall notify the relevant State Training Authority as appropriate, of its decision.

18.25 A trainee/ apprentice who fails to complete the traineeship or apprenticeship or who cannot for any reason be placed in full-time employment on the successful completion of the traineeship, shall not be entitled to any severance payments payable pursuant to clause 46.3 or provisions similar thereto.

#### **D. Other Trainee employment (cadetships)**

18.26 A trainee under this clause is employed as a cadet; where by full time work is supplemented with the acquisition of qualifications (government funded or council funded) that are aligned the development of professional qualifications.

18.27 Unless otherwise agreed, the maximum term of the cadetship is in accordance with table three.

18.28 Payment is made in line with table three and the required amount of time to complete the recognised study.

18.29 Recognised study pertains to a minimum level of qualification of AQF IV or as required for the role.

18.30 Progression along the scale is not automatic, but is subject to successful completion of appropriate training modules and satisfactory service.

18.31 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.

## **PART 3**

### **RATES OF PAY AND RELATED MATTERS**

#### **19. Skills Based System of Pay and Rates of Pay**

19.1 This Award has adopted a skills based structure consisting of four overlapped bands within which classifications have been broad banded into levels according to six key skill descriptors as defined within clause 20 Skill Descriptors.

The four bands are:

No.	Band	Levels
1	Operational	4
2	Administrative/Technical/Trades	3
3	Professional/Specialist	4
4	Executive	4

- 19.2 The skills based salary structure described above is supported by a 24 grade salary system with each grade comprising of an entry level and three progression steps that are over and above the entry level rates of pay for the grade.
- 19.3 The salary system determines how employees at Council 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. In relation to employees at Grade 14 and above, when moving from step 3 to step 4, the salary system rate of pay also recognises a performance rating of competent or above.
- 19.4 Positions are assigned a salary grade(s) within the structure. A position may extend across more than one grade in Council's salary system. The rates of pay for each grade are set out in the Table 1 of Schedule 1. The rates of pay in Table 1 of Schedule 1 are rates that have historically absorbed the defunct extra over award payments and the Broken Hill Allowance for all employees, Annual Leave loading for Salaried Office Employees and Wages Employees and the following allowances for Wages Employees:

Ceiling;

Chainsaw;

Confined Space;

Dead Animal;

Dirt;

Early Start;

Early Start - Pool;

Jack Hammer;

Laundry;

Lead Bonus;

Milk;

Mowing;

Noxious Weeds;

Power Implement;

Painter's spray;

Qualification;

Spreader;

Trade Certificate;

Toilet;

Towing;

Wet - General; and

Wet - Garbage.

#### 19.5 Apprenticeships

- (a) The rates of pay set out in Table 2 of Schedule 1 are payable to employees of Council undertaking apprenticeships.
- (b) Upon reaching the age of 21 years and not having completed their apprenticeship, apprentices shall be paid the minimum rate for adults provided under this Award.
- (c) Upon successful completion of the apprenticeship, an employee shall proceed to the appropriate grade in the structure, if the employment is to be continued beyond the apprenticeship period.
- (d) In addition to the vocational training direction, Council shall provide an apprentice with the conditions of the apprenticeship in writing and these conditions shall include:
  - (i) the terms of the apprenticeship;
  - (ii) the course of studies to be undertaken by the apprentice;
  - (iii) the course of on the job training to be undertaken by the apprentice.
- (e) On the production of a letter from the Principal of the TAFE College stating that they have satisfactorily completed a year's work in the trade course appropriate to their apprenticeship, an apprentice shall be refunded the amount of fees paid in respect of that year.
- (f) On the production of a letter from the Principal of the TAFE College stating that they have satisfactorily completed a year's work in the trade course appropriate to their apprenticeship, and receipts for text books prescribed for that year's work, an apprentice shall be paid the cost of the prescribed text books or one hundred and fifty dollars (\$150.00) whichever is the lesser amount.

#### 19.6 Government funded traineeships

- (a) A government funded traineeship is subject to a Traineeship Agreement registered with the relevant State Training Authority.
- (b) The rates of pay payable to a government funded trainee shall be as provided in Table 3 in Schedule 1.
- (c) The rates of pay in Table 3 in Schedule 1 are actual rates and shall only apply to government funded trainees while they are undertaking an approved traineeship.
- (d) Council shall ensure that government funded trainees are permitted to attend the training course or program provided for in the Traineeship Agreement and shall ensure that trainees receive the appropriate on-the-job training in accordance with the Traineeship Agreement.
- (e) A government funded trainee shall be permitted to be absent from work without loss of continuity of employment and/or wages to attend training in accordance with the Traineeship Agreement.

### **20. Skill Descriptors**

The award's skills based bands, levels and grades are defined according to the following skill descriptors:



## OPERATION BAND

## 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 council-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.

## Operational Band 1, Level 2 (Grades 1 to 4)

## 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.

Operational Band 1, Level 3 (Grades 5 to 7)

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.

Operational Band 1, Level 4 (Grades 8 to 10)

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.

**ADMINISTRATIVE / TECHNICAL / TRADES BAND****Administrative / Technical / Trades Band 2, Level 1 (Grades 8 to 10)****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.

**Administrative / Technical / Trades Band 2, Level 2 (Grades 11 to 13)****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.

Administrative/Technical/Trades Band 2, Level 3 (Grades 14 to 16)

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 council and represent council 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.

**PROFESSIONAL / SPECIALIST BAND**

Professional / Specialist Band 3, Level 1 (Grades 11 to 13)

**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 Council, 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.

**Professional / Specialist Band 3, Level 2 (Grades 14 to 16)****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.

Professional / Specialist Band 3, Level 3 (Grades 17 to 19)

Authority and accountability:

Provides a professional advisory role to people within or outside council. Such advice may commit the Council and have significant impact upon external parties dealing with council. The position may manage several major projects or sections within a department of the Council.

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 council 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.

Professional / Specialist Band 3, Level 4 (Grades 20 to 21)

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 council 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 council 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 council 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.

**EXECUTIVE BAND****Executive Band 4 (Grades 22 to 24)****Authority and accountability:**

Accountable for the direction and control of council or a department or the like. Influence and commit council 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 council.

**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 council 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 Council's clients.

**Interpersonal skills:**

Positions use persuasive skills with external parties on major items of critical importance to council. They motivate managers and staff at all levels by leading and influencing others to achieve complex objectives. They influence the development of the Council.

**Qualifications and experience:**

Positions will have a relevant degree or equivalent and management experience, combined with accredited management qualifications.

**20A. Annual Assessment and Progression Rules**

- 20.1 Employees shall be assessed for progression through the salary range for their position annually.
- 20.2 At the time of each annual assessment, Council shall advise the employee of the skills and/or any performance objectives required for the employee to progress to the next salary step and shall review the employee's training needs.
- 20.3 An employee's progression from the entry level (Step 1) to Step 2, Step 3 and Step 4 shall be based upon the acquisition and use of core skills and knowledge as specified in the relevant position description and skills matrix.
- 20.4 Progression through the salary system shall be based on the acquisition and use of skills. 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 and communicated to the employee in accordance with subclause 20.2 above.
- 20.5 Progression shall be subject to the employee achieving a skills/performance rating of competent or above, at the time of the annual assessment.
- 20.6 For employees at Grade 14 and above progression from Step 3 to Step 4 is subject to performance. Should an employee's performance be evaluated as marginal or inadequate the employee shall not be eligible to progress to the next salary point.
- 20.7 Employees may appeal against their skills assessment and/or performance evaluation. Such appeals must be in writing to the General Manager within 10 days of the original assessment and/or evaluation. The General Manager may consult with applicable staff members before making a final determination. Employees may access the Dispute Resolution Procedures of clause 44 as a means of resolving concerns in relating to skills assessments and/or performance evaluations.
- 20.8 Employees shall have access to information regarding the grade, salary range and progression step of the position. The guidelines found in Schedule 3 to this Award have been established to assist the parties to the Award in relation to the operation of Council's Salary System and the progression of employees through Council's Salary System.

**21. Allowances and Reimbursements**

- 21.1 Expenses
  - (a) All reasonable expenses, including out-of-pocket, accommodation and travelling expenses, incurred in connection with an employee's duties shall be paid by Council.
  - (b) Where practical the reimbursement be included in the next pay period.
  - (c) The method and mode of travelling or the vehicle to be supplied or to be used shall be arranged mutually between the Council and the employee.
  - (d) Travel arrangements shall be agreed between the Council and the employee.



## 21.2 Tools Allowance

- (a) Tradespersons and apprentices shall provide their own tools.
- (b) Tools will be replaced by Council or the cost to replace tools made by Council where:
  - tools are worn through proper use;
  - tools are stolen and such theft has been reported to the proper local police authority by the employee; and
  - where tools are damaged and the employees supervisor has authorised their replacement.
- (c) Otherwise, lost tools shall be replaced by employees at their own expense.
- (d) Tradespersons who are required to work in a second trade shall be supplied with the necessary tools for the second trade.

## 21.3 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 pay. The quantum of the allowance is set out in the Table in Schedule 2.
- (b) The allowance may be paid on a regular or irregular basis, according to when the skills are used.
- (c) Such work involves an employee acting as a first point of contact for non-English speaking residents or residents hearing difficulty. In this regard the employee is limited to identifying the resident's area of concern or inquiry and then providing basic assistance, which may include face-to-face discussion and/or telephone inquiry.
- (d) Such employees convey straightforward information relating to Council services, to the best of their ability. The Employees do not replace or substitute for the role of a professional interpreter or translator.
- (e) Such employees shall record their use of a community language.

## 21.4 First Aid Work

- (a) Where an employee is required by Council to be a designated first aid officer, Council shall pay the fees associated with the attainment of such certificate.
- (b) Council shall provide a sufficient number of properly equipped first aid boxes and one shall be provided for use in cases of accident or sudden illness at each and every workplace where two or more persons are employed.
- (c) Where an employee is required by Council to be in charge of a first aid kit and/or to administer first aid and the use of such adjunct skills are not paid for in accordance with the salary system then the employee shall be paid an allowance as set out in the Table in Schedule 2.
- (d) Employees required by Council to relieve a first aid attendant shall receive an allowance as set out in the Table in Schedule 2.

## 21.5 Licence fees

- (a) For employees employed prior to 21 December 2015, Council shall pay licence fees for all employees who as a requirement of the job must drive motor vehicles or are required by the Council to obtain a specific licence to enable them to do work required by the Council, up to 30

June 2018, after which time, they shall be reimbursed in accordance with sub-clause 21.5(b), below.

- (b) For employees employed post 21 December 2015, where Council requires them to hold a drivers' licence other than a Class C (car) or Class R (Rider) licence, Council shall reimburse the employee the difference between the cost of the licence and the cost of the Class C (car) licence.

## 22. Use of Skills

- 22.1 The use of skills provisions of this clause will only apply when Council direct an employee to carry out such duties as are within the limits of the employee's skill, competence and training. This may result in an employee being required to perform duties which may extend beyond those identified in their position description.
- 22.2 An employee directed 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.
- 22.3 Except as otherwise provided in sub-clause 22.4 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. The higher rate is however payable when the employee is directed to relieve during a period which incorporates rostered days off and/or a public holiday.
- 22.4 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.
- 22.5 Where practicable, payment for relief work at a higher level must be authorised and determined in advance and the employee explicitly directed to relieve in the higher position.

## 23. Salary Packaging and Sacrifice

Council and the employee may agree on salary packaging and salary sacrifice arrangements with employees. Such arrangements shall be committed to writing and signed by the parties.

## 24. Superannuation

- 24.1 In the absence of an employee electing a superannuation fund, employer superannuation contributions shall be paid into the default fund being the Local Government Superannuation Scheme.
- 24.2 Salary Sacrifice Arrangements specific to Superannuation:
- (a) For the purpose of this sub-clause:
- (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 *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 rate of 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 s4 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) Any Salary Sacrifice Arrangement made under this clause shall not be treated as an approved benefit for superannuation purposes.

## 25. Payment of Employees

- 25.1 Employees will be paid fortnightly.
- 25.2 Council shall be entitled to deduct from the employee's pay such amounts as the employee authorises in writing.
- 25.3 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.

## PART 4

### LEAVE PROVISIONS

#### 26. Annual Leave - General Provisions

- 26.1 Unless otherwise provided, paid annual leave may be taken for a period agreed between the employee and Council, having regard to operational requirements. Council must not unreasonably refuse to agree to a request by the employee to take paid annual leave.
- 26.2 Council may direct an employee to take annual leave by giving at least four weeks' notice where the employee has accumulated in excess of ten weeks annual leave.
- 26.3 Council may direct an employee to take annual leave during a shut-down period by giving at least four weeks' notice prior to the proposed shut-down. The direction to take annual leave is conditional upon the employee having at least the equivalent amount of annual leave credited to them as the shut-down period. This clause should be read in conjunction with the provisions of the *Annual Holidays Act 1944* (NSW).

#### Option to cash out

- 26.4 An employee may forgo any accrued annual leave in excess of four (4) weeks, at ordinary pay, that is accrued in the preceding twelve month period, where:

- (a) the employee makes a written application to Council; and
- (b) Council authorises the request.

26.5 Where a request has been authorised, Council shall:

- (a) deduct the equivalent amount of annual leave; and
- (b) make payment for annual leave forgone, at the employees ordinary pay.

#### **27. Annual Leave - Employees Engaged Prior to 21 December 2015**

27.1 Employees accrue annual leave in a twelve month period as follows,

- (a) Salaried office employees accrue annual leave at the rate of six (6) weeks per annum;
- (b) Wages employees accrue annual leave at the rate of five (5) weeks per annum;

27.2 Employees in the sanitary and garbage depot shall be entitled to annual leave on the following basis:

- (a) Five (5) weeks annual;
- (b) A further two weeks in recognition of the time worked on holidays;
- (c) A total period in the aggregate shall not exceed seven (7) weeks in all but this seven (7) weeks if the employee so desires is to be taken at the one time; and
- (d) As to other time worked on holidays, the employee shall be entitled to be paid for such time pursuant to the provisions of sub-clause 37.3 of this Award.

#### **28. Annual Leave - Employees Engaged on Or After 21 December 2015**

28.1 The provisions of this clause apply to those employees engaged on or after 21 December 2015

Amount of leave

28.2 Employees accrue annual leave in a twelve month period as follows:

- (a) salaried office employees accrue annual leave at the rate of five (5) weeks per annum;
- (b) Wages employees accrue annual leave at the rate of five (5) weeks per annum;

28.3 Employees in the sanitary and garbage depot shall be entitled to annual leave on the following basis:

- (a) Five (5) weeks annual leave;
- (b) A further two weeks in recognition of the time worked on holidays;
- (c) A total period in the aggregate shall not exceed seven (7) weeks in all but this seven (7) weeks if the employee so desires is to be taken at the one time; and
- (d) As to other time worked on holidays, the employee shall be entitled to be paid for such time pursuant to the provisions of sub-clause 37.3 of this Award.

## 29. Long Service Leave

29.1 An employee of council shall be entitled to Long Service Leave at ordinary 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

29.2 Where an employee has completed more than five years' service with Council 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.

29.3 Where an employee has completed more than five (5) years' 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.

29.4

(a) An employee who is entitled to long service leave may, with the consent of the council, 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.

29.5 Employees who were in the Council's employ as at 1st January 1964 and who had at that date completed less than fifteen (15) years' service:

(a) For the period between 1st January 1964 and the date on which they completed or will complete a total of 15 years' service in all, their long service leave will be calculated on the basis of 13 weeks' long service leave for ten (10) years' service;

- (b) Thereafter long service leave is to be calculated on the basis of 22 weeks for ten years' service.
- 29.6 Long service leave shall be taken at a time mutually convenient to Council and the employee in minimum periods of one week provided that all long service leave accruing on or after the first pay period commencing on or after 16 March 2010 shall be taken within five years of it falling due.
- 29.7 Payment to an employee proceeding on long service leave shall be made by Council at the employee's 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.
- 29.8 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.
- 29.9 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* (NSW). For the purpose of this subclause, long service leave is deemed to accrue under the LSL Act at the rate of .0867 weeks per year of service.
- Each cashing out of a particular amount of Excess Long Service Leave must be by separate agreement between the employer and the employee.
- 29.10 There shall be deducted in the calculation of the employee's service all leave of absence without payment not specifically acknowledged and accepted by Council as service at the time leave was taken.
- 29.11 Long service leave shall be exclusive of annual leave and any other holidays as prescribed by this Award, occurring during the taking of any period of long service leave.
- 29.12 When the service of an employee is terminated by death the council 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.
- 29.13 Where an employee's service is terminated through shortage of work, material or finance or through illness certified by a duly qualified medical practitioner and such employee is re-employed by Broken Hill City Council within 12 months of termination of service, prior service shall be counted for the purpose of this clause.
- 29.14 In calculating the entitlement to long service leave; this Agreement must be read in conjunction with Regulation 406A of the Local Government (General) Regulation 2005 as amended.
- 29.15 In special circumstances Council may dispense with the requirements of subclause 29.5 and allow periods of less than one (1) week.

### 30. Sick Leave

- 30.1 An employee is entitled to three (3) weeks' paid sick leave for each year of service, at the ordinary rate of pay. Sick leave is cumulative in that it shall accumulate from year to year and may be taken in any subsequent year.
- 30.2 Employees who are absent from work due to a personal illness/injury shall have access to sick leave with pay subject to the following:
- (i) An employee shall notify their immediate supervisor by way of telephone call, within one (1) hour, where possible, of the employee's usual start time, of the employee's inability to attend on account of personal illness/injury. The employee shall provide the supervisor with the estimated duration of the absence.

- (ii) An employee will be required to provide a medical certificate or statutory declaration of the illness/injury where the period of absence is for more than two (2) consecutive working days and/or where Council identifies that there is a pattern of absence and/or where Council has reason to believe that the employee's absence is not consistent with the appropriate use of personal leave.
- 30.3 Employees who are absent from work due to personal illness/injury and who submit a medical certificate to that effect, shall be entitled to all benefits of this Award until their accumulated sick leave is exhausted. For a period of three months after that they shall be entitled to payment of any public holidays which fall due but after the elapse of such period of three months they shall cease to be entitled to any benefits under this Award until they return to work.
- 30.4 All employees who have accrued untaken sick leave at the time of retirement or termination of employment shall be paid for such accrued leave, such payment to be calculated at the wage rate applicable at the date of retirement or on termination of employment in accordance with the following:
- (a) One half (1/2) of sick leave accrued between 1 January 1960 and 19 March 1973;
  - (b) Three quarters (3/4) of sick leave accrued between 20 March 1973 and 31 March 1980;
  - (c) The whole of sick leave accrued between 1 April 1980 and 31 January 1985; and
  - (d) The whole of two (2) of the three (3) weeks per annum of the sick leave accrued from 1 February 1985 up until 31 March 1994.

The benefits accruing from this subsection shall be applied to persons employed on a full-time basis by Council as at 31 March 1994 but not to persons employed subsequent to that date.

30.5

- (a) Any employee who becomes sick or is injured whilst on annual leave and produces within a reasonable time, no later than the conclusion of the annual leave, a doctor's certificate which satisfactorily indicates to Council that the employee was unable to derive benefit from their annual leave, may be granted, at a time convenient to Council, additional leave equivalent to the period of sickness or injury.
- (b) The re-crediting of annual leave will only apply in cases where the period which Council is satisfied that the employee was unable to derive benefit from the annual leave was at least seven (7) consecutive days.

### **31. Carer's Leave**

- 31.1 Use of Sick Leave: an employee, other than a casual employee, with responsibilities in relation to a class of person set out in sub-clause 31.6 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 clause 30 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.
- 31.2 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.
- 31.3 Where more than ten days sick leave in any year is to be used for caring purposes the council and employee shall discuss appropriate arrangements which, as far as practicable, take account of Council's and the employee's requirements.
- 31.4 Where the parties are unable to reach agreement the grievance and disputes procedures at clause 44 of this Award should be followed.

31.5 The 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 and support by another person; or
- (b) establish by production of documentation acceptable to the council or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee.

In normal circumstances, an employee must not take carer's leave under this subclause where another person has taken leave to care for the same person.

31.6 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.

31.7 An employee may elect, with the consent of Council, to take unpaid leave for the purpose of providing care and support to a class of person set out in sub-clause 31.6(b) above who is ill or who requires care due to an unexpected emergency.

31.8 An employee shall, wherever practicable, give Council 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 employee's supervisor by telephone of such absence at the first opportunity on the day of absence.

31.9 Carer's Entitlement for Casual Employees

- (a) Subject to the evidentiary and notice requirements in sub-clauses 31.5 and 31.8 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 sub-clause 31.6(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) Council and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. The casual employee is not entitled to any payment for the period of non-attendance.
  - (c) Council must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of Council to engage or not to engage a casual employee are otherwise not affected.
- 31.10 Time off in Lieu of Payment for Overtime: An employee may, with the consent of Council, elect to take time in lieu of payment of overtime accumulated in accordance with the provisions of clause 14 of this Award for the purpose of providing care and support for a person in accordance with subclause 31.6 above.
- 31.11 Make-up time: An employee may elect, with the consent of Council, 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 this Award, at the ordinary rate of pay for the purpose of providing care and support for a person in accordance with subclause 31.6 above.
- 31.12 Annual Leave and Leave Without Pay: An employee may elect with the consent of Council to take annual leave or leave without pay for the purpose of providing care and support for a person in accordance with subclause 31.6 above. Such leave shall be taken in accordance with clauses 27, 28 and 29, Annual Leave and clause 35 Leave Without Pay of this Award.

### **32. Bereavement Leave**

- 32.1 Where an employee is absent from duty because of the death of a person in accordance with paragraphs (a)-(e) below and provides satisfactory evidence to Council of such, the employee shall be granted two days leave with pay upon application. Persons in respect of whom bereavement leave may be claimed shall include:
- (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, 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
  - (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 paragraph:
    - (1) 'relative' means a person related by blood, marriage or affinity;
    - (2) 'affinity' means a relationship that one spouse because of marriage has to blood relatives of the other; and
    - (3) 'household' means a family group living in the same domestic dwelling.
- 32.2 Bereavement Entitlements for Casual Employees
- (a) Casual employees who are rostered to work shall provide satisfactory evidence to Council that they are unavailable to attend work as a result of the death in Australia of a person prescribed in subclause 32.1 paragraphs (a)-(e) above.

- (b) Council and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. The casual employee is not entitled to any payment for the period of non-attendance.
- (c) Council must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of Council to engage or not engage a casual employee are otherwise not affected.

### 32.3 Representation at Funeral

- (a) Council shall permit two employees selected by the Union of which the deceased was a member to attend an employee's funeral and the two employees shall be entitled to receive payment for reasonable time lost in attending the funeral.

32.4 Employees on a period of annual leave, who would have otherwise qualified for bereavement leave prescribed by this Award, shall be paid bereavement leave in accordance with Clause 32 of this Award and have up to a maximum of two days annual leave re-credited to their accruals.

32.5 In the event that an employee finds it necessary to travel a distance exceeding 200 kilometres from Broken Hill to attend the funeral of person prescribed in subclause 32.1 paragraphs (a)-(e) above, then the two days paid leave provided by sub-clause 32.1 shall be increased to three days.

32.6 Upon receipt of an application by an employee to attend the funeral of a person who is not a person prescribed in sub-clause 32.1 paragraphs (a)-(e) above, Council shall grant two (2) hours leave without pay to the employee to attend the funeral, provided that the leave granted shall commence and terminate at the site of the job upon which the employee is employed.

## 33. Parental Leave

### 33.1 General

Relationship with federal legislation - Clauses 33.1, 33.2, 33.3, and 33.5 of this award shall apply in addition to:

- (a) 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
- (b) 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

Requests for Flexible Working Arrangements

Chapter 2, Part 2-2, Division 4, Requests for Flexible Working Arrangements of the *Fair Work Act 2009*, shall apply.

### 33.2 Paid Parental Leave

- (a) Definitions - in this clause:
  - (i) PPL instalments shall mean instalments paid during the paid parental leave period under the *Paid Parental Leave Act 2010* (Cth).

- (ii) 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.

(b) 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 Council immediately prior to the commencement of paid parental leave.

(c) Entitlement to parental leave make-up pay

- (i) 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.
- (ii) 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.
- (iii) Re-qualification 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 council for at least 3 months since their previous period of parental leave.

(d) Employee's right to choose

- (i) An employee who satisfies the eligibility criteria for paid maternity leave or paid special maternity leave under clause 33 of this Award may elect to receive paid maternity leave and /or paid special maternity leave in accordance with the provisions of this Award in lieu of the entitlement to parental leave make-up pay under this award, provided the re-qualification period in subclause (iii) above shall apply.
- (ii) This subclause shall not apply where another employee of council receives parental leave make-up pay in connection with the pregnancy or birth of the child.

### 33.3 Concurrent Parental Leave

An employee, who is a supporting parent shall be entitled to up to 10 days 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 council immediately prior to the commencement of their concurrent parental leave.

### 33.4 Adoption Leave

(a) Eligibility

This clause applies to an employee who is entitled to adoption-related leave under the *Fair Work Act 2009 (Cth)*.

(b) Pre-adoption Leave

- (i) 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.
- (ii) 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 council agree.
- (c) Adoption Leave
- (i) An employee, other than a casual, who has or will have primary responsibility for the care of an adopted child is entitled to up to 4 weeks paid adoption leave at ordinary pay from the date the child is placed with the employee for adoption.
  - (ii) Paid adoption leave must not extend beyond 4 weeks of the date of placement of the child.
  - (iii) This subclause shall not apply where an employee of council receives parental leave make-up pay in connection with the adoption of the child.

### 33.5 Casual Re-engagement

- (a) Council must not fail to re-engage a regular casual employee as defined in section 53(2) of the *Industrial Relations Act 1996* (NSW) because:
  - (i) the employee or employee's spouse is pregnant; or
  - (ii) the employee is or has been immediately absent on parental leave.
- (b) The rights of Council in relation to engagement and re-engagement of casual employees are not affected, other than in accordance with this sub-clause.

## 34. Paid Maternity Leave

- 34.1 This clause applies to all full time and part time female employees who have had 12 months continuous service with council immediately prior to the commencement of maternity leave or special maternity leave and to female casual employees who have worked on a regular and systematic basis with council for at least 12 months prior to the commencement of maternity leave or special maternity leave.
- 34.2 Paid maternity leave shall mean leave taken by a female employee in connection with the pregnancy or the birth of a child of the employee. Paid maternity leave consists of an unbroken period of leave.
- 34.3 Paid special maternity leave shall mean leave taken by an employee where the pregnancy of the employee terminates before the expected date of birth (other than by the birth of a living child), or where she suffers illness related to her pregnancy, and she is not then on paid maternity leave; provided that a medical practitioner certifies such leave to be necessary before her return to work.
- 34.4 An employee shall be entitled to a total of 9 weeks paid maternity leave or special maternity leave on full pay; or 18 weeks maternity leave or special maternity leave on half pay; or maternity leave or special maternity leave on a combination of full pay or half pay provided the leave does not exceed the equivalent of 9 weeks on full pay.
- 34.5 The employee may choose to commence paid maternity leave before the expected date of the birth.
- 34.6 Annual leave, long service leave, unpaid maternity leave and any accumulated time in lieu may be taken in conjunction with paid maternity leave and special maternity leave, subject to council approval, provided that the total period of leave does not exceed 104 weeks.
- 34.7 Employees may take periods of annual leave and long service leave during unpaid maternity leave at half pay, provided the total period of all leave does not exceed 104 weeks.
- 34.8 The period of paid maternity leave and special maternity leave is taken into account in calculating the employee's long service, annual and sick leave accruals.

- 34.9 Where an employee has completed ten years continuous service, the period of unpaid maternity or adoption leave shall count as service for long service leave purposes, provided that the unpaid maternity or adoption leave does not exceed six months. For employees with less than ten years continuous service periods of unpaid maternity or adoption leave do not count as service for long service leave purposes.
- 34.10 Paid maternity leave may not be extended beyond the first anniversary of the child's birth.
- 34.11 Payment for maternity leave and special maternity leave is at the ordinary rate applicable prior to the commencement of the leave period. Employees working as permanent part time employees will be paid at their ordinary part time rate of pay calculated on the regular number of hours worked. A casual employee's rate of pay will be calculated by averaging the employee's weekly wage in the 12 months immediately prior to the employee commencing paid maternity leave or special maternity leave.
- 34.12 Paid maternity leave and paid special maternity leave shall be exclusive of public holidays. Where a public holiday falls during a period where the employee has taken either paid maternity leave or annual or long service leave on half pay, the public holiday shall also be paid at half pay. Further, all entitlements shall accrue during periods of leave at half pay on a proportionate basis.
- 34.13 Notice of intention to take paid maternity leave the employee must:
- provide council with certification of the expected date of confinement at least 10 weeks before the child is due. This is known as the first notice.
- advise council in writing of her intention to take paid maternity leave and the proposed start date at least 4 weeks prior to that date. This is known as the second notice.
- provide a signed statutory declaration that the employee will be the primary care giver to the child and that the paid maternity leave will not be taken in conjunction with any partner accessing paid parental leave entitlements.
- 34.14 The employee will not engage in any other form of paid work during the period of paid maternity leave without the approval of the general manager.
- 34.15 Subject to an application by the council and further order of the Industrial Relations Commission of New South Wales, a council may pay a lesser amount (or no amount) of maternity leave or special maternity leave than that contained in this clause where council can demonstrate economic hardship.
- 34.16 Unpaid adoption leave
- (a) An employee who qualifies for paid adoption leave pursuant to the provisions of sub-clause 34.15 is entitled to unpaid adoption leave as follows:
- (i) where the child is under the age of 12 months - a period of not more than 12 months from the date of taking custody;
- (ii) where the child is over the age of 12 months - a period of up to 12 months, such period however is to be agreed upon by the employee and the Council.

### **35. Leave Without Pay**

If an employee has exhausted all available relevant leave entitlements then approved leave without pay shall be taken at a time convenient to Council and the employee and shall not be counted as service for holidays, long service leave, sick leave and annual leave. However, leave without pay shall not break continuity of service.

### **36. Family and Domestic Violence Leave**

The employer may grant special leave, either with or without pay, to an employee for a period as determined by the employer to cover specific matters approved by the General Manager in relation to leave for victims of family and domestic violence.

Any period 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 as break in the employee's continuity of service.

### **37. Flexibility for Work and Family Responsibilities**

- 37.1 An employee, other than a casual employee, may request flexible work and leave arrangements to enable the individual employee to attend to work and family responsibilities.
- 37.2 An employee's request must be in writing and be forwarded to Council and the Union. In addition the request must outline a period within which the arrangement is to be reviewed by Council and the Union.
- 37.3 Council and the Union shall not unreasonably withhold agreement to flexible work and leave arrangements, provided Council's operational needs are met.
- 37.4 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, and
  - (h) variations to ordinary hours and rosters.
  - (i) purchased additional annual leave arrangements
- 37.5 The terms of a flexible work and leave arrangement shall be in writing and may be varied from time to time, by agreement, to suit the specific needs of either party.
- 37.6 Any such agreement shall not apply to new or vacant positions.

### **38. Public Holidays**

- 38.1 Employees shall have holidays without loss of pay on New Years' Day; Australia Day; Good Friday; Easter Saturday; Easter Monday; Anzac Day; Queen's Birthday; Labour Day; Christmas Day; Boxing Day and Picnic Day (which will be held on Melbourne Cup day each year).
- 38.2 In addition to the days provided for in sub-clause 37.1 above employees who are Aboriginal and Torres Straight Islanders shall be entitled to one day during NAIDOC week so that they can participate in National Aboriginal and Islander Day celebrations.
- 38.3 Payment for work that is rostered in advance on a public holiday shall be paid at triple time, inclusive of the days pay.

- 39.4 If a holiday falls on an employee's rostered day off under a seven day rotating roster, the employee shall be paid an additional ordinary day's pay, or Council may grant a day's leave, without loss of pay, at a mutually convenient time.
- 39.5 Any employee who is called in to work on a public holiday or on Easter Saturday shall be paid a minimum of four (4) hours at the rate of double time and a half, exclusive of payment for the public holiday.
- 39.6 An employee attending a Technical College as an approved student on a public holiday, picnic day or NAIDOC day shall receive a day in lieu.
- 39.7 Where a holiday identified in subclause 37.1 falls on a Saturday or Sunday and the State Government does not gazette another day, the holiday shall be observed on the day it falls.

### **39. Trade Union Training Leave**

Council shall agree to release employees to attend an accredited trade union training course with pay and such agreement shall not be unreasonably withheld, provided that Council will not be required to pay in excess of 10 days leave per annum.

### **40. Trade Union Conference Leave**

An employee of Council who is an accredited delegate to the Union's annual conference shall be entitled to paid leave of absence for the duration of the conference and related travel, provided that should there be more than one accredited delegate per union, such leave with pay is at the discretion of Council.

### **41. Jury Service Leave**

- 41.1 An employee required to attend for jury service during the employee's ordinary working hours shall be reimbursed by the Council 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.
- 41.2 An employee shall notify the Council as soon as possible of the date upon which the employee is required to attend for jury service. Further the employee shall give council proof of attendance, the duration of such attendance and the amount received in respect of such jury service.

### **42. Army Reserve Training**

Where an employee as a consequence of a written application approved by the Council loses time as a result of attending the annual camp of the Army Reserve the employer shall make up the difference between the payment receivable from the Department of Defence and their wages.

## **PART 5**

### **CONSULTATIVE COMMITTEE**

#### **43. Consultative Committee Aim**

- 43.1 The parties to the award are committed to consultative and participative processes. There shall be a consultative committee at Council which shall:
- (a) provide a forum for consultation between Council and its employees;
  - (b) positively co-operate in workplace reform to enhance the efficiency and productivity of Council and to provide employees with access to career opportunities and more fulfilling, varied and better paid work.

**SIZE AND COMPOSITION**

- 43.2 The size and composition of the consultative committee shall be representative of Council's workforce and agreed to by Council and the local representatives from the unions.
- 43.3 The consultative committee shall include but not be limited to employee representatives of each of the unions that are parties to the Consent Award and who have members employed at Council.
- 43.4 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.

**SCOPE OF CONSULTATIVE COMMITTEES**

- 43.5 The functions of the consultative committee shall 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.
- 43.6 The consultative committee shall not consider matters which are being or should be processed in accordance with clause 36 of the Award, Dispute Resolution Procedure.

**MEETINGS AND SUPPORT SERVICES**

- 43.7 The consultative committee will make recommendations based upon consensus. Where there is no consensus on a particular item, the recommendation to council should note the dissenting views.
- 43.8 The consultative committee shall meet as required.

**PART 6****DISPUTE RESOLUTION****44. Dispute Resolution Procedure**

- 44.1 At any stage of the procedure, the employee(s) may be represented by their union or its local representative/delegate and the Council represented by the Association.
- 44.2 The union delegate shall have reasonable time, without loss of pay, to discuss a grievance or dispute with management at the local level where prior approval is sought. Such approval shall not be unreasonably withheld.
- 44.3 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.
- (f) If a dispute arises steps shall be taken immediately to arrange a conference between Council and the Union or Unions concerned. No further action on the matter shall be taken until the conference has been held and at least two ordinary working days have elapsed subsequent to the holding of such a conference.

44.4 The Industrial Registrar may be advised of the existence of a dispute at any stage of this procedure.

44.5 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.

## PART 7

### TERMINATION OF EMPLOYMENT AND REDUNDANCY

#### 45. Termination of Employment

45.1 Council and/or the employee shall give a period of notice of intention to terminate employment in accordance with the following scale or by payment in lieu thereof:

Length of service	Period of notice
Less than 2 years	2 weeks
2 years and less than 3 years	3 weeks
3 years and less than 5 years	4 weeks
5 years and beyond	5 weeks

45.2 The period of notice in the table in sub-clause 44.2 must be increased by one (1) week if the employee is over forty five (45) years old and has completed at least two (2) years of continuous service with Council. The employee is not required to provide an additional weeks notice.

45.3 In cases of serious misconduct, Council may summarily dismiss an employee following a proper investigation and provided the employee is afforded procedural fairness. Where an employee is summarily dismissed clauses 44.1 and 45.16 shall not apply.

45.4 Nothing in clause 44.1 prevents the Council and employee from agreeing to a lesser period of notice.

45.5 Except where otherwise provided, the above requirements do not apply when Clause 47 Redundancy applies.

**46. Redundancy - General Application, Process and Consultation**

- 46.1 It is agreed that the inclusion of this clause in the Award does nothing whatsoever to vary or influence the understanding that the strongest endeavours of the Council and the relevant union(s) and the employees affected will be directed to ensuring that all employees are placed in alternative permanent employment and that the implementation of this clause shall not in any manner be used to influence or encourage any employee to terminate employment before every practical effort has been made by all parties to have an employee who may otherwise be deemed redundant placed in an alternative job.
- 46.2 Notwithstanding anything contained elsewhere in this clause, this clause shall not apply where employment is terminated as a consequent of conduct that justifies instant dismissal, including malingering, inefficiency or neglect of duty, or in the case of casual employees or employees engaged for a specific period of time, or for a specific task or tasks, or where employment is terminated due to the ordinary and customary turnover of labour.
- 46.3 Notwithstanding anything contained elsewhere in this clause, this clause shall not apply to employees with less than one years' continuous service and the general obligation on Council shall be not more than to give such employees an indication of the impending redundancy at the first reasonable opportunity and to take such steps as may be reasonable to facilitate the obtaining by the employees of suitable alternative employment.
- 46.4 Where Council has made a definite decision to introduce changes in production, program, organisation structure or technology that are likely to have significant effects on employees, Council shall notify the employees who may be affected by the proposed changes and the union to which they belong.
- 46.5 Council's duty to discuss change:
- (i) Council shall discuss with the employees affected and the union to which they belong, inter alia, the introduction of the changes, the effects the changes are likely to have on employees and measures to avert or mitigate the adverse effects of such changes on employees, and shall give prompt consideration to matters raised by the employees and/or the union(s) in relation to the changes.
  - (ii) The discussion shall commence as early as practicable after a decision has been made by the employer to make the changes.
  - (iii) For the purpose of such discussions, Council shall provide to the employees concerned and the union to which they belong, all relevant information about the changes including the nature of the changes proposed, the expected effects of the changes on employees and any other matters likely to affect employees, provided that Council shall not be required to disclose confidential information, the disclosure of which would adversely affect Council.
- 46.6 A "redundant employee" means a person who is employed on a permanent basis by Council whose services will become redundant on account of the introduction or proposed introduction by the Council of mechanisation or technological changes or the reorganisation of the Council's structure, systems or methods of operation and when the Council concludes that in co-operation with the Unions and the employee that it has been unsuccessful in providing alternative employment.
- This definition shall not apply to any person engaged by the Council on a temporary, casual or short term basis or any person engaged to work on a special employment projects such as government funded unemployment relief programmes or the like.
- 46.7 In every case, potentially redundant employees shall be retrained to fill permanent position which are available or about to become available in the Council's work forces in any of the Council's various departments.
- 46.8 The Council shall retrain the employee for a reasonable period at all times receiving the earnest co-operation of the employee in acquiring the new skills intended to be achieved by the training.

- 46.9 Whenever practicable and in accordance with normal practice, the necessary retraining shall be carried out by the Council in its time and at its expense. If the Council considers that "in house" training should be supplemented by training at an outside institution (e.g. the Broken Hill Technical College), all reasonable costs of such additional training shall be met by the employer. If the training at the outside institution is available in "out of normal work hours", the employee shall be required to attend that training in their own time without additional payment of time off in lieu. The costs of training shall in such circumstances be met by the Council.
- 46.10 In the event of a potentially redundant employee transferring to new duties for which there is prescribed a rate of pay higher than that previously paid to them, such rate of pay shall apply from the date of that employee's transfer.
- 46.11 In the event of a potentially redundant employee transferring to new duties for which there is prescribed a rate of pay lower than that previously paid to them, such lower rate shall not apply until 13 weeks after the date of the employee's transfer. Where an employee is transferred to lower paid duties as a result of the introduction of changes in production, program, organisation, structure or technology, the employee shall be entitled to the same period of notice of transfer as the employee would have been entitled to if the employee's employment had been terminated and Council may, at its own discretion make payment in lieu thereof, an amount equal to the difference between the former ordinary time rate of pay, and the new ordinary time rate for the number of weeks notice still owing.
- 46.12 Shift allowances shall not be taken into account when comparing the rate of pay for the purposes of subclauses 45.10 and 45.11
- 46.13 Having regard to the intention of all parties that no person shall become redundant, if it is not possible to retrain a potentially redundant employee to new duties, an employee shall become redundant and the Council shall give such employee four (4) weeks' notice of the termination of their employment.
- 46.14 Council may summarily dismiss an employee without notice for neglect of duty or misconduct in which case wages shall be paid up to the time of dismissal only. The rights of the Council shall not be prejudiced by the fact that the employee has been given notice of the termination of their employment pursuant to clause 45.13
- In the event of dispute arising over the Council's action with regard to summary dismissal, the relevant union shall on submission of a request to that effect in writing be entitled to seek a meeting with the Council at the earliest practicable date to discuss the matter.
- 46.15 This sub-clause shall apply to redundant employees as defined in sub-clause 46.1 Nothing contained in this clause shall be construed to mean that the Council shall not be entitled to dismiss an employee in the ordinary course of its business without being required to give the notice mentioned in sub-clause 45.13 and 45.14 , or to make the severance payments mentioned in the relevant subclauses 46.3 or 46.3.
- 46.16 If Council fails to give any such notice in full:
- (a) it shall pay the employee at the ordinary rate of pay applicable to them for a period equal to the difference between the full period of notice and the period of notice actually given; and
  - (b) the period of notice required by this sub-clause to be given shall be deemed to be service with the Council for the purpose of calculating long service leave and annual leave entitlements (but not sick leave).
- 46.17 Where a decision has been made to terminate an employee due to redundancy, Council shall provide the employee with an "Employment Separation Certificate" and a statement of service. Furthermore, where 15 or more employees are made redundant, Council will notify Centrelink as soon as possible, giving the relevant information including the number and categories of the employees likely to be affected and the period over which the terminations are intended to be carried out.
- 46.18 Subject to an application by Council and further order of the Industrial Relations Commission, Council may pay a lesser amount (or no amount) of severance pay than that contained in the relevant sub-clause

47.3 or 48.3 The Industrial Relations Commission shall have regard to such financial and other resources of Council as the Commission thinks relevant and the probable effect paying the amount of severance pay in the relevant subclause 47.3 or 48.2 will have on Council.

- 46.19 Subject to an application by Council and further order of the Industrial Relations Commission, Council may pay a lesser amount of severance pay than that contained in the relevant sub-clause 47.3 or 48.2 if Council obtains acceptable alternative employment for an employee.
- 46.20 Whenever a redundant employee whose services have been terminated shall be re-employed by the Council, the period of their employment shall thereafter be deemed for all purposes to have commenced on the date of their re-employment.
- 46.21 A redundant employee who is a contributor to the Local Government Superannuation Scheme may anticipate Council's assistance in completing documentation for submissions to the Local Government Superannuation Board.

#### **47. Redundancy - Employees Engaged Prior to 21 December 2015**

- 47.1 As of 16 March 2010 should the need arise to calculate the redundancy entitlements of aged and community care employees this will be done by referring to the entitlement identified at clause 47.3 above that being the entitlement as of 16 March 2010 in addition to any further entitlements accrued from 16 March 2010 to the date of the proposed termination in accordance with the table at subclause 47.3.
- 47.2 A redundant employee shall be entitled to severance allowances calculated as follows:

All such redundant employees shall receive a minimum of six weeks' pay.

All such redundant employees shall receive an additional payment at the rate of three (3) weeks' pay for each completed year of service, plus a pro-rata payment for each additional completed month of service. The number of weeks' pay due to any such redundant employee in respect of completed years of service shall be:

Completed Year of Service	Scale of Payments (Weeks)	Completed Year of Service	Scale of Payments (Weeks)
1	9	26	84
2	12	27	87
3	15	28	90
4	18	29	93
5	21	30	96
6	24	31	99
7	27	32	102
8	30	33	105
9	33	34	108
10	36	35	111
11	39	36	114
12	42	37	117
13	45	38	120
14	48	39	123
15	51	40	126
16	54	41	129
17	57	42	132
18	60	43	135
19	63	44	138
20	66	45	141
21	69	46	144
22	72	47	147

23	75	48	150
24	78	49	153
25	79	50	156

- 47.3 For the purposes of this sub-clause "a week's pay" shall be deemed to be the week's pay presently used as the basis for calculation of annual leave entitlements.
- 47.4 All such redundant employees shall be paid the value of their accrued sick leave calculated in accordance with the terms of this Award together with the value of all payments legally due to them in respect of annual leave and/or long service leave entitlements.

#### 48. Redundancy - Employees Engaged on or After 21 December 2015

- 48.1 This clause applies to all employees whose employment commenced with Council on or after 21 December 2015 and whose employment has been terminated due to redundancy.
- 48.2 In addition to any required period of notice, and subject to the provisions of clause 46, the employee shall be entitled to the following severance payments in accordance with the table. 'A week's pay' shall have the same meaning as in clause 47.4 of this Award.

Completed Year of Service	Scale of Payments (Weeks)
1	9
2	12
3	15
4	18
5	21
6	24
7	27
8	30
9	33
10	36
11	39
12	42
13	45
14	48
15	51
16	54
17	57
18	60
19	63
20	66
21	69
22	72
23	75
24	78
25	79
26	84
27	87
28	90
29	93
30	96
31	99
32	102
33	105

## PART 8

### MISCELLANEOUS

#### 49. Work, Health and Safety

- 49.1 Council shall provide a safe place of work and work practices in accordance with the provisions of the *Workplace Health and Safety Act 2011* (NSW).
- 49.2 Council shall make appropriate provision for employees with regard to accommodation and shelter and shall satisfy the provisions of the *Workplace Health and Safety Act 2011* (NSW) and Regulations.
- 49.3 Council shall supply employees with protective clothing and equipment suitable to the nature of the work performed and the work environment and that shall satisfy the relevant legislation. Safety footwear and leather boot laces shall be replaced by Council on a sharp for blunt basis.
- 49.4 All new graders, loaders, backhoes, trucks and rollers shall be fitted with air conditioning where practicable.
- 49.5 Vehicles and plant used in the collection, transportation and disposal of waste, tar patching, patrol grading or like duties shall be of high visibility and fitted with a flashing light or a light visible from all points around the vehicle.
- 49.6 Council shall provide oil or other suitable solvents to employees for the removal of creosote, tar, bitumen emulsions or similar preparations.
- 49.7 Where any acidic or caustic products are used by employees, adequate facilities shall be provided to enable them to wash any affected areas and an adequate quantity of barrier cream shall be provided.
- 49.8 Employees shall be supplied cool drinking water throughout the day.
- 49.9 No employee shall be required to work alone outside of built-up areas without all available communications to allow continuous contact in all conditions.
- 49.10 Where an employee during the course of work, sustains damage to clothing by fire, molten metal, tar or any corrosive substances which is not attributable to the employee's negligence, the employee shall be compensated by Council to an agreed amount.

#### 50. Labour Hire and Contract Businesses

- 50.1 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 a council for the purpose of such staff performing work or services for that other council.
- (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 a council to provide a specified service or services or to produce a specific outcome or result for that council which might otherwise have been carried out by that council's own employees.
- 50.2 If Council engages a labour hire business and/or a contract business to perform work wholly or partially on Council's premises then Council 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 occupational 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.
- 50.3 Nothing in this sub-clause of the Award 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*.
- 50.4 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.
- 50.5 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.

### **51. Outsourcing**

- 51.1 When considering contracting out or outsourcing, Council will take into account the following:
- (a) Whether there are insufficient overall resources available to meet the current Council work commitment and timetable; or
  - (b) Whether the failure to complete work in a reasonable time jeopardises the safety of the public or adversely impacts upon system performance; or
  - (c) Whether the use of outsourced or contract work is commercially the most advantageous option taking into account: the quality, safety, performance, cost and overall strategic direction of Council.
  - (d) If after this process has been conducted a decision to outsource has been made, the Contractor engaged to perform the work must provide written undertakings to comply and conform with:
    - (i) Council's safety, environmental and quality standards; and
    - (ii) all Acts, Awards and Agreements affecting the employees of the Contractor.

### **52. Accident Pay**

- 52.1 An employee of Council shall be entitled to receive accident pay where the employee received an injury for which compensation is payable to the employee pursuant to the provisions of the *Workers' Compensation Act 1987* (NSW) and/or any relevant amendments or relevant successor legislation.
- 52.2 "Accident pay" means the difference between the weekly amount of compensation paid to an employee pursuant to the *Workers' Compensation Act 1987* (NSW) and/or any relevant amendments or relevant successor legislation.
- 52.3 Accident pay under these provisions shall be payable for a maximum period or an aggregate of periods as per the table below:

Injury Classification	Maximum Accident Pay Period
Seriously injured	26 weeks

All other injuries	13 weeks
--------------------	----------

"Seriously injured" has the same definition as contained within section 32A of the *Workers' Compensation Act 1987* (NSW) and/or any relevant amendments or relevant successor legislation.

- 52.4 In the event that an employee receives a lump sum in redemption of weekly payments under the *Worker's Compensation Act 1987* (NSW), the liability of Council to pay accident pay shall cease from the date of such redemption.
- 52.5 Where an employee recovers damages for an injury from Council for from a third independently of the provisions of the *Worker's Compensation Act 1987* (NSW) then the employee shall be liable to repay Council the amount of accident pay which the employee has received under this clause and the liability of the Council for the accident pay shall cease.
- 52.6 Nothing in this clause shall in any way be taken as restricting or removing Council's right under the *Worker's Compensation Act 1987* (NSW) to require the employee to submit themselves to examination by a qualified medical practitioner, provided and paid for by Council. If the employee refuses to submit themselves to such an examination or in any way obstructs such an examination, then the employee's right to receive or continue to receive accident pay will be suspended until such an examination has taken place.
- 52.7 Where a medical referee or Board gives a certificate as to the condition of an employee and their fitness for employment or specifies the kind of employment for which they are fit and Council duly makes available to the employee the kind of employment falling within the terms of such a certificate and the employee refuses or fails to resume or perform the proposed employment, then all payments in accordance with this Award shall cease and terminate from the date of such refusal or failure to commence such duties.
- 52.8 An employee who sustains an injury at work shall notify their supervisor immediately and complete the relevant injury notification documentation within 24 hours.

### 53. Further Education

- 53.1 Apprentices and employees deemed to be approved students undertaking trades courses or certificate courses, part-time diploma or degree courses (including librarians) shall be allowed time off to attend during working hours. The entitlement to time off is subject to the following conditions:
- That period which are allowed shall be limited to eight hours per week and shall in no case exceed the lesson time needed to undertake the subjects set down in the syllabus for the course studied.
  - A time sheet signed by the lecturer or the instructor covering these attendances shall be produced by the student.
  - All courses and awards required for continuing employment and advancement in career paths are to be paid for by Council upon successful completion.
- 53.2 On the production of a letter from the Principal of the institution concerned stating that they have satisfactorily completed a year's work in any subject of an approved course which is appropriate to their work a clerical employee shall be refunded the fees paid in respect of that year.
- 53.3 On the production of a letter from the Principal of the institution concerned stating that they have satisfactorily completed a year's work in any subject of an approved course which is appropriate to their work, and receipts for text books prescribed for that year's work, a clerical employee shall be paid the cost of the prescribed text books or fifty dollars (\$50.00), whichever is the lesser amount.
- 53.4 One set of the current S.A.A. Wiring Rules shall be supplied to all electrical technicians.
- 53.5 Where, with the approval of Council, an employee undertakes a TAFE College, College of Advanced Education or University Course by correspondence and it is necessary in order to qualify under such



course to undergo practical training or examination outside Broken Hill, the Council shall reimburse travelling expenses incurred which do not exceed the cost of a first class return rail fare.

#### 54. Multiple Employment

54.1 Where an employee is employed in a second position with the employer the second position may, 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.

Any existing agreements in place prior to 17 May 2018 will continue to operate unless varied by agreement.

### PART 9

#### SAVINGS AND TRANSITIONAL

##### 55. Leave Reserved and No Further Claims

55.1 Leave is reserved for the parties to this Award to make application to the Industrial Relations Commission of New South Wales to amend this Award with provisions that facilitate:

A seven (7) day spread of hours for all employees;

Junior Rates of pay for persons less than 21 years of age.

Camping out provisions and allowance

55.2 Except as otherwise provided in sub-clause 46.1, it is a term of this Award that the Union undertakes not to pursue any extra claims, Award or over Award, of a general nature, for the duration of the Award.

55.3 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 Clause 14.4 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 food sub-group (Cat No 6401.0).

### PART 10

#### SCHEDULES

##### Schedule 1 - Weekly Rates of Pay and Allowances

Table 1 - Weekly Rates of Pay For Entry Level

Grade	Step	FFPP on or after 1/11/2018 (3%) \$	FFPP on or after 1/7/2019 (2.75%) \$	FFPP on or after 1/7/2020 (2.75%) \$	FFPP on or after 1/7/2021 (2.75%) \$
1	1	1,004.66	1,032.29	1,060.68	1,089.84
	2	1,022.77	1,050.90	1,079.80	1,109.49
	3	1,041.35	1,069.99	1,099.41	1,129.65
	4	1,060.38	1,089.54	1,119.50	1,150.29

2	1	1,030.46	1,058.80	1,087.91	1,117.83
	2	1,049.17	1,078.02	1,107.67	1,138.13
	3	1,068.36	1,097.74	1,127.93	1,158.95
	4	1,088.17	1,118.09	1,148.84	1,180.44
3	1	1,055.93	1,084.97	1,114.80	1,145.46
	2	1,075.28	1,104.85	1,135.23	1,166.45
	3	1,095.39	1,125.51	1,156.46	1,188.27
	4	1,116.48	1,147.18	1,178.73	1,211.15
4	1	1,081.56	1,111.30	1,141.86	1,173.26
	2	1,102.05	1,132.36	1,163.50	1,195.49
	3	1,123.14	1,154.03	1,185.76	1,218.37
	4	1,145.49	1,176.99	1,209.36	1,242.62
5	1	1,111.57	1,142.14	1,173.55	1,205.82
	2	1,133.21	1,164.37	1,196.39	1,229.29
	3	1,155.98	1,187.77	1,220.43	1,254.00
	4	1,179.76	1,212.20	1,245.54	1,279.79
6	1	1,142.38	1,173.80	1,206.07	1,239.24
	2	1,165.41	1,197.46	1,230.39	1,264.22
	3	1,189.73	1,222.45	1,256.06	1,290.61
	4	1,215.02	1,248.43	1,282.76	1,318.04
7	1	1,173.85	1,206.13	1,239.30	1,273.38
	2	1,198.35	1,231.30	1,265.17	1,299.96
	3	1,224.07	1,257.73	1,292.32	1,327.86
	4	1,251.07	1,285.47	1,320.82	1,357.15
8	1	1,214.14	1,247.53	1,281.84	1,317.09
	2	1,240.65	1,274.77	1,309.82	1,345.84
	3	1,268.39	1,303.27	1,339.11	1,375.94
	4	1,297.02	1,332.69	1,369.34	1,406.96
9	1	1,255.94	1,290.48	1,325.97	1,362.43
	2	1,284.22	1,319.54	1,355.82	1,393.11
	3	1,313.03	1,349.14	1,386.24	1,424.36
	4	1,342.77	1,379.70	1,417.64	1,456.62
10	1	1,298.45	1,334.16	1,370.85	1,408.54
	2	1,327.81	1,364.32	1,401.84	1,440.39
	3	1,357.72	1,395.06	1,433.42	1,472.84
	4	1,388.52	1,426.70	1,465.94	1,506.25
11	1	1,369.42	1,407.08	1,445.77	1,485.53
	2	1,400.42	1,438.93	1,478.50	1,519.16
	3	1,432.27	1,471.66	1,512.13	1,553.71
	4	1,464.89	1,505.17	1,546.57	1,589.10
12	1	1,440.40	1,480.01	1,520.71	1,562.53
	2	1,473.16	1,513.67	1,555.30	1,598.07
	3	1,506.85	1,548.29	1,590.87	1,634.62
	4	1,541.25	1,583.63	1,627.18	1,671.93

13	1	1,511.37	1,552.93	1,595.64	1,639.52
	2	1,545.95	1,588.46	1,632.15	1,677.03
	3	1,581.42	1,624.91	1,669.59	1,715.51
	4	1,617.80	1,662.29	1,708.00	1,754.97
14	1	1,582.33	1,625.84	1,670.55	1,716.50
	2	1,618.73	1,663.25	1,708.98	1,755.98
	3	1,656.00	1,701.54	1,748.33	1,796.41
	4	1,694.20	1,740.79	1,788.66	1,837.85
15	1	1,653.31	1,698.78	1,745.49	1,793.49
	2	1,691.50	1,738.02	1,785.81	1,834.92
	3	1,730.59	1,778.18	1,827.08	1,877.33
	4	1,770.57	1,819.26	1,869.29	1,920.70
16	1	1,724.11	1,771.52	1,820.24	1,870.30
	2	1,764.07	1,812.58	1,862.43	1,913.64
	3	1,804.98	1,854.62	1,905.62	1,958.02
	4	1,846.92	1,897.71	1,949.90	2,003.52
17	1	1,830.54	1,880.88	1,932.60	1,985.75
	2	1,873.07	1,924.58	1,977.51	2,031.89
	3	1,916.85	1,969.56	2,023.73	2,079.38
	4	1,961.52	2,015.46	2,070.89	2,127.84
18	2	1,982.24	2,036.75	\$2,092.76	2,150.31
	3	2,028.67	2,084.46	\$2,141.78	2,200.68
	4	2,076.09	2,133.18	2,191.84	2,252.12
19	1	2,043.63	2,099.83	2,157.58	2,216.91
	2	2,091.56	2,149.08	2,208.18	2,268.90
	3	2,140.55	2,199.42	\$2,259.90	2,322.05
	4	2,190.98	2,251.23	\$2,313.14	2,376.75
20	1	2,149.92	2,209.04	\$2,269.79	2,332.21
	2	2,200.53	2,261.04	\$2,323.22	2,387.11
	3	2,252.23	2,314.17	\$2,377.81	2,443.20
	4	2,305.37	2,368.77	\$2,433.91	2,500.84
21	1	2,256.37	2,318.42	2,382.18	2,447.69
	2	2,309.51	2,373.02	2,438.28	2,505.33
	3	2,364.11	2,429.12	2,495.92	2,564.56
	4	2,420.12	2,486.67	2,555.06	2,625.32
22	1	2,362.82	2,427.80	2,494.56	2,563.16
	2	2,418.65	2,485.16	2,553.50	2,623.73
	3	2,475.95	2,544.04	2,614.00	2,685.88
	4	2,534.67	2,604.37	2,675.99	2,749.58
23	1	2,894.94	2,974.55	3,056.35	3,140.40
	2	2,964.10	3,045.61	3,129.37	3,215.42
	3	3,035.07	3,118.53	3,204.29	3,292.41
	4	3,107.69	3,193.15	3,280.96	3,371.19

24	1	3,426.69	3,520.92	3,617.75	3,717.24
	2	3,509.18	3,605.68	3,704.84	3,806.72
	3	3,593.66	3,692.49	3,794.03	3,898.36
	4	3,680.30	3,781.51	3,885.50	3,992.35

**Table 2- School based trainees and apprentices weekly rate of pay**

Trainees

Band/Level	First Pay Period 01/07/19	First Pay Period 01/07/20	First Pay Period 01/07/21
S1 at 15 years of age	409.80		
S2 at 16 years of age or School Certificate	511.40		
S3 at 17 years of age	601.60		
S4 at 18 years of age or over or HSC	703.30		

Weekly Rates of Pay For Apprentices

	FFPP on or after 1/07/2018	FFPP on or after 1/7/2019 (2.75%) \$	FFPP on or after 1/7/2020 (2.75%) \$	FFPP on or after 1/7/2021 (2.75%) \$
Electrical Fitters - Year 1	876.36	900.46	925.22	950.67
Year 2/HSC Year 1	987.08	1,014.22	1,042.12	1,070.77
Year 3/HSC Year 2	1,097.90	1,128.09	1,159.11	1,190.99
Year 4/ HSC Year 3	1,217.27	1,250.74	1,285.14	1,320.48
HSC Year 4	1,347.13	1,384.18	1,422.24	1,461.35
Plumbers - Year 1	872.30	896.29	920.94	946.26
Year 2/HSC Year 1	982.14	1,009.15	1,036.90	1,065.42
Year 3/HSC Year 2	1,091.86	1,121.89	1,152.74	1,184.44
Year 4/ HSC Year 3	1,209.66	1,242.93	1,277.11	1,312.23
HSC Year 4	1,337.78	1,374.57	1,412.37	1,451.21
Carpenters - Year 1	872.30	896.29	920.94	946.26
Year 2/HSC Year 1	982.14	1,009.15	1,036.90	1,065.42
Year 3/HSC Year 2	1,091.86	1,121.89	1,152.74	1,184.44
Year 4/ HSC Year 3	1,209.66	1,242.93	1,277.11	1,312.23
HSC Year 4	1,337.78	1,374.57	1,412.37	1,451.21
Motor Mechanics - Year 1	872.82	896.82	921.49	946.83
Year 2/HSC Year 1	982.65	1,009.67	1,037.44	1,065.97
Year 3/HSC Year 2	1,092.59	1,122.64	1,153.51	1,185.23
Year 4/ HSC Year 3	1,210.46	1,243.75	1,277.95	1,313.09
HSC Year 4	1,338.86	1,375.68	1,413.51	1,452.38
Gardeners - Year 1	762.29	783.25	804.79	826.92
Year 2/HSC Year 1	853.67	877.15	901.27	926.05
Year 3/HSC Year 2	945.04	971.03	997.73	1,025.17
Year 4/ HSC Year 3	1,036.42	1,064.92	1,094.21	1,124.30
HSC Year 4	1,129.14	1,160.19	1,192.10	1,224.88

**Table 3 - Traineeship Wage Rates**

Traineeship Wage Rates	FFPP on or after 1/11/2018 (3%) \$	FFPP on or after 1/7/2019 (2.75%) \$	FFPP on or after 1/7/2020 (2.75%) \$	FFPP on or after 1/7/2021 (2.75%) \$
Year 1	903.18	928.02	953.54	979.76
Year 2	989.76	1,016.98	1,044.95	1,073.68
Year 3	1,044.43	1,073.15	1,102.66	1,132.99
Year 4	1,080.95	1,110.68	1,141.22	1,172.60
Year 5	1,119.20	1,149.98	1,181.60	1,214.10
Year 6	1,158.74	1,190.61	1,223.35	1,256.99
Year 7	1,200.20	1,233.21	1,267.12	1,301.96

**Schedule 2 - Allowances**

	FFPP on or after 1/11/18 \$	FFPP on or after 1/7/19 \$	FFPP on or after 1/7/20 \$	FFPP on or after 1/7/21 \$
Meal Allowance (clause 14.4)	11.79			
Community Language and Signing work (clause 21.3)	21.59p.w	22.13p.w.	22.68p.w.	23.25p.w
First Aid Allowance (clause 21.4(c)) p/w	18.91p.w	19.38p.w.	19.87p.w.	20.36p.w.
Broken Shift allowance (Clause 14.22) per shift	6.32p.s	6.48p.s.	6.64p.s.	6.81p.s.
On call - on ordinary working day (clause 14.13)	18.82p.d	19.29p.d.	19.77p.d.	20.27p.d.
On call - on other days, not ordinary working (clause 14.14)	37.63p.d	38.57p.d.	39.54p.d.	40.52p.d.
On call - maximum per week (clause 14.15)	169.37p.w	173.60p.w.	177.94p.w.	182.39p.w.

**Schedule 3 - Progression Guidelines**

The progression rules detailed below have been established to assist the industry parties to the Broken Hill City Council Consent Award, regarding the operation of Council Salary Systems. At the local level where significant issues are identified in relation to the operation of the Salary System the matter shall be referred to Council's Consultative Committee for consideration and where appropriate for recommendation to the General Manager for decision. In the event that a dispute arises the rules detailed below shall be used by the industry parties to assist in the resolution of such disputes.

1. Banding

The appropriate Band for each position shall be determined by reference to the Qualifications and Experience descriptor as provided by Clause 19 Rates of Pay and Related Matters and clause 20 Skill Descriptors of the Broken Hill City Council Award.

2. Levelling and Grades

The Level and Grade of the position shall be established through the evaluation of the position using the Council's endorsed Job Evaluation System. This evaluation shall occur consistent with the Job Evaluation Policy as adopted by Council.

Positions shall be re-evaluated in the following circumstances:

If the position is newly created.

If a significant change has occurred in the duties and responsibilities of the position, which is confirmed by the relevant (Director/Officer).

If an evaluation has been conducted and has resulted in an apparent anomaly.

Where an existing position has been re-evaluated and where the outcome is a different grade, such re-evaluation shall be referred to the consultative committee for consideration and the current positions incumbent shall be advised accordingly.

### 3. Position Descriptions

The position description identifies the range of skills, responsibilities, duties and qualifications in order of priority from the essential criteria to the most desirable.

These criteria are detailed in each of the skills steps to facilitate the assessment of skill at the time of the salary review, and to avoid disputes regarding the movement through the skill steps.

Position descriptions shall not impose artificial barriers that will prohibit individual salary progression through the full range of skill steps.

### 4. Skills Assessment

Council shall adopt a consistent and objective method for assessing skills.

An assessment of the skills acquired and used shall be undertaken on an annual basis and in those cases where the employee has acquired new skills that would lead to progression under the salary system.

New employees shall be paid at the Skill Level rate of pay consistent with the skills they bring to Council. Placement at a Skill Level higher than the entry level shall occur when the new employee meets the required skills for the position.

### 5. Salary Review

Annual salary reviews shall require the Manager of the position to determine whether the employee has acquired and is using the skills necessary to progress to the next step, or steps.

In the event that there is a dispute between the employee and the Manager on the outcome of the skills review the assessment shall be referred to an appeal panel. In the event that the employee does not agree with the decision of the appeal panel the matter shall be referred to the Director. The employee may have access to the grievance and disputes procedure at any point of the appeal process.

### 6. Other matters relating to the Implementation of the Salary System.

#### (a) Training

Employees shall be provided with reasonable and equitable access to the training which will facilitate progression.

#### (b) Allowances - (Former Award Allowances Only)

Except where allowances have been incorporated into rates of pay, award allowances shall be paid in addition to the rates established within the salary ranges.

(c) Council's Budget

Council shall in considering the budget each year ensure that the skill progression detailed in these rules is properly funded and that employees shall move through the skill steps based assessment against the criteria detailed in the position descriptions.

(d) Award Variations

The Grades and Salary Steps, as contained within the salary structure of the salary system shall be increased by the same quantum, and be operative from the same date as variations in the Broken Hill City Council Award.

(e) Dispute Procedure

Disputes which arise through the operation of Council's Salary System shall be handled consistent with Clause 44, Dispute Resolution Procedures of the Broken Hill City Council Award.

(f) Publication

Copies of the Salary System shall be published by Council and made available to all employees. The published document shall contain copies of the current salary structure and the progression rules. Each individual shall be provided with a copy of their Position Description.

P. M. KITE, Chief Commissioner

---

Printed by the authority of the Industrial Registrar.

## **CROWN EMPLOYEES (FIRE & RESCUE NSW TRADESPERSONS) AWARD 2019**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by NSW Industrial Registrar.

(Case No. 198071 of 2019)

Before Chief Commissioner Kite

17 July 2019

### **AWARD**

#### **Arrangement**

#### **PART A**

Clause No.	Subject Matter
1.	Definitions
2.	Hours
3.	Rostered Days Off
4.	Payment of Wages
5.	Rates of Pay
6.	Parties Bound
7.	Savings of Rights
8.	Relationship to Acts/Awards for Apprenticeships
9.	Union Subscriptions
10.	Fleet Tradespersons Multi-skilling
11.	FVR Classification Structure & Labour Flexibility
12.	Additional Wage Rates
13.	Special Rates
14.	Team Leader Allowance and Higher Duties
15.	Higher Grade Pay
16.	Authorised Heavy Vehicle Allowance
17.	On Call Allowance
18.	Tool Allowance
19.	Apprentice Tool Loan
20.	Fire Equipment Allowance
21.	Apprentice to Tradesperson
22.	Overtime and Penalty Rates
23.	Meal Allowance
24.	Travelling Time and Fares
25.	Travelling Expenses
26.	Annual Leave
27.	Annual Leave Loading
28.	Holidays
29.	Long Service Leave
30.	Sick Leave
31.	Bereavement Leave
32.	Clothing
33.	Insurance of Tools
34.	Procedure on Charge
35.	Anti-Discrimination
36.	Term of Employment
37.	Grievance and Dispute Resolution Procedures



38. Personal/Carer's Leave - August 1996
39. Maternity Leave
40. Parental Leave
41. Adoption Leave
42. Family and Community Service Leave
43. Trade Union Leave
44. Supplementary Labour
45. Salary Packaging Arrangements
46. Calculations
47. No Extra Claims
48. Area, Incidence and Duration

## PART B

### MONETARY RATES

Table 1 - Wages

Table 2 - Other Rates and Allowances - - from the Crown Employees (New South Wales Fire Brigade - Maintenance, Construction and Miscellaneous new award

Table 3 Allowances - from NSW Fire Brigades Maintenance and Miscellaneous Staff Enterprise Agreement 2008

## PART A

### 1. Definitions

"Commissioner" means the Commissioner of Fire & 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 & 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 & 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 2 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 2008) 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 2A 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 2b 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 is 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 and Communications Section.
- 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 subclause 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 clause 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 clause 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 clause 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 subclause 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 subclause 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 clause 39.6 of this subclause, 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 (NSW). The following provisions shall also apply in addition to those set out in the Industrial Relations Act 1996 (NSW).

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 & Rescue NSW Tradespersons) Award 2019 rescinds and replaces the Crown Employees (Fire & Rescue NSW Tradespersons) Award 2018 published 14 December 2018 (383 I.G. 1082)
- 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 & Rescue NSW.
- 48.4 The term of this Award is 1 July 2019 until 30 June 2020 and will remain in force thereafter until rescinded.
- 48.5 Increases in the column dated 1 July 2019 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 2017 and 2018 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	From 1/7/2017 Historical Rate	1/7/2018 Existing Rate	1/7/2019 2.5% increase per week
Classification			
(a) Electrical Department - Automotive Electrical	1083.60	1110.70	1138.50
Battery Fitter	1083.60	1110.70	1138.50
Electrical Fitter	1086.60	1113.80	1141.70
Trades Assistant (Electrical Department)	870.00	891.80	914.10
Labourer-General (Electrical Department)	700.80	718.30	736.30
(b) Workshops Department - Blacksmith/Welder	1026.40	1052.10	1078.40
Bodymaker	1015.90	1041.30	1067.30
Draughtsperson - 1st year	938.30	961.80	985.90
	980.20	1004.70	1029.80
	1026.40	1052.10	1078.40
	1083.60	1110.70	1138.50
	1134.90	1163.30	1192.40
- 2nd year			
- 3rd year			
- 4th year			
- thereafter			
Welder	1026.40	1052.10	1078.40
Fitter and/or Turner	987.90	1012.60	1037.90
Motor Mechanic	1015.90	1041.30	1067.30
Motor Trimmer	1015.90	1041.30	1067.30

Painter (Vehicle)	1015.90	1041.30	1067.30
Panel Beater	1015.90	1041.30	1067.30
Signwriter (Vehicle)	987.90	1012.60	1037.90
Trades assistant (Mechanical Workshops)	839.50	860.50	882.00
Labourer - General (Mechanical Workshops)	700.80	718.30	736.30
(c) Boot Factory - Bootmaker	980.20	1004.70	1029.80
(d) Building Maintenance Department - Draughtsperson Building services			
- 1st year	1083.60	1110.70	1138.50
- 2nd year	1103.60	1131.20	1159.50
- 3rd year	1123.60	1151.70	1180.50
- 4th year	1143.90	1172.50	1201.80
- thereafter	1175.20	1204.60	1234.70
Plumber	1026.40	1052.10	1078.40
Bricklayer	1015.90	1041.30	1067.30
Carpenter	1015.90	1041.30	1067.30
Painter	1015.90	1041.30	1067.30
Plasterer	1015.90	1041.30	1067.30
Labourer - Builders	997.70	1022.60	1048.20
(e) Cleaner -	899.00	921.50	944.50
Stores Assistant	946.50	970.20	994.50
Sailmaker	987.90	1012.60	1037.90
(h) Hose Repair Department - Hose Assembler and Repairer	938.30	961.80	985.80

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

	1/7/2017 Historical Rate \$	1/7/2018 Existing Rate \$	1/7/2019 2.5% increase per week \$
<b>COMMUNICATION SECTION</b>			
Electronic Technician			
- 1st year	1398.20	1433.20	1469.00
- 2nd year	1440.30	1476.30	1513.20
- 3rd year	1466.00	1502.70	1540.30
- 4th year	1497.10	1534.50	1572.90
Instrument Maker	1235.70	1266.60	1298.30
Radio Mechanic	1179.90	1209.40	1239.60
Telephone Mechanic	1179.90	1209.40	1239.60
Electronic Tradesperson	1355.30	1389.20	1423.90
Electrical Mechanic	1179.90	1209.40	1239.60
Trades Assistant	947.70	971.40	995.70

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

Level	Classification	1/7/2017 (not including FEA)	1/7/2018 (+2.5%) (not including Clause 20. FEA)	1/7/18 (+2.5%) (including Clause 20. FEA)	1/7/19 (+2.5%) (not including Clause 20. FEA)	1/7/19 (+2.5%) (including Clause 20. FEA)
Level 1	Fire Vehicle Repairer	\$1,195.50	\$1,225.40	\$1,307.80*	\$1,256.00	\$1,340.50*

Level 2	Fire Vehicle Repairer		\$1,286.70	\$1,373.10*	\$1,318.80	\$1,403.30*
Level 3	Fire Vehicle Repairer		\$1,347.90	\$1,438.30*	\$1,381.60	\$1,466.10*
Level 4	Fire Vehicle Repairer		\$1,409.20	\$1,491.60*	\$1,444.40	\$1,528.90*

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

	1/7/2017 Historical Rate \$	1/7/2018 Existing Rate \$	1/7/2019 2.5% increase per week \$
APPRENTICES**			
- 1st year	478.70	490.70	\$503.00
- 2nd year (Rate = 2nd Year + NT FEA)	689.30	706.50	\$724.20
- 3rd year (Rate = 3rd Year + NT FEA)	866.30	888.00	\$910.20
- 4th year (Rate = 4th Year + NT FEA)	989.70	1014.40	\$1,039.80
Adult (Rate = Adult + NT FEA)	989.70	1014.40	\$1,039.80

\*\* 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	1/7/2017 Historical Rate \$	1/7/2018 Existing Rate \$	1/7/2019 2.5% increase \$
1	12.1 Electricians: An electrician who is the holder of: A Grade Licence (per week) B Grade Licence (per week)	47.90 25.80	49.10 26.50	50.30 27.20
Clause 13 Special Rates				
2	20.10 Roof work (per hour)	0.94	0.96	1.00

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

		1/7/2017 Historical Rate \$	1/7/2018 Existing Rate \$	1/7/2019 2.5% increase \$
Item	ALLOWANCES			
1	Team Leader Allowance (per week)	179.70	184.20	188.8
3	Heavy Vehicle Inspectors Allowance (per day)	2.20	2.26	2.32

**Table 3A: On Call Allowance**

4	On Call Allowance - Monday to Friday (per day)	21.30	21.83	22.38
5	On Call Allowance - Saturday, Sunday & Public Holidays (per day)	32.42	33.23	34.61

**Table 3B: On Call Allowance applicable only to FVRs**

4	On Call Allowance - Monday to Friday (per day)		40.00	41.00
5	On Call Allowance - Saturday, Sunday & Public Holidays (per day)		80.00	82.00

Item	Clause 13, SPECIAL RATES			
1	20.1.1 Confined Spaces	1.00	1.00	1.00
2	20.3.1 Height Pay - 7.5 metres	0.90	0.92	0.94
3	20.3.1 Height Pay - every metre beyond	0.27	0.28	0.29

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

Clause 18, TOOL ALLOWANCES	1/7/2018 Existing Rate \$	1/7/2019 Increase per week \$
Bodymaker	32.30	32.90
Motor Mechanic	32.30	32.90
Painter (Vehicle)	7.90	8.00
Panel Beater	32.30	32.90
Automotive Electrician	32.30	32.90
Electronic Technician	20.40	20.80
Instrument Maker	20.40	20.80
Radio Mechanic	20.40	20.80
Telephone Mechanic	20.40	20.80
Fitter	32.30	32.90
Electronic Tradesperson	20.40	20.80

Apprentices	1/7/2017 Historical Rate \$	1/7/2018 Existing Rate \$	1/7/2019 Increase per week \$
Motor Mechanic	30.80	32.30	32.90
Automotive Electrician	30.80	32.30	32.90
Fitter	30.80	32.30	32.90
Electronic Technician	19.46	20.40	20.80

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.

Clause 20, FIRE EQUIPMENT ALLOWANCE	1/7/2017 Historical Rate \$	1/7/2018 Existing Rate \$	1/7/2019 2.5% increase per week \$
Fire Equipment Allowance (FEA) - Trades**	80.40	82.40	84.50
Fire Equipment Allowance (FEA) - Non Trades	60.10	61.60	63.10

\*\* 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	1/7/18 Existing Rate \$	1/7/2019 Increase per meal \$
1	After 1½ hour overtime	15.60	15.90
2	Each 4 hours thereafter	13.70	13.70

Item	Clause 24, TRAVELLING TIME AND OTHER FARES	1/7/18 Existing Rate \$	1/7/19 Increase \$
1	Other than Builders' Labourers	25.10	25.60
2	Employer providing transport	10.00	10.20

Item	Clause 33, INSURANCE OF TOOLS	1/7/18 Existing Rate \$	1/7/19 Increase \$
1	Maximum claim for loss of tools	1873.40	1907.10

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.

P. M. KITE, *Chief Commissioner*

Printed by the authority of the Industrial Registrar.

**CROWN EMPLOYEES (OFFICE OF ENVIRONMENT AND  
HERITAGE - NATIONAL PARKS AND WILDLIFE SERVICE)  
CONDITIONS OF EMPLOYMENT AWARD 2015**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

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

(Case No. 287056 of 2018)

Before Chief Commissioner Kite

27 November 2018

**REVIEWED AWARD**

**Arrangement**

**PART A**

Clause No.	Subject Matter
1.	Arrangement
2.	Title
3.	Definitions
4.	Memorandum of Understanding
5.	Salaries
6.	Salary Packaging Arrangements, Including Salary Sacrifice to Superannuation
7.	Allowances
8.	On Call for Kosciusko National Parks Municipal Services Managed by NPWS
9.	Standby Allowance - Including Standby associated with Declared Incident
10.	Allowance for Temporary Assignments to Higher Roles
11.	Assignment
12.	Progression
13.	Project Teams
14.	Hours of Work
15.	Variation of Hours
16.	Overtime - General
17.	Meal Breaks
18.	Rest Breaks
19.	Flexible Working Hours
20.	Temporary and Casual Work Arrangements
21.	Part-Time Work Arrangements
22.	Job Sharing
23.	Public Holidays and Public Service Holiday
24.	Leave
25.	Recreation Leave and Annual Leave Loading
26.	Family and Community Service Leave
27.	Excess Travel Time
28.	Contact with Employees on Parental and Maternity Leave
29.	Incident Conditions
30.	Working From Home
31.	Dependent Care

32. Families and Field Work
33. Training and Development
34. Study Assistance
35. Training Competency
36. Engagement of Contractors
37. Anti-Discrimination
38. Redundancy Entitlements
39. Workplace Environment
40. Housing
41. Consultation and Monitoring
42. Industrial Grievance Procedure
43. Deduction of Union Membership Fees
44. Saving of Rights
45. No Extra Claims
46. Area, Incidence and Duration

#### PART B

- Annexure 1 - Salary Schedule for Ranger Classification
- Annexure 2 - Salary Schedule for Project/Research Officer Classification
- Annexure 3 - Salary Schedule for Field Officer Classification
- Annexure 4 - Casual Leave Entitlements

#### PART C

Memorandum of Understanding

### 2. Title

- 2.1 This Award shall be known as Crown Employees (Office of Environment and Heritage – National Parks and Wildlife Service) Conditions of Employment Award 2015.

### 3. Definitions

"Accommodation" means - Home, place of abode or residential address, Commercial: hotel/motel/guest house, or an Established/Non Established camp.

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

"Allocated Day Off" means the day/s off that the employee who works set patterns of hours as detailed in this agreement has off each settlement period as a result of that employee accruing the necessary hours.

"Area Manager", classification is Assistant District Manager, means a National Parks and Wildlife Service employee designated as such, who obtained a degree from a recognised university requiring a minimum of three (3) years full-time equivalent study, in an appropriate discipline relevant to the field operations of the Service, or other tertiary qualification as deemed equivalent by the Chief Executive of OEH.

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

"Award" means an Award as defined in the *Industrial Relations Act 1996*.

"Campaign" means those incidents where shift work is introduced by the Incident Controller.

"Casual Employee" means any employee engaged in terms of section 43(4) of the *Government Sector Employment Act 2013* and any guidelines issued thereof or as amended from time to time.

"Chief Executive" means the head of the Office of Environment and Heritage.



"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.

"Crew" means a group of up to five employees assigned under the control of a Crew Leader to undertake incident management duties.

"Crew Leader" means an employee responsible for leading a crew to implement a strategy. The Crew leader ensures the work is undertaken efficiently and safely, and is responsible for managing and recording the crew's operations.

"Crew Member" means an employee diverted from their day-to-day activities to undertake work associated with the management of an incident.

"Dependent" means a partner, including same sex partner, husband, wife, child, elderly parent or a family member with a disability.

"Dispute" is a disagreement between an employee or employees and the OEH concerning employment matters.

"Division Commander" means an employee who is under the direction of an Operations Officer and who is responsible for a number of sectors to which specific work tasks are allocated.

"Duty Officer" means an employee either rostered for duty, or appointed on standby to serve as a divisional, branch or regional after hours contact, and to monitor and co-ordinate both OEH responses and other responses to a variety of situations including, but not limited to, escalating fire weather conditions, wildfires, search and rescue, marine mammal standings, security alarms, asset damage, risks to visitor safety. The responsibilities of a Duty Officer are outlined in the Fire Management Manual and NPWS State Incident Plan.

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

"Employer for Industrial Purposes" means the Industrial Relations Secretary.

"Employer for all purposes other than Industrial" means the Chief Executive of the Office of Environment and Heritage.

"Family" means a group of persons of common ancestry, or all persons living together in one household or a primary social group consisting of parents and their offspring.

"Fieldwork" refers to work undertaken in the field in an area away from an employee's normal work location, and which precludes the employee from returning to their normal place of abode at the conclusion of each shift.

"Grievance" is any workplace problem that is a concern, complaint or allegation raised internally by an employee against another employee and requires resolution.

"Incident" means an unscheduled activity such as wildfire suppression, wildlife rescue, flood and storm relief, search and rescue, cetacean stranding, accident and substance spill attendance, or as otherwise approved by the Chief Executive or delegate. (N.B. Does not include hazard reductions)

"Incident duties" means all work involved in emergency incidents effort in which there is OEH participation from when an event is declared an incident until it is declared over by the Incident Controller. Duties may include: the initial reporting, reconnaissance, organisation of resources, control, mop-up, patrol to completion of incident duties, and may involve office duties in the organisation and direction of the emergency response as well as work at the scene.

"Monday to Friday Workers" are NPWS employees whose ordinary hours of work are from Monday to Friday inclusive within the bandwidth hours of 6:00 a.m. to 8:00 p.m.

"Nominated working place" means the location where an employee normally commences work.

"OEH" means the Office of Environment and Heritage.

"Ordinary working hours" means the average number of hours an employee is required to work each week.

"Parties" means the Office of Environment and Heritage and the Association.

"Pattern of hours" can be either flexible working hours, where start/finish times are flexible within the bandwidth of 6:00 am to 8:00 pm; or, determined where start/finish times are set.

"Planning Officer" means an employee responsible for the collection, evaluation, dissemination and use of information about the incident and status of resources.

"Project/Research Officer" is an employee designated as such, who has obtained a degree in Science or a related discipline from a recognised university requiring a minimum of three (3) years full-time study, or other such qualifications deemed equivalent by the OEH.

"NPWS" means the National Parks and Wildlife Service of the Office of Environment and Heritage.

"Ranger" is an employee in the NPWS designated as such, who has obtained a degree from a recognised university requiring a minimum of three (3) years full-time equivalent study, in an appropriate discipline relevant to the field operations of the Service, or such other tertiary qualification as deemed equivalent by the Chief Executive.

"Regulation" means the Government Sector Employment Regulation 2014.

"Reporting Officer" means an employee who has direct supervisory responsibility for an employee, for performance management and reporting purposes.

"Rostered Day Off" means a day off in a four-week roster period, taken at a time which is operationally convenient to the OEH, except those days that are taken as approved leave including flex leave time in lieu or as an allocated day off.

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

"Senior Ranger" is an employee in the NPWS designated as such, who has obtained a degree from a recognised university requiring a minimum of three (3) years full-time equivalent study, in an appropriate discipline relevant to the field operations of the Service, or such other tertiary qualification as deemed equivalent by the Chief Executive.

"Settlement Period" is a four-week roster period.

"Seven Day Roster Workers" are employees whose ordinary hours of work may be worked on any day, Monday to Sunday (inclusive) within the bandwidth of 6:00 a.m. to 8:00 p.m.

"Standby" means an approved period of time outside normal working hours, when employees, including Duty Officers, have been directed by the Chief Executive, or delegate, to be readily contactable and to immediately respond as required.

"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 to fulfil the role of a supervisor or manager, other than a person engaged as a consultant or contractor.

"Temporary Employee" means any employee engaged in terms of section 43(3) of the *Government Sector Employment Act 2013* and any guidelines issued thereof or as amended from time to time.

"Union" means the Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales, having regard to its respective coverage.

#### 4. Memorandum of Understanding

- 4.1 The Memorandum of Understanding at Part C was signed by the parties to this award on 10 August 2006 and should, where appropriate be read in conjunction with this award.

#### 5. Salaries

- 5.1 No employee's substantive salary will drop on entering into the Award.
- 5.2 Salaries will be those set out in Annexures 1 - 3.
- 5.3 The salary rates are all inclusive of the following allowances:
- (i) Diving
  - (ii) Kosciusko
  - (iii) Dry Cleaning
  - (iv) Flying
- 5.4 Salaries for Field Officer classifications are inclusive of leave loading.
- 5.5 This award is listed in Schedule A of the Crown Employees (Public Sector – Salaries 2018) Award and salaries payable to employees shall be in accordance with that award or any award replacing it. The rates set out in Part B, Annexures 1-3 are subject to the rates as set by the Crown Employees (Public Sector – Salaries 2018) Award or any award replacing it.

#### 6. Salary Packaging Arrangements, Including Salary Sacrifice to Superannuation

- 6.1 The entitlement to salary package in accordance with this clause is available to:
- (i) ongoing full-time and part-time employees;
  - (ii) temporary employees, subject to OEH convenience; and
  - (iii) casual employees, subject to OEH convenience, and limited to salary sacrifice to superannuation in accordance with sub-clause 6.7.
- 6.2 For the purposes of this clause:
- (i) "salary" means the salary or rate of pay prescribed for an employee's classification by Part B Annexures 1 - 3 of this Award, and any other payment that can be salary packaged in accordance with Australian taxation law.
  - (ii) "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-HELP payments, child support payments, and judgement debtor/garnishee orders.
- 6.3 By mutual agreement with the Chief Executive, an employee may elect to package a part or all of their post-compulsory deduction salary in order to obtain:
- (i) a benefit or benefits selected from those approved by the Secretary; and
  - (ii) an amount equal to the difference between the employee's salary, and the amount specified by the Secretary for the benefit provided to or in respect of the employee in accordance with such agreement.

- 6.4 An election to salary package must be made prior to the commencement of the period of service to which the earnings relate.
- 6.5 The agreement shall be known as a Salary Packaging Agreement.
- 6.6 Except in accordance with subclause 6.7, 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 Chief Executive at the time of signing the Salary Packaging Agreement.
- 6.7 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:
- (i) paid into the superannuation fund established under the *First State Superannuation Act 1992*; or
  - (ii) where the OEH is making compulsory employer superannuation contributions to another complying superannuation fund, paid into the same complying fund; or
  - (iii) subject to the OEH's agreement, paid into another complying superannuation fund.
- 6.8 Where the employee makes an election to salary sacrifice, the OEH shall pay the amount of post compulsory deduction salary, the subject of election, to the relevant superannuation fund.
- 6.9 Where the employee makes an election to salary package and where the employee is a member of a superannuation scheme established under the:
- (i) *Police Regulation (Superannuation) Act 1906*;
  - (ii) *Superannuation Act 1916*;
  - (iii) *State Authorities Superannuation Act 1987*; or
  - (iv) *State Authorities Non-contributory Superannuation Act 1987*;
- the OEH 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.
- 6.10 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 sub-clause 6.9 of this clause, the OEH 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 OEH may be in excess of superannuation guarantee requirements after the salary packaging is implemented.
- 6.11 Where the employee makes an election to salary package:
- (i) 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
  - (ii) 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 Award 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 under Part B Annexures 1 - 3 of this Award if the Salary Packaging Agreement had not been entered into.

- 6.12 The Secretary may vary the range and type of benefits available from time to time following discussion with the Unions. Such variations shall apply to any existing or future Salary Packaging Agreement from date of such variation.
- 6.13 The Secretary will determine from time to time the value of the benefits provided following discussion with the Unions. 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.

## 7. Allowances

- 7.1 Allowances payable in the sub-clauses 7.2, 7.3 and 7.4 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):
- 7.1.1 Allowance rates contained in this clause are effective from the first full pay period on or after 1 July 2018.
- 7.2 Boot Allowance
- 7.2.1 A boot allowance is payable to any employee who works in the field where suitable boots are not provided by the OEH. The allowance is to be a maximum of \$179.00 of boots, on condemnation of the previous pair, endorsed by the Area Manager, Regional Manager or Branch Director NPWS.
- 7.3 Field Allowance
- 7.3.1 This allowance replaces camping allowance contained in the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 or any successor instrument to that Award.
- 7.3.2 This allowance is payable when an employee is required to stay overnight at a place other than their place of abode or commercial accommodation.
- 7.3.3 The amounts payable per day of 24 hours, or part thereof (which must involve an overnight stay), are:
- (i) Where meals are provided by the OEH, \$78.24 or \$3.26 per hour.
  - (ii) Where meals are not provided by the OEH, \$125.04 or \$5.21 per hour.
- 7.3.4 The OEH will provide the necessary equipment.
- 7.3.5 In the exceptional circumstances where equipment is not supplied, no additional allowance is payable.
- 7.4 Remote Area Allowance
- 7.4.1 The Remote Area Allowance seeks to compensate staff for increased costs of living, the climatic conditions of areas designated "remote" and the level of disturbance to partners and family.
- 7.4.2 "Remote area" means the area of the State of N.S.W. situated on or to the west of a line starting from the right bank of the Murray River opposite Swan Hill and then passing through the following towns or localities in the following order, namely, Conargo, Coleambally, Hay, Rankins Springs, Marsden, Condobolin, Peak Hill, Nevertire, Gulargambone, Coonabarabran, Wee Waa, Moree, Warialda, Ashford and Bonshaw, and includes a place situated in any such town. It also includes Nadgee, Montague Island and Lord Howe Island.

- 7.4.3 The allowances specified in paragraph 7.4.5 Table 1 of this clause, will be paid to those employees who meet the criteria set out in the Public Service Industrial Relations Guide and who live in a remote area as defined in paragraph 7.4.5 Table 2 of this clause.
- 7.4.4 The allowance replaces the Commonwealth allowance paid to officers on Lord Howe Island.
- 7.4.5 The rates of the allowances will be:

**Table 1**

Grade	With Dependents	Without Dependents
A	\$4,697.71	\$3,287.91
B	\$6,263.63	\$4,384.31
C	\$7,829.56	\$5,480.70

**Table 2**

Grade "A"	All locations in remote areas, as defined, except those specified as Grade B or C and including Nadgee.
For the purpose of this Award the following locations will be included in Grades "B" and "C".	
Grade "B"	is payable to employees living in the following locations: Angledook, Barrigun, Bourke, Brewarrina, Clare, Engonia, Goodooga, Ivanhoe, Lake Mungo, Lightning Ridge, Louth, Mungindi, Pooncarie, Redbank, Walgett, Wanaaring, Weilmoringle, White Cliffs, Wilcannia, Willandra, and including Menindee, Kinchega, Macquarie Marshes and Gunderbooka.
Grade "C"	is payable to employees living in the following locations: Fort Grey, Mootwingee, Mount Wood, Nocoleche, Olive Downs, Tibooburra, Yathong and including Witta Brinna, Tarawi, Irymple, Lord Howe Island and Montague Island

- 7.4.6 Should employees be located in other remote locations not specified in this Award, the grading for payment will be determined in consultation with the Union.

### **8. On Call for Kosciusko National Park Municipal Services Managed By NPWS.**

- 8.1 A weekly allowance of \$185 per week (of 7 days) shall be paid to employees in the Kosciusko National Park Municipal Services Unit who are directed to be on call.
- 8.2 The payment shall cover all time outside the normal working hours that the employee is required to be available for contact and immediate response to a call.
- 8.3 Only in exceptional circumstances would the OEH require an employee to be on call for a period of less than 7 days. Where a period of on call is for less than 7 days a pro-rata to a minimum of one day will apply for each day the employee is required to be on call. The daily allowance will equate to \$26.43 per day.
- 8.4 The allowance shall compensate the employee for minor follow up work that may result from the call.
- 8.5 Where the call results in the employee returning to work or performing more than minor follow-up work (i.e. where two or more further calls are required and this takes more than 15 minutes), the employee shall be entitled to overtime for the actual time spent responding to the call or a minimum of 3 hours overtime, whichever is the greatest.
- 8.6 Where an employee is required to return to work again after the initial call out, the employee shall be paid for the actual time spent attending the second and subsequent call outs.

- 8.7 Extension of this provision to other work areas, classifications or specific jobs will be done in consultation with the Union.

### **9. Standby Allowance - Including Standby Associated With Declared Incidents**

- 9.1 Standby roles - employees may be directed to be on standby as a:
- (i) Duty Officer - either for general standby or associated with a declared incident (refer to clause 3 - Definitions); or
  - (ii) General standby - an employee appointed on standby to respond to after hours duty as required.
- 9.2 Standby duties – employees directed to be on standby must be readily contactable by telephone, radio or mobile phone where one has been issued, during the standby period and be prepared to respond immediately to duty as required. Employees who are not readily contactable and available for immediate response to duty as required, will not be entitled to standby payments.
- 9.3 Duty Officer support - a Duty Officer may have access to the OEH after hours contact lists, an OEH vehicle (with radio) and mobile phone (if necessary) dependent on the requirements of the duty to be performed.
- 9.4 Standby hours - the time an employee, can be directed to be on standby is:
- (i) 24 hours on a rostered day off; or
  - (ii) all hours between the finishing time and starting time of the next day on rostered days on; or
  - (iii) for an approved period of time to meet operational requirements with the minimum period being 3 hours.
- 9.5 Standby rates
- 9.5.1 An employee required to be on standby will be paid at the rate of one third their standard hourly rate (not including any loading) or maximum rate for Clerk Grade 8 as varied from time to time plus \$1.00, whichever is the lesser, for the time they are required to be on standby outside their normal rostered working hours.
  - 9.5.2 Payment of the standby rates for a Duty Officer directed to be on standby for a declared incident, will be charged to the respective declared incident and the overtime barrier will not apply (except for SES officers) for the duration of the declared incident.

### **10. Allowance for Temporary Assignments to Higher Roles**

- 10.1 Employees who relieve in a higher role for a period of at least 5 consecutive work days will be paid a proportion (from 50-100%) of the difference between the substantive salary rate of the occupant of the higher role and the employee's salary. The proportions shall depend on the range and level of duties performed in the role. Where the role is vacant, an employee relieving in the role shall be paid a proportion (from 50% -100%) of the difference between step one of the grading of the vacant role and the employee's substantive salary rate. The proportions shall depend on the range of the level of duties performed in the roles.
- 10.2 The terms and conditions of the Allowance for Temporary Assignments to Higher Roles apply for the duration of the relieving period.
- 10.3 The duties and the proportion of the Allowance for Temporary Assignments to Higher Roles shall be mutually agreed to prior to the relieving period.

## 11. Assignment

- 11.1 Assignment to a vacant role will be by way of competitive selection based on the merit principle and in accordance with the provisions of the *Government Sector Employment Act 2013*.
- 11.2 Assignment to a higher starting salary point within the level, grade or class than Year 1 will be determined by the Chief Executive or delegate, following assessment of the successful applicant's educational qualifications, past work experience in a related field and/or relevant competency level.
- 11.3 Rangers - special assignments
- 11.3.1 An employee possessing a minimum of a three year degree from a recognised university at time of assignment, shall commence at Ranger Grade 1 Skill Level 1.
- 11.3.2 An employee possessing a minimum of a 4 year full-time equivalent degree (including Honours year or a teaching diploma in addition to a three year degree) from a recognised university at time of assignment, shall commence at Ranger Grade 1 Skill Level 2.
- 11.3.3 An employee possessing a Masters Degree or a Doctorate from a recognised university at the time of assignment, shall commence at Ranger Grade 1 Skill Level 3.
- 11.3.4 Assignment to a higher salary than those described above, shall be based on the employee having demonstrated competencies in accordance with the attached schedule which are assessed by the Area Manager and approved by the delegate.
- 11.4 Project/Research Officers - special assignments
- 11.4.1 An employee with a three year degree in Science or related discipline from a recognised university will commence at Project Officer Grade 1 Year 1.
- 11.4.2 An employee with a four (4) year degree in Science or related discipline from a recognised university (including an Honours year or a teaching diploma in addition to a 3 year degree) will commence at Project Officer Grade 1 Year 2.
- 11.4.3 An employee with a Masters degree or a Doctorate from a recognised university will commence at Project Officer Grade 1 Year 3.

## 12. Progression

- 12.1 Progression within levels, grades or classes shall be by annual increment unless otherwise specified in Part B.
- 12.2 Increments shall be processed by supervisors within one month of receipt.
- 12.3 If increments are not processed within two months of the due date, the increments will be processed automatically, and payment backdated to the due date.
- 12.4 Progression to a higher level, grade or class shall be by competitive selection for an advertised vacancy, unless the role is banded across a number of levels, grades or classes.
- 12.5 Progression and competency application for Field Officer, Ranger, Project/Research Officer classifications.
- 12.5.1 Progression within levels or grades shall be by annual increment unless otherwise specified in Annexures 1-3.
- 12.5.2 Increments shall be processed by supervisors within one month of receipt.
- 12.5.3 If increments are not processed within two months of the due date, the increments will be processed automatically, and payment backdated to the due date.



- 12.5.4 Progression and competency applications shall be processed by supervisors within three months of receipt.
- 12.5.5 Progression to a higher level or grade shall be by competitive selection for an advertised vacancy, unless the role is banded across a number of levels or grades.

### **13. Project Teams**

- 13.1 The Chief Executive or nominee may request employees to perform work in a designated project team.
- 13.2 An employee may decline an offer to work in a designated project team.
- 13.3 When undertaking work in a designated project team, the employee shall be paid:
- (i) the rate for the job as determined by job evaluation; or
  - (ii) at least one salary level higher than their substantive rate.
- 13.4 An employee working in a designated project team on a full-time basis will not be required to carry out the duties of their substantive role in addition to the project duties.
- 13.5 Project team jobs may be either full-time or part-time.

### **14. Hours of Work**

- 14.1 General
- 14.1.1 The organisation of work and ordinary hours will optimise work effectiveness and the fulfilment of the reasonable needs of employees.
- 14.1.2 The standard hours of work will be those necessary for the completion of routine work and this clause sets out the ordinary hours and conditions attached to exceptions (other than declared incidents).
- 14.1.3 Except as otherwise provided, ordinary hours of work will be an average of 35 per week, over a settlement period, to be worked between 6:00 a.m. and 8:00 p.m.
- 14.1.4 Employees, except those classified as Rangers, Senior Rangers, Assistant District Managers, Field Officers, Senior Field Officers, Field Supervisors and Senior Field Supervisors may only be rostered to work ordinary hours between 6:00 p.m. and 8:00 p.m., when the employee agrees.
- 14.1.5 The parties agree that the appropriate level of service is maintained between the hours of 8:30 am and 4:30 pm on weekdays consistent with the Guarantee of Service Policy.
- 14.1.6 No employee will be able or be required (other than in incidents) to work more than 10 ordinary hours per shift (exclusive of travelling time).
- 14.1.7 Pattern of hours is the way hours are worked each settlement period; i.e., start/finish times and days of the week for 7 day roster workers.
- 14.1.8 The pattern of hours will be agreed to between the employees and management of the area with regard to the needs of the OEH, the needs of employees and the provision of services to the OEH's customers.
- 14.1.9 A roster of hours and days must be set and agreed to in writing 2 weeks before the settlement period starts.
- 14.1.10 Hours of work for roles and/or classifications will be as set out in sub-clause 14.2.

14.1.11 Permanent changes to the pattern of hours for an employee is subject to consultation with the employee and/or the Union.

14.2 Ordinary hours may be organised as follows:

14.2.1 Monday to Friday Workers

- (i) Ordinary hours to be worked from Monday to Friday (inclusive).
- (ii) Except as otherwise provided, all approved work performed outside the bandwidth, on weekends or public holidays is to be paid as overtime in accordance with the provisions of clause 16 - Overtime General, of this Award.

14.2.2 Defining Monday to Friday Workers

- (i) A Review Committee will be established for each National Parks and Wildlife Service region for the purpose of determining the number, if any, of roles to be reclassified from Seven Day Roster roles to Monday to Friday Day roles in each region based on principles agreed between the parties including operational needs.
- (ii) Following the original determination in 14.2.2(i) above, the Review Committees will meet to review that determination within 12 months.
- (iii) Subsequent to the review in 14.2.2(ii) above, any further changes will be the subject of consultation between the local delegate and manager based on operational needs.
- (iv) New employee(s) will be offered a Monday to Friday Roster role if a vacancy exists in this category as determined in paragraphs 14.2.2 (i) and (iii).
- (v) Disputes arising from the process will be dealt with pursuant to clause 42 - Industrial Grievance Procedure

14.2.3 Conversion from Monday to Friday to Seven Day Roster Worker

- (i) The determination of a role being reclassified from Monday to Friday to a Seven Day Roster role will be made by the OEH on the basis that:
  - (a) Where an employee employed in a Monday to Friday role performs work on more than:
    - 23 weekend days and/or public holidays (total) annually in the case of employees who receive a 17% loading; or
    - 11 weekend days and/or public holiday (total) annually in the case of employees who receive an 8.5% loading,the employee will have the option of choosing to remain a Monday to Friday Day Worker or make a claim to the OEH to have the role converted to a Seven Day Roster Worker role that attracts the loading; or
  - (b) By agreement between the local manager and delegate, a Monday to Friday Day role is converted to a Seven Day Roster role.
- (ii) Nothing in this clause is intended to derogate from the rights of employees' opt in/opt out rights in paragraph 13.2.5 below.

## 14.2.4 Seven Day Roster Workers

- (i) Seven Day roster worker is the default category of employment for the classifications listed in paragraph 13.2.4 (ii) except where paragraphs 13.2.2 or 13.2.3 apply.
- (ii) Seven day roster workers include the following classifications: Rangers, Senior Rangers, Assistant District Managers, Field Officers, Senior Field Officers, Field Supervisors and Senior Field Supervisors. This list is not exhaustive. Identification of additional roles will be done in consultation with the union.
- (iii) This provision will also relate to specifically identified roles where the working of a seven day operation is necessary for the efficient and effective operation of the role. Identification of roles that are to be designated Seven Day Roster Workers will be done in consultation with the union.
- (iv) Seven Day Roster Worker employees who were employed prior to 30 August 2010 and who receive the relevant loading under the Award will continue to be entitled to the loading until the employee chooses to opt out and their proposal is agreed to by the local manager pursuant to paragraph 14.2.5. Current employees will retain the loading should they transfer or win a promotion to another role as defined in the default employment category.
- (v) Ordinary hours for employees specified in paragraphs 14.2.4(ii) and 14.2.4 (iii) are to be worked from Monday to Sunday (inclusive) within the bandwidth of 6:00 a.m. to 8:00 p.m., unless otherwise agreed to between the OEH and the employee concerned
- (vi) Employees working this pattern of hours are to have at least two consecutive full days off per week, unless otherwise agreed to between the OEH and the employee concerned.
- (vii) Employees shall not be rostered to work more than two consecutive weekends (i.e. Saturday and Sunday), unless the employee agrees to do so.
- (viii) A loading of 17% of annual base salary is payable to Rangers, Field Officers and Senior Field Officers for working up to a maximum of 45 combined weekend days (i.e. Saturdays and Sundays) and 5 Public Holidays and is paid in lieu of all other penalty rates.
- (ix) A loading of 8.5% of annual base salary is payable to Senior Rangers, Assistant District Managers, Field Supervisors and Senior Field Supervisors for working up to a maximum of 22 combined weekend days (i.e. Saturdays and Sundays), and 3 Public Holidays and is paid in lieu of all other penalty rates.
- (x) If an employee agrees to work more than the maximum specified in sub-clauses (viii) or (ix) of this clause, no additional payments or day in lieu shall be made.
- (xi) Employees referred to in sub-clauses (viii) or (ix) of this clause who are directed to work more weekend days and public holidays than those prescribed for their role, will be paid penalty rates as follows:

**Table 3**

(a)	Saturdays	a 50% loading for each additional day worked
(b)	Sundays	a 75% loading for each additional day worked
(c)	Public Holidays	a 150% loading for each additional day worked

- (xii) The loading specified in sub-clauses (viii) and (ix) of this clause will be paid for the purposes of superannuation and all paid leave, other than where such leave is for a period of over 3 months.

## 14.2.5 Opt Out and Opt In

- (i) Where Seven Day Roster employees choose not to be rostered in accordance with Seven Day Roster provisions in the Award and where management can manage the locations concerned without these employees being on the Seven Day Roster, then such employees may opt out of being on a Seven Day Roster subject to:
  - (a) paragraph 14.2.2 being satisfied; and
  - (b) with written approval from the OEH.
- (ii) Prior to externally advertising a vacant Seven Day Roster role of the same classification that attracts the loading, the role will:
  - (a) in the first instance, be offered to employees from the same Area or Unit that have previously opted out of their entitlement to the loading;
  - (b) if no employees that have previously opted out accept the offer to opt back in, the role will be offered to employees that are Monday to Friday workers in the same Area or Unit as a result of new employment.

## 14.2.6 Twenty Four Hour Bandwidth Workers

- (i) A 24 hour bandwidth, inclusive of weekends and public holidays, may be implemented for employees required to undertake or assist in duties including but not limited to law enforcement and surveillance as part of their normal duties. A 24 hour bandwidth provides the OEH with the flexibility required to ensure that such essential and/or urgent tasks, surveillance work, and field work are conducted in an efficient and timely manner.
- (ii) Ordinary hours to be worked from Monday to Sunday (inclusive).
- (iii) Ordinary hours to be worked at any time within a 24 hour bandwidth, with no fixed core time.
- (iv) Except as otherwise provided, all approved time worked in excess of 140 hours per settlement period of 4 weeks shall be paid as overtime.
- (v) Employees who are required to work their ordinary hours in a 24 hour bandwidth will perform the work subject to:
  - (a) Not more than 10 hours are to be worked in one day;
  - (b) Hours usually being worked from Monday to Friday;
  - (c) An employee having 2 days off per week;
  - (d) An employee not being directed to work more than 12 consecutive days without the payment of overtime;
  - (e) An employee not being directed to work more than 2 consecutive weekends; and
  - (f) An employee not being directed to work more than 75 days field work per annum.
- (vi) A loading of 9.7% shall be paid to all employees working on a 24 hour bandwidth in lieu of any other penalty rates for working ordinary hours on weekends and public holidays.
- (vii) A 24 hour bandwidth will not be implemented where the provisions as per the seven day roster - see sub-clause 14.3 of this Award - will accommodate the operational requirements of the NPWS.

(viii) Implementation of a 24 hour bandwidth in NPWS will only occur following consultation and agreement of the union.

#### 14.3 Set Pattern of Hours

- 14.3.1 These provisions apply to employees in the Field Officer classification who work a set pattern of hours within each 4 week roster period.
- 14.3.2 The set pattern of hours will be decided and agreed to by the employee and their supervisor at the time each 4 week roster is determined.
- 14.3.3 The starting and finishing times set for the roster period will be within the bandwidth of 6:00 a.m. and 8:00 p.m. (Monday to Sunday) inclusive.
- 14.3.4 The set pattern of ordinary hours of work, exclusive of meal breaks can be worked as:
- (i) five 7 hour 22 minute days with 22 minutes accruing towards an allocated day off each 4 week roster period; or
  - (ii) four 9 hour 20 minute days with 35 minutes accruing towards an allocated day off each 4 week roster period.
- 14.3.5 The working of four 9 hour 20 minute days per week can only occur with the Area Manager's approval. The employee shall give 2 weeks' notice prior to the commencement of this arrangement to the Area or Regional Manager, where possible and 2 weeks' notice of its cessation, by mutual agreement.
- 14.3.6 Any paid leave, e.g. recreation leave, sick leave or Family and Community Service leave, and any public holiday occurring during the settlement period, shall be a day worked for accrual of an allocated day off.
- 14.3.7 Days taken as leave without pay do not accrue any time towards an allocated day off.

### 15. Variation of Hours

- 15.1 Where the OEH directs that the set starting and finishing times and/or days to be worked be changed, employees shall be given at least 2 weeks' notice. (This requirement does not apply in incidents.)
- 15.2 Where the hours and/or days are varied by mutual agreement between the OEH and the employee within the bandwidth, no penalty is paid.
- 15.3 Where the OEH provides 2 weeks' notice that the hours and/or days are to be varied, and the variation is within the bandwidth, no penalty shall apply.
- 15.4 Where the OEH does not provide 2 weeks' notice that the hours and/or days are to be varied, and the variation is within the bandwidth, a 25% loading on base salary, based on a 7 hour shift, shall apply.
- 15.5 Where the employee requests a variation to hours and/or days and this is agreed by the OEH, no loading shall be paid.
- 15.6 In respect of Hazard Reduction Burns, there is a period of two months in each calendar year where the daily bandwidth of hours will be 6:00 a.m. to 10:00 p.m. for the Award classifications that are covered by the Set Patterns of Hours clause (sub-clause 14.3). The Regional Manager in consultation with the local delegates will determine the designated period or 2 periods each year to be worked under this agreed arrangement. Such employees during the designated period/s, may be called upon to work on Hazard Reduction Burns on 24 hours' notice without the payment of the additional 25% loading penalty.

## 16. Overtime - General

### 16.1 General

16.1.1 General overtime conditions of employees under this Award shall be regulated in accordance with the provisions contained within the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 or any successor instrument to that Award.

16.1.2 Overtime is payable for all approved time worked:

- (i) In excess of 7 hours per day or the daily contract hours, whichever is appropriate, where such work is at the direction of the OEH; or
- (ii) Outside the bandwidth, except where such work is associated with incidents as defined.

16.1.3 If overtime is taken as time in lieu, it must be taken within six months of accruing.

### 16.2 Overtime at Home

16.2.1 Employees covered by this Award may work overtime from home where the nature of work allows for it and prior approval has been sought and given.

16.2.2 No meal allowance is paid when working overtime at home.

## 17. Meal Breaks

### 17.1 Unpaid Meal Breaks

17.1.1 An unpaid meal break of at least 30 minutes shall be taken no later than 5 hours after the commencement of work.

17.1.2 In some cases, due to the nature of the work, the meal break shall be for a set period of time. In these cases, employees shall be allowed at least 30 minutes.

### 17.2 Paid Meal Breaks

17.2.1 Meal breaks taken whilst working overtime shall be paid at single time rates.

17.2.2 A meal break of 30 minutes shall be taken no later than two hours after the commencement of overtime.

17.2.3 If overtime continues, an additional meal break of 30 minutes shall be taken after the completion of each 5 hours worked.

## 18. Rest Breaks

18.1 There must be a break of at least ten (10) consecutive hours between an employee's normal finishing time and normal start time. Where an employee is directed to commence work without having had their required rest break, they will be paid overtime rates until they are released from duty.

18.2 Where an employee is recalled to work after their finishing time, and works for a total of less than 4 hours, they are entitled to a rest break of at least 7 consecutive hours before their next start time, and are entitled to be paid for any time lost. If they are directed to return to work and have not had their rest break, they are to be paid at overtime rates until they are released from duty.

18.3 Where an employee is recalled to work after their finishing time, and works for a total of more than 4 hours, they are entitled to a 10 hour rest break and shall be paid for any time lost. Where the employee is directed to commence work without having had their required rest break, they will be paid overtime rates until they are released from duty.

## 19. Flexible Working Hours

- 19.1 So as to ensure consistent application and the orderly implementation of the new provisions across the OEH the commencement date for the provisions set out in this clause of the Award shall be as agreed between the parties.
- 19.2 Ordinary Working Hours
- 19.2.1 Full-time ordinary working hours shall be an average 35 hours per week over a 4 week period.
- 19.3 Bandwidth
- 19.3.1 Bandwidth is the period during the day when employees may record time worked.
- 19.3.2 Standard Bandwidth
- (i) The Standard Bandwidth commences at 6:00 a.m. and ceases at 8:00 p.m. for employees in roles classified as Ranger, Senior Ranger and Assistant District Manager. For all other employees the Standard Bandwidth is 6:00 a.m. to 6:00 p.m. unless the employee has agreed to work their ordinary hours in a wider bandwidth until 8:00 p.m. The maximum number of hours that can be recorded as being worked under this bandwidth is 10 hours (10.5 hours less a 0.5 hour lunch break). This will be the bandwidth that an employee covered by this Award operates under unless their bandwidth is varied as per clause 15 above.
- (ii) The Standard Bandwidth starting and finishing times may only be varied in circumstances where prior approval by the appropriate delegate has been granted for such a variation. A variation may apply to a group of employees or an individual employee.
- 19.4 Guarantee of Service
- 19.4.1 This is the specified period during the day between the hours of 8:30 a.m. and 4:30 p.m. on a weekday when an appropriate level of service is maintained in NPWS work locations.
- 19.5 Accrual and the taking of flex leave
- 19.5.1 Employees are able to take 14 hours, i.e. two days (2) flex leave days, off in a settlement period as long as they have accumulated enough hours to do so.
- 19.5.2 With prior management approval, employees may accumulate a credit balance of 14-35 hours to enable them to have up to 5 flex leave days in a settlement period, to be taken at a mutually convenient time.
- 19.5.3 Employees who continually fail to take annual leave as a result of taking extended periods of flex leave may be placed on standard hours by management following appropriate consultation until a reasonable leave balance is established in accordance with the Award provisions.
- 19.5.4 Supervisors will have full and open 24 hour access to an employee's time sheet records and records pertaining to an employee's flex leave.
- 19.5.5 Employees may carry forward to the next settlement period, in accordance with paragraphs 19.5.1 and 19.5.2 above a credit balance of up to 35 hours or a debit balance of 10 hours.
- 19.5.6 Flex leave can be taken at either the beginning or end of a period of leave.
- 19.5.7 Flex leave can be taken as either half days or full days. Time outside the bandwidth will not accrue to flex time balance.
- 19.5.8 Employees must have prior approval before taking flex leave.

- 19.5.9 On cessation of duty, Flex Credits will be dealt with in accordance with sub-clause 21.14 of the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 or any successor instrument to that Award.

## 20. Temporary and Casual Work Arrangements

- 20.1 Temporary and casual employees will be employed by the OEH in accordance with the provisions of the *Government Sector Employment Act 2013*.
- 20.2 Temporary Employees
- 20.2.1 Temporary employees may be employed by the OEH on either a full-time or part-time basis in any NPWS classification contained in this Award for a fixed term for a maximum period of up to three years. Continuation of employment beyond 3 years may only be offered on an ongoing basis.
- 20.2.2 Temporary employees shall be entitled to uniforms (if the role requires such use), Annual NPWS Entry Permits (if employed in excess of twelve months), training and staff development opportunities.
- 20.2.3 In accordance with the Superannuation Guarantee legislation, temporary employees are entitled to employer-based contributions to their nominated superannuation fund.
- 20.2.4 Temporary employees employed for a period in excess of three months are entitled to the accrual of leave. In the case of temporary employees employed for less than three months, no leave accrual is available, however, payment of 4/48ths in lieu of recreation leave will be made on termination of employment.
- 20.3 Casual Employees
- 20.3.1 Casual employees shall be engaged by the OEH on an irregular and intermittent basis and shall be paid fortnightly or at the termination of engagement, whichever is the earlier, for the number of hours worked.
- 20.3.2 The casual hourly rate is determined by the following formulae:
- (i) Annual salary of the role divided by 260.8929 divided by 7 = Base hourly rate;
  - (ii) Rate for Monday to Friday = base hourly rate plus 25%;
  - (iii) Rate for Saturday = base hourly rate plus 58%;
  - (iv) Rate for Sunday = base hourly rate plus 83%;
  - (v) Rate for Public Holidays = base rate plus 158%;
- 20.3.3 The rate of pay for casual employees shall be set in recognition of the skills and experience of the employee which is relevant to the work to be performed.
- 20.3.4 The casual hourly rates of pay are inclusive of all forms of leave except for long service leave entitlements which accrue according to the provisions of the *Long Service Leave Act 1955*. Casuals are entitled to be paid overtime for time worked in excess of their normal daily contract hours to the next quarter hour.
- 20.3.5 Overtime payments for casual employees are calculated on the ordinary base hourly rate (the 25% loading is not included).



20.3.6 Casual employees shall also receive the following entitlements in accordance with the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 or any successor instrument to that Award:

- (i) Unpaid parental leave in accordance with paragraph 12.5.4
- (ii) Personal Carer's entitlement in accordance with sub-clause 12.6 and
- (iii) Bereavement entitlement in accordance with sub-clause 12.7

20.3.7 This entitlement is also set out in this Award at Annexure 4 - Casual Leave Entitlements.

20.3.8 Casual employees shall be engaged and paid for a minimum of three consecutive hours for each day worked.

## **21. Part-Time Work Arrangements**

21.1 Part-time work may be available to:

- (i) ongoing and temporary employees who wish to work part-time in an existing role;
- (ii) existing full-time or part-time employees applying for promotion or transfer if they are willing to work the approved hours of the role;
- (iii) employees recruited and assigned to a role where the approved hours are less than full-time.

21.2 The decision to work part-time is voluntary. No employee shall be directed or placed under any duress to move from full-time to part-time employment or vice versa.

21.3 Employees employed on a part-time basis may elect to work full-time at any time, subject to the appropriate work being available for the classification and level, grade or class of the role.

21.4 Return to full-time employment before the expiry of the agreed period of part-time work is subject to availability of work and adequate period of notice.

21.5 Employees employed on a part-time basis shall not be expected to carry out all of the responsibilities of a full-time job in part-time hours.

21.6 Employees employed on a part-time basis shall not be subjected to pressure to be available for work outside their usual part-time hours. Where the nature of work may from time to time require them to work outside agreed part-time hours any arrangements to alter the existing part-time work arrangement need to be negotiated and agreed to at the outset.

## **22. Job Sharing**

22.1 The parties to this Award confirm a commitment to providing flexible work conditions through job sharing.

22.2 The OEH will support employees sharing a role provided that:

- (i) the arrangement is fair and equitable to the employees involved;
- (ii) the employees involved in the job sharing arrangement agree to the arrangement;
- (iii) the arrangement can be on an ongoing or temporary basis;
- (iv) the arrangement is in the best interests of the smooth functioning of the OEH, ensuring that customer/client-OEH relationship is maintained.

- 22.3 The days each employee shall work should be consecutive, and negotiated and agreed to by all parties involved before commencement of employment.
- 22.4 Some examples are: 2 days one week and 3 days the next week; Thursday to Wednesday worked on alternate weeks; Monday, Tuesday, alternate Wednesday and alternate Wednesday, Thursday, Friday.
- 22.5 The employees involved in the job share arrangement should maintain close contact to ensure continuity of work completed by them.

### **23. Public Holidays and Public Service Holiday**

#### **23.1 General**

- 23.1.1 Unless directed to attend for duty by the Chief Executive or delegate, an employee is entitled to be absent from duty on any day which is:
- (i) a declared public holiday throughout the State;
  - (ii) a declared local holiday in the part of the State at or from which the employee performs duty; and
  - (iii) a Public Service Holiday in accordance with any directives issued by the Secretary.
- 22.1.2 If a declared local holiday falls during an employee's absence on leave, the employee is not to be credited with the holiday.

#### **23.2 Monday to Friday Workers**

- 23.2.1 Those employees required to work on a declared public holiday shall be paid overtime in accordance with clause 16 - Overtime.
- 23.2.2 Employees who are required to work on a Public Service Holiday will be able to take a day off in lieu within 12 months at a time agreed between the employee and their supervisor.

#### **23.3 Seven Day Roster Workers**

- 23.3.1 Employees covered by this Award may be required to perform their ordinary hours on a declared public holiday, a declared local holiday, or a public service holiday as per clause 14 - Hours of Work.
- 23.3.2 Payment for time worked on a declared public holiday will be in accordance with the provisions of clause 14 - Hours of Work or clause 16 - Overtime – General, as is appropriate.
- 23.3.3 Provisions of paragraph 23.3.2 do not apply to an employee who is required to work on a Public Service Holiday and this is not included in the specified number of public holidays for which the loading is paid as per clause 14 – Hours of Work, of this Award. The employee will be entitled to take a day off in lieu within 12 months at a time agreed between the employee and their supervisor.

#### **23.4 Twenty Four Hour Bandwidth Workers**

- 23.4.1 Employees working a twenty four hour bandwidth may be required to work ordinary hours on a declared public holiday, a declared local holiday or a public service holiday.
- 23.4.2 Such employees shall not receive any additional payment for ordinary hours worked on a declared public holiday or a public service holiday.
- 23.4.3 Such employees shall not receive an additional day off or annual leave day for ordinary time worked on a declared public holiday or public service holiday.

## **24. Leave**

### 24.1 General

24.1.1 General leave conditions of employees under this Award shall be regulated in accordance with the provisions contained within:

- (i) the Act and Regulation, and
- (ii) Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 or any successor instrument to that Award, and
- (iii) The OEH's policies as agreed and reviewed from time to time.

24.1.2 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.

## **25. Recreation Leave and Annual Leave Loading**

### 25.1 Recreation Leave

25.1.1 For Monday to Friday workers paid recreation leave accrues at the rate of 20 working days per year,

25.1.2 For Seven Day Roster Workers paid recreation leave accrues at the rate of 30 days per year,

25.1.3 For Twenty Four Hour Bandwidth Workers paid recreation leave accrues at the rate of 30 days per year.

### 25.2 Annual Leave Loading

25.2.1 Annual Leave loading for Monday to Friday Workers is 17.5% on the monetary value of up to 4 weeks of recreation leave accrued in a leave year.

25.2.2 Annual Leave loading for 7 Day Roster Workers and Twenty Four Hour Bandwidth Workers is 17.5% on the monetary value of up to 5 weeks of recreation leave accrued in a leave year.

25.2.3 The annual salary paid to Field Officer classifications is inclusive of annual leave loading.

## **26. Family and Community Service Leave**

26.1 Family and Community Service Leave for employees covered by this Award shall accrue and be granted in accordance with clause 71 of the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 or any successor instrument to that Award howsoever named and as varied from time to time.

## **27. Excess Travel Time**

27.1 Time spent travelling, as defined under clause 27 of the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 or any successor instrument to that Award:

- (i) before the agreed bandwidth commences, and up to 1 hour thereafter, and from one hour prior to the end of the agreed bandwidth; or
- (ii) commencing a set pattern of hours as per sub-clause 14.3 of this Award shall be able to be claimed as 'Travelling Time'.

- 27.2 Provided that travelling time shall not include any period of travel between 11:00 p.m. on any one day and the start of the employee's bandwidth on the following day where the employee has travelled overnight and sleeping facilities have been provided for the employee.
- 27.3 Where organisational requirements prevent an employee taking Time In Lieu for Excess Travelling Time within the timeframe under the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 or any successor instrument to that Award it will be paid out by application.
- 27.4 The accrued time in lieu may be added to the employee's Accrued Flex hours under sub-clause 19.5 to be taken at a mutually convenient time but at all times the nature of the time being accrued (i.e. time in lieu or flex time) must be clearly distinguished and recorded by the employee.

### **28. Contact with Employees on Parental and Maternity Leave**

- 28.1 All parties agree to implement the provisions of sub-clause 75.20 of the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 and which aims to maintain contact with employees specifically in the context of workplace change, restructuring and office relocations and attendance at relevant training courses.
- 28.2 It is recognised that some employees may not wish to keep in contact with the OEH while they are on leave.

### **29. Incident Conditions**

#### **29.1 General**

- 29.1.1 The following conditions apply in circumstances where an incident is declared and approved by the Regional Manager until such time as the declaration of the incident is lifted.
- 29.1.2 Flexible Working Hours Arrangements and bandwidths will be suspended at the time of the incident being declared for those employees involved in the incident.
- 29.1.3 Adjustments to hours will be carried forward to the next settlement period.
- 29.1.4 On successful completion of basic fire fighting training all employees will be issued with appropriate personal protective and other equipment in accordance with the OEH's Fire Management Manual as varied from time to time.
- 29.1.5 Employees directed to return from annual leave to attend an Incident will be compensated for pre-paid accommodation and return travel from their leave destination to home at either First Class Rail Travel or economy air travel for themselves and any dependents or at Official Business Rate if a private vehicle is used. Employees will be further compensated by single hourly rate for all hours travelled. Such employees will have the same option as employees called from an Allocated Day Off or Flexi Day Off as in paragraph 29.2.5 of this Award.
- 29.1.6 "Incident Controller" within this clause means an employee responsible for incident activities including the development and implementation of strategic decisions and for approving the ordering and releasing of resources.

#### **29.2 Conditions**

- 29.2.1 For the purpose of calculating payment for incident duty, the salary rate shall be the employee's substantive salary or as prescribed in sub-clause 28.5 Incident Responsibility Rates, whichever is the greater.
- 29.2.2 Call out to attend an Incident will be paid at a minimum of three (3) hours overtime, or by mutual agreement, time in lieu at overtime rates.
- 29.2.3 All travel to and from an incident will be paid as if part of the Incident.

- 29.2.4 If an employee is away from their own Area for the purposes of attending an Incident, and are not required to work and it is not possible to return to their home, seven hours normal pay will be paid per day until they return home or their usual place of work, whichever is the sooner.
- 29.2.5 Employees required to work on their Allocated Day Off/Flexi Day/Rostered Day Off will be receive either:
- (i) overtime for the whole shift in addition to the normal pay for the day; or
  - (ii) overtime for the whole shift (minus the normal days pay) plus a day off in lieu of the rostered day off to be taken at a mutually agreed time.
- 29.2.6 This must be marked clearly on time sheets or the assumption will be that the rostered day off has been deferred.
- 29.3 Start and Finish Times
- 29.3.1 On a normal rostered day on, start will be from normal workplace and finish will be on return to normal workplace plus 30 minutes.
- 29.3.2 On a Rostered Day Off, start will be on leaving place of abode and finish will be on return to place of abode plus 30 minutes.
- 29.3.3 Where it is not possible to return to place of abode or normal workplace, start will be on leaving accommodation and finish will be on return to accommodation plus 30 minutes.
- 29.3.4 Where an officer is called to an Incident from their place of abode after the completion of a normal shift, starting time will be at the time of the call, and finishing time will be on return to accommodation plus 30 minutes.
- 29.4 Shift arrangements during Incidents
- 29.4.1 A normal shift is seven hours, however employees may only be required to work a maximum of twelve hours on site. However, the initial shift following the declaration of an Incident may extend to a maximum of sixteen hours on site. (The intention of this Award is to allow flexibility in exceptional circumstances; e.g., new crews arriving late, unforeseeable worsening of the Incident).
- 29.4.2 A minimum eight hour break, not including travelling time, must be taken between shifts, and where possible a ten hour break is recommended.
- 29.4.3 After completion of three consecutive shifts on incident duties or five consecutive shifts carrying out support functions in connection with incidents (such as catering Teams and Administrative Assistance) a twenty four hours break with payment at single time rates, shall be provided before continuing with incident duties or support functions or to return to normal duties. Where employees are required to take rest break days additional to those referred to above, such days shall also be paid at the single time rate. Employees shall not be required to take flexi days or flex leave or use any other leave entitlement in order to have the required rest breaks after performance of incident duties or support functions in connection with incidents.
- 29.4.4 It is the responsibility of the Incident Controller or Delegate to ensure that reasonable shift and rest periods are adhered to.
- 29.5 Incident responsibility rates
- 29.5.1 The level and grading of Incident Positions, prescribed by the Australian Inter-Service Incident Management System shall be determined in line with the OEH's job evaluation process. Only those persons assigned to roles identified as Incident Positions shall be paid incident responsibility rates from the date of the making of this Award.

**Table 4**

	2.5% increase effective from first full pay day on or after 1 July 2018
Crew Member	\$64,189
Crew Leader	\$72,118
Sector Commander	\$80,060
Divisional Commander	\$90,670
Operations Officer	\$97,352
Planning Officer	\$97,352
Logistics Officer	\$120,564
Incident Controller	\$133,617
Deputy Incident Controller	
Safety Officer	
Situation Officer	
Situation Unit Leader	
Resource Officer	
Resource Unit Leader	
Air Attack Supervisor	
Air Operations Manager	
Air Observer	
Airbase Manager	

- 29.5.2 Employees with specific skills assigned to work in any of the identified Incident Positions listed in Table 4 will be paid at their substantive hourly rate or at incident responsibility rate, whichever is the greater. For employees receiving the Allowance for Temporary Assignments to Higher Roles or on temporary assignment the substantive hourly rate will be the hourly rate they were paid when the incident was declared for the duration of their relieving period or temporary assignment.
- 29.5.3 Where the level and grading of any new or additional Incident Positions has not been determined employees will be paid their substantive hourly rate or for employees receiving the Allowance for Temporary Assignments to Higher Roles or temporary assignment the hourly rate that they were paid when the incident was declared for the duration of their relieving period or temporary assignment.
- 29.5.4 The overtime barrier rate does not apply to incident situations, except for officers of the SES.
- 29.5.5 Employees must be assigned to or exercise the responsibilities of an incident responsibility role for a minimum of three hours to receive incident responsibility rates. Those required to undertake responsibility for less than three hours have the opportunity to develop experience.
- 29.5.6 When new incident positions are created they will be evaluated to determine the appropriate salary and existing incident positions may be reviewed at the same time.
- 29.5.7 Incident responsibility rates will move in line with the Crown Employees (Public Sector - Salaries 2018) Award or any successor instrument to that Award.
- 29.6 Payment associated with Incidents
- 29.6.1 This replaces the provisions of clause 16 - Overtime, in relation to overtime worked in respect of incidents.
- 29.6.2 Payment will be calculated as follows:
- (i) Double time for all hours from start of incident regardless of day, night, Saturday, Sunday or Public Holidays.

29.6.3 No employee shall have time deducted from pay for meal breaks unless they are actually relieved of Incident Duties for the period of the break and clean up time - e.g. 30-45 minutes. Where meals are provided to an employee on the ground and eaten in conjunction with incident duties, no deduction will be made from pay.

#### 29.7 Family and Dependent Care During Incident Conditions

29.7.1 The OEH will compensate employees for additional dependent care expenses (receipts must be provided) relating to time worked during the incident. This must be arranged with the Incident Controller as soon as practical and each case will be assessed by the Incident Controller.

29.7.2 The OEH will notify a nominated family member or friend as to the whereabouts of employees when extended shifts are required.

#### 29.8 Provision of meals and accommodation while working on Incident

29.8.1 The OEH will generally provide meals including breakfast, lunch, and dinner, and provide supper for employees working night shift.

29.8.2 Employees commencing at their normal workplace will provide their first meal where the meal break falls within their normal seven hour shift.

29.8.3 If no meal is supplied, a payment of \$15.00 per meal is made.

29.8.4 Wherever possible employees will be allowed to return home or the OEH will provide accommodation in a hotel or motel.

29.8.5 Where returning home or to other accommodation is not possible or practical and the employees are required to camp, they will be paid the Field Allowance set out in sub-clause 7.3 - Allowances, of this Award.

#### 29.9 Standby Associated with Incidents

29.9.1 When an incident is declared appropriately trained and qualified employees may be required to be on standby outside normal rostered working hours.

29.9.2 These provisions do not apply to classifications where standby is a usual and regular part of their duties such as Sewage Treatment Plant Officers. Such classifications will be paid on call allowance in accordance with the provisions of clause 8 of this Award.

### **30. Working from Home**

30.1 Supervisors may allow employees to work from home, however, working from home is not to be a routine arrangement.

30.2 Employees covered by this Award may be given approval to work from home from time to time.

30.3 Greater access to working from home is to be given to employees where:

- (i) family members are sick; or
- (ii) where a project/report requires urgent completion and for productivity reasons working from home will achieve this; or
- (iii) for weekend and night emergency incident management; and
- (iv) where the nature of the work allows for it.

- 30.4 In some cases where family members are sick, employees may work from home and combine this with their entitlement to Family and Community Service Leave (where available and appropriate).
- 30.5 When working at home, employees must ensure that they are contactable by their office.
- 30.6 Employees are covered by workers' compensation where prior approval has been given to the employee to work from home.

### **31. Dependent Care**

- 31.1 Where dependents of the employee are sick and require care, the OEH will continue to support the employee in the following ways:
- (i) Family and Community Service Leave may be taken by an employee to attend to any medical needs a dependent may have; or
  - (ii) Where circumstances allow, an employee may negotiate with their supervisor to work at home.
- 31.2 In circumstances where an employee with a sick dependent is required to attend to work that cannot be completed from home (e.g. an urgent meeting) assistance will be available to pay for additional costs associated with in home care for the dependent, subject to the provision of receipts.
- 31.3 The OEH will meet the additional costs involved in before or after school care, where an employee is required to work beyond their regular hours, resulting in additional cost to the employee for child care, in an accredited child care program, subject to the provision of receipts.

Each application will be determined on its merits.

- 31.4 The parties reaffirm their commitment to providing dependent care assistance:
- (i) to enable employees to attend residential training and development activities.
  - (ii) to employees required to work during emergency situations
  - (iii) to ensure employees are able to perform duties in relation to incidents knowing their dependents are safe and cared for in a similar manner to that which they would provide themselves.
- 31.5 The OEH will compensate the employee for additional dependent care expenses relating to hours worked during an incident.

### **32. Families and Field Work**

- 32.1 Employees covered by this Award from time to time will be required to undertake either field work or to work away from their normal headquarters.
- 32.2 Employees who wish to be accompanied by a family member on single day trips, must obtain approval from their supervisor or Reporting Officer prior to the trip for the purpose of insurance coverage.
- 32.3 Employees who wish to be accompanied by a family member on working trips of more than one day must obtain approval from their Area Manager or Regional Manager.

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

- 33.1 The parties to this Award confirm a commitment to skill development for employees of the OEH.
- 33.2 The training and development of employees covered by this Award will be linked to the Performance, Development and Feedback system or any replacement Performance Management System agreed to by the parties. Performance, Development and Feedback Plans will be established through the system and be relevant to the employee's current role and their future career path.



- 33.3 All training and development will be managed and conducted in accordance with the OEH's Learning and Development Framework as varied from time to time.
- 33.4 Dependent care assistance (by way of payment for dependent care) may be provided to enable employees with dependent responsibilities to pursue residential training and development opportunities.

#### **34. Study Assistance**

- 34.1 The OEH will support employees gaining additional skills through formal study and who are progressing through their course in a consistent way based on the timeframe indicated by the providing institution. Where a subject is failed an intention to catch-up must be demonstrated.
- 34.2 Employees are entitled to apply for study time and study leave in accordance with the provisions of the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009.
- 34.3 The following costs associated with courses:
- (i) Higher Education Contribution Help Scheme fee; or
  - (ii) TAFE compulsory fees; or
  - (iii) Compulsory post-graduate fees; or
  - (iv) Compulsory full fee paying course fees;
- will be reimbursed by the OEH in accordance with the guidelines following.
- 34.4 The proportion of fees to be reimbursed where the employee's application for study assistance has been approved under these guidelines, and:
- (i) is their first qualification as an employee of OEH: 100% to a maximum of \$4,000 per annum refunded where the resultant qualification is directly relevant to OEH operations or needs and is approved as such by the Chief Executive; or
  - (ii) is their second or successive qualification as an employee of OEH: 50% refunded to a maximum of \$2,000 per annum where the resultant qualification is directly relevant to DECC operations or needs and is approved as such by the Chief Executive.
- 34.5 Approval for assistance will be considered annually and refunds will be paid for a maximum of six annual approvals up to a total amount of \$24,000 in respect of paragraph 34.4 (i) or \$12,000 in respect of paragraph 34.4 (ii) of this clause, where other requirements have been met as in sub-clause 34.7 below.
- 34.6 At the discretion of the Chief Executive and where the Chief Executive determines that it is in the interests of the OEH, approval may be given for a maximum of eight annual approvals as set out in sub-clause 34.4 above.
- 34.7 To be eligible to receive a refund, an employee must:
- (i) have been employed in the OEH prior to the final examination in the academic period under consideration and also be in employment on the date reimbursement is requested;
  - (ii) produce evidence of having successfully completed a full stage of an approved course (or the subjects enrolled in at the start of a semester/year); and
  - (iii) produce receipts substantiating payments made for compulsory fees or HECS fee incurred.
- 34.8 Employees who receive prior approval for study assistance for a particular course, or qualification under either the EPA, NPWS or Resource NSW policies that existed prior to the implementation of this Award, shall continue to receive their financial assistance in accordance with those policies and their

current approval for that specific course or qualification. Any new course of study and new application to study will be dealt with under paragraph 34.4 (ii).

34.9 Where there is no break in the continuity of study and given successful completion of approved study under paragraph 34.4 (i) any subsequent application for study assistance will be treated as a second application under paragraph 34.4 (ii) of this clause.

34.10 The costs associated with courses as outlined in paragraphs 34.3 (i)-(iv) above are based on current 2006 costs. The parties to this Award agree, where there is a significant increase in costs the parties shall seek to resolve any increase in the listed amounts in paragraphs 34.4 (i) and 34.4 (ii) above. Where no agreement is reached leave is reserved to seek the assistance of the Industrial Relations Commission.

### **35. Training Competency**

35.1 The parties agree to an ongoing commitment to the development and implementation of appropriate competencies based on the relevant skill and qualification requirements at each level. Such competencies shall be developed having regard to National Training Competency standards.

### **36. Engagement of Contractors**

36.1 The OEH is committed to establishing a consultative process regarding the use, including supervision, of contractors by the OEH. The parties agree that the engagement of contractors will occur in limited circumstances and in accordance with all applicable policies of the Public Service Commission, as varied from time to time.

36.2 Supervisors should, where appropriate, be from the same vocational group as the work being contracted or be an appropriately qualified person. The parties will consult on the level of supervision required.

### **37. Anti-Discrimination**

37.1 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.

37.2 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.

37.3 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.

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

- (i) any conduct or act which is specifically exempted from anti-discrimination legislation;
- (ii) offering or providing junior rates of pay to persons under 21 years of age;
- (iii) any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*;
- (iv) a party to this Award from pursuing matters of unlawful discrimination in any State or federal jurisdiction.

37.5 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.

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

37.7 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."

### **38. Redundancy Entitlements**

38.1 Redundancy provision payments will be made in accordance with the Managing Excess Employees Policy, as varied from time to time.

### **39. Workplace Environment**

39.1 The OEH will ensure that all employees are provided with a work environment that at least meets minimum acceptable standards. All workshops will meet the requirements of the *Work Health and Safety Act 2011*.

39.2 While there are no requirements for office workplaces, the OEH agrees to provide employees covered by this Award with reasonable conditions and space.

39.3 Smoking is prohibited at all indoor NPWS workplaces and in OEH vehicles.

### **40. Housing**

40.1 The parties agree to consult on future issues related to OEH-owned housing including the preparation of briefs for valuers.

40.2 All employees occupying an OEH house will be required to sign a tenancy agreement.

### **41. Consultation and Monitoring**

41.1 The parties agree to continued consultation to ensure the implementation of more flexible work patterns and arrangements.

### **42. Industrial Grievance Procedure**

42.1 General

42.1.1 The aim of this procedure is to ensure that, during the life of this Award, industrial grievances, (including grievances within the meaning of the *Anti-Discrimination Act 1977*) or disputes are prevented or resolved as quickly as possible at the level they occur in the workplace.

42.1.2 The parties agree that whilst the procedures contained in this clause are being followed, there is an expectation that normal work will continue.

42.1.3 In seeking a resolution to any industrial dispute or industrial grievance, the OEH may be represented by an industrial organisation of employers, and the employees of the OEH may be represented by an industrial organisation of employees.

42.1.4 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 or delegate.

## 42.2 Steps to Resolve Industrial Grievances or Disputes

42.2.1 When a dispute or grievance arises, or is considered likely to occur, the following steps are to be followed:

Step 1 - The matter is discussed between the employee(s) and the Reporting Officer or other appropriate officer concerned and addressed within one week.

The employee(s) concerned may discuss the matter with the Union delegate, if so desired.

Step 2 - If, after a week since the matter was discussed with the Union delegate and the Reporting Officer the matter remains unresolved, the employee(s) concerned may discuss the matter with the Union delegate and the Branch Director. If the matter remains unresolved follow Step 3.

Step 3 - If, after a week since the matter was discussed with the Union delegate and the Branch Director, the matter is still unresolved, the employee(s) concerned may discuss the matter with the Branch Director, a representative of the Employee Relations Branch and a Union delegate and/or official.

Where it is agreed by the parties, and the matter is of an urgent nature, the employee may go to Step 3 immediately. In the event that the parties agree to go to Step 3 immediately, no more than a week should elapse since the matter was first raised until Step 4 is followed.

Step 4 - The matter is discussed between senior representatives of the OEH and the relevant Union. The parties agree to exhaust the process of conciliation before considering Step 5 below.

It is agreed that the parties will not deliberately frustrate or delay these procedures. All efforts are to be made to resolve the matter promptly. The conciliation process should take no longer than one month, unless the parties agree to a longer period.

Step 5 - If no resolution is found, the matter may be referred to the Industrial Registrar in order for the NSW Industrial Relations Commission or NSW Industrial Court to exercise their functions under the *Industrial Relations Act 1996*.

## 43. Deduction of Union Membership Fees

- 43.1 The Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales shall provide the OEH with a schedule setting out its fortnightly membership fees payable by its members in accordance with the its rules.
- 43.2 The Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales shall advise the OEH of any change to the amount of fortnightly membership fees made under its rules. Any variation to the schedule of its fortnightly membership fees payable shall be provided to the OEH at least one month in advance of the variation taking effect.
- 43.3 Subject to sub-clauses 43.1 and 43.2 above, the OEH shall deduct the Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales fortnightly membership fees from the pay of any employee who is a member of the Association in accordance with the its rules, provided that the employee has authorised the OEH to make such deductions.
- 43.4 Monies so deducted from the employee's pay shall be forwarded regularly to the Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales together with all necessary information to enable it to reconcile and credit subscriptions to employees' membership accounts.

43.5 Unless other arrangements are agreed by the OEH and the Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales, all Union membership fees shall be deducted on a fortnightly basis.

43.6 Where an employee has already authorised the deduction of Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales 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.

#### **44. Saving of Rights**

44.1 At the time of making 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 condition of employment as a consequence of making this Award.

#### **45. No Extra Claims**

45.1 The No Extra Claims clause (clause 8) contained in the Crown Employees (Public Sector – Salaries 2018) Award shall apply to employees covered by this Award.

#### **46. Area, Incidence and Duration**

46.1 This Award will apply to employees and casual employees in classifications covered by the Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales, employed within the National Parks and Wildlife Service of the Office of Environment and Heritage.

46.2 This Award will not apply to employees:

- (i) transferred to the Department under Administrative Order of 2 April 2007 and subsequent Orders which established the Department of Environment and Climate Change effective 27 April 2007; or
- (ii) employed in the Senior Executive Service (SES); or
- (iii) employed in the Botanic Gardens Trust; or
- (iv) whose current conditions and entitlements are determined by the Crown Employees (Office of Environment and Heritage - Parks and Wildlife Group) Field Officers and Skilled Trades Salaries and Conditions 2015 Award or any successor instrument to that Award; or
- (v) whose current conditions and entitlements are determined by the Flight Officers Enterprise Agreement 2014 or any successor instrument to that Agreement.

46.3 This award is made following a review under section 19 of the Industrial Relations Act 1996 and rescinds and replaces the Crown Employees (Office of Environment and Heritage - National Parks and Wildlife Service) Conditions of Employment Award 2015 published 15 January 2016 (378 I.G. 1178), as varied.

46.4 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 27 November 2018.

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

46.6 Where this Award is silent provisions contained in the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009, or any successor instrument to that Award apply to employees covered by this Award.

**PART B****ANNEXURE 1**

The rates set out in Part B, Annexure 1 are subject to the rates as set by the Crown Employees (Public Sector – Salaries 2018) Award or any award replacing it.

## Salary Schedule for Ranger Classifications

Classification and Grades	2.5% effective from the first full pay period on or after 01.07.18 Per annum \$
<b>Ranger Classification</b>	
Trainee Rangers	
1st year of service	56,605
2nd year of service	57,621
3rd year of service	59,357
4th year of service	60,421
5th year of service	61,050
6th year of service	61,934
<b>Rangers</b>	
<b>Grade 1</b>	
1st level	61,934
2nd level	64,370
3rd level	67,961
4th level	72,839
5th level	80,283
6th level	84,982
<b>Grade 2</b>	
1st Year	86,673
2nd Year	89,247
3rd Year	91,962
4th Year	95,661
<b>Senior Ranger</b>	
1st year & thereafter	102,812
<b>Assistant District Manager</b>	
Grade 1	105,875
Grade 2	113,297
Grade 3	122,456
Grade 4	127,648
<b>District Manager</b>	
Grade 1	108,856
Grade 2	116,677
Grade 3	127,648
Grade 4	135,647
Grade 5	141,623

**Progression Criteria****Rangers**

All Ranger roles shall be at the level of Grade 1/2. Progression shall be subject to the Ranger meeting the required progression criteria and competency levels as set out in the competency document

Where an employee fails to progress, it shall be the responsibility of the Area Manager to discuss the reasons for the decision with the employee concerned. The discussion should also identify areas where additional competencies or necessary training are required.

**Progression****Trainee Ranger**

Progression from level to level shall be subject to:

- (a) the successful completion of 6 subjects; and
- (b) satisfactory service at the previous salary level.

Progression from Trainee Ranger to Ranger Grade 1 shall be subject to the employee having successfully completed a 3 year degree from a recognised university in a discipline appropriate to the field operations of the Service, and satisfactory work performance.

**Ranger Grade 1/2**

Progression from level to level within Grade 1 shall be upon the attainment of the competencies set out in the attached schedule. Rangers will be initially assigned to Level 1 or such other level as is appropriate to their qualifications and competency levels. Once the Ranger has obtained the competencies at Level 1 and has been at that level for at least 6 months, they can apply to be assessed for progression to Level 2.

Progression from Grade 1 to Grade 2 shall be subject to:

- (a) completion of 12 months satisfactory service at Ranger Grade 1 Skill Level 6;
- (b) the employee having demonstrated competency in specific skills as shown in the schedule; and
- (c) the Chief Executive being satisfied that the employee's performance and nature and quality of work performed warrants progression.

**Qualifications - grandfathered provisions**

As of 1 April, 2000, all new employees assigned to Ranger, Senior Ranger, Assistant District Manager, and District Manager classifications must have an appropriate degree.

Employees employed prior to 1 April 2000 who have an Associate Diploma in an appropriate discipline to the field operations of the OEH are encouraged to update their qualification to degree level for promotional purposes. Employees updating their qualifications will be eligible for study assistance.

**ANNEXURE 2**

The rates set out in Part B, Annexure 2 are subject to the rates as set by the Crown Employees (Public Sector – Salaries 2018) Award or any award replacing it.

**Salary Schedule for Project/Research Officer Classification**

Classification and Grades	2.5% effective from the first full pay period on or after 01.07.18 Per annum \$
Grade 1	
1st Year	64,141
2nd Year	66,199
3rd Year	72,2149
4th Year	77,860
5th Year	83,465

Grade 2*	
1st Year	89,406
2nd Year	92,021
3rd Year	94,782
Grade 3*	
1st Year	99,554
2nd Year	102,749
3rd Year	105,931
4th Year	108,041
Grade 4*	
1st Year	109,075
2nd Year	112,212
Grade 5	
1st Year	117,904
2nd Year	122,905
Grade 6	
1st Year	130,602
2nd Year	131,973
*Progression criteria applies	

#### Salary Schedule for Project Officer (Aboriginal Positions) Classification

This classification applies to roles responsible for the management of Aboriginal cultural heritage and/or Aboriginal sites, where Aboriginality is a legitimate and essential selection criteria and the Service determines that a degree is not necessary.

Classification and Grades	2.5% increase effective from the first full pay period on or after 01.07.18 Per annum \$
<b>Project Officer (Aboriginal Roles)</b>	
Grade 1	
1st Year	64,141
2nd Year	66,199
3rd Year	72,2149
4th Year	77,860
5th Year	83,465
Grade 2*	
1st Year	89,406
2nd Year	92,021
3rd Year	94,782
Grade 3*	
1st Year	99,554
2nd Year	102,749
3rd Year	105,931
4th Year	108,041
Grade 4*	
1st Year	109,075
2nd Year	112,212
Grade 5	
1st Year	117,904
2nd Year	122,905
Grade 6	
1st Year	130,602
2nd Year	131,973
*Progression criteria applies	



## Progression

### Project/Research Officer Grade 1

Assignment to Project/Research Officer Grade 1 shall be by competitive selection for advertised vacancies.

### Project/Research Officer Grade 2

Progression from Project/Research Officer Grade 1 to Project/Research Officer Grade 2 shall be by:

- (a) 12 months satisfactory service on the maximum salary of Project/Research Officer Grade 1; and
- (b) the employee having demonstrated a capacity to undertake research involving a degree of originality and independence or to perform work of equivalent importance or value; or
- (c) in the case of an employee not employed on research, the employee having demonstrated ability and initiative in the performance of his/her duties and the nature and quality of the work performed warrants such progression.

### Project/Research Officer Grade 3

Progression from Project/Research Officer Grade 2 to Project/Research Officer Grade 3 shall be by:

- (a) 12 months service on the maximum salary of Project/Research Officer Grade 2; and
- (b) the Chief Executive being satisfied that he/she is responsible to the Head of the Unit for all of the work carried out in his/her individual field and has made original contributions of a recognised high scientific level in his/her professional field of work and that he/she is recognised as an authority therein; or
- (c) in the case of an employee engaged primarily in applied or adaptive research, the Chief Executive being satisfied that he/she is responsible to the Director for all applied or adaptive research in his/her particular field of work and is recognised as an authority therein; or
- (d) in the case of an employee primarily engaged in advisory work, the Chief Executive being satisfied that the quality of the work of the employee warrants such progression.

### Project/Research Officer Grade 4

Progression from Project/Research Officer Grade 3 to Project/Research Officer Grade 4 shall be by:

- (a) 12 months satisfactory service on the salary of Project/Research Officer Grade 3 Year 3; and
- (b) the employee's qualifications, ability, reputation, standing and work in the employee's professional field, or the extent to which the employee is required to supervise and give professional direction of a significant nature to employees of an equivalent salary/grade are, or is such, that he/she would not continue to be fairly remunerated at the level of the salary prescribed in this Award or equivalent classification. Any decision as to the employees to whom such salary shall be payable shall be that of the Chief Executive.

### Project/Research Officer Grades 5 and 6

Assignment to this grade shall be by way of competitive selection for advertised vacancies.

### Performance Review Committee

Suitability for progression to Project Officer Grade 3 and Grade 4 will be evaluated by a Performance Review Committee comprising:

- (a) the relevant Director or nominee;
- (b) an independent person having professional status in the field relevant to the Project/Research Officer's area of expertise; and

(c) a representative of the Public Service Commission.

### ANNEXURE 3

The rates set out in Part B, Annexure 3 are subject to the rates as set by the Crown Employees (Public Sector – Salaries 2018) Award or any award replacing it.

#### Salary Schedule for Field Officer Classification

Classification and Grades	2.5% increase effective from the first full pay period on or after 01.07.18 Per annum \$
Field Officer Base Grade 1/2: Employees engaged on or after 1 July 2007	
Grade 1	
1st Year	48,652
2nd Year	49,881
Grade 2	
1st Year	51,031
2nd Year	53,411
Field Officer Grade 1/4: Employees engaged on or after 01.07.07	
Grade 1	
1st Year	48,652
2nd Year	49,881
Grade 2	
1st Year	51,031
2nd Year	53,411
Grade 3 (A)	
1st Year	60,945
2nd Year	62,020
Grade 4 (A)	
1st Year	63,756
2nd Year	64,906
Field Officer Grade 1/4: Employees engaged on or before 30.06.07	
Grade 1	
1st Year	56,249
2nd Year	57,302
Grade 2	
1st Year	58,162
2nd Year	59,275
Grade 3 (A)	
1st Year	60,945
2nd Year	62,020
Grade 4 (A)	
1st Year	63,756
2nd Year	64,906
Field Officer Grade B3/B4: Employees engaged on or before 30.06.07	
Grade 3 (B)	
1st Year	60,945
2nd Year	62,020
Grade 4 (B)	
1st Year	63,756
2nd Year	64,906
Senior Field Officer and Senior Field Officer (Plant)	
Grade 1	
1st Year	66,349
2nd Year	67,477

Grade 2 1st Year 2nd Year	68,841 70,282
Field Supervisor Grade 1 1st Year 2nd Year	72,693 74,359
Grade 2 1st Year 2nd Year 2	76,025 77,693
Senior Field Supervisor Grade 1 1st Year 2nd Year	84,290 86,360
Grade 2 1st Year 2nd Year	88,433 90,503

### Progression Criteria for Field Officer Classification

#### Progression Criteria

##### Field Officers

All Field Officer roles shall be at either the level of Field Officer Grade 1-2 or Field Officer Grade 1-4. Field Officers shall progress by annual increment subject to meeting the required progression criteria and competency levels as specified in this Annexure.

Where a Field Officer fails to progress, it shall be the responsibility of the Area Manager to discuss the reasons for the decision with the employee concerned. The discussion should also identify areas of where additional competencies or necessary training, where appropriate.

##### Field Officer Grade 1

Assignment to this grade shall be subject to competitive selection for advertised vacancies.

Assignment to this grade shall also be subject to:

- (a) possession of a current driver's licence; and
- (b) the employee having demonstrated the essential competencies from the Field Officer's competency schedule for Field Officer Grade 1.

##### Field Officer Grade 2

Progression to the level of Field Officer Grade 2 shall be subject to:

- (a) 12 months satisfactory service at Field Officer Grade 1;
- (b) possession of a current driver's licence; and
- (c) the employee having demonstrated the essential competencies from the Field Officer competencies schedule for Field Officer Grade 2, as certified by the direct supervisor and the Regional Manager.

##### Field Officer Grade 3

Progression to the level of Field Officer Grade 3 shall be subject to:

- (a) 12 months satisfactory service at Field Officer Grade 2;
- (b) drivers licence; and

- (c) the employee having demonstrated the essential competencies from the Field Officers Competency Schedule for Field Officer Grade 3 as certified by the direct supervisor and Regional Manager.

In addition, joint assessment and certification by the Regional Manager and the direct supervisor that the employee is competent at performing the range of work required of a Field Officer Grade 3 and is also able to demonstrate the efficient application of the skills/qualifications attained.

### **Field Officer (Plant) Grade 3**

This is an established role for a full-time plant operator.

Assignment to this role shall be subject to:

- (a) the employee having demonstrated the essential competency from the Field Officer Competency schedule and these competencies being certified by the direct supervisor and Regional Manager; and
- (b) the employee possessing the relevant certificates of competency for plant used.

Provided further that assignment to Field Officer (Plant) shall be subject to competitive selection for advertised vacancies or by way of transfer.

### **Field Officer Grade 4**

Progression to Field Officer Grade 4 shall be subject to:

- (a) 12 months satisfactory service of Field Officer Grade 3; and
- (b) all the essential and 10 desirable competency requirements for a Field Officer Grade 3 from the Field Officer competencies schedule as certified by direct supervisor and Regional Manager.

### **Field Officer (Plant) Grade 4**

Progression to Field Officer (Plant) Grade 4 shall be subject to:

- (a) 12 months satisfactory service on salary of Field Officer (Plant) Grade 3; and
- (b) all the essential and 10 desirable competency requirements of a Field Officer (Plant) Grade 3 and these being certified by the direct supervisor and the Regional Manager.

### **Senior Field Officer Grade 1**

Assignment to the role of Senior Field Officer Grade 1 shall be subject to:

- (a) competency requirements for assignment to Field Officer Grade 4.

The Senior Field Officer Grade 1 is the minimum classification for officers responsible for direct supervision of National Parks and Wildlife Service employees, volunteers and contractors.

### **Senior Field Officer (Plant) Grade 1**

Assignment to the role of Senior Field Officer (Plant) Grade 1 shall be subject to:

- (a) competency requirements for assignment to Field Officer (Plant) Grade 4; and
- (b) the employee having demonstrated all the essential competencies as certified by direct supervisor and Regional Manager.

Provided further that assignment to Senior Field Officer Grade 1 and Senior Field Officer (Plant) Grade 1, shall be subject to competitive selection for advertised vacancies.

**Senior Field Officer Grade 2**

Progression to the role of Senior Field Officer Grade 2 shall be subject to:

- (a) 12 months satisfactory service at Senior Field Officer Grade 1;
- (b) the employee meeting the competency requirements for assignment to Senior Field Officer Grade 1; and
- (c) the employee having demonstrated all essential and 5 desirables for Senior Field Officer Grade 2, as certified by the direct supervisor and the Regional Manager.

**Senior Field Officer (Plant) Grade 2**

Progression to the role of Senior Field Officer (Plant) Grade 2 shall be subject to:

- (a) 12 months satisfactory service at Senior Field Officer (Plant) Grade 1;
- (b) competency requirements for assignment to Senior Field Officer (Plant) Grade 1; and
- (c) the employee having demonstrated all essential and 5 desirable competencies for Senior Field Officer (Plant) Grade 2, as certified by direct supervisor and Regional Manager.

**Senior Field Officer Grade 3**

This is a geographic role which will apply to smaller Areas where by virtue of their size, a Field Supervisor is not justified, but where as a consequence of the range of duties undertaken, the Senior Field Officer would do the work of a Field Supervisor.

Progression to the role of Senior Field Officer Grade 3 is subject to:

- (a) the employee having demonstrated the appropriate level of skill and competency for the level of Senior Field Officer Grade 3.

**Field Supervisor Grade 1**

Assignment to the role of Field Supervisor Grade 1 shall be subject to:

- (a) competency requirements for assignment to Field Supervisor Grade 1. Senior Field Officer (Plant) are also eligible for assignment but must demonstrate the wider skills required for general Senior Field Officer classification; and
- (b) the employee having demonstrated the appropriate level of competency for Field Supervisor Grade 1, as certified by direct supervisor and Regional Manager.

**Field Supervisor Grade 2**

Progression to the role of Field Supervisor Grade 2 shall be subject to:

- (a) 12 months satisfactory service at Field Supervisor Grade 1; and
- (b) competency requirements for assignment to Field Supervisor Grade 2 as certified by direct supervisor and Regional Manager. Senior Field Officers (Plant) are also eligible for assignment but must demonstrate the wider skills required for general Senior Field Officers competencies.

**Senior Field Supervisor**

Assignment to the level of Senior Field Supervisor Grade 1 shall be subject to:

- (a) the employee demonstrating all essential competency requirements for assignment to Field Supervisor Grade 2, as certified by direct supervisor and Regional Manager.

Assignment to this classification shall be subject to competitive selection for advertised vacancies.

## ANNEXURE 4

### Casual Leave Entitlements

Casual employees are entitled to unpaid parental leave under Chapter 2, Part 4, Division 1, section 54, Entitlement to Unpaid Parental Leave, in accordance with the *Industrial Relations Act 1996*. The following provisions shall apply in addition to those set out in the *Industrial Relations Act 1996*

The Chief Executive must not fail to re-engage a regular casual employee (see section 53(2) of the Act) because:

- (i) the employee or employee's spouse is pregnant; or
- (ii) the employee is or has been immediately absent on parental leave.

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

### Personal Carers entitlement for casual employees

- (i) Casual employees are entitled to not be available to attend work, or to leave work if they need to care for a family member described in clause 26 who is sick and requires care and support, or who require care due to an unexpected emergency, or the birth of a child. This entitlement is subject to the evidentiary requirements set out below in (iv), and the notice requirements set out in (v).
- (ii) The Chief Executive and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
- (iii) A Chief Executive must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.
- (iv) The casual employee shall, if required,
  - (a) establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person, or
  - (b) establish by production of documentation acceptable to the employer or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee.
  - (c) In normal circumstances, a casual employees must not take carer's leave under this sub-clause where another person has taken leave to care for the same person.
- (v) The casual employee must, as soon as reasonably practicable and during the ordinary hours of the first day or shift of such absence, inform the employer of their inability to attend for duty. If it is not reasonably practicable to inform the employer during the ordinary hours of the first day or shift of such absence, the employee will inform the employer within 24 hours of the absence.

### Bereavement entitlements for casual employees

Casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of a family member on production of satisfactory evidence (if required by the employer).

The Chief Executive 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

A Chief Executive 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.

The casual employee must, as soon as reasonably practicable and during the ordinary hours of the first day or shift of such absence, inform the employer of their inability to attend for duty. If it is not reasonably practicable to inform the employer during the ordinary hours of the first day or shift of such absence, the employee will inform the employer within 24 hours of the absence.

## PART C

### Memorandum of Understanding

#### Parties

The parties to this Memorandum of Understanding are:

The Industrial Relations Secretary ("The Secretary"); and

The Public Service Association and Professional Officers' Association- Amalgamated Union of New South Wales; and

The Association of Professional Engineers, Scientists and Managers Australia (NSW Branch). ("The unions").

#### 1. Introduction

1.1 This Memorandum of Understanding reflects the agreement reached between the department and the unions in respect of negotiations throughout 2004, 2005 and 2006 following the amalgamation of the former National Parks and Wildlife Service; the former Resources NSW; the Environment Protection Authority and the Royal Botanic Gardens and Domain Trust, into the Department of Environment and Climate Change.

1.2 This Memorandum will be implemented through two awards -

The Crown Employees (Department of Environment and Conservation) General - Conditions of Employment Award, and

The Crown Employees (Department of Environment and Conservation) Parks and Wildlife - Conditions of Employment Award.

Both the awards will be consent awards and will have a duration of 3 years commencing from the date the Awards are made by the Industrial Relations Commission of New South Wales.

1.3 The parties agree that the existing Botanic Gardens Awards will be retained with agreed changes implemented by way of a determination or determinations made pursuant to s.130 of the *Government Sector Employment Act 2013*.

1.4 The parties agree to lodge the consent award applications with the Industrial Relations Commission of New South Wales, no later than 1 November 2006.

1.5 The parties also agree that none of the conditions; allowances or any other monetary payments expressed in either of the new awards or this memorandum will come into effect until such time as the new awards have been made. All existing arrangements shall continue until such time as the new awards are operative

1.6 This Memorandum shall have a term commencing from the date the memorandum is signed by the parties until the expiry of the two awards.

- 1.7 The parties agree that this Memorandum shall also express the agreed position of the parties in respect of a number of issues that have been the subject of negotiation but have not been included in either of the awards.
- 1.8 The parties agree that both awards and any Botanic Gardens determinations made subject to this Memorandum will include a clause stating that, for the duration of the Awards, there shall be no further claims in respect of conditions of employment; the payment of new allowances or the quantum of existing allowances.
- 1.9 The parties agree that those matters not addressed in this Memorandum or attachments to this Memorandum shall remain as per the existing provisions of the current awards, save for those parts of the award that require amendment to correct dates; titles; spelling; grammar etc.

The parties agree that this Memorandum of Understanding may be relied upon by any party in respect of any proceeding before the Industrial Relations Commission of New South Wales.

## **2. Matters Agreed - Non- Award**

- 2.1 Departmental Performance Management System: The parties agree that current performance management systems operating within the Department and known as SPEADS; PMD and CAPS shall be replaced with a single departmental wide performance management system. The parties further agree that until such time as the new system is operational, the current arrangements in situ for performance management shall continue.
- 2.2 Cultural Heritage Division: (a) The parties agree that those positions currently known as Aboriginal Project Officers 1-2 will transfer to the EPO 2-7 grade on the salary scale and Aboriginal Project Officers 3-4 will transfer to the EPO 9 grade on the salary scale. The date of transfer to the new salary scale shall be as at the date that the awards are made.
  - (a) The parties agree to develop progression criteria for the Aboriginal Project Officer positions after the signing of this memorandum of understanding and prior to the making of the award.
  - (b) The parties agree that Aboriginal Project/Research Officers who have already transitioned to the EPO salary scale shall have a period of 12 months after the date of the making of the award to submit an application for a progression. If such an application is successful, then progression shall take place and salaries shall be paid as a personal salary to the appropriate point on the Aboriginal Project/Research officer salary scale.
  - (c) The parties agree that all other staff currently employed within the Cultural Heritage Division will transfer to the closest salary point on the EPO salary scale that is equal to or less than their existing salary rate. The parties agree that where such a transfer would result in the employee being paid at a lower rate, the employee shall be paid a personal salary to the equivalent amount paid under the previous salary scale; such personal salary rate to continue until such time as the employee vacates the transferred position or receives an increment that would take them past their previous personal salary. The parties further agree that there is no requirement or need for any of the positions effected by sub-clause (d) to undergo a job evaluation so as to facilitate the transfer to the new salary scale.
  - (d) The parties agree that all staff transferred from the Cultural Heritage Division to the EPO salary scale who currently receive the remote area allowance as per the Crown Employees (NPWS) Conditions of Employment 2000 award (clause 5 (D)) shall be paid the difference in the amount paid pursuant to this award and the amount paid pursuant to the Crown Employees (Public Service Conditions of Employment) Award as a personal salary whilst they continue to occupy the same position.
- 2.3 Interim Award Arrangements: (a) the parties agree that the arrangement made between the parties following the amalgamation of the department (the interim award arrangement) shall cease upon the making of the new awards



- (a) the parties further agree that all staff employed in Policy & Science Division (PSD); Environment Protection and Regulation Division (EPRD); Sustainability Programs Division (SPD), Corporate Services Division (CSD); Strategy Communication and Governance Division (SC&GD) pursuant to the Crown Employees (NPWS) Conditions of Employment 2000 Award will transfer to the closest salary point on the EPO salary scale that is equal to or less than their salary rate.
- (b) The parties agree that where such a transfer would result in the employee being paid at a lower rate, the employee shall be paid a personal salary to the equivalent amount paid under the previous salary scale; such personal salary rate to continue until such time as the employee vacates the position to which they were transferred or receives an increment that would take them past their previous personal salary.
- (c) The parties agree that in the case of two officers employed in the Threatened Fauna and Ecology Unit, the 5/7 allowance currently paid to these officers will cease but the equivalent amount will be paid by way of a salary adjustment which shall be regarded as a personal salary for as long as the officers concerned continue to occupy their current positions.
- (d) The parties agree that Project/Research Officers who have already transitioned to the EPO salary scale shall have a period of 12 months after the date of the making of the award to submit an application for progression. If such an application is successful, then progression will take place and salary shall be paid as a personal salary to the appropriate point on the PRO salary scale.

#### 2.4 Review of Competency Standards for Rangers and Roles of Senior Rangers:

- (a) The parties agree that the Department shall undertake a review of the operation of competency standards as currently applied in respect of rangers.

#### Review of roles of Senior Rangers.

- (a) The parties agree that these reviews shall be commenced as soon as is practicable after the signing of this Memorandum of Understanding.

#### 2.5 Review of Remote Areas Allowance: The parties agree to enter into discussions with a view to updating the Remote Area Allowances. The parties further agree such discussions would commence after the new award arrangements have been implemented but no later than 1 July 2007. The parties also agree that if the parties can reach agreement in respect of the remote areas allowance the relevant award will be varied by consent to reflect the agreed position.

### **3. Matters Agreed - for Inclusion in the Awards.**

- 3.1 Study Assistance: the parties agree that both the Awards and the BGT determination shall incorporate the agreed position in respect of study assistance. The details of the agreed position are set out in Attachment 1 to this agreement.
- 3.2 Contact with Employees on Parental or Maternity Leave: the parties agree to insert within the Parks and Wildlife Division Award a clause containing the following words: "maintain contact with employees specifically in the context of workplace change, restructuring and office relocations and attendance at relevant training courses."
- 3.4 Pattern of Hours Worked and Flexitime: (a) the parties agree that a new common provision setting out the pattern of hours and flexitime will be included in both new Awards and BGT determination. The new provision shall adopt elements of the system currently in place for Parks and Wildlife Division staff and the system currently in place for EPO staff under the current EPA Award. The parties agree that the details of the provision to be included in the Awards are as set out in Attachment 2 to this Memorandum of Understanding;
- 3.5 Incident Conditions: (a) the parties agree to include within the new The Crown Employees (Department of Environment and Conservation) General - Conditions of Employment Award a clause which will enable suitably qualified staff to be temporarily assigned to the following specific incident positions as

currently defined in the Crown Employees (National Parks and Wildlife Service) Conditions of Employment 2000 Award -

Incident Controller

Logistics Officer

Planning Officer

Operations Officer

Divisional Commander

Sector Commander

Crew Leader

Crew Member

And/or to the following positions which the parties agree shall be added to the relevant clause of the Crown Employees (Department of Environment and Conservation) Parks and Wildlife - Conditions of Employment Award -

Deputy Incident Controller

Safety officer

Situation Officer

Situation Unit Leader

Resource Officer

Resources Unit Leader

Air Attack Supervisor

Air Operations Manager

Air Base Manager

Air Observer.

## **ATTACHMENT 1**

DEC General and DEC (PWD) & BGT Determination

### **Study Assistance**

- (i) DEC will support employees gaining additional skills through formal study and who are progressing through their course in a consistent way based on the timeframe indicated by the providing institution. Where a subject is failed an intention to catch-up must be demonstrated.
- (ii) Employees are entitled to apply for study time and study leave in accordance with the provision of the Public Service Industrial Relations Guide or subsequent revision.
- (iii) The following costs associated with courses -

Higher Education Contribution Help Scheme Fee; or

TAFE compulsory fees; or

Compulsory post-graduate fees; or

Compulsory full fee paying course fees

will be reimbursed by the Department in accordance with the guidelines following.

- (iv) The proportion of fees to be reimbursed where the employee's application for study assistance has been approved under these guidelines, and:
- (a) is their first qualification as an employee of DEC: 100% to a maximum of \$4,000 per annum refunded where the resultant qualification is directly relevant to DEC operations or needs and is approved as such by the Director General; or
  - (b) is their second or successive qualification as an employee of DEC: 50% refunded to a maximum of \$2,000 per annum where the resultant qualification is directly relevant to DEC operations or needs and is approved as such by the Director General.
- (v) Approval for assistance will be considered annually and refunds will be paid for a maximum of six annual approvals up to a total amount of \$24,000 in respect of subclause (iv)(a) or \$12,000 in respect of sub-clause (iv)(b), where other requirements have been met as in subclause (viii) below.
- (vi) At the discretion of the Director General and where the Director General determines that it is in the interests of the Department, approval may be given for a maximum of eight annual approvals as set out in (v) above.
- (vii) To be eligible to receive a refund, an employee must:
- (a) have been employed in the Department prior to the final examination in the academic period under consideration and also be in employment on the date reimbursement is requested;
  - (b) produce evidence of having successfully completed a full stage of an approved course (or the subjects enrolled in at the start of a semester/year); and
  - (c) produce receipts substantiating payments made for compulsory fees or HECS fee incurred.
- (viii) Staff members who received prior approval for study assistance:
- (a) under this clause or similar clause/policy of a related entity, and
  - (b) commenced the approved course/subject under the award or policy at the time, and
  - (c) there is no break in the continuity of study and successful completion.
- Will be regarded as under the award clause or policy until the completion of the approved course/study. Any subsequent application for study assistance will be treated as a second application under subclause (iv)(b) of this clause.
- (ix) The costs associated with courses as outlined in subclause (iii) above are based on current 2006 costs. The parties to this Award agree, where there is a significant increase in costs the parties shall seek to resolve any increase in the listed amounts in subclauses (iv) (a)(b) above. Where no agreement is reached leave is reserved to seek the assistance of the Industrial Relations Commission.

**ATTACHMENT 2****DEC General as part of current EPA Flexitime clause, BGT Determination and DEC (PWD) clause**

## Pattern of Hours

- (i) Pattern of hours is the way hours are worked each settlement period; i.e. start/finish times and days of the week for 7-day roster workers.
- (ii) Patterns of hours can be either flexitime, where start/finish times are flexible within the bandwidth; or, determined where start/finish times are set.

## A. Flexitime

- (i) Employees are able to take two (2) flexi days off in a settlement period, as long as they have accumulated enough hours to do so.
- (ii) With prior management approval, employees may accumulate a credit balance of 14-35 hours to enable them to have up to 5 flexi days in a settlement period, to be taken at a mutually convenient time.
- (iii) Employees who continually fail to take annual leave as a result of taking extended periods of flex leave may be placed on standard hours by management following appropriate consultation until a reasonable leave balance is established in accordance with the Award provisions.
- (iv) Supervisors will have full and open 24 hour access to Employees' time sheet records and records pertaining to an employee flex leave.
- (v) Employees may carry forward to the next settlement period, in accordance with (i) and (ii) above a credit balance of up to 35 hours or a debit balance of 10 hours.
- (vi) Flex leave can be taken at either the beginning or end of a period of leave.
- (vii) Flexidays can be taken as either half days or full days. Time outside the bandwidth will not accrue to flexitime balance.
- (viii) Employees must have prior approval before taking flex leave.
- (ix) On cessation of duty Flexi Credits will be dealt with in accordance with Clause 20 (n) of the Crown Employees (Public Service Conditions of Employment) Award 2002 as varied.

P. M. KITE, *Chief Commissioner*

---

Printed by the authority of the Industrial Registrar.

**CROWN EMPLOYEES (TRANSPORT DRIVERS, &c.) AWARD**  
INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

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

(Case No. 287305 of 2018)

Before Chief Commissioner Kite

4 December 2018

**REVIEWED 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.	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.

**2. Rates of Pay**

This award is listed in Schedule A of the Crown Employees (Public Sector - Salaries 2018) Award and salaries payable to employees shall be in accordance with that award or any award replacing it. The rates set out at Part B, Schedule B - Rates of Pay are subject to the rates as set by the Crown Employees (Public Sector - Salaries 2018) Award or any award replacing it.

**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, then, provided 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. 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 is made following a review under section 19 of the Industrial Relations Act 1996 and rescinds and replaces the Crown Employees (Transport Drivers &c.) Award published 15 January 2016 (378 I.G. 1536) and all variations thereof.
- (iii) 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 from 4 December 2018.
- (iv) 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 - Rates of Pay**

Clause 2 - Classification Wages	Per week as at 1.7.17 \$	Per week as at 1.7.18 \$
1. Drivers of motor wagons - having a manufacturer's gross vehicle mass in kilograms		
(a) Up to 295 -	913.30	936.10
(b) Over 2950 and up to 4650	921.10	944.10
(c) Over 4650 and up to 6250	928.50	951.70
(d) Over 6250 and up to 7700	928.50	951.70
(e) Over 7700 and up to 9200	938.30	961.80
(f) Over 9200 and up to 10800	938.30	961.80
(g) Over 10800 and up to 12350	946.50	970.20
(h) Over 12350 and up to 13950	946.50	970.20
(i) Over 13950 and up to 15500	954.00	977.80
(j) Over 15500 and up to 16950	963.20	987.30
(k) Over 16950 and up to 18400	963.20	987.30
(l) Over 18400 and up to 19750	963.20	987.30
(m) Over 19750 and up to 21100	963.20	987.30



(n)	Over 21100 and up to 22450	970.60	994.90
(o)	Over 22450 and up to 23850	970.60	994.90
(p)	Over 23850 and up to 25200	970.60	994.90
(q)	Over 25200 and up to 26550	980.20	1004.70
(r)	Over 26550 and up to 27900	980.20	1004.70
(s)	Over 27900 and up to 29300	980.20	1004.70
(t)	Over 29300 and up to 30650	980.20	1004.70
(u)	Over 30650 and up to 32000	872.50	894.30
(v)	Over 32000 and up to 33350	872.50	894.30
(w)	Over 33350 and up to 34750	997.70	1022.60
(x)	Over 34750 and up to 36100	997.70	1022.60
(y)	Over 36100 and up to 37450	997.70	1022.60
(z)	Over 37450 and up to 38800	997.70	1022.60
(aa)	Over 38800 and up to 40200	1007.60	1032.80
(ab)	Over 40200 and up to 41550	1007.60	1032.80
(ac)	Over 41550 and up to 42900	1007.60	1032.80
(ac)	Over 41550 and up to 42900	1007.60	1032.80
(ad)	Over 42900 and up to 44250	1015.90	1041.30
(ae)	Over 44250 and up to 45650	1015.90	1041.30
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	928.50	951.70
(b)	Over 3050 and not exceeding 5100	938.30	961.80
(c)	Over 5100 and not exceeding 6100	946.50	970.20
(d)	Over 6100 and not exceeding 7100	946.50	970.20
(e)	Over 7100 and not exceeding 8100	946.50	970.20
(f)	Over 8100 and not exceeding 9150	946.50	970.20
(g)	Over 9150 and not exceeding 10150	954.00	977.80
(h)	Over 10150 and not exceeding 11200	954.00	977.80
(i)	Over 11200 and not exceeding 12200	954.00	977.80
(j)	Over 12200 and not exceeding 13200	963.20	987.30
(k)	Over 13200 and not exceeding 14200	963.20	987.30
(l)	Over 14200 and not exceeding 15250	963.20	987.30
(m)	Over 15250 and not exceeding 16250	963.20	987.30
(n)	Over 16250 and not exceeding 17250	970.60	994.90
(o)	Over 17250 and not exceeding 18300	970.60	994.90
(p)	Over 18300 and not exceeding 19300	970.60	994.90
(q)	Over 19300 and not exceeding 20300	970.60	994.90
(r)	Over 20300 and not exceeding 21350	980.20	1004.70
(s)	Over 21350 and not exceeding 22350	980.20	1004.70
(t)	Over 22350 and not exceeding 23350	980.20	1004.70
(u)	Over 23350 and not exceeding 24400	980.20	1004.70
(v)	Over 24400 and not exceeding 25500	980.20	1004.70
(w)	Over 25500 and not exceeding 26400	980.20	1004.70
(x)	Over 26400 and not exceeding 27450	980.20	1004.70
(y)	Over 27450 and not exceeding 28450	987.90	1012.60
(z)	Over 28450 and not exceeding 29450	987.90	1012.60
(aa)	Over 29450 and not exceeding 30500	980.20	1004.70
And for each additional 1000 kg or part thereof over		0.36	0.37
3. Drivers of fork lifts - of a capacity			
(a)	Up to 4500 kg	928.50	951.70
(b)	Over 4500 to 9100	946.50	970.20
(c)	Over 9100 kg	954.00	977.80

4. Drivers of prime movers - where the crane has a lifting capacity of		
(a) Up to 20350 kg	938.30	961.80
(b) Over 20350 kg	963.20	987.30
5. Extra Hands	893.10	915.40

P. M. KITE, *Chief Commissioner*

---

Printed by the authority of the Industrial Registrar.

# FARM ASSISTANTS (DEPARTMENT OF EDUCATION AND COMMUNITIES) WAGES AND CONDITIONS AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

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

(Case No. 287457 of 2018)

Before Chief Commissioner Kite

27 November 2018

## REVIEWED AWARD

### PART A

#### 1. Arrangement

##### PART A

Clause No.	Subject Matter
1.	Arrangement
2.	Definitions
3.	Hours of Work
4.	Overtime
5.	Wage Sacrifice for Superannuation and Wage/Salary Packaging Arrangements
6.	Wages and Allowances
7.	Payment of Wages
8.	Deduction of Union Membership Fees
9.	Public Holidays and Picnic Day
10.	Leave
11.	Tea Breaks
12.	Accommodation
13.	Settlement of Disputes
14.	Terms of engagement
15.	Fares
16.	Anti-Discrimination
17.	Area, Incidence and Duration
18.	No Extra Claims

##### PART B

##### MONETARY RATES

Table 1 - Wages

Table 2 - Allowances

#### 2. Definitions

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

2.2 "Casual Employee" means a person engaged on an hourly basis to carry out:

- (i) work that is irregular or intermittent, or

- (ii) work on a short term basis in an area of the Department with a flexible workload, or
- (iii) the work of a position for a short period pending completion of the selection process for the position, or
- (iv) urgent work to deal with an emergency.

Consistent with the casual employment provisions of the *Government Sector Employment Act 2013* and any rules or guidelines issued pursuant to that Act, no single period of casual employment is to exceed three months, and the parties further agree that ideally no single period of engagement as a casual employee should exceed one month and in most instances any period of casual engagement should be less than two weeks in duration.

- 2.3 "Department" means the NSW Department of Education.
- 2.4 "Employee" means and includes all persons employed on an ongoing, temporary or casual basis under the provisions of the *Government Sector Employment Act 2013*, who, on 20 October 1982 were occupying a position covered by this award and included in the schedule attached hereto, or who after that date, are employed under the terms of this award but does not include any person who resigned or whose services were terminated (not including retirement) prior to the making of this award.
- 2.5 "Farm Assistant" means any employee, including a casual, engaged as a Farm Assistant Class I or Farm Assistant Class II, who is responsible under direction for crop production and disposal; machinery operation and maintenance; livestock supervision; receipt and storage of supplies and general farm maintenance.
- 2.6 "Flower Gardener" means any employee who is responsible under direction for the maintenance of grounds and garden beds, as well as equipment, including sprays, irrigation plant, mechanical equipment as well as hand tools.
- 2.7 "Horsepower" means the brake horsepower as stated by the manufacturer.
- 2.8 "Part Time Employee" means a person engaged on an ongoing basis for part hours or part years where the employee's contract hours are less than full time hours.
- 2.9 "Regulation" means the Government Sector Employment Regulation 2014.
- 2.10 "Temporary Employee" means a person engaged on a temporary basis, either full time or part time, for a fixed period greater than one month, consistent with the temporary employment provisions of the *Government Sector Employment Act 2013* and any guidelines issued pursuant to that Act.
- 2.11 "Union" means the Australian Workers' Union, New South Wales Branch.

### **3. Hours of Work**

- 3.1 Day Work - The ordinary working hours for a full time employee shall be thirty-eight per week and shall be worked in accord with the following provisions for a four-week work cycle:
  - 3.1.1 Except in the case of employees engaged in attending livestock, the ordinary working hours shall be worked as a twenty-day four-week cycle Monday to Friday, inclusive, with nineteen working days of eight hours each between the hours of 7.00 a.m. and 5.30 p.m., with 0.4 of one hour on each day worked accruing as an entitlement to take one rostered day off in each work cycle as a day off paid for as though worked.
  - 3.1.2 The ordinary working hours of employees engaged in attending livestock shall be worked as a twenty-day, four-week cycle of five days per week during the period Monday to Saturday, inclusive, within nineteen working days of eight hours each between the hours of 6.00 a.m. and 5.30 p.m., with 0.4 of one hour on each day worked accruing as an entitlement to take one rostered day off in each work cycle as a day off paid for as though worked.

- 3.1.3 The rostered day off shall be a Monday or Friday within the working cycle provided that by agreement of the employer and the employee, the rostered day off may be accrued as an entitlement for a day off to be taken in a subsequent work cycle. Provided further that no employee shall be entitled to accrue more than six rostered days off under the terms of this subsection. All rostered days off shall be taken by the employee as leisure days off, and except as provided for in this subsection, no work shall be performed by an employee on her/his rostered day off; or rostered days off.
- 3.1.4 A roster of days off (provided for under this subsection) for each employee shall be notified to employees prior to the commencement of each working cycle. Employees shall be provided with seven (7) working days' notice of a change in roster, provided that, in the case of an emergency situation, forty-eight (48) hours notice of a change in roster may be given by the employer.
- 3.1.5 Where such rostered day off prescribed by this subclause falls on a public holiday as prescribed in clause 9, Public Holidays, the next working day shall be taken in lieu of the rostered day off unless an alternative day in that four-week cycle (or the next four-week cycle) is agreed in writing between the employer and the employee.
- 3.1.6 Each day of paid leave taken on any public holidays occurring during any cycle of four weeks shall be regarded as a day worked for accrual purposes.
- 3.1.7 An employee who has not worked, or is not regarded by reason of subclause (3.1.6) as having worked a complete four-week cycle, shall receive pro rata accrued entitlements for each day worked (or each fraction of a day worked) or regarded as having been worked in such cycle, payable for the rostered day off or, in the case of termination of employment, on termination.
- 3.1.8 A majority of the employees concerned and their employers may mutually agree upon a change in starting and ceasing times so that the spread of hours in the award may be between 6.00 a.m. and 6.00 p.m.
- 3.1.9 Employees shall commence and cease work at the headquarters or the barn.
- 3.1.10 Employees shall be entitled to an unpaid meal break each day of not less than thirty minutes duration and not more than one hour in duration provided that the said meal break shall be taken between 11.30 a.m. and 1.30 p.m.
- 3.2 Subject to subclause 3.3 the school principal or their delegate may require an employee to work reasonable overtime at overtime rates.
- 3.3 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.
- 3.4 For the purposes of subclause 3.3 what is unreasonable or otherwise will be determined having regard to:
- 3.4.1 any risk to employee health and safety;
- 3.4.2 the employee's personal circumstances including any family and carer responsibilities;
- 3.4.3 the needs of the workplace or enterprise;
- 3.4.4 the notice (if any) given by the school principal or their delegate of the overtime and by the employee of his or her intention to refuse it; and
- 3.4.5 any other relevant matter.

#### 4. Overtime

- 4.1 Except as hereinafter provided overtime at the rate of time and a half for the first two (2) hours and double time thereafter shall be paid for all time worked:
- 4.1.1 in excess of the daily number of rostered hours on any one day; or
  - 4.1.2 outside the limits of subclause 3.1.1 in the case of employees other than those engaged on nursery work during the months of October to March inclusive; or
  - 4.1.3 outside the limits of subclause 3.1.2 in the case of employees other than those engaged on nursery work during the months of October to March inclusive.
- 4.2 All work performed on Sundays and Public Holidays shall be paid for at the rate of double time and double time and a half respectively. An employee required to work on a Sunday or Public Holiday shall receive a minimum payment of four (4) hours pay at the rate of double time or double time and a half respectively.
- 4.3 All ordinary time worked on Saturdays shall be paid for at the rate of time and a half.
- 4.4 An employee recalled to work overtime after 5.30 p.m. on any day other than a Sunday or Public Holiday shall receive a minimum payment of four (4) hours pay at the appropriate overtime rate. On each recall the employee may be required to work four (4) hours.
- 4.5 An employee who works so much overtime-
- 4.5.1 between the termination of his/her ordinary work day and the commencement of his/her ordinary work in the next day that he/she has not had at least ten (10) consecutive hours off duty between these times;
  - 4.5.2 or on Saturdays, Sundays and Holidays, not being ordinary working days without having had ten (10) consecutive hours off duty in the twenty-four hours preceding his/her ordinary commencing time on his/her next ordinary day shall, subject to this sub-clause be released after completion of such overtime until he/she has had ten (10) hours off duty without loss of pay for ordinary working time occurring during such absences.
- Provided that, if on the instructions of his/her employer, such an employee resumes or continues, to work without having had such ten (10) consecutive hours off duty he/she shall be paid at double rates until he/she is released from duty for such period and he/she shall then be entitled to be absent until he/she has had ten consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.
- 4.6 An employee who is required to work overtime for two (2) hours or more after the normal ceasing time shall be allowed, at the expiration of the said two (2) hours, 30 minutes for a meal or crib and thereafter a similar time allowance after every four (4) hours of overtime worked. Time for meals or crib through overtime periods shall be allowed without loss of pay, provided that overtime work continues after such break.
- 4.7 Where overtime is worked on a Saturday, if work continues after 12 noon, a break for a meal of 30 minutes shall be allowed between 12 noon and 1 p.m. which meal break shall be taken without loss of pay.

#### 5. Salary Packaging Arrangements, Including Salary Sacrifice to Superannuation

An employee may elect, subject to the agreement of the Department to enter into a Salary Packaging Arrangement in accordance with the provisions of Clause 7 - Salary Packaging Arrangements, Including Salary Sacrifice to Superannuation of the Crown Employees Wages Staff (Rates of Pay) Award 2018 or any variation to or successor instruments to the said award shall apply

## 6. Wages and Allowances

- 6.1 The rates of wages and allowances to be paid to employees appointed to the positions specified are set out in Table 1 Wages and Table 2 Allowances of Part B, Monetary Rates.
- 6.2 The wage rates as set out in Table 1 - Wages, and Table 2 Allowances of Part B, Monetary Rates shall be adjusted in line with the Crown Employees Wages Staff (Rates of Pay) Award 2018 or any variations to or successor instruments to the said award.
- 6.3 Promotion from Farm Assistant, Class I to Farm Assistant Class II shall be subject to completion of 12 month's satisfactory service and the recommendation of the Department Head, that the skill and versatility of the employee in all respects of the work of a Farm Assistant, including proficiency in the operation of farm equipment and vehicles warrants such promotion. For the purposes of this sub-clause, service shall mean service in an established position and shall include prior service as a junior.
- 6.4 Casual employees shall be paid at the rate of one thirty eighth of the weekly rates prescribed in respect of the classification for which the employee is casually employed.
- 6.5 Casual employees shall be paid in addition to the prescribed rate for the classification concerned 15 per centum thereof.
- 6.6 Special rates

A Farm Assistant, Class I or II, employed on any of the following operations, viz:

- 6.6.1 operating and servicing a tractor provided that for the purpose of this provision a tractor shall be deemed to include a wheel tractor and a crawler tractor and provided that such tractors shall be not less than 10 horsepower;
- 6.6.2 driving on farm or college property a truck which, if driven on the highway, would require possession of at least a driver's licence sufficient to operate a Class 3 vehicle;
- 6.6.3 operating headers, harvesters, including maize harvesters, and mechanical pick-up hay balers;
- shall be paid an additional allowance as prescribed in Table 2 Allowances of Part B, Monetary Rates per day while actually so employed, provided that no allowance shall be paid for periods of such employment of less than one hour per day nor shall an employee receive more than one such allowance in respect of any one day;
- 6.6.4 an employee required to drive a truck on the highway shall be paid the rates prescribed by the Crown Employees (Transport Drivers, etc) Award provided that, where such employment is for less than half a day, payment shall be as for a half a day and where such employment is for a half day or more payment shall be as for a full day and provided however that no additional payment shall be made in respect of periods of one hour or less.

### 6.7. Broken Shift Allowance

Employees who are required to work a broken shift shall be the allowance prescribed in Table 2 Allowances of Part B, Monetary Rates per day extra as a broken shift allowance.

### 6.8. Mixed Functions

An employee engaged for more than two (2) hours during one day on duties carrying a higher rate than his/her ordinary classification shall be paid the higher rate for such day. If so engaged for two (2) hours or less during one day he/she shall be paid the higher rate for the time so worked.

#### 6.9 Protective clothing

Employees required to work in the rain or in mud, slurry, water or wet places shall be paid an allowance prescribed in Table 2 Allowances of Part B, Monetary Rates.

This allowance shall not be payable to an employee who is provided by the employer with adequate protective clothing.

#### 6.10 First Aid

A standard first aid outfit shall be provided and maintained by the employer.

An employee appointed by the employer to perform first aid duty shall be paid in the first aid allowance prescribed in Table 2 Allowances of Part B, Monetary Rates in addition to their ordinary rates of pay.

#### 6.11 Meal Allowance

An employee required to work more than one and one half hours after the ordinary ceasing time shall be provided with a meal or shall be paid the amount prescribed in Table 2 Allowances of Part B, Monetary Rates for such a meal and after the completion of each four hours of continuous overtime shall be paid the amount prescribed in Table 2 Allowances of Part B, Monetary Rates for each subsequent meal in addition to his/her overtime payment.

#### 6.12 Distant places

The provisions of the Act and the Regulations apply.

### **7. Payment of Wages**

7.1 Wages shall be paid fortnightly into a bank or other account, provided that where employees work in isolated areas or where employees experience hardship or other exceptional circumstances then payment shall be made to the employee fortnightly by cheque.

7.2 One day of each pay period shall be recognised as pay day for each job. It shall be the same day in each pay period.

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

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

8.2 The union shall advise the employer of any change to the amount of fortnightly membership fees made under its rules. Any variation to the schedule of union fortnightly membership fees payable shall be provided to the employer at least one month in advance of the variation taking effect.

8.3 Subject to (8.1) and (8.2) above, the employer shall deduct union fortnightly membership fees from the pay of any employee who is a member of the union in accordance with the union's rules, provided that the employee has authorised the employer to make such deductions.

8.4 Monies so deducted from employees' pay shall be forwarded regularly to the union together with all necessary information to enable the union to reconcile and credit subscriptions to employees' union membership accounts.

8.5 Unless other arrangements are agreed to by the employer and the union, all union membership fees shall be deducted on a fortnightly basis.

8.6 Where an employee has already authorised the deduction of union membership fees from his or her pay prior to this clause taking effect, nothing in this clause shall be read as requiring the employee to make a fresh authorisation in order for such deductions to continue.



## 9. Public Holidays

9.1 The following days shall be observed as Public Holidays:-

New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, Labour Day, Christmas Day, Boxing Day and any other proclaimed or gazetted holiday for the state of New South Wales.

9.2 Where local Show Day is a proclaimed local holiday it shall be observed as a Public Holiday for employees covered by this award. In the event that an employee cannot be spared without inconvenience to the Department, an alternative day with pay shall be given within twenty working days of the proclaimed local holiday; provided that no employee shall be entitled to payment at overtime rates for work on such proclaimed local holiday and provided further that an employee shall not be entitled to the benefit of more than one holiday upon such occasion.

9.3 Where an employee is absent from his or her employment on the working day before or the working day after a public holiday without reasonable excuse or without the consent of the employer the employee shall not be entitled to payment of such holiday.

9.4 Public Service Holiday

9.4.1 Unless directed to attend for duty by the Department Head a staff member is entitled to be absent from duty on a day between Boxing Day and New Year's Day determined by the Department Head as a public service holiday.

9.4.2 Any employee required to work on such day shall be paid at the rate of double time and a half for not less than four (4) hours' work. Provided that an employee who is required to work on the nominated public service holiday and who fails to comply with such requirement shall not be entitled to payment for the day. An employee who is absent on the public service holiday on approved leave is not entitled to the public holiday overtime rate of pay.

## 10. Leave

10.1 General leave conditions of employees under this Award shall be regulated in accordance with the provisions contained within the Act and Regulation.

10.2 In addition to provisions for sick leave existing under the terms of regulations made pursuant to the Act, and applicable to the employees covered under the terms of this award, the following provisions for sick leave shall apply:

Where an employee is ill or incapacitated (within the meaning of regulations relating to sick leave under the Act) on her/his rostered day off he/she shall not be entitled to payment for sick leave on that day nor shall her/his sick leave entitlements be reduced as a result of such illness or incapacity.

10.3 In addition to provisions for annual (recreation) leave, long service (extended) leave, accident pay and short leave existing under the terms of regulations made pursuant to the Act, employees covered under the terms of this award shall have the following provisions apply -

10.3.1 All paid leave taken in service with the exception of long service (extended) leave and accident pay shall be paid as follows:

An employee who is absent from work on paid leave shall accrue an entitlement of 0.4 of one hour for each such day as if he/she had worked on that day. The time accrued shall be paid on the scheduled day off.

10.3.2 Annual (recreation) leave on termination of service and long service (extended) leave and accident pay taken in service or paid on termination shall be paid as follows:

- 10.3.2.1 All accrued time against a paid day off shall be paid to the employee prior to proceeding, on leave or at the time of termination of the employee's service;
- 10.3.2.2 All leave accrued or time due shall be paid to the employee on the basis of one week of accrued leave etc., being equal to 38 hours or one day being equal to 7.6 hours.

Provided that where a full year's annual (recreation) leave of 20 days or more is accrued when the employee shall be paid a further 7.6 hours for the first 20 days and on the same basis for the remainder of accrued leave.

- 10.3.3 Where the employee is absent on long service (extended) leave and accident pay during the 20 day cycle and returns to work prior to or on the rostered day off the time involved during the current cycle shall be regarded as accruing 0.4 of one hour for each day of paid absence.

#### 10.4 Personal/Carer's leave

##### Use of Sick Leave

- 10.4.1 An employee, other than a casual employee, with responsibilities in relation to a class of person set out in subparagraph (ii) of subclause 10.4.3.2 shall be entitled to use, in accordance with this subclause, any sick leave 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.

- 10.4.2 The employee shall, if required, establish either by production of a medical certificate or statutory declaration, the illness of the person concerned.

- 10.4.3 The entitlement to use sick leave in accordance with this subclause is subject to:

10.4.3.1 the employee being responsible for the care of the person concerned; and

10.4.3.2 the person concerned being:

- (i) a spouse of the employee; or
- (ii) a de facto spouse, who, in relation to the employee, is a person of the opposite sex to the employee who lives with the employee as the husband or wife of the employee on a bona fide domestic basis although not legally married to that person; or
- (iii) a child or an adult child (including an adopted child, a step child, a foster child or an ex nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the employee or spouse or de facto spouse of the employee; or
- (iv) a same sex partner who lives with the employee as the de facto partner of that employee on a bona fide domestic basis; or
- (v) a relative of the employee who is a member of the same household, where for the purposes of this subparagraph:

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

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

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

- 10.4.4 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 the absence.
- 10.4.5 Subject to the evidentiary and notice requirements in 10.4.2 and 10.4.4, 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 10.4.3 of 10.4 Personal/Carer's Leave who is sick and requires care and support, or who requires care due to an unexpected emergency, or the birth of a child.
- 10.4.6 The employer and employee shall agree on the period for which the employee will not be entitled to be available to attend work. In the absence of agreement, the employee is entitled to not be available for up to 48 hours (i.e. two (2) days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
- 10.4.7 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.

#### Use of Annual (Recreation) Leave

- 10.4.8 An employee may elect with the employer's agreement to take annual leave not exceeding ten days in single day periods, or part thereof, in any calendar year at a time or times agreed by the parties to care for a person prescribed in subclause 10.4.3 of 10.4 Personal/Carer's Leave who is sick and requires care and support, or who requires care due to an unexpected emergency, or the birth of a child.
- 10.4.9 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.

#### 10.5 Bereavement Leave

- 10.5.1 An employee other than a casual employee shall be entitled to up to two (2) days Bereavement Leave without deduction of pay on each occasion of the death of a member of a class of person set out in subparagraph (ii) of subclause 10.4.3.2 of this clause.
- 10.5.2 The employee must notify the employer as soon as practicable of the intention to take Bereavement Leave and will, if required by the employer, provide to the satisfaction of the employer proof of death.
- 10.5.3 Bereavement Leave shall be available to the employee in respect of the death of a person in relation to whom the employee could have utilised Carer's Leave as prescribed by this clause. The employee need not have been responsible for the care of the person concerned to be eligible for Bereavement Leave as prescribed in this subclause.
- 10.5.4 An employee shall not be entitled to Bereavement Leave under this clause during any period in respect of which the employee has been granted other leave.
- 10.5.5 Bereavement leave may be taken in conjunction with any other leave available to employees. Where such other available leave is to be taken in conjunction with Bereavement Leave, consideration will be given to the circumstances of the employee and the reasonable operational requirements of the employer.
- 10.5.6 Subject to the evidentiary and notice requirements in 10.5.2, casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of a person prescribed in subclause 10.4.3 of 10.4 Personal/Carer's Leave.

10.5.7 The employer and employee shall agree on the period for which the employee will not be entitled to be available to attend work. In the absence of agreement, the employee is entitled to not be available for up to 48 hours (ie two (2) days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.

10.5.8 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.

## 10.6 Parental Leave

10.6.1 Parental leave conditions of employees under this Award shall be regulated in accordance with the provisions contained within the Act and Regulation and will be in addition to those set out in the *Industrial Relations Act 1996* and the Regulation.

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

- (a) the employee or employee's spouse is pregnant; or
- (b) the employee is or has been immediately absent on parental leave.

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

### 10.6.3 Right to Request

10.6.3.1 An employee entitled to parental leave may request the employer to allow the employee:

- (i) to extend the period of simultaneous unpaid parental leave use up to a maximum of eight weeks;
- (ii) to extend the period of unpaid parental leave for a further continuous period of leave not exceeding 12 months;
- (iii) to return from a period of parental leave on a part-time basis until the child reaches school age;

to assist the employee in reconciling work and parental responsibilities.

10.6.3.2 The employer shall consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the employer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.

10.6.3.3 The employee's request and the employer's decision made under 10.6.1 (ii) and 10.6.1 (iii) must be recorded in writing.

10.6.3.4 Where an employee wishes to make a request under 10.6.1 (iii), such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the employee is due to return to work from parental leave.

#### 10.6.4 Communication During Parental Leave

- 10.6.4.1 Where an employee is on parental leave and a definite decision has been made to introduce a significant change at the workplace, the employer shall take reasonable steps to:
- (i) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave; and
  - (ii) provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave.
- 10.6.4.2 The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.
- 10.6.4.3 The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with 10.6.4.1.

#### 11. Tea Breaks

- 11.1 A tea break during the morning period of not more than fifteen minutes' duration shall be allowed to each individual employee, at a time to be arranged by the employer, without deduction from their wages.
- 11.2 Provided that an employer may grant a tea break of not more than ten minutes' duration during both the morning and afternoon periods of the working day, under the same conditions as above. Where an afternoon tea break is taken the employer may direct that it be taken immediately prior to ceasing time.

#### 12. Accommodation

- 12.1 Employees who reside in Departmental premises and are provided with board and lodging by the employer shall be charged at the rates determined from time to time by the Department of Premier and Cabinet according to whether the employee is provided with full board and lodging or whether he/she attends to his/her own room and waits on himself/herself at table.
- 12.2 Where employees do not reside at the Farm, the employer shall provide free of charge a dining room fitted with sufficient and suitable table and seating accommodation together with an adequate supply of boiling water for employees at meal times. Pure drinking water shall be provided at suitable locations on each farm in clean containers where it is not available from a water service pipe.
- 12.3 Change rooms shall be provided by the employer and shall be used exclusively for that purpose. Where practicable, hot and cold showers shall be provided.

#### 13. Settlement of Disputes

Subject to the provisions of the *Industrial Relations Act 1996*, the undermentioned procedures shall be applied in the settlement of disputes -

- 13.1 Where a dispute arises in a particular section which cannot be resolved between the employees or their representative and supervising staff, it shall be referred to the Departmental Personnel/ Industrial Officer or other officer nominated by the employer who will arrange for the matter to be discussed with the union or unions concerned.
- 13.2 Failing settlement of the issue at this level, the matter should be referred to senior management.

- 13.3 If the matter remains unsolved then either party may make application to the Industrial Relations Commission of New South Wales.
- 13.4 Whilst these procedures are continuing, no stoppage of work or any form of limitation of work shall be applied.
- 13.5 The right is reserved to the parties to vary this procedure where it is considered a safety factor is involved.

#### **14. Terms of Engagement**

- 14.1 Employees shall be employed in accordance with the Government Sector Employment Act 2013, and except in the case of misconduct, their engagement shall only be terminated by a week's notice on either side given at any time during the week or by the payment or forfeiture of one (1) week's wages in lieu, as the case may be.

#### **15. Fares**

- 15.1 Any person selected for work and sent by the employer or his/her agent, including a Government Employment Bureau or Private Employment Agency, from the City to the country or from one country centre to another, or from a country centre to the City, shall have the necessary fares provided by the employer.

#### **16. Anti-Discrimination**

- 16.1 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.
- 16.2 It follows that in fulfilling their obligations under the dispute resolution procedure prescribed in clause 13, 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.
- 16.3 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.
- 16.4 Nothing in this clause is to be taken to affect:
- any conduct or act which is specifically exempted from anti-discrimination legislation;
  - offering or providing junior rates of pay to persons under 21 years of age;
  - any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*, or
  - a party to this award from pursuing matters of unlawful discrimination in any state or federal jurisdiction.
- 16.5 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.

#### **17. Area, Incidence and Duration**

- 17.1 This award shall apply to all employees as defined herein.

This award is made following a review under section 19 of the *Industrial Relations Act* 1996 and rescinds and replaces the Farm Assistants (Department of Education and Communities) Wages and Conditions Award published 15 January 2016 (Vol. 378 I.G. 1586) and all variations thereof.

- 17.2 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 IG 359) take effect on and from 27 November 2018.

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

### 18. No Extra Claims

- 18.1 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 2019 by a party to this Award.

## PART B

### MONETARY RATES

**Table 1 - Wages**

Classification	From 1.7.18 \$
Farm Assistant Class I	961.80
Class II	1105.80
Flower Gardener	993.40

**Table 2 - Allowances**

Clause	Allowance	From 1.7.18 \$
6.6 Special Rates		
6.6.1	Tractor operation (per day)	4.88
6.6.2	Truck driving (per day)	4.88
6.6.3	Headers, etc (per day)	4.88
6.7	Broken Shift (per day)	14.76
6.9	Protective Clothing (per hour)	0.74
6.11	First meal per day	15.60
	Subsequent meals	13.40
6.10	First Aid (per day)	3.70

P. M. KITE, *Chief Commissioner*

## HEALTH EMPLOYEES' MEDICAL RADIATION SCIENTISTS (STATE) AWARD 2019

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by NSW Industrial Registrar.

(Case No. 205745 of 2019)

Before Chief Commissioner Kite

11 July 2019

### AWARD

#### PART A

#### Arrangement

Clause No.	Subject Matter
1	Definitions
2	Salaries
3	Conditions of Service
4	Dispute Resolution
5	Anti-Discrimination
6	No Extra Claims
7	Area, Incidence and Duration

#### PART B

#### MONETARY RATES

Table 1 - Salaries and Allowances

### PART A

#### 1. Definitions

"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 17 of the *Health Services Act 1997*, a Statutory Health Corporation constituted under section 41 of that Act, and an Affiliated Health Organisation recognised under section 62 of that Act.

"Hospital" means a public hospital as defined in section 15 of the *Health Services Act 1997*.

"MRPB" means the Medical Radiation Practice Board of Australia.

"SPP" - Supervised Practice Program

"Union" means the Health Services Union NSW.



**"MEDICAL RADIATION SCIENTIST (MRS) (DIAGNOSTIC RADIOGRAPHERS)"**

"Diagnostic Radiographer" means a person who holds a Bachelor of Medical Radiation Science in Diagnostic Radiography and holds a Statement of Accreditation issued by the Australian Institute of Radiography. From 1 July 2012 Diagnostic Radiographers are required to hold registration with the MRPB.

MRS (Diagnostic Radiographer) Qualifications:

Bachelor of Medical Radiation Science (Diagnostic Radiography).

Bachelor of Applied Science (Medical Radiation Science) - (Diagnostic Radiography).

Successful completion of a Diagnostic Radiography course recognised by the employer and the MRPB.

Accreditation by the Australian Institute of Radiography (AIR). From 1 July 2012, must hold registration with the MRPB.

**LEVEL 1**

Progression from Level 1 to Level 2 is automatic upon completion of the SPP (full-time or part-time equivalent) in an approved department. The MRS at this level must have been granted provisional accreditation by the AIR. From 1 July 2012, the MRS at this level must have been granted provisional registration by the MRPB. The Level 2 progression shall be retrospective to the SPP completion anniversary date.

The Medical Radiation Scientist (MRS) (Diagnostic Radiographers) at this level is employed in an approved department during their first year post-graduation from a recognised university undergraduate course. This year may be referred to as their Provisional Development Year or PDY.

The MRS (Diagnostic Radiographer) at this level shall develop a capacity to apply knowledge, skills, professional judgement and show initiative in solving routine professional issues involving patient care, radiation safety, work health and safety (WHS), manual handling and QA. They will be expected to work in an environment where there are multi-disciplinary teams.

**LEVEL 2 (Years 1 - 5)**

Progression through Level 2 is automatic, and occurs annually on the MRS' (Diagnostic Radiographer) anniversary. This level also maintains those who are still on the "thereafter" rate.

To satisfy the criteria for progression to Level 2 the MRS (Diagnostic Radiographer) will have completed the requirements for their SPP.

The MRS (Diagnostic Radiographers) at this level:

- Demonstrates independent and significant professional knowledge and judgement to acquire and exhibit competency in all appropriate clinical tasks.
- Begins to take an active part in multidisciplinary teams and gain experience in the more complex modalities of their department, including quality improvement/ assurance programmes, work health and safety issues and radiation safety.
- Is expected to provide a high level of patient care and management with an understanding of patient needs and psychology, and continue to develop their knowledge regarding work health and safety issues (e.g. manual handling, infection control, etc.).
- Demonstrates significant ongoing commitment to continuing professional education and actively participates in undergraduate student education and departmental in-service lectures.

**LEVEL 3****Grade 1 (Years 1 - 2: Specialist MRS)**

At completion of one-year full-time (or part-time equivalent) at Level 3, Grade 1, Year 1, the MRS (Diagnostic Radiographer) will automatically progress to Level 3, Grade 1, Year 2.

A MRS (Diagnostic Radiographer) may apply for a personal regrading to this level after not less than two years' experience post accreditation or registration (i.e. Level 2, Year 2). The MRS (Diagnostic Radiographer) must display a suitable level of professionalism, as determined by their peers (Level 4 or above), and develop competency in at least one sub-speciality from the list below. A panel of at least three Chief MRS (Diagnostic Radiographers) or their representative will assess the application.

The relevant Health Service may also establish such positions at Level 3, Grade 1 or 2 as it deems appropriate from time-to-time.

The profession of MRS (Diagnostic Radiography) is free to bring forward new technologies and procedures as they develop with a view to gaining agreement of their inclusion in the criteria listed below.

MRS (Diagnostic Radiographers) seeking appointment to Level 3, Grade 1 shall be required to demonstrate a high level of knowledge and proficiency in complex clinical procedures including but not confined to:

- Education
- Applied Computer Science (including PACS)
- Paediatrics
- Clinical Supervisor
- QA
- Radiation Safety & Assessment
- CT
- Angiography
- Intra-operative interventional techniques
- MRI
- Ultrasound
- Mammography/Breast Imaging
- General/Trauma Radiography
- Dental Imaging
- Software development and application.

In addition, MRS (Diagnostic Radiographers) at this level are expected to:

- Demonstrate a level of participation in teaching programs within and/or outside the establishment. This teaching may include undergraduate, postgraduate students, other health professionals, patients and their carers and the public in a field relevant to Diagnostic Radiography.
- Demonstrate an ability to supervise and be responsible for other MRS' (Diagnostic Radiographers).

- Demonstrate an ability to supervise and assess clinical experience of MRS (Diagnostic Radiography) undergraduate students. Provide liaison between the universities and the clinical setting.
- Be able to demonstrate active participation and involvement in development of techniques through associated reports, presentations, conferences, publications or work place in-service lectures.
- Contribute to Quality Assurance activities.
- Display judgement and demonstrate a high level of initiative and independence in problem solving.; or

Possess a post graduate certificate in a relevant area of specialisation.

### **LEVEL 3**

#### **Grade 2 (Years 1 - 2: Consultant MRS)**

At completion of one year full-time (or part-time equivalent) at Level 3, Grade 2, Year 1, the MRS (Diagnostic Radiographer) will automatically progress to Level 3, Grade 2, Year 2.

The MRS (Diagnostic Radiographer) after not less than the completion of 12 months service at Level 3, Grade 1, Year 2 may apply to the Chief MRS (Diagnostic Radiographer) for personal progression to Level 3, Grade 2. The applicant will be assessed by a panel of at least three Chief MRS' (Diagnostic Radiographers) or their representatives.

The MRS (Diagnostic Radiographer) at this level will have extensive clinical expertise related to specific areas/modalities and be able to demonstrate a high level of competency and a consistently high standard of practice, as outlined in Level 3, Grade 1 and as determined by their peers (Level 4 and above). They will be expected to demonstrate their expertise through the development and maintenance of protocols, clinical reviews, teaching and delivery of in-service and presentations of papers/publications related to their area of expertise at departmental level and at conferences at national or international level. They may be called on in an advisory capacity to assist other MRS (Diagnostic Radiographers) with difficulties encountered within specific situations relating to their area of expertise.

Applicants should have substantiated reports by Senior MRS (Diagnostic Radiographers) Level 4 or above and/or Staff Specialists. The reports should focus on the expertise, judgement, and provision of advice by the applicant, together with the impact on services provided by the department arising from the work of the applicant. A minimum of two reports should be included and at least one must be from an MRS. (Diagnostic Radiographer). This wider acknowledgment of their expertise may be for example, in publications in peer-reviewed journals.

The MRS (Diagnostic Radiographer) Level 3, Grade 2 may also be designated as the Clinical Imaging Educator/Tutor.

This position would be responsible to the Chief MRS (Diagnostic Radiographer) for the identification, provision and delivery of continuing education for MRS (Diagnostic Radiographers) with both clinical and general management components. In addition, responsible for the co-ordination and determined service delivery of the educator/tutor function for undergraduates on clinical placement and MRS (Diagnostic Radiographers) undergoing the SPP.

### **LEVEL 3**

#### **Grade 3**

The MRS (Diagnostic Radiographer) at this level must have obtained an appropriate recognised postgraduate diploma allied to their area of expertise. This refers to post graduate diploma in areas such as (but not restricted to) ultrasound, CT, MRI, mammography, angiography, QA, management, education, research or IT. Such applicable diplomas must be relevant to the area of specialisation.

**LEVEL 4****Grade 1 (Years 1 - 2: Section Manager/Assistant Chief MRS/Sole Chief MRS)**

At completion of one year full-time (or part-time equivalent) at Level 4, Grade 1, Year 1, the MRS (Diagnostic Radiographer) will automatically progress to Level 4, Grade 1 Year 2.

A MRS (Diagnostic Radiographer) at this level would manage the operations of a section or functional unit (specialist or general) within the Diagnostic Radiology department and discharge the associated administrative duties. These operations include day to day management, throughput and patient care, patient scheduling as well as immediate staffing. The MRS (Diagnostic Radiographer) would be responsible to the Assistant Chief MRS (Assistant Chief Diagnostic Radiographer) or the Chief MRS (Chief Diagnostic Radiographer) for the overall QA, organisation, activities and maintenance of standards within the particular specialised section; or

MRS' (Diagnostic Radiographers) at this level may be a sole Chief MRS (Diagnostic Radiographer) responsible to a Health Manager for both the clinical and financial management of the Imaging Department; or

An MRS (Diagnostic Radiographer) at this level may be an Assistant Chief MRS (Diagnostic Radiographer) within a department with 4-7 FTE MRS (Diagnostic Radiographers) in addition to other associated department staff e.g. clerical, hospital assistants, etc; or

Possess a Master's Degree in an area of Medical Radiation Science specialisation which is relevant to medical imaging and which will benefit the profession. Eligibility requires a minimum of three years equivalent clinical practice after successful completion of a SPP.

**LEVEL 4****Grade 2**

An MRS (Diagnostic Radiographer) at this level would manage an area of the Diagnostic Radiology department with at least two specialist modalities such as 2 CT units or 2 Angiographic units; or

Two imaging sections within a tertiary referral teaching hospital e.g. Operating Suite and General Radiography.

In a department of only one specialist modality it may be appropriate to have only one position at this level but the focus of the position would be the decision of the relevant Health Service.

The areas referred to in this section would include a number of imaging sections or units, such as all CT units or all angiographic units. The manager of the area would have the responsibility for the overall organisation of the designated area and be responsible for tasks such as coordinated implementation of existing and new techniques, creation of protocols for scheduling and training, overall waiting list management and ensuring all resources are used in the most effective manner; or

The MRS (Diagnostic Radiographer) at this level may be a Chief MRS (Diagnostic Radiographer) who manages a department with 2-3 FTE MRS (Diagnostic Radiographers) in addition to other associated department staff e.g. clerical, hospital assistants; or

The MRS (Diagnostic Radiographer) at this level may be an Assistant Chief MRS (Diagnostic Radiographer) within a department with 8-14 FTE MRS' (Diagnostic Radiographers) in addition to other associated department staff e.g. clerical, hospital assistants, etc; or

At this level the MRS (Diagnostic Radiographer) will have the duties and responsibilities of an MRS Section Manager (Level 4 Grade 1) but possess a post graduate diploma or Master's degree in an area of relevance to their position. The post graduate diploma/Master's degree will have been completed after a minimum four years clinical experience. Such a position is to receive accelerated progression to Level 4, Grade 2, Year 2.

**LEVEL 5****Grade 1**

The MRS (Diagnostic Radiographer) at this level is a Chief MRS (Diagnostic Radiographer) who manages a department with 4-7 FTE MRS (Diagnostic Radiographers) in addition to other associated departmental staff e.g. clerical, hospital assistants, etc; or

The MRS (Diagnostic Radiographer) at this level is an Assistant Chief MRS (Diagnostic Radiographer) within a department with 15 - 19 FTE MRS (Diagnostic Radiographers) in addition to other associated departmental staff e.g. clerical, hospital assistants, etc; or

At this level the MRS (Diagnostic Radiographer) is responsible for coordinating and managing a complex function for example, but not limited to: IT, PACS/RIS, CT, US etc. across a Local Health District(s); or

Has completed a PhD in a relevant area of specialisation.

**LEVEL 5****Grade 2**

The MRS (Diagnostic Radiographer) at this level is a Chief MRS (Diagnostic Radiographer) who manages a department with 8-14 FTE MRS (Diagnostic Radiographers) in addition to other associated departmental staff e.g. clerical, hospital assistants, etc; or

The MRS (Diagnostic Radiographer) at this level is an Assistant Chief MRS (Diagnostic Radiographer) within a department with 20-24 FTE MRS (Diagnostic Radiographers) in addition to other associated departmental staff e.g. clerical, hospital assistants, etc.

**LEVEL 5****Grade 3**

The MRS (Diagnostic Radiographer) at this level is a Chief MRS (Diagnostic Radiographer) who manages a department with 15-19 FTE MRS (Diagnostic radiographers) in addition to other associated departmental staff e.g. clerical, hospital assistants, etc; or

The MRS (Diagnostic Radiographer) at this level is an Assistant Chief MRS (Diagnostic Radiographer) within a department with more than 24 FTE MRS (Diagnostic Radiographers) in addition to other associated departmental staff e.g. clerical, hospital assistants etc.

**LEVEL 6****Grade 1**

The MRS (Diagnostic Radiographer) at this level is a Chief MRS (Diagnostic Radiographer) who manages a department with 20-24 FTE MRS (Diagnostic Radiographers) in addition to other associated departmental staff e.g. clerical, hospital assistants etc.

**LEVEL 6****Grade 2**

The MRS (Diagnostic Radiographer) at this level is a Chief MRS (Diagnostic Radiographer) who manages a department with 25-30 FTE MRS (Diagnostic Radiographers) in addition to other associated departmental staff e.g. clerical, hospital assistants, etc.

**LEVEL 6****Grade 3**

The MRS (Diagnostic Radiographer) at this level is a Chief MRS (Diagnostic Radiographer) who manages a department with 31 or more FTE MRS (Diagnostic Radiographers) in addition to other associated departmental staff e.g. clerical, hospital assistants, etc.

NB: FTEs refer to establishment radiographer positions only.

**"MEDICAL RADIATION SCIENTIST (MRS) (NUCLEAR MEDICINE)"**

A MRS (Nuclear Medicine) means a person who has acquired a Bachelor of Applied Science in Medical Radiation Science - Nuclear Medicine or equivalent qualifications recognised by the MRPB and currently holds a radiation license under the Radiation Control Act 1990. From 1 July 2012, an MRS (Nuclear Medicine) must hold registration with the MRPB. Employees employed as MRS (Nuclear Medicine) are classified into six levels as follows:

**LEVEL 1 - SPP MRS (Nuclear Medicine)**

The MRS (Nuclear Medicine) at this level are employed in an Australian and New Zealand Society of Nuclear Medicine (ANZSNM) approved department during their first year post graduation from a university undergraduate or postgraduate course/program recognised by the MRPB. This year may be referred to as their Supervised Practice Program (SPP).

The MRS (Nuclear Medicine) at this level shall develop a capacity to apply knowledge, skills, professional judgement and show initiative in solving routine professional issues involving patient care, radiation safety, work health and safety, and manual handling.

Progression from Level 1 to Level 2 is upon completion of their SPP (full-time or part-time equivalent) in an approved department. The MRS (Nuclear Medicine) SPP must also have been granted accreditation with the ANZSNM.

NB. The level 2 progression shall be retrospective to their successful completion of their SPP.

**LEVEL 2 (Years 1 - 5)**

The MRS (Nuclear Medicine) at this level has completed at least one year full-time employment or equivalent in an ANZSNM approved Department and obtained their accreditation.

The MRS (Nuclear Medicine) at this level:

Demonstrates independent and significant professional knowledge and judgement when performing clinical tasks.

Begins to take an active part in multidisciplinary teams and gain experience in the more complex Nuclear Medicine procedures including Quality Improvement / Assurance programmes.

Is expected to provide a high level of patient care and continue to develop their knowledge regarding work place safety issues (e.g. manual handling, work health and safety).

Demonstrates significant ongoing commitment to continuing education and participates in undergraduate student education and departmental in-service lectures

Progression through Level 2 is automatic, and occurs annually on the MRS' (Nuclear Medicine) anniversary of accreditation or registration.

**LEVEL 3****Grade 1 (Years 1-2: Specialist MRS (Nuclear Medicine))**

The MRS (Nuclear Medicine) may apply for a personal regrading to this level after not less than two years' experience post accreditation or registration (full-time or part-time equivalent). The MRS (Nuclear Medicine) must display a suitable level of professionalism, as determined by their peers, and develop competency in at least one essential criterion and 3 desirable criteria from the list below. A panel of at least three Chief MRS (or their representative) will assess the application.

## Essential Criteria

- Undertake relevant workplace academic postgraduate certificate, diploma or higher qualification or other 'relevant' professional qualifications i.e. Ultrasound, BMD, CT (hybrid course); or
- Develop a high level of competency within area/s of specialty with a minimum of 12 months (not necessarily continuous) experience in those relevant area/s. Areas of specialty may include: Education, applied computer science (including PACS), paediatrics, clinical supervisor, QA, Radiopharmacy, software development and application etc; or
- Develop a consistently high standard of practice within the profession and has proven problem solving skills. The MRS (Nuclear Medicine) at this level should also be actively involved in the organisation and management of the workplace (e.g. Staff mentoring, IT duties, Staff Appraisals, QA, QC).

## Desirable Criteria

- Demonstrated high standard of practice within the profession, through the active involvement in areas such as conferences, lectures, seminars, continuing education or professional development.
- Published papers, presentations or preparation of significant reports.
- Active involvement in workplace in-services.
- Contributes to the establishment of clinical protocols and development of techniques.
- Demonstrate competency in, and a detailed knowledge of complex clinical procedures
- Demonstrates an ability to supervise and assess clinical experience of MRS undergraduate students.
- Involved in department quality management activities, including protocols and procedures
- Involved in research either performed in the department or in conjunction with the department.
- Participation in relevant professional committees. Example of these may be radiation safety, WHS, QA or Health Service committees relevant to the professional activities of Nuclear Medicine.

The profession of Nuclear Medicine is free to bring forward new technologies and procedures as they develop with a view to gaining agreement of their inclusion in the above listed criteria.

At completion of one-year full-time (or part-time equivalent) at Level 3 Grade 1 Year 1, the MRS (Nuclear Medicine) will automatically progress to Level 3 Grade 1 Year 2.

**LEVEL 3****Grade 2 (Year 1-2: Specialist / Educator Co-ordinator MRS (Nuclear Medicine))**

The MRS (Nuclear Medicine) may after not less than the completion of 2 years' service (full-time or part-time equivalent) at Level 3, Grade 1, Year 2 apply to the Chief MRS for personal progression to Level 3, Grade 2, Year 1. A panel of at least three Chief MRS (or their representative) will assess the application.

MRS (Nuclear Medicine) must have clinical expertise related to specific areas/modalities and be able to demonstrate a high level of competency and a consistently high standard of practice, as outlined in Level 3, Grade 1 and as determined by their peers (Level 4 and above).

They will be expected to demonstrate their expertise through the development and maintenance of protocols, clinical reviews, teaching and delivery of in-service and presentations of papers/publications related to their area of expertise at departmental level and at conferences at national or international level. They may be called on in an advisory capacity to assist other MRS (Nuclear Medicine) with difficulties encountered within specific situations relating to their area of expertise.

Applicants should have substantiated reports/appraisals by Senior MRS (Level 4 or above) and/or Staff Specialists. The reports should focus on the expertise, judgement, and provision of advice by the applicant, together with the impact on services provided by the department arising from the work of the applicant. A minimum of two reports should be included and at least one must be from a MRS (Nuclear Medicine). This wider acknowledgment of their expertise may be in publications in peer-reviewed journals; or

The MRS (Nuclear Medicine) Level 3, Grade 2 may also be designated as the Nuclear Medicine Department Educator / Tutor co-ordinator.

This position would be responsible to the Level 5 & 6 MRS (Nuclear Medicine) for the identification, provision and delivery of continuing education for the department, including both clinical and general management components. In addition, responsible for the co-ordination and determined service delivery of the tutor function for undergraduates on clinical placement and MRS (Nuclear Medicine) undergoing their SPP. This position would also be expected to liaise with the relevant professional bodies (e.g. Mentor program, accreditation, ANZSNM and New South Wales Society of Nuclear Medicine Scientists (NSWSNMS).

At completion of one-year full-time (or part-time equivalent) at Level 3 Grade 2 Year 1, the MRS (Nuclear Medicine) will automatically progress to Level 3 Grade 2 Year 2.

### **LEVEL 3**

#### **Grade 3**

The MRS (Nuclear Medicine) at this level must have obtained an appropriate postgraduate diploma allied to their area of expertise. This refers to post graduate qualifications in areas such as (but not restricted to) ultrasound, CT, QA, management, education, research or IT. Such applicable qualifications must be relevant to the area of specialisation.

### **LEVEL 4**

#### **Grade 1 (Year 1-2: Section Manager)**

The MRS (Nuclear Medicine) at this level is responsible for the scheduling and adaptation of services within a section of a Nuclear Medicine department. They must possess excellent leadership, communication and interpersonal skills. A MRS (Nuclear Medicine) at this level performs the clinical duties and some associated administrative duties (e.g. policy and procedure development and implementation) of that section, under the direction of the Level 5 and/or Level 6 MRS (Nuclear Medicine); or

#### **Research Co-ordinator MRS**

The MRS at this level is primarily responsible for the co-ordination and development of research projects within the department. This MRS is required to liaise with related groups such as clinical departments, university faculties or private companies. This MRS is to be known as the research co-ordinator. At completion of one-year full-time (or part-time equivalent) at Level 4, Grade 1, Year 1 the MRS (Nuclear Medicine) will automatically progress to Level 4, Grade 1, Year 2.



**LEVEL 4****Grade 2 (Year 1-2: Section Manager)**

The MRS (Nuclear Medicine) at this level is responsible for the scheduling and adaptation of services within a section of a Nuclear Medicine department. They must possess excellent leadership, communication and interpersonal skills. A MRS (Nuclear Medicine) at this level performs the clinical duties and some associated administrative duties (e.g. policy and procedure development and implementation) of that section, under the direction of the Level 5 and/or Level 6 MRS (Nuclear Medicine); and

The MRS at this level must have obtained an appropriate postgraduate diploma or above allied to their area of expertise. This refers to post graduate qualifications in areas such as (but not restricted to) ultrasound, CT, QA, management, education, research or IT. Such applicable qualifications must be relevant to the area of specialisation.

At completion of one-year full-time (or part-time equivalent) at Level 4, Grade 2, Year 1 the MRS (Nuclear Medicine) will automatically progress to Level 4, Grade 2, Year 2.

**LEVEL 5****Grade 1 (Deputy Chief MRS)**

The MRS (Nuclear Medicine) at this level is responsible for providing managerial support to the Chief MRS (Nuclear Medicine) in a Nuclear Medicine Department with less than 3 gamma cameras. This MRS is to be known as the Deputy Chief MRS.

A MRS (Nuclear Medicine) at this level performs a combination of both clinical and administrative duties under the direction of the Chief MRS (Nuclear Medicine) e.g. Policy/procedure development and implementation, provide feedback and performance appraisals of less experienced MRS (Nuclear Medicine).

The Level 5, Grade 1 MRS (Nuclear Medicine) also possesses an understanding of hospital and departmental administration, and a working knowledge of purchasing requirements.

**LEVEL 5****Grade 2 (Deputy Chief MRS)**

The MRS (Nuclear Medicine) at this level is responsible for providing managerial support to the Chief MRS (Nuclear Medicine) in a Nuclear Medicine Department with 3 or more gamma cameras. This MRS is to be known as the Deputy Chief MRS.

A MRS (Nuclear Medicine) at this level performs a combination of both clinical and administrative duties under the direction of the Chief MRS (Nuclear Medicine) e.g. Policy/procedure development and implementation, provide feedback and performance appraisals of less experienced MRS (Nuclear Medicine).

The Level 5, Grade 2 MRS (Nuclear Medicine) also possesses an understanding of hospital and departmental administration, and a working knowledge of purchasing requirements.

**LEVEL 5****Grade 3 (Deputy Chief MRS)**

The MRS (Nuclear Medicine) at this level is responsible for providing managerial support to the Chief MRS (Nuclear Medicine) in a Nuclear Medicine Department with 3 or more gamma cameras including a dedicated PET facility. This MRS is to be known as the Deputy Chief MRS.

A MRS (Nuclear Medicine) at this level performs a combination of both clinical and administrative duties under the direction of the Chief MRS (Nuclear Medicine) e.g. Policy/procedure development and implementation, provide feedback and performance appraisals of less experienced MRS (Nuclear Medicine).

The Level 5, Grade 3 MRS (Nuclear Medicine) also possesses an understanding of hospital and departmental administration, and a working knowledge of purchasing requirements.

## **LEVEL 6**

### **Grade 1 (Chief MRS (Nuclear Medicine))**

The Chief MRS (Nuclear Medicine) has ultimate responsibility for service standards, patient throughput, continuing education, research, training of MRS (Nuclear Medicine) staff and students as well as liaison with appropriate universities and with relevant other bodies.

Duties of the MRS Level 6 Grade 1 include: HR management, recruitment and selection of staff, complaint handling, departmental accreditation, QA (EquiP) maintenance, financial, expenditure and resource management. Administration and clinical management, delegation and negotiation skills and development, and implementation of policies/procedures and strategic business plans are also tasks that the Level 6 Grade 1 MRS must perform.

The Level 6 Grade 1 MRS (Nuclear Medicine) is responsible for managing a Nuclear Medicine Department with less than 3 gamma cameras, in addition to other associated departmental staff eg. clerical, hospital assistants etc. This MRS is to be known as the Chief MRS; or

The Level 6 Grade 1 MRS (Nuclear Medicine) is responsible for managing a Nuclear Medicine Department that is not accredited by the Australian and New Zealand Association of Physicians in Nuclear Medicine for the training of advanced registrars in Nuclear Medicine. This MRS is to be known as the Chief MRS.

## **LEVEL 6**

### **Grade 2 (Chief MRS (Nuclear Medicine))**

The Chief MRS (Nuclear Medicine) has ultimate responsibility for service standards, patient throughput, continuing education, research, training of MRS (Nuclear Medicine) staff and students as well as liaison with appropriate universities and with relevant other bodies.

Duties of the MRS Level 6, Grade 2 include: HR management, recruitment and selection of staff, complaint handling, departmental accreditation, QA (EquiP) maintenance, financial, expenditure and resource management. Administration and clinical management, delegation and negotiation skills and development, and implementation of policies/procedures and strategic business plans are also tasks that the Level 6, Grade 2 MRS must perform.

The Level 6, Grade 2 MRS (Nuclear Medicine), is responsible for managing a Nuclear Medicine Department with 3 or more gamma cameras, in addition to other associated departmental staff eg. clerical, hospital assistants etc; and

The Level 6, Grade 2 MRS (Nuclear Medicine) is responsible for managing a Nuclear Medicine Department that is accredited by the Australian and New Zealand Association of Physicians in Nuclear Medicine for the training of advanced registrars in Nuclear Medicine. This MRS is to be known as the Chief MRS.

## **LEVEL 6**

### **Grade 3**

The Chief MRS (Nuclear Medicine) has ultimate responsibility for service standards, patient throughput, continuing education, research, training of MRS (Nuclear Medicine) staff and students as well as liaison with appropriate universities and with relevant other bodies.

Duties of the MRS Level 6, Grade 3 include: HR management, recruitment and selection of staff, complaint handling, departmental accreditation, QA (EquiP) maintenance, financial, expenditure and resource management. Administration and clinical management, delegation and negotiation skills and development, and

implementation of policies/procedures and strategic business plans are also tasks that the Level 6, Grade 3 MRS must perform.

The Level 6, Grade 3 MRS (Nuclear Medicine), is responsible for managing a Nuclear Medicine Department with 3 or more gamma cameras including a dedicated PET facility, in addition to other associated departmental staff e.g. clerical, hospital assistants etc; and

The Level 6, Grade 3 MRS (Nuclear Medicine) is responsible for managing a Nuclear Medicine Department that is accredited by the Australian and New Zealand Association of Physicians in Nuclear Medicine for the training of advanced registrars in Nuclear Medicine. This MRS is to be known as the Chief MRS.

### **"MEDICAL RADIATION SCIENTIST (RADIATION THERAPIST)"**

A MRS (Radiation Therapist) means a person who has acquired a Bachelor of Medical Radiation Science (Radiation Therapy)/Bachelor of Applied Science (Medical Radiation Sciences) - Radiation Therapy; or has qualifications deemed equivalent by the employer and recognised by the MRPB. From 1 July 2012, MRS (Radiation Therapists) must hold registration with the MRPB. Employees employed as a Medical Radiation Therapist are classified into one of the following six levels:

#### **LEVEL 1**

The Medical Radiation Scientists ('MRS') (Radiation Therapists) at this level are employed in an approved department during their first year post-graduation from a recognised university undergraduate course. This year may be referred to as their Supervised Practice Program (SPP).

The MRS at this level shall develop a capacity to apply knowledge, skills, professional judgement and show initiative in solving routine professional issues involving patient care, radiation safety, work health and safety, manual handling and QA. They will be expected to work in an environment where there are multi-disciplinary teams.

Progression from Level 1 to Level 2 is upon their successful completion of their PDY (full-time or part-time equivalent) in an approved department. The MRS (PDY) must also have been granted provisional accreditation with the AIR. From 1 July 2012, the MRS (PDY) must have been granted provisional registration by the MRPB. The Level 2 progression shall be retrospective to the PDY anniversary date.

Radiation Therapists at this level are responsible for their own Continuing Professional Development as determined and required by the MRPB.

#### **LEVEL 2 (Years 1 - 5)**

Radiation Therapists at this level have completed the requirements for the PDY and progression from Level 1. Radiation Therapists at Level 2 and above shall have a high level of patient care and understanding towards the patient; involvement in work health and safety and Quality Assurance matters; and work in an environment where there are multi-disciplinary teams.

Radiation Therapists operating at this level are required to demonstrate competency within the areas of patient treatment, planning and delivery; and active involvement/ participation in workplace in-services.

The MRS at this level:

Demonstrates independent and significant professional knowledge and judgment to acquire and exhibit competency in all appropriate clinical tasks.

Begins to take an active part in multidisciplinary teams and gain experience in the more complex modalities of their department, including Quality Improvement/Assurance programmes, work health and safety issues and radiation safety.

Is expected to provide a high level of patient care and treatment planning and delivery with an understanding of patient needs and psychology, and continue to develop their knowledge regarding work health and safety issues (e.g. manual handling).

Demonstrates significant ongoing commitment to continuing education and professional development, and participates in undergraduate student education and departmental in-service lectures.

Radiation Therapists at this level are responsible for their own Continuing Professional Development as determined and required by the MRPB.

Progression through Level 2 is automatic, and occurs annually on the MRS' anniversary. This level also maintains those who are still on the "thereafter" rate.

### **LEVEL 3**

#### **Grade 1 (Years 1 - 2: Radiation Therapist Specialist)**

A Radiation Therapist may apply to the Chief Radiation Therapist for a personal regrading to this level after not less than two years post accreditation experience (i.e. Completion of Level 2, Year 2). The application will be assessed by a panel of at least three Chief Radiation Therapists. The relevant Health Service may also establish such positions at Level 3, Grade 1 that it deems appropriate, from time to time.

Radiation Therapists seeking appointment at Level 3, Grade 1 shall be required to demonstrate a high level of knowledge and proficiency in at least two complex clinical procedures including but not confined to:

Treatment planning and delivery:

- CNS
- Multi-field junctional techniques (3 fields or more)
- Mono isocentric techniques
- Conformal therapy
- Brachytherapy (both treatment and planning)
- Radiosurgery/stereotactic
- Intensity Modulated Radiation Therapy
- Paediatric radiation therapy
- Complex radiation therapy techniques related to specific trials and protocols
- 3-Dimensional Treatment Planning
- Technique development
- Complex mould-room procedures

The Union and the employer are free to bring forward new technologies and procedures as they develop, with a view to gaining agreement on their inclusion in the above-listed criteria.

In addition, Radiation Therapists at this level are expected to:

- Demonstrate a record of participation in teaching programmes within and/or outside the place of work. This teaching may include undergraduate, postgraduate students, other health professionals, patients and their carers or the public in a field relevant to Radiation Therapy;

- Demonstrate an ability to supervise and be responsible for other Radiation Therapists;
- Demonstrate an ability to supervise and assess clinical experience of Radiation Therapy undergraduate students. Provide liaison between the Universities and the clinical setting; and
- Be able to demonstrate active participation/involvement in research and development through associated reports, presentations, conferences, publications; or workplace in-services.

At completion of one-year full-time (or part-time equivalent) at Level 3, Grade 1, Year 1, the MRS will automatically progress to Level 3, Grade 1, Year 2.

Radiation Therapists at this level are responsible for their own Continuing Professional Development as determined and required by the MRPB.

### **LEVEL 3**

#### **Grade 2 (Years 1-2: Radiation Therapist Consultant)**

A Radiation Therapist may, after not less than the completion of 12 months service at Level 3, Grade 1 Year 2, apply to the Chief Radiation Therapist for personal progression to Level 3, Grade 2 (Year 1) - Radiation Therapist Consultant and will be assessed by a panel of at least three Chief Radiation Therapists.

The relevant Health Service may also establish such positions at Level 3, Grade 2 (Radiation Therapist Consultant) that it deems appropriate, from time to time.

Radiation Therapist Consultants have clinical expertise related to specific areas of radiation therapy e.g. Paediatric speciality, stereotactic radiosurgery, clinical review, counselling, head and neck cancers, genitourinary cancers etc., and may be called on in an advisory capacity to assist other Radiation Therapists with difficulties encountered within specific situations relating to their area of expertise.

The Radiation Therapist Consultant will be expected to demonstrate their expertise through the development and maintenance of protocols, delivery of in-services and presentation of papers related to their area of expertise at departmental level and at conferences at national or international level.

In addition to the criterion for Level 3 Grade 1, the Radiation Therapist must be able to demonstrate expertise in 2 further speciality areas, or one further speciality area and a postgraduate qualification deemed appropriate to the profession by the panel.

The Level 3 Grade 2 Radiation Therapist should also demonstrate an increased involvement in teaching and presentations/publications.

Applicants should have substantiated reports by Senior Radiation Therapists (Level 4 or above) and/or Radiation Oncologists and/or other associated health service managers. The reports should focus on the expertise, judgement, and provision of advice by the applicant, together with the impact on services provided by the Radiation Therapy department arising from the work of the applicant. A minimum of two reports should be included and at least one must be from a Radiation Therapist. This wider acknowledgment of their expertise may be in publications in peer-reviewed journals.

Radiation Therapists at this level are responsible for their own Continuing Professional Development as determined and required by the MRPB.

At completion of one year full-time (or part-time equivalent) at Level 3, Grade 2, Year 1, the MRS will automatically progress to Level 3, Grade 2, Year 2.

**LEVEL 4****Grade 1 (Years 1 - 2: Section/Functional Unit Manager/Senior Radiation Therapist)**

A Radiation Therapist at this level would manage the operations of a section or functional unit of a Radiation Therapy Department and discharge associated administrative duties.

A section or unit within this level is a single treatment machine where the managers would be responsible for the administrative detail, such as day to day running, throughput and patient care, patient scheduling, as well as immediate staffing. The Radiation Therapist at this level would also be responsible for maintaining adequate QA on patient treatment sheets, record and verify systems (including data entry) Portal films, EPI and billing data entry requirements. The Radiation Therapist would also be actively involved in ensuring all treatment deviations are investigated, reported and corrective measures implemented where appropriate. A section or unit may also relate to sections within the treatment planning area. These sections may include, but are not limited to simulator, mould room and planning room.

Radiation Therapy Level 4 Grade 1 positions may also be established as multidisciplinary team co-ordinators, where the Radiation Therapist is responsible for the management and associated duties of the multidisciplinary team functions.

Radiation Therapy Level 4 Grade 1 positions may also be established as Radiation Therapist - Education.

A position of Radiation Therapist - Education is responsible to the Chief Radiation Therapist for the identification, provision and delivery of continuing education for Radiation Therapists, with both clinical and general management components; and for the co-ordination and appropriate service delivery of the tutor function for undergraduates/trainees on clinical placement and Radiation Therapists in their Professional Development Year.

Radiation Therapists at this level are responsible for their own Continuing Professional Development as determined and required by the MRPB.

At completion of one year full-time (or part-time equivalent) at Level 4, Grade 1, Year 1, the MRS will automatically progress to Level 4, Grade 1, Year 2.

**LEVEL 4****Grade 2 (Years 1 - 2: Radiation Therapist Supervisor)**

A Radiation Therapist at this level would manage an area of a Radiation Therapy Department, such as treatment planning or treatment delivery, work health and safety and or radiation safety legislation and Equip co-ordinators. The Radiation Therapist at this level would be expected to maintain expertise in radiation therapy planning, simulation and treatment delivery.

The Radiation Therapist in this position would be responsible for the overall Quality Assurance, organisation, activities and maintenance of standards within the particular area in conjunction with the Chief Radiation Therapist and Deputy Chief Radiation Therapist.

The area referred to in this level would include a number of the sections or units, such as all the treatment machines and the total planning area. The manager of an area would have responsibility for the overall organisation of the designated area and be responsible for tasks such as coordinated implementation of existing and new techniques, overall waiting list management, ensuring planning and treatment resources are used in the most effective manner. The radiation therapist would also be responsible for ensuring all treatment deviations are investigated, reported and corrective measures are implemented where appropriate.

Radiation Therapists at this level are responsible for their own Continuing Professional Development as determined and required by the MRPB.

At completion of one year full-time (or part-time equivalent) at Level 4, Grade 2, Year 1, the MRS will automatically progress to Level 4, Grade 2, Year 2.

**LEVEL 5 (Years 1 - 3)**

A Radiation Therapist at this level is an Assistant Chief Radiation Therapist who assists in the management of a Radiation Therapy department of a hospital.

Radiation Therapists at this level are responsible for their own Continuing Professional Development as determined and required by the MRPB.

Progression through Level 5 is automatic, and occurs annually on the MRS' anniversary.

**LEVEL 6 (Years 1 - 3)**

A Radiation Therapist at this level manages a Radiation Therapy department of a hospital. The Chief Radiation Therapist has ultimate responsibility for patient service standards and patient throughput, continuing education, research, training of radiation therapy staff and students; liaison with appropriate universities and with relevant other bodies.

Radiation Therapists at this level are responsible for their own Continuing Professional Development as determined and required by the MRPB.

Progression through Level 6 is automatic, and occurs annually on the MRS' anniversary.

**2. Salaries**

Full time Medical Radiation Scientist employees shall be paid the salaries and allowances as set out in Table 1 of Part B - Monetary Rates of this Award.

**3. Conditions of Service**

The Health Employees Conditions of Employment (State) Award 2018, as varied or replaced from time to time, shall apply to all persons covered by this Award.

In addition, the Health Industry Status of Employment (State) Award 2018, as varied or replaced from time to time, shall also apply to relevant employees.

**4. Dispute Resolution**

The dispute resolution procedures contained in the Health Employees Conditions of Employment (State) Award 2018, as varied or replaced from time to time, shall apply.

**5. 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."

**6. 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 2020 by a party to this Award.

**7. Area, Incidence and Duration**

- (i) This Award takes effect from 1 July 2019 and shall remain in force for a period of one year. The rates and allowances in the second column in Table 1 of Part B - Monetary Rates will apply from the first full pay period on or after (ffppoa) 1 July 2019.
- (ii) This Award rescinds and replaces the Health Employees' Medical Radiation Scientists (State) Award 2018 published 2 August 2019 (384 I.G. 822) and all variations thereof.
- (iii) This Award shall apply to persons employed in classifications contained herein employed in the NSW Health Service under s115(1) of the *Health Services Act 1997*, or their successors, assignees or transmittes, excluding the County of Yancowinna.

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

Classification	Rate from 01/07/2019 \$ per week	Rate from ffppoa 01/07/2019 \$ per week
<b>Radiographer</b>		
<b>Level 1 (35hrs)</b>		
Year 1	1,201.90	1,231.90
<b>Level 2 (35hrs)</b>		
Year 1	1,246.80	1,278.00
Year 2	1,414.30	1,449.70
Year 3	1,608.30	1,648.50



Year 4	1,686.50	1,728.70
Year 5	1,741.00	1,784.50
Level 3 (35hrs)		
Grade 1 - Year 1	1,872.80	1,919.60
Grade 1 - Year 2	1,935.30	1,983.70
Grade 2 - Year 1	1,989.20	2,038.90
Grade 2 - Year 2	2,207.10	2,262.30
Grade 3 - Year 1	2,268.50	2,325.20
Level 4 (35hrs)		
Grade 1 - Year 1	2,268.50	2,325.20
Grade 1 - Year 2	2,345.50	2,404.10
Grade 2 - Year 1	2,416.80	2,477.20
Grade 2 - Year 2	2,477.60	2,539.50
Level 5 (35hrs)		
Year 1	2,654.40	2,720.80
Year 2	2,720.70	2,788.70
Year 3	2,860.50	2,932.00
Level 6 (35hrs)		
Year 1	2,929.90	3,003.10
Year 2	2,998.30	3,073.30
Year 3	3,067.50	3,144.20
Nuclear Medicine Technologist		
Level 1 (38hrs)		
Year 1	1,201.90	1,231.90
Level 2 (38hrs)		
Year 1	1,246.80	1,278.00
Year 2	1,414.30	1,449.70
Year 3	1,608.30	1,648.50
Year 4	1,686.50	1,728.70
Year 5	1,741.00	1,784.50
Level 3 (38hrs)		
Grade 1 - Year 1	1,872.80	1,919.60
Grade 1 - Year 2	1,935.30	1,983.70
Grade 2 - Year 1	1,989.20	2,038.90
Grade 2 - Year 2	2,207.10	2,262.30
Grade 3 - Year 1	2,268.50	2,325.20
Level 4 (38hrs)		
Grade 1 - Year 1	2,268.50	2,325.20
Grade 1 - Year 2	2,345.50	2,404.10
Grade 2 - Year 1	2,416.80	2,477.20
Grade 2 - Year 2	2,477.60	2,539.50
Level 5 (38hrs)		
Year 1	2,654.40	2,720.80
Year 2	2,720.70	2,788.70
Year 3	2,860.50	2,932.00
Level 6 (38hrs)		
Year 1	2,929.90	3,003.10
Year 2	2,998.30	3,073.30
Year 3	3,067.50	3,144.20
Radiation Therapist		
Level 1 (35hrs)		
Year 1	1,201.90	1,231.90
Level 2 (35hrs)		
Year 1	1,246.80	1,278.00
Year 2	1,414.30	1,449.70
Year 3	1,608.30	1,648.50

Year 4	1,686.50	1,728.70
Year 5	1,741.00	1,784.50
Level 3 (35hrs)		
Grade 1 - Year 1	1,872.80	1,919.60
Grade 1 - Year 2	1,935.30	1,983.70
Grade 2 - Year 1	1,989.20	2,038.90
Grade 2 - Year 2	2,207.10	2,262.30
Level 4 (35hrs)		
Grade 1 - Year 1	2,268.50	2,325.20
Grade 1 - Year 2	2,345.50	2,404.10
Grade 2 - Year 1	2,416.80	2,477.20
Grade 2 - Year 2	2,477.60	2,539.50
Level 5 (35hrs)		
Year 1	2,654.40	2,720.80
Year 2	2,720.70	2,788.70
Year 3	2,860.50	2,932.00
Level 6 (35hrs)		
Year 1	2,929.90	3,003.10
Year 2	2,998.30	3,073.30
Year 3	3,067.50	3,144.20
Allowance Description	Rate from 01/07/2019 \$ per week	Rate from ffppoa 01/07/2019 \$ per week
Where a Chief Radiographer provides a weekly service to another hospital or hospitals and is not entitled to an adjustment to a higher salary rate for this service, he/she shall be paid the following allowance:		
Chief Radiographer - Serving Other Hospitals	53.90	55.20

P. M. KITE, *Chief Commissioner*

Printed by the authority of the Industrial Registrar.

**HEALTH MANAGERS (STATE) AWARD 2019**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by NSW Ministry of Health.

(Case No. 206108 of 2019)

Before Chief Commissioner Kite

11 July 2019

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

Clause No.	Subject Matter
1.	Definitions
2.	Salary Bands
3.	Classification Levels
4.	Conditions of Service
5.	Dispute Resolution
6.	Anti-Discrimination
7.	No Extra Claims
8.	Area, Incidence and Duration

**PART B****MONETARY RATES**

Table 1 - Salaries

Table 2 - Classification Levels

**PART A****1. Definitions**

For the purpose of this Award -

"Employee" means a person performing duties as set out in the six level classification structure in Table 2 - Classification Levels, of Part B, Monetary Rates.

"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 17 of the *Health Services Act 1997*, a Statutory Health Corporation constituted under section 41 of that Act, and an Affiliated Health Organisation recognised under section 62 of that Act and the Public Health System Support Division of the NSW Health Service.

"Hospital" means a public hospital as defined in section 15 of the *Health Services Act 1997*.

"Service" means service as an employee with the employer both before or after the commencement of this Award.

"Union" means the Health Services Union NSW.

"Weekly rates" will be ascertained by dividing an annual amount by 52.17857 or vice versa to obtain an annual rate from a weekly rate.

## 2. Salary Bands

- (i) Full-time Health Manager employees shall be paid the salaries as set out in Table 1 of Part B - Monetary Rates of this Award.
- (ii) Persons who commence employment in accordance with one of the Work Level Statements will be allocated to the level described by the Work Level Statement and paid an initial salary equal to the minimum of the salary band for the relevant level, provided that a higher initial salary may be offered to an individual employee on merit.
- (iii) If a global salary movement to classifications covered by this Award causes an employee to exceed the upper limit of a salary band, the excess above such upper limits will be paid as a personal allowance.

## 3. Classification Levels

Employees shall be graded and perform the duties within a classification level as set out in Table 2 - Classification Levels, of Part B, Monetary Rates, and paid within the appropriate salary band as set out in Table 1 - Salaries, of the said Part B.

## 4. Conditions of Service

The Health Employees Conditions of Employment (State) Award 2018, as varied or replaced from time to time, shall apply to all persons covered by this Award.

In addition, the Health Industry Status of Employment (State) Award 2018, as varied or replaced from time to time, shall also apply to relevant employees.

## 5. Dispute Resolution

The dispute resolution procedures contained in the said Health Employees Conditions of Employment (State) Award 2018, as varied or replaced from time to time, shall apply.

## 6. 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:.

**7. 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 2020 by a party to this Award.

**8. Area, Incidence and Duration**

- (i) This Award takes effect from 1 July 2019 and shall remain in force for a period of one year. The rates in the third and fourth columns in Table 1 of Part B - Monetary Rates will apply from the first full pay period on or after (ffppoa) 1 July 2019.
- (ii) This Award rescinds and replaces the Health Managers (State) Award 2018 as published on 5 July 2019 (384 IG 635) and all variations thereof.
- (iii) This Award shall apply to persons employed in classifications contained herein employed in the New South Wales Health Service under section 115(1) of the *Health Services Act 1997*, or their successors, assignees or transmittes, excluding the County of Yancowinna.

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

Classification	Rate from 01/07/2019 Minimum Per annum \$	Rate from ffppoa 01/07/2019 Minimum Per annum \$	Rate from 01/07/2019 Maximum Per annum \$	Rate from ffppoa 01/07/2019 Maximum Per annum \$
Level 1	72,591	74,406	97,649	100,090
Level 2	95,426	97,812	113,183	116,013
Level 3	110,961	113,735	126,496	129,658
Level 4	124,277	127,384	148,690	152,407
Level 5	146,469	150,131	164,227	168,333
Level 6	160,748	164,767	175,866	180,263

**Table 2 - Classification Levels**

Level	Title	Description of Work	Skills and Attributes
One	Health Manager	<ul style="list-style-type: none"> <li>Responsible for managing hospitals and other facilities that provide basic routine and emergency health care for customers which may include multiple sites and services; or</li> <li>Responsible for providing support services for the management of hospitals and other larger facilities which may include multiple services and sites; or</li> <li>Responsible for providing support for the management of human resources and/or financial and/or administrative and/or hotel and/or clinical services for hospitals which provide a wide range of specialised services for customers and/or Health Services.</li> </ul> <p>Staff at this level are accountable for ensuring funds are expended according to approved budgets and for ensuring targets are met.</p> <p>Staff are responsible to provide regular feedback and appraisal regarding the performance of staff.</p> <p>Staff are responsible for maintaining effective relationships with Health Service to ensure Health System's priorities are met.</p> <p>Staff at this level assist with the development and implementation of policies, procedures, standards and practices for the hospital or Health Service.</p> <p>Staff are responsible and accountable for providing a professional level of services to the Hospital(s) or Health Service or oversee the management of aspects of services and the staff.</p>	<p>Management:</p> <ul style="list-style-type: none"> <li>Understanding and commitment to the Health Systems priorities;</li> <li>Capacity to direct all operational facets based on strategic and business plans;</li> <li>Ability to ensure budget targets are met.</li> <li>Capacity to undertake performance appraisal of staff and ability to develop performance measures.</li> <li>Effective communication and interpersonal skills.</li> </ul> <p>Support:</p> <ul style="list-style-type: none"> <li>Assist with the development and implementation of policies, procedures, standards and practices.</li> <li>Able to meet pre-determined targets and deadlines.</li> <li>Ability to be flexible and adapt work practices to suit circumstances</li> </ul>
Two	Health Manager	<p>Jobs at this level have greater responsibilities than those at Level One and are:</p> <ul style="list-style-type: none"> <li>Responsible for managing hospitals and larger facilities that provide a wide range of health care services with some sub-speciality services for customers which may include multiple services and sites; or</li> <li>Responsible for providing support services for the management of large hospitals which include multiple services and sites; or</li> </ul>	<p>The skills and attributes at this level are greater than those at Level One and include:</p> <p>Management:</p> <ul style="list-style-type: none"> <li>High level of leadership; communication and interpersonal skills.</li> <li>Capacity to exercise creative and entrepreneurial solutions to improve productivity and effectiveness for customers.</li> </ul>

		<ul style="list-style-type: none"> <li>Responsible for providing support and in some cases managing human resource and/or financial and/or administrative and/or hotel and/or clinical services for hospitals which provide a wide range of specialised services for customers and/or Health Services.</li> </ul> <p>Staff at this level are accountable for allocation and/or expenditure of resources and ensuring targets are met. Staff are responsible for ensuring optimal budget outcomes for their customers and communities.</p> <p>Staff are responsible for providing regular feedback and appraisals for senior staff to improve health outcomes for customers and for maintaining a performance management system.</p> <p>Staff are responsible for providing support for the efficient, cost effective and timely delivery of services.</p>	<ul style="list-style-type: none"> <li>Proven negotiation and delegation skills.</li> <li>Ability to motivate and co-ordinate staff.</li> </ul> <p>Support:</p> <ul style="list-style-type: none"> <li>Ability to provide input, interpret, monitor and evaluate policies, procedures and standards for customers.</li> <li>Capacity to design strategic and business objectives.</li> <li>Ability to develop performance measures.</li> </ul>
Three	Health Manager "	<p>Jobs at this level have greater responsibilities than those at Level Two and are:</p> <ul style="list-style-type: none"> <li>Responsible for managing hospitals which provide a wide range of health care services with some specialities which include multiple sites and services; or</li> <li>Responsible for providing support services for the management of large complex hospitals or groups of hospitals; or</li> <li>Responsible for management and in some cases support in human resources and/or financial and/or administrative and/or clinical services in tertiary teaching hospitals and or Health Services.</li> </ul> <p>Staff at this level are responsible for reviewing senior staff performances through regular appraisal to improve health outcomes for patients and for maintaining a performance management system.</p> <p>Staff are responsible to maintain effective relationships and communication with Area Health Service to ensure that corporate goals and priorities of the Health System are met.</p> <p>Staff at this level are responsible for providing timely delivery of services and are accountable to the appropriate Executive.</p>	<p>The skills and attributes at this level are greater than those at Level Two and include:</p> <p>Management:</p> <ul style="list-style-type: none"> <li>Excellent leadership, communication and Interpersonal skills.</li> <li>Highly developed and effective management skills.</li> <li>Ability to develop, monitor and reach predicted outcomes to strategic and business plans.</li> <li>Highly developed and tertiary teaching hospitals and/or</li> </ul> <p>Health delegation skills.</p> <ul style="list-style-type: none"> <li>Proven capacity to manage multi-disciplinary groups.</li> </ul> <p>Support:</p> <ul style="list-style-type: none"> <li>Ability to make judgements and have sole delegated responsibility to approve changes in standards, practices, policies and procedures.</li> <li>Highly developed negotiation and delegations skills.</li> </ul>

		<p>Staff are responsible for contributing to the development and implementation of business plans.</p> <p>Staff at this level are required to make judgements and may in some cases, be delegated responsibility to approve changes in standard practice and procedures.</p>	
Four	Health Manager	<p>Jobs at this level have greater responsibilities than those at Level Three, are accountable through performance agreements and are:</p> <ul style="list-style-type: none"> <li>• Responsible for managing hospitals which provide a wide range of Specialist services for customers which include multiple sites and services; or</li> <li>• Responsible for management of human resource and/or financial and/or administrative and/or clinical services in Health Services.</li> </ul> <p>Staff are responsible for ensuring optimal health outcomes within budget for their customers and communities.</p> <p>Staff are accountable for allocating resources and ensuring budgets are effectively met. Staff are responsible for developing appropriate strategies to manage budget changes in a timely manner.</p> <p>Staff at this level are required to make complex judgements and make appropriate changes in standard practices, policies and procedures.</p> <p>Staff at this level are expected to develop/ implement strategic business plans and ensure budgets are allocated and targets met.</p>	<p>The skills and attributes at this level are greater than those at Level Three and include:</p> <ul style="list-style-type: none"> <li>• System-wide view of health care provision and management to improve health outcomes for customers.</li> <li>• Excellent strategic planning and policy development skills.</li> <li>• Proven management expertise at a senior level.</li> <li>• Competent to make complex judgements and take initiatives through delegated responsibilities.</li> </ul>

### HEALTH MANAGER LEVEL 5

#### Grading Characteristics, Skills and Attributes

(a) Authority & Accountability

Freedom to operate within delegated authority, performance agreement, and Health Service policy

Recommend service priorities

Exercise judgement within delegations

Formulate policy and deliver programs in line with performance agreement

Involvement in the development of long-term strategies

Report directly to a member of the area executive



- Budget management and responsibility for significant budget amount; or
- Management of complex area service or unit, requiring specialist advice and input
- Adherence to the Accounts and Audit and Determination for Health Services and all Statutory Requirements
- (b) Judgement & Problem-Solving
- Exercise judgement and problem solving in service policy areas (e.g. Mental Health, HR)
- Frequent resolution of unusual and complex problems
- Develop business strategies and business plans
- Develop ideas, optional action plans, courses of action
- Anticipate and resolve problems in a challenging and dynamic environment
- Seek advice when there is no existing policy or precedent
- Use of evidence-based decision-making to back up decisions
- Sound ability to solve problems using innovative, creative solutions
- High level of technical expertise
- Provision of high level of expert advice and sound judgement
- Independent decision-making; exercising independent judgement
- Has a sound understanding of political and cross-Health Service issues and how they impact on the organisation
- Actively develop strategic partnerships
- (c) Leadership & Management Skills
- Provide leadership, management and direction
- Actively contributes to shaping the organisation's strategic plan
- Ensures that the strategic plan is outcome-focussed, takes into account the short and long-term priorities, and is achievable
- Actively monitors progress towards the achievement of the strategic vision
- Achieve set objectives
- Resolve conflict
- Address and prioritise competing demands
- Lead and manage organisation change on a health service(s)-wide basis
- Build appropriate organisation values and culture
- Anticipate problems and develop contingency strategies to meet complex situations

Applies intellectual rigour to all aspects of their work

(d) Personal & Interpersonal Skills

Provide specialist advice

Lead persuade, motivate and negotiate at senior levels

Ability to deal with people at all levels

Communicate and liaise effectively at all levels within the organisation

Spokesperson for area of responsibility (media, public)

Effective community liaison and communication

Effectively self-manages

Innovative & lateral thinker

Flexible & responsive

Supports a reflective learning/quality culture that enables both individuals and the organisation to develop

Articulates and promotes the organisation's vision and goals

Promotes an environment in which traditional ways of thinking are challenged and debate is encouraged

Provides effective role-modelling

Celebrates achievements and encourages innovation

(e) Outcomes & Performance

Formal personal agreement with CEO, Deputy CEO or Service Director / General Manager (KRAs)

Significant impact on service/hospital achievements and targets

Formal performance agreements with direct reports

Achievement of best practice

Monitoring and compliance with all professional standards

Responsible for health service(s)-wide service delivery

### **HEALTH MANAGER LEVEL 6**

#### Grading Characteristics, Skills and Attributes

(a) Authority & Accountability

Able to make decisions assessing the 'measured risk'

Scope to use resources to reallocate resources to meet changing business needs prioritisation

Exercise judgement - in broad context

- Accountable for policy and delivery of programs
  - Authorised to commit Health Service to course of action
  - Develop long-term strategies
  - Report directly to CEO or Deputy CEO, or Director Health Service Operations
  - Budget management and responsibility for a very significant and complex budget, or
  - Responsibility for a complex inter/intra area health service unit
  - Adherence to the Accounts and Audit Determination for Health Services and all
  - Statutory Requirements
- (b) Judgement & Problem-Solving
- Develop organisation-wide strategic policy direction (e.g. Mental Health, HR)
  - Manage the resolution of unusual and complex systemic problems
  - Define business and strategic plans based upon current and future directions
  - Develop ideas and define action plans and courses of action
  - Resolve problems in a challenging and dynamic environment
  - Use of evidence-based decision-making to back up decisions
  - Demonstrated ability to anticipate and solve problems using innovative and creative solutions
  - High level of technical expertise
  - Highly regarded as an authority and provider of sound advice
  - High level independent decision-making
  - Has a sound understanding of political and cross-Health Service issues and how they impact on the organisation
  - Actively develops strategic partnerships
- (c) Leadership & Management
- Provide leadership, management and direction
  - Actively contributes to shaping the organisation's strategic plan
  - Ensures that the strategic plan is outcome-focussed, takes into account the short and long-term priorities, and is achievable
  - Actively monitors progress towards achievement of the strategic vision
  - Achieve objectives
  - Resolve conflict
  - Address and prioritise competing demands

- Lead and manage complex organisational change on an inter/intra health service(s)-wide basis
- Build appropriate organisation values and culture
- Anticipate problems, consider and analyse highly complex issues, develop and implement contingency strategies
- Ability to sell and successfully implement difficult decisions
- Applies intellectual rigour to all aspects of their work
- (d) Personal & Interpersonal Skills
  - Provide expert advice
  - Lead, persuade, motivate, negotiate at senior levels
  - Ability to deal with people at all levels
  - Spokesperson for area of responsibility (media, public)
  - Effective communication and community liaison
  - Effectively self-manages
  - Innovative and lateral thinker
  - Flexible and responsive
  - Supports a reflective learning/quality culture that enables both individuals and the organisation to develop
  - Articulates and promotes the organisation's vision and goals
  - Promotes an environment in which traditional ways of thinking are challenged and debate is encouraged
  - Provides effective role-modelling
  - Celebrates achievements and encourages innovation
- (e) Outcomes & Performance
  - Formal performance agreement with the CEO (KRAs)
  - Achievement of overall organisation targets; budget / service delivery / quality programs
  - Formal performance agreements with direct reports
  - Achievement of best practice
  - Monitoring and compliance with all professional standards
  - Responsibility for Health Service(s)-wide and intra Health Service delivery

P. M. KITE, *Chief Commissioner*

**LOCAL GOVERNMENT (ELECTRICIANS) (STATE) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

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

(Case No. 288262 of 2018)

Before Chief Commissioner Kite

4 December 2018

**REVIEWED AWARD****PART A****1. Arrangement**

Clause No.	Subject Matter
------------	----------------

## PART A

- |      |                                                |
|------|------------------------------------------------|
| 1.   | Arrangement                                    |
| 2.   | Anti-Discrimination                            |
| 3.   | Definitions                                    |
| 4.   | Skill Descriptors                              |
| 5.   | Rates of Pay                                   |
| 6.   | Appointments and Promotions                    |
| 7.   | Special Allowances                             |
| 8.   | Tool Allowances                                |
| 9.   | Terms of Employment                            |
| 10.  | Calculation of Service                         |
| 11.  | Hours                                          |
| 12.  | Part-time and Casual Employees                 |
| 13.  | Overtime                                       |
| 14.  | On Call                                        |
| 15.  | Meal Breaks and Allowances for Overtime Work   |
| 16.  | Holidays                                       |
| 17.  | Annual Leave                                   |
| 18.  | Sick Leave                                     |
| 19.  | Carer's Leave                                  |
| 20.  | Bereavement Leave                              |
| 20A. | Parental Leave                                 |
| 21.  | Leave Without Pay                              |
| 22.  | Long Service Leave                             |
| 23.  | Training                                       |
| 24.  | Travelling Allowance                           |
| 25.  | Higher Paid Work                               |
| 26.  | Clothing                                       |
| 27.  | Driving of Motor Vehicles                      |
| 28.  | Industry Allowance                             |
| 29.  | Termination of Employment                      |
| 30.  | Redundancy and Technological Change            |
| 31.  | Miscellaneous                                  |
| 32.  | Disciplinary, Grievance and Dispute Procedures |
| 33.  | Council Agreement                              |
| 34.  | Performance Evaluation and Reward              |
| 35.  | Consultative Mechanisms                        |
| 36.  | Jury Service                                   |

- 37. Salary Sacrifice
- 38. Superannuation Fund Contributions
- 39. Area, Incidence and Duration

## PART B

## MONETARY RATES

Table 1 - Wage Rates

Table 2 - Other Rates and Allowances

## SCHEDULE A

Clothing Regulations

**2. 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.

## 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 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."

### 3. Definitions

- (i) Discharge means termination of an employee's service by the council as a consequence of retrenchment, re-organisation or shortage of work or other reasons for which the employee may not be entirely responsible.
- (ii) Dismissal means termination of an employee's service by the council for misconduct, inefficiency, unsuitability or repeated absences from work.
- (iii) Resignation means voluntarily leaving the service of the council.
- (iv) Service means service calculated in accordance with the provisions of Clause 10, Calculation of Service, of this award.
- (v) Council means a Municipal, City, Shire or County Council within New South Wales.

### 4. Skill Descriptors

- (i) Band 1 - Apprenticeship

This level will cover all apprentices and trainees engaged in the electrical trade and associated training which may lead to trade, technical or professional qualifications and is characterised by the following:

Authority and accountability: Completion of tasks with work closely monitored by the tradesperson, team leader or supervisor.

Depending on the level of skill and the degree of training the employee may complete either work or sections of the work which will then be checked by the tradesperson etc or may work under close supervision. The level of authority and accountability will also be indicated by the employee's position on the Trainee scale. Employees' will be responsible for the quality of their own work up to their level of skill and competence and subject to supervision and instructions/guidance.

Judgement and problem solving: Judgement is dependent on the level of skill and competence and the degree of training and will be subject to co-ordination by other workers.

Specialist knowledge and skills: Specialist knowledge and skills are obtained through on the job training and council based induction training. This training complements that received off the job which will lead to trade, technical or professional qualifications. The application of the specialist knowledge and skills will depend on the stage that the employee has reached in his/her training. Employees will be required to follow and apply rules, regulations, guidelines, instructions and procedures pertinent to their work.

Management skills: No skills in supervising others will be required. Employees should be able to apply self management skills.

Interpersonal skills: Communication with other staff in receiving instructions and in advising of work carried out. Communication with the public may also occur.

Qualifications and experience: Completion of School Certificate or the Higher School Certificate may be sought but at least a standard of education sufficient to allow entry into the appropriate course that leads to a trade, technical or professional qualification. Completion of an appropriate labour market program or similar short term work/skills experience is desirable.

- (ii) Technical/Trades Band:

A key element of entry into this Band is the requirement for a trade certificate or equivalent qualification gained through a TAFE College or other accredited training institution.

### Band 2, Level 1 Skill Descriptors

**Authority and accountability:** Responsible for the completion of work requiring the application of trades or technical skills. Assist in the provision of training as an adjunct to formal apprentice/trainee training. Understand and implement quality control measures. Employees usually work under general direction within established priorities, either individually or in a team.

**Judgement and problem solving:** Skills in assessing situations, determine processes, tools or approaches to problems and provide trade guidance and assistance as part of a work team.

**Specialist knowledge and skills:** Position 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 in either technical or non technical language.

**Qualifications and experience:** Appropriate work related trade certificate or modules of an advanced certificate or associate diploma or specialist skills training.

### Band 2, Level 2

Positions at this level require the application of knowledge usually gained through the completion of a post trades certificate and/or advanced certificate in an appropriate discipline.

#### Skill Descriptors

**Authority and accountability:** Responsibility as a trainer/coordinator for the operation of a small section which uses staff and other resources, or the employee in the position completes tasks requiring specialised technical 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 available from others in solving problems. Exercise independent judgement and initiative in assessing tasks or jobs and work practices to accomplish results in accordance with established goals.

**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 have a role to explain 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 skills which is likely to be, based upon suitable post certificate or advanced certificate level qualifications but may be obtained through experience and training.

### Band 2, Level 3

These positions require the application of the highest level of training within technical/trade positions. Positions at this level are characterised by the possession and application of skills obtained through an Associate Diploma or Electrical Engineering Certificate and experience within a specialist area.

Positions at this level may have a supervisory role over other technical/trades staff. This will involve the application of job specific skills as well as the management/supervision of staff.



Work at this level requires a sound knowledge of program, activity, policy or service aspects of the work performed in a number of work areas.

Employees working at this level would be expected to demonstrate their sound multi-skill or specialised skill base in positions demanding the exercise of independence and/or authority. Employees here maybe required to co-ordinate a range of activities, identify potential or desired outcomes; contribute critical knowledge and skills.

Employees use judgement and initiative in studying, analysing and interpreting information with the aim of reaching conclusions and decisions.

At this level there would be staff with accountability for the oversight of particular operational areas or projects where there is a requirement to establish work priorities, supervise subordinate training and development, allocate and schedule work, liaise with equipment suppliers, write technical reports, provide advice on improved methods/systems of work performance and implement agreed operational programs.

Where positions at this level have supervisory responsibilities these would include the development of appropriate training programs related to group development in the functional area. Sound liaison and communication skills and the capacity to negotiate may be required.

Work at this level requires a good general knowledge of the council's operations, combined with a specialist knowledge of major activities within the work area.

#### Skill Descriptors

**Authority and accountability:** May be responsible to provide a specialised/technical service and to allocate, schedule and complete work which has elements of complexity. Make recommendations within council and represent council 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 vary 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 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 Associate Diploma, combined with extensive experience in the application of skills in the most complex areas of the job but may be obtained through experience and training.

#### (iii) Professional/Specialist Band

Professional/Specialist staff are employees who provide specialist services to council and require a degree qualification. They have specialist training which, above the band entry level is supplemented by experience either within or outside Local Government.

Positions will require professional/specialist expertise in the planning, development and implementation of council services/policies. Key elements of such positions relate to the ability to solve complex problems, integrate information in the development of policies, take accountability for decisions and exercise delegated authority.

The Professional/Specialist band will include both positions which have a staff role in the provision of advice or services, and those which manage units or functions within the council requiring management skills in directing and controlling projects/groups.

#### Band 3, Level 1

This level is the entry level to the Professional / Specialist Band and requires tertiary qualifications.

#### Skill Descriptors

**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 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 and requires the exercise of independent judgement and initiative.

**Specialised 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 may manage projects involving monitoring, motivating and co-ordination of resources.

**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.

#### Band 3, Level 2

Professional/specialist positions classified within this level cover both advisory and project management responsibilities.

At this level there would be staff with accountability for the oversight of particular operational areas or projects where there is a requirement to establish work priorities, supervise subordinate training and development, allocate and schedule work, subcontract work, negotiate with equipment suppliers, write technical reports, provide advice on improved methods/systems of work performance and implement agreed operational programs.

Discussions taken or delegations exercised at this level may have major impact on the day-to-day operations. The impact, however, is likely to be confined to the work area or function. Delegations may be exercised and may, depending on the role and function of the position, involve making decisions, instigating alternate courses of action, or reviewing previous decisions.

Supervisory responsibilities may be an important function of a position at this level, but this can vary widely depending on factors such as work area, location, priorities, workload, operational deadlines and the availability of staff resources to assist.

At this level complex work is undertaken with limited direction as to work priorities and the detailed conduct of the task. Positions may have independence of action including the use and allocation of resources within the constraints laid down by senior management. Where budgets are an accountability of the position independence in acting within budget is permitted.

### Skill Descriptors

**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's knowledge and skills:** Experience in the application of technical concepts and practices requiring additional training is 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.

### Band 3, Level 3

Positions at this level undertake a management function or senior specialist role or provide professional direction for a particular program, activity or service to achieve results in line with the corporate goals of the council. Positions at this level may be required to undertake the allocation and monitoring of resources and to contribute to the development of policy initiatives or corporate strategies.

### Skill Descriptors

**Authority and accountability:** Provides a professional advisory role to people within or outside council. Such advice may commit the council and have significant impact upon external parties dealing with council. The position may manage several major projects or sections within a Department of the council.

**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 numbers 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 council 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.

### Band 3, Level 4

Positions at this level are the most knowledgeable and skilled across the range of responsibilities in the professional/specialist level Band.

Positions at this level have a high degree of autonomy and decisions taken have significant impact on the operation of the organisation. Delegations exercised may, depending on the role and function of the position, involve being the final authority in the purposes of approving expenditure of funds, undertaking specific action in line with council policy, reviewing any previous action or decision in the work area.

Management responsibilities may form a significant focus of positions whilst the development of guidelines, rules, regulations, procedures or instructions for either staff or other interested parties may be co-ordinated at this level.

#### Skill Descriptors

**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 council 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 council 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 council 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.

### 5. Rates of Pay

Apprenticeship	1st year	See Part B, Table 1
	2nd year	See Part B, Table 1
	3rd year	See Part B, Table 1
	4th year	See Part B, Table 1
Technical/Trades	Level 1	See Part B, Table 1
	Level 2	See Part B, Table 1
	Level 3	See Part B, Table 1
Professional	Level 1	See Part B, Table 1
	Level 2	See Part B, Table 1
	Level 3	See Part B, Table 1
	Level 4	See Part B, Table 1

The rates of pay as set out in Table 1 - Rates of Pay, of Part B, Monetary Rates are inclusive of the adult basic wage from time to time effective.

All rates are entry level rates of pay only, with the exception of the rates paid to apprentices which shall be actual rates of pay. An adult apprentice (i.e. a person employed as an apprentice who is 21 years of age or over

at the time of entering into the indenture) shall be paid a rate of pay no lower than that prescribed for a third year apprentice.

Councils shall introduce a salary system to complement the skills based structure and rates of pay of the award.

The current weekly rate of pay of an employee for the purposes of the Workers Compensation legislation shall be the rate paid to the employee under the salary system.

### 6. Appointments and Promotions

- (i) Where it is proposed to make an appointment to a position within the organisational structure of the council, the position must be advertised in a manner sufficient to enable suitably qualified persons to apply for the position. This may be satisfied by internal advertisement, if there are sufficient suitably qualified employees engaged by council.
- (ii) When the decision is being made to appoint a person to a position:
  - (a) only a person who has applied for appointment to the position may be selected; and
  - (b) from among the applicants eligible for appointment, the applicant who has the greatest merit is to be selected.
- (iii) The merit of the persons eligible for appointment to a position is to be determined according to:
  - (a) the nature of the duties of the position; and
  - (b) the abilities, qualifications, experience and standard of work performance of those persons relevant to those duties.
- (iv) Subclauses (i), (ii) and (iii) of this clause do not apply to any appointment by way of demotion or lateral transfer unless the general manager decides that those subclauses are to apply to the appointment.
- (v) If a position within the organisation structure of the council is vacant or the holder of such a position is sick or absent the general manager may appoint a person to the position temporarily. A person appointed to a position temporarily may not continue in that position for a period of more than 12 months.

### 7. Special Allowances

- (i) Allowances Applicable - except as otherwise provided for in this award, the following allowances shall be paid to those employees who are required to hold a trade qualification and are not in a supervisory or technical position in addition to the rates of pay prescribed herein:

(a) Whilst engaged on unusually dirty work and/or work of a particularly offensive nature	See Part B, Table 2
(b) Whilst working in wet places or outdoors in wet weather where clothing and/or boots became saturated, whether by water, oil or other liquids	See Part B, Table 2
(c) Whilst working in confined spaces, being a compartment, space or place, the dimensions of which necessitate working in a stooped or otherwise cramped position or without proper ventilation.	See Part B, Table 2
(d) Whilst working underground or in trenches being 4 feet or more in depth	See Part B, Table 2
(e) Whilst working with raw sewerage to the extent that the employee comes into physical contact sufficient that it attaches to the employees clothes	See Part B, Table 2

- (ii) Multiple Allowances - allowances prescribed by this clause shall be applied concurrently, one with the other as the circumstances of the work shall determine, provided that not more than one of the allowances prescribed in subclause (i) of this clause, is to be applied at the same time in which case the highest of such allowance shall apply.
- (iii) Paid on Overtime - allowances prescribed by this clause shall apply during periods of overtime performed outside the ordinary hours of duty, as the circumstances and nature of the work require.
- (iv) Non-Extended Payment - allowances prescribed by this clause shall apply only as the circumstances determine and shall not be applicable in the calculation of any other benefit or entitlement except in respect of overtime, as prescribed by subclause (v) of this clause.
- (v) Allowances Indivisible - allowances prescribed by this clause are indivisible and shall be paid at the rate prescribed for each hour or part thereof.

### **8. Tool Allowances**

- (i) Payments Applicable - except as otherwise provided for in this award, in addition to the rates of pay prescribed for employees required to supply their own tools of trade, a tool allowance as set out in item 8 of Table 2 - Other Rates and Allowances of Part B, Monetary Rates should be paid.
- (ii) 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 of the employee's appointed classification and the employee shall if requested to do so, furnish a list of such tools which are provided for use on the job.
- (iii) Ownership of Tools - tools for which allowances are paid shall remain the property of the employee but shall be kept in proper working condition and shall be available for use by the employee at all times in the exercise of the employee's duties.
- (iv)
  - (a) Compensation for Loss of Tools - tools, in respect of which an allowance is paid, shall be replaced or paid for by the council in the event of their loss or damage by fire or other cause beyond the employee's control, or in the event of their theft during any act of breaking and entering of premises or council property outside the ordinary working hours provided such tools were kept in accordance with any established provisions for their security.
  - (b) Provided that this sub-clause shall not apply if the council has requested the employee to supply a list of tools required to be kept on the job and the employee has not supplied such a list. The council has the right to inspect the employee's tools at regular intervals to ensure that they match the list supplied by the employee and that they match the requirements of the job. The employee shall be liable to pay the amount as set out in item 8 of the said Table 2 of each claim for compensation.
- (v) 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.
- (vi) Proper Use of Tools - tools, and other such equipment, implements or articles, issued to an employee shall be used only in the course of employment duties, and for the purpose for which they are supplied.
- (vii) Care of Tools - employees shall be responsible for the proper upkeep of all tools, and other such equipment, implements and articles, issued for their use, and shall replace or pay for any such items lost or damaged through misuse or negligence as deemed to be just and reasonable in the circumstances.
- (viii) Payment for Other Purposes - allowances prescribed by this clause shall apply during periods of absence on annual leave, sick leave, long service leave and award holidays, but shall not be accountable in the calculation of any entitlement and/or payment for accrued leave made to the employee upon termination of service.

- (ix) Allowances Indivisible - allowances prescribed by this clause are indivisible, except where the allowance has commenced, or ceases to be paid, on a date which does not coincide with the usual pay period. In this event, the allowance may be divided by one-fifth for each award-paid day, or part thereof.

### **9. Terms of Employment**

- (i) Employees may by mutual agreement be paid by either the week, fortnight or other period.
- (ii) Council may pay by cash, cheque or direct credit to the employee's nominated account. Where council pays by cheque or direct credit, all charges ancillary to such payments shall be met by council.
- (iii) Each council shall fix a regular payday for the payment of wages where mutually agreed upon between the council and the employee. Council may alter the payday if there is prior agreement with employees.
- (iv) If the council and employees cannot agree to alter the method of payment of wages, the dispute procedure is to be followed.

### **10. Calculation of Service**

- (i) Except where herein provided an employee's service with the council shall for all purposes of the award be taken to be that continuous period from the date of commencement to the date of termination of employment.
- (ii) The following periods shall be included in the calculation of the employees' service with the council: -
- (a) Any service with a city, municipality, shire or county council in NSW from which the employee has been directly transferred including transfer resulting from a merger, amalgamation or transfer of functions to any newly created public or private authority.
- (iii) The following periods shall be deducted from the calculation of the employee's service with the council:
- (a) all absences taken without payment unless specifically approved and accepted by the council as service and excepting periods of unpaid sick leave.
- (b) any period of employment as a casual employee in accordance with this award.

### **11. Hours**

#### **A. Spread of Hours**

- (i) The ordinary hours for all employees shall be worked between Monday and Friday and shall not exceed 12 hours in any one day exclusive of unpaid meal breaks.
- (ii) Commencing and finishing times within or outside the spread of hours Monday to Friday as specified in paragraph (i) of this subclause may be altered by Agreement between management and the employees concerned. At any stage of discussions either the employee(s) or the council may seek assistance from the union or association.
- (iii) Existing commencing and finishing times of employees covered by this award will only change by agreement between those employees and management.
- (iv) An unpaid meal break of a minimum of 30 minutes shall be given and taken within the first 5 hours continuous work. Thereafter, a paid meal break not exceeding 20 minutes shall be given and taken after a further 5 hours continuous work.
- (v) An employee shall not at any time be compelled to work more than 5 hours without a break for a meal. If an employee is required to work during the normal meal break then the employee shall be paid time and one half rates until the meal break is given.

**B. Arrangement of Hours**

Subject to subclause A, Spread of Hours of this clause, the arrangement of hours shall be:

- (i)
  - (a) The ordinary hours of work for employees in the professional/specialist band and other employees who worked 35 hours per week prior to the making of this award, shall be 35 hours per week.
  - (b) The ordinary hours of work for such employees 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.
- (ii) The ordinary hours of work for all other employees 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.
- (iii) A different arrangement of hours to that provided for in paragraphs (i) and (ii) of this subclause may be agreed upon between management and the employees concerned. At any stage of discussions either the employee(s) or council may seek assistance from the union or association.

**C. General**

- (i) Any agreement to alter the spread or arrangement of hours as existed prior to the introduction of this award must be genuine with no compulsion to agree.
- (ii) If no agreement can be reached between the employees and council concerning the spread or arrangement of hours then the matter shall be referred to the appropriate industrial tribunal.

**12. Part-Time and Casual Employees**

- (i)
  - (a) A part-time employee shall mean an employee who is engaged to work a regular number of hours which are less than the full-time ordinary hours prescribed by the award.
  - (b) Such employee shall receive all the conditions prescribed by the award on a pro-rata basis of the regular hours worked.
  - (c) Where a public holiday falls on a day which a part-time employee would have regularly worked, the employee shall be paid for the hours normally worked on that day.
  - (d) Nothing in this clause shall restrict council's ability to enter into job sharing arrangements with its employees.



- (ii)
  - (a) A casual employee shall mean an employee engaged on a day to day basis.
  - (b) A casual employee shall be paid a twenty per cent loading on the appropriate hourly rate for every hour worked. This loading shall be paid in lieu of all leave prescribed by the award.
  - (c) A casual employee shall not replace an employee of council on a permanent basis.

### 13. Overtime

- (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 paid at double time.
- (iii) Overtime worked on Sunday shall be paid for at the rate of double time.
- (iv) Overtime worked on any day, whether in broken periods or not, shall be regarded for the purposes of the payment of overtime as continuous.
- (v) An employee recalled to work overtime without receiving prior notice before ceasing work shall be entitled to a minimum of four hours pay at the appropriate overtime rate for each time the employee is so recalled or performs such work. Provided that any subsequent call backs occurring within a four-hour period of a call back shall not attract any additional payment. Except in the case of unforeseen circumstances arising, the employee shall not be required to work the full four hours if the job the employee was recalled to or which the employee was required to perform is completed within a shorter period. This subclause shall not apply in cases where the overtime is continuous, subject to a reasonable meal break, with the completion or commencement of ordinary working time or where it is customary for an employee to return to the place of work to perform a specific job(s) outside the employee's normal hours.
- (vi) An employee required to work overtime shall be entitled to have at least 10 consecutive hours off duty between the completion of overtime on one day and the commencement of ordinary hours on the next working day without loss of pay. If an employee is instructed to resume work without having had 10 consecutive hours off duty, the employee shall be paid at double ordinary rates until released from duty and then shall be entitled to a 10-hour break without loss of pay for hours normally worked. This subclause shall not apply to employees on a call back unless required to work for four hours or more.
- (vii) Overtime shall be claimed within 30 days of it being worked.
- (viii) Where there is prior agreement between the council 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 equivalent time off in lieu of the hours worked.
- (ix) Where an employee, after having worked overtime, finishes work at a time when reasonable means of transport, including the employee's own vehicle, are not available the council shall provide the employee with a conveyance to the employee's home or pay the employee at the ordinary time rate of pay for the time reasonably occupied in reaching such home. The employee shall be required to advise council at the time that the overtime is being arranged that the employee will be unable to conveniently travel home after working overtime.

**14. On Call**

- (i) For the purposes of this award, an employee shall be deemed to be on call if required by the council to be available for duty outside of ordinary hours at all times in order to attend emergency and / or breakdown work.
- (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 council. However, an on call employee must be able to be contacted and be fit for duty and is required to proceed directly to and from the job without any unnecessary delay.
- (iii) Employees required to be on call for any period outside their ordinary hours shall be paid an on call allowance as set out in item 14 of Table 2 - Other Rates and Allowances of Part B, Monetary Rates, whilst the employee is required to be on call.
- (iv)
  - (a) Any employee engaged prior to 1 July 1995 who is placed on call and is required to work outside his/her ordinary hours shall be entitled to be paid double time for the time worked.
  - (b) For an employee engaged prior to 1 July 1995 the minimum time payable for each call out shall be based on at least one hour at double time.
  - (c) For an employee engaged on or after 1 July 1995 who is placed on call and is required to work outside his/her ordinary hours shall be entitled to be paid overtime at the appropriate rate for time worked.
- (v)
  - (a) Any employee engaged prior to 1 July 1995 who is required to be on call on a public holiday shall have one day added to the employee's annual leave.
  - (b) Any employee engaged on or after 1 July 1995 who is required to be on call on a public holiday shall have one half day added to the employee's annual leave.
- (vi) Employees on call and standing by shall not be required to be constantly available for on call duties beyond a period of four weeks, where there are other employees available for such duty. Where there are no other employees available for inclusion on a roster then the employee concerned shall have at least one weekend (comprising two consecutive days) off duty in each period of four weeks without reduction of the allowance paid.
- (vii) The allowance paid under this clause shall continue to be paid to the employee during periods of annual leave, long service leave, sick leave and workers compensation, on the basis of his/her usual payment, provided that the employee has been on call and standing by constantly for a period of at least one month prior to such leave occurring.
- (viii) For the purpose of this clause a call out shall commence from the time the employee receives notification of a call out, and ceases when the employee has returned home from such call out.

**15. Meal Breaks and Allowances for Overtime Work**

- (i) An employee who, having been so instructed, works overtime for two hours or more prior to the agreed commencing time shall be paid a meal allowance as set out in item 15 of Table 2 - Other Rates and Allowances of Part B, Monetary Rates.
- (ii)
  - (a) An employee who, having been so instructed, works overtime for 1 1/2 hours or more immediately after the agreed finishing time shall be allowed a meal break of 20 minutes which

shall be paid for at the appropriate overtime rate. The employee shall also be entitled to a meal allowance as set out in the said item 15.

- (b) Where overtime worked continues immediately after the agreed finishing time for 4 hours or more the employee shall be allowed a further meal break of 20 minutes which shall be paid for at the appropriate overtime rate. The employee shall also be entitled to a meal allowance as set out in item 15 of the said Table 2.

### 16. Holidays

- (i) The days on which holidays shall be observed are as follows: New Years Day, Australia Day, employees picnic day (to be held on such day as is mutually agreed between the council and the majority of all of its employees) Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queens Birthday, Labour Day, Christmas Day, Boxing Day and/or proclaimed public holidays.
- (ii) 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.
- (iii) An employee who absents himself/herself from duty without the approval of the council on the working day prior to and the working day following any holiday shall not be entitled to payment for such holiday.
- (iv)
  - (a) For an employee engaged prior to 1 July 1995, time worked on a holiday by that employee within the employees normal working hours shall be paid for at double ordinary rates for the time so worked in addition to the ordinary days pay.
  - (b) For any employee engaged prior to 1 July 1995, time worked on a holiday by that employee outside the employees normal working hours shall be paid for at double and one half ordinary rates.
  - (c) For any employee engaged on or after 1 July 1995, who is required to work on a holiday as prescribed by this clause, the employee shall be paid at double time and a half inclusive of payment for the day with a minimum payment of 4 hours worked.
  - (d) Where an employee is required to work ordinary hours on a holiday as prescribed by this award, the council and the employee may agree that the employee be paid time and a half for the hours worked on the holiday and in addition be granted a day off at ordinary time for the holiday. Such leave shall be taken at a mutually convenient time.

### 17. Annual Leave

- (i) Annual leave of absence, consisting of four weeks at the ordinary rate of pay exclusive of award holidays observed on a working day, shall be granted to an employee who has given twelve months' service and shall be taken on its due date or as rostered within the ensuing twelve months, excepting under special circumstances as approved by the council whose decision shall be final.
- (ii)
  - (a) Where a rotating annual leave roster, as agreed upon by the council and the Union concerned, is put into operation, for the purpose only of working of such roster system, the council may allow annual leave to be taken before its due date.
  - (b) Where an employee has been allowed annual leave before its due date and the employee's service is terminated any amounts paid in advance of the entitlement shall be deducted from the termination pay.

- (iii) On resignation or termination of employment, the council shall pay to the employee any accrued annual leave. In addition, the employee shall be paid annual leave on a proportionate basis being equal to one twelfth of the employee's ordinary weekly rate of pay for each completed week of service. The amount payable shall be calculated according to the ordinary rate of pay applicable at the date of termination of service.

Provided that the employee shall not receive payment for more than four weeks annual leave for any period of twelve months.

- (iv) Annual Leave Loading - Employees entitled to annual leave under this award shall receive, in addition to such entitlements, a monetary loading of seventeen and one half per cent, calculated and payable as follows:
  - (a) Such loading shall apply only to annual leave entitlements and not to any additional days (or other time) added to an employee's annual leave to compensate for working on an award holiday or for any other reason or purpose provided for by this award.
  - (b) Payment of the loading shall be calculated upon the employee's ordinary time rate of pay pertaining at the time such leave is taken or otherwise discharged.
  - (c) When the employment of an employee is terminated by council for any reason other than misconduct and such employee has not taken the whole of the annual leave entitlement accrued, other than any pro-rata annual leave entitlement, the employee shall be entitled to loading on such accrued annual leave.
  - (d) Where, by arrangement with the council, annual leave is taken in advance of it falling due, such loading may at the council's discretion also be applied in advance with the leave taken.
  - (e) Such loading shall be paid at the commencement of each period of annual leave as taken (i.e., not later than the employee's usual ceasing time on the last working day prior to the employee going on leave).

**18. Sick Leave**

- (i) An employee who is unable due to illness or injury to attend for duty shall be entitled to sick leave of absence without deduction of pay on the following conditions:
  - (a) the employee may be required to produce or forward evidence satisfactory to the council that the illness or injury is such that it justifies the time off and does not arise from serious misconduct and;
  - (b) that the illness or injury does not arise from engaging in other employment concurrent with employment with the council; and;
  - (c) that the illness or injury does not arise out of or in the course of employment such that it is compensable under the relevant Workers Compensation legislation and;
  - (d) that proof of incapacity such as to justify payment must be given after more than two days absence or after three separate periods of absence in each service year and;
  - (e) that employees engaged prior to 1 July 1995 shall be entitled to accumulate sick leave upon completion of the following continuous service with council: or

After first 3 months an initial	3 days
After first 6 months a further	4 days
After first 12 months a further	8 days
After first 18 months a further	6 days
After first 24 months a further	9 days
After first 36 months a further	15 days

After first 48 months a further	15 days
After first 60 months a further	18 days
After each additional 12 months a further	18 days

- (f) That employees engaged on or after 1 July 1995 shall be entitled to accumulate sick leave on the basis of 5 days after 3 months service with the council provided that after each 12 months service the employee shall be entitled to 15 days sick leave.
- (ii) Sick leave not taken shall accrue and accumulate and shall be taken with the last entitlement being taken first.
- (iii) Where an employee has had 10 years service with the current council and has exhausted all sick leave available, the council may grant such additional sick leave as, in its opinion, the circumstances warrant.
- (iv) In the event of the retirement of an employee who was engaged by council prior to 1 July 1994 the employee shall be paid all untaken sick leave accrued at the current council standing to the employee's credit at the date of retirement subject to the provisions of Section 14 of Schedule 4 of the *Industrial Relations Act 1996*.

Retirement age means termination of an employee's service with the council at any time after the employee attains the age of 55 years.

- (v) If the employee becomes sick or is injured whilst on annual leave and produces within a reasonable time, satisfactory medical evidence that the employee is unable to derive benefit from annual leave, the employee shall be granted, at a time convenient to council, additional leave equivalent to the period of sickness or injury occurring within the scheduled period of annual leave; provided that the period of sickness or injury is at least seven consecutive days.
- (vi) If the employee becomes sick or injured whilst on long service leave and produces within a reasonable time satisfactory medical evidence that the employee is unable to derive benefit from the taking of such long service leave, the employee shall be granted, at a time convenient to the council, additional leave equivalent to the period of sickness or injury occurring within the scheduled period of long service leave, provided that the continuous period of sickness or injury is equivalent to at least one quarter of the period of long service leave taken, or two weeks, whichever is the shorter period and provided further, that such leave shall be debited against the employee's sick leave entitlement.
- (vii) Accumulated sick leave shall be transferable on change of employment from one council to another council within New South Wales to the extent of not more than 13 weeks.
- (viii) The council may request employees to attend council's doctor at council's cost.

## 19. Carer's Leave

- (1) Use of Sick Leave
- (a) An employee, other than a casual employee, with responsibilities in relation to a class of person set out in 20(1)(c) 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 19, Sick Leave of the award, for absences to provide care and support for such persons when they are ill, or who require care due to an unexpected emergency. Such leave may be taken for part of a single day.
- (b) The employee shall, if required,
- (1) establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person, or

- (2) establish by production of documentation acceptable to the employer or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee.

In normal circumstances, an employee must not take carer's leave under this subclause where another person had taken leave to care for the same person.

- (c) The entitlement to use sick leave in accordance with this subclause is subject to:
- (i) The employee being responsible for the care of the person concerned; and
  - (ii) The person concerned being:
    - (a) A spouse of the employee; or
    - (b) A de facto spouse, who, in relation to a person, is a person of the opposite sex to the first mentioned person who lives with the first mentioned person as the husband or wife of that person on a bona fide domestic basis although not legally married to that person; or
    - (c) A child or an adult child (including an adopted child, a 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 purposes of this subparagraph:
      - (1) "relative" means a person related by blood, marriage or affinity;
      - (2) "affinity" means a relationship that one spouse because of marriage has to blood relatives of the other; and
      - (3) "household" means a family group living in the same domestic dwelling.
- (d) An employee shall, wherever practicable, give the employer notice prior to the absence of the intention to take leave, the name of the person requiring care and that person's relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the employee to give prior notice of absence, the employee shall notify the employer by telephone of such absence at the first opportunity on the day of absence.

Note: In the unlikely event that more than 10 days sick leave in any year is to be used for caring purposes the employer and employee shall discuss appropriate arrangements which, as far as practicable, take account of the employer's and employee's requirements.

Where the parties are unable to reach agreement the disputes procedure at clause 33, Disciplinary, Grievance and Dispute Procedures, should be followed.

(2) Unpaid Leave for Family Purpose

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 20(1)(c) above who is ill or who requires care due to an unexpected emergency.

## (3) Annual Leave

- (a) An employee may elect, with the consent of the employer to take annual leave not exceeding ten days in single-day periods, or part thereof, in any calendar year at a time or times agreed by the parties.
- (b) Access to annual leave, as prescribed in paragraph (a) of this subclause, shall be exclusive of any shutdown period provided for elsewhere under this award.
- (c) An employee and council may agree to defer payment of the annual leave loading in respect of single day absences, until at least five consecutive annual leave days are taken.
- (d) An employee may elect with the employer's agreement to take annual leave at any time within a period of 24 months from the date at which it falls due.

## (4) Time Off in Lieu of Payment for Overtime

- (a) For the purpose only of providing care and support for a person in accordance with subclause (1) of this clause, and despite the provisions of 13, Overtime, the following provisions shall apply.
- (b) An employee may elect, with the consent of the council, 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.
- (c) 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.
- (d) If, having elected to take time as leave in accordance with paragraph (a) of this subclause, 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.
- (e) Where no election is made in accordance with the said paragraph (a), the employee shall be paid overtime rates in accordance with the award.

## (5) Make-up Time

- (a) An employee may elect, with the consent of the council, 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.
- (b) An employee on shift work may elect, with the consent of the council, 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.

## (6) Rostered Days Off

- (a) An employee may elect, with the consent of the employer, to take a rostered day off at any time.
- (b) An employee may elect, with the consent of the council, to take rostered days off in part day amounts.
- (c) An employee may elect, with the consent of the council, 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 council and employee, or subject to reasonable notice by the employee or the council.
- (d) This subclause is subject to the council 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.

- (7) Personal Carers Entitlement for casual employees
- (1) Subject to the evidentiary and notice requirements in 20(1)(b) and 20(1)(d) 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 20(1)(c) 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.
  - (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.
  - (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.

## 20. Bereavement Leave

- (i) An employee other than a casual employee shall be entitled to up to two days bereavement leave without deduction of pay on each occasion of the death of a person prescribed in subclause (iii) below.
- (ii) The employee must notify the employer as soon as practicable of the intention to take bereavement leave and will, if required by the employer, provide to the satisfaction of the employer proof of death.
- (iii) Bereavement leave shall be available to the employee in respect to the death of a person prescribed for the purposes of clause 19(1)(c)(ii) of this award provided that for the purpose of bereavement leave, the employee need not have been responsible for the care of the person concerned.
- (iv) An employee shall not be entitled to bereavement leave under this clause during any period in respect of which the employee has been granted other leave.
- (v) Bereavement leave may be taken in conjunction with other leave available under clause 19(2), (3), (4), (5) and (6) of this award. In determining such a request the employer will give consideration to the circumstances of the employee and the reasonable operational requirements of the business.
- (vi) Bereavement entitlements for casual employees
  - (a) Subject to the evidentiary and notice requirements in 20(ii) casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of a person prescribed in subclause 19(1)(c) of clause 19, Carer's Leave.
  - (b) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
  - (c) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not engage a casual employee are otherwise not affected.

## 20A. Parental Leave

- (1) Refer to the *Industrial Relations Act 1996* (NSW). The following provisions shall also apply in addition to those set out in the *Industrial Relations Act 1996* (NSW).
- (2) An employer must not fail to re-engage a regular casual employee (see section 53(2) of the Act) because:
  - (a) the employee or employee's spouse is pregnant; or



- (b) the employee is or has been immediately absent on parental leave.

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

(3) Right to request

- (a) An employee entitled to parental leave may request the employer to allow the employee:

- (i) to extend the period of simultaneous unpaid parental leave use up to a maximum of eight weeks;
- (ii) to extend the period of unpaid parental leave for a further continuous period of leave not exceeding 12 months;
- (iii) to return from a period of parental leave on a part-time basis until the child reaches school age;

to assist the employee in reconciling work and parental responsibilities.

- (b) The employer shall consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the employer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.

- (c) Employee's request and the employer's decision to be in writing

The employee's request and the employer's decision made under 20A(3)(a)(ii) and 20A(3)(a)(iii) must be recorded in writing.

- (d) Request to return to work part-time

Where an employee wishes to make a request under 20A(3)(a)(iii), such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the employee is due to return to work from parental leave.

(4) Communication during parental leave

- (a) Where an employee is on parental leave and a definite decision has been made to introduce significant change at the workplace, the employer shall take reasonable steps to:

- (i) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave; and
- (ii) provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave.

- (b) The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.

- (c) The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with paragraph (a).

## 21. Leave Without Pay

- (i) Periods of leave without pay other than approved sick leave without pay taken at a time mutually convenient to Council and the employee shall not be regarded as service for the purpose of computing long service leave, sick leave, annual leave or annual leave loading. Such periods of leave without pay shall not however, constitute a break in the employee's continuity of service.
- (ii) Where an employee is absent from work on approved leave without pay, he/she shall not be entitled to payment for any holiday which occurs during the period of absence.

## 22. Long Service Leave

- (i) Except as hereinafter provided, an employee upon completion of 10 years continuous service with the presently employing Council shall be entitled to long service leave on full pay as follows:

- (a) For employees engaged by the Council prior to 1 July 1995

Length of Service	Quantum of Leave
After 10 years	13 weeks
After 15 years	a further 8.5 weeks
After 20 years	a further 13.5 weeks
After every completed period of 5 years	a further 13 weeks

- (b) For employees engaged by the Council on or after 1 July 1995

Length of Service	Quantum of Leave
After 10 years service	13 weeks
After 15 years service	a further 6.5 weeks
After 20 years service	a further 11 weeks
For every completed period of 5 years service thereafter	11 weeks

- (ii) Where an employee has completed at least five years service but less than ten years service with the Council, and his/her employment is terminated by the Council for any cause or by the employee on account of illness or incapacity or domestic or other pressing necessity or death, the Council shall pay to such employee the monetary equivalent of a proportionate amount on the basis of 1.3 weeks pay for each year of service computed in monthly periods.
- (iii) Long service leave shall be taken at a time mutually convenient to the Council and employee in minimum periods of 4 weeks provided that all long service leave accruing on or after 23 June 1988 shall be taken within 5 years of it falling due at a mutually convenient time.
- (iv) For the purpose of this clause continuity of service shall be deemed not to have been broken by transfer or change of employment from one Council to another provided the period between cessation of service with one Council and appointment to the service of another Council 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 transfer; provided further that the employee concerned does not accept employment of any kind during the period of paid leave between the cessation of service with one Council and appointment to the service of another council.
- (v) For the purpose of this clause service shall include the following periods;
  - (a) In the case of an employee transferred to the service of a Council of a new or altered area - any period of service with the Council from which such employee was transferred.
  - (b) Service shall mean all services with a Council irrespective of the classification under which the employee was employed.

- (c) There shall be deducted in the calculation of the employee's service all leave of absence without payment not specifically acknowledged and accepted by Council as service at the time leave was taken but excepting periods of unpaid sick leave.
- (vi)
- (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 Council or Councils shall be deemed to be service with the Council by which the employee is currently employed.
- For the purpose of this subclause continuous service shall be in accordance with subclause (iv) of this Clause.
- (b) Where an employee transfers from one Council to another, the former Council shall pay to the newly employing Council the monetary equivalent of long service leave for the period of service computed in completed months with the former Council and in respect of which long service leave has not already been taken or paid for in lieu and calculated on the basis prescribed in subclause (i) of this clause at the rate of salary payable on the date of transfer of the employee.
- Where an employee has completed at least 10 years continuous service with the Council and previously employing Council(s) as prescribed in this Clause, the employee may elect to be paid the monetary equivalent of the entitlement to such leave in lieu of having the monetary equivalent of long service leave standing to the employee's credit transferred to the newly employing Council.
- A statement showing all prior continuous service with the Council or Councils of the employee concerned shall be furnished together with details of the assessment of the amount forwarded. Upon receipt of such amount the money shall be paid into a long service leave reserve account and suitable notations made in the Council's Long Service Leave Record.
- (vii) All long service leave already taken with the Council and with other Councils or bodies established under Local Government Legislation, and/or the equivalent of any such leave represented by a cash payment in lieu thereof paid to the employee upon termination of service with any such bodies, shall be deducted from the accrued leave at credit to the employee, as calculated in accordance with this Clause.
- (viii) A Council which has received under paragraph (b) of subclause (vi) of this clause a monetary equivalent for Long Service leave entitlement to cover an employee's period of service with a previously employing Council or Councils shall if the employee subsequently leaves the service of that employing Council to seek employment outside Local Government before a long service leave entitlement has become due, refund to such previously employing Council(s) any amount(s) which were received as monetary equivalent from such Council(s).
- (ix) Payment to an employee proceeding on long service leave shall be made by Council before the employee enters upon the leave.
- (x) When the service of an employee with more than 10 years service 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 accrued long service leave, less such leave already taken, computed in monthly periods shall constitute the employee's entitlement.
- (xi) Where an employee has become entitled to a period of leave, and the employee's employment is terminated whether by resignation, death or dismissal for any cause, the employee shall be deemed to have entered upon leave at the date of termination of such employment and shall be entitled to payment accordingly.
- (xii)
- (a) For employees engaged by Council prior to 1 July 1995 long service leave shall be exclusive of all award holidays which occur during the period of such leave.

- (b) For employees engaged by Council on or after 1 July 1995. Long service leave provided by this Clause shall be exclusive of annual leave but inclusive of any other holidays occurring during the taking of any period of long service leave.
- (xiii) When the service of an employee is terminated by death the Council shall pay to the employee's spouse or dependant children or legal representative as the Council shall determine the monetary equivalent of any untaken long service leave standing to the employee's credit at the time of death.
- (xiv) Full pay shall mean the salary prescribed in this award and in the case of an employee who enters upon a period of leave such salary as is applicable to the said period of leave. In the case of an employee who dies after having become entitled to but not having entered upon a period of leave such salary as is applicable at the date of such death.

### 23. Training

#### A. Trade Union Training Leave

- (i) An employee may make application to the council for paid leave to attend a trade union training course. The granting of such leave is subject to the council's approval both in respect of the aggregate leave provided and the number of employees attending.
- (ii) A council's approval of any application for leave provided by this clause is subject to:
  - (a) The taking of the leave shall be dependent upon the council being able to make adequate staffing arrangements.
  - (b) Courses should be legitimate training courses run by or approved by the Trade Union Training Authority (TUTA) when relevant approved education content of an industrial relations nature, and not courses run by trade unions or T.U.T.A. for the conduct of union business or any furtherance of their own affairs.
  - (c) Training courses should be for union delegates or workplace representatives for whom the approved course is of relevance.
  - (d) Written application and at least six weeks notice for release of employees should be made to the council by the official union body. (Council may accept a period of notice which is less than six weeks). A copy of the course syllabus should accompany every application.
  - (e) Paid leave will be at the ordinary rate of pay for ordinary working hours only, with no reimbursement for overtime, travel time, expenses of other award benefits.
  - (f) An employee must have one year's service with council before leave can be granted.
  - (g) Leave granted will not incur additional payment to the extent that the course attended coincides with an employee's rostered day off or other concessional leave.
  - (h) No council shall be called upon to pay more than 10 days leave per calendar year irrespective of the number of council's employees who attend the above mentioned courses. Such leave shall not accumulate from year to year.

#### B. Council Training

- (i)
  - (a) The parties to this award recognise that in order to increase the efficiency and productivity of the industry a greater commitment to training and skills development enhancement and maintenance is required.

Accordingly, the parties commit themselves to:

1. developing a more highly skilled and flexible workforce;
  2. providing employees with career opportunities through appropriate training to acquire additional skills; and
  3. removing barriers to the utilisation of skills acquired in accordance with the training plan.
- (b) Council shall develop a training plan consistent with:
1. the current and future skill needs of the Council;
  2. the size, structure, and nature of the operations of the council;
  3. the need to develop vocational skills relevant to the council employees and the Local Government industry through courses conducted by both public and private providers.
- (c) If an employee is required to undertake a course which will develop skills relevant to the current and future needs of the council and the industry, and is consistent with the council's training plan:
1. The council shall grant the employee paid leave to attend course requirements where the training is undertaken during ordinary working hours;
  2. Where the course requirements contain more than a 15% off-the-job component calculated over any 12-month period the extent to which council will grant paid leave to attend such course requirements must be specified in the training plan.
  3. Council shall pay course fees at the commencement of each stage but shall not pay if the employee is repeating; and
  4. Council shall either provide transport or pay reasonable travelling expenses to enable employees to attend course requirements.
- (d) Council may grant an employee undertaking a course consistent with council's training plan, although not at council'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 council 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. Council may pay course fees at its discretion.
- (ii) Entry Level Training
- Entry level training includes:
- (a) Induction level training which adjusts and enhances skills learned outside of the Local Government industry to the service criteria of a tier of Government;
  - (b) Career Foundation training that allows new employees to earn skills within a particular vocation appropriate to Local Government, such as Australian Traineeship Scheme (ATS) students; apprenticeship students; or technical and professional students.

- (iii) Career Path Development
  - (a) This award provides councils and employees with the opportunity to develop career structures within the award. The emphasis of the career path is to provide and develop new skills through a structured training program to allow mobility through skill bands. The establishment of skill-related career paths will provide an incentive for workers to continue to participate in skills formation.
  - (b) To provide for genuine and equitable career path opportunities, employees covered by this award shall be given reasonable opportunity to progress by participating in the training plan.
- (iv) Multi-Skilling
  - (a) This award aims to develop a workforce with a wide range of skills and abilities by providing employees with an opportunity to build long term career paths. It also aims to eliminate impediments to multi-skilling and broadening the range of tasks which a worker may be required to perform. In this way, the award ensures that work patterns and arrangements enhance flexibility and the efficiency of the industry.
- (v) Training Modules
  - (a) A training module is a stand-alone course which supplies part of the required training for each step within the skill band.
  - (b) Training modules are designed to allow each council to choose the modules relevant to its skills requirements, and employee to choose the modules that further their careers.
- (vi) Training Plan
  - (a) This award allows for each council to construct a training plan that sets out the modular courses that are relevant to its skills maintenance, development and enhancement in accordance with the skills bands and levels of this award.
  - (b) A training plan shall be designed in consultation with the consultative committee from an analysis of training needs identified within each council.
  - (c) Selection of participants to receive council required training in accordance with council's training plan is to be based on merit.
- (vii) Skills Applied
  - (a) In order that both employees and employers have confidence in the ability of employees to apply skills acquired through the training provisions of this award, skill standards are expressed in terms of competencies and application of skills is expressed in terms of performance criteria.
  - (b) Competencies - A competency is the ability to perform the activities within an occupation or function to the standard expected in employment. Key features of competencies are:
    1. related to realistic workplace practices;
    2. expressed as an outcome;
    3. capable of demonstration and assessment;
    4. complementary to their performance criteria
    5. comprehensible to trainees, supervisors and employers; and

6. for complex and non-routine work, expressed in terms that allow for critical thinking, problem solving and the possibility of no one correct solution.
- (c) Performance Criteria - Performance criteria are statements by which an assessor evaluates the evidence that an individual can perform the activity specified in a statement of competence to a level acceptable in employment including measures of quality as well as quantity where appropriate.

Performance criteria should consist of outcomes and evaluative statements.

(viii) Skills Acquired

Acquired skills are to be assessed both on and off the job to supply objective evidence to council that employees have acquired the necessary skills through training.

#### 24. Travelling Allowance

- (i) The provisions of this clause will not be applicable to employees who are required to start and/or finish in the council depot, workshop or other agreed starting point. Nor will it be applicable to employees who are provided, or the council has offered to provide, transport from the employee's residence or normal starting point to the work site and return, free of charge to the employee.
- (ii) An employee who is required to commence and/or finish work at a location away from the employees normal starting point at the normal starting and/or finishing times or is required to start overtime work at a location away from the normal starting place shall be paid a travelling allowance as set out in item 24 of Table 2 - Other Rates and Allowances, of Part B, Monetary Rates:

Where the employee works at a distance from the depot greater than:

0 but not more than 10 km	See Table 2 - Other Rates and Allowances
More than 10km but not more than 20km	See Table 2 - Other Rates and Allowances
More than 20km but not more than 30km	See Table 2 - Other Rates and Allowances
More than 30km but not more than 40km	See Table 2 - Other Rates and Allowances
More than 40km but not more than 50km	See Table 2 - Other Rates and Allowances
Each additional km in excess of 50kms	See Table 2 - Other Rates and Allowances

This clause does not apply to travelling involved in after hours on-call work.

#### 25. Higher Paid Work

- (i) A Council may direct an employee to carry out such duties as are within the limits of the employee's skills, competence and training.
- (ii) An employee required to relieve in a higher paid position shall be paid according to the skills and knowledge possessed to undertake the higher duties but at a rate at least equal to the entry salary of the level and band in which the employee is relieving.
- (iii) Subject to the right of the employee to elect to take a position in a lower grade or to have the employee's services terminated by the council any employee may be reclassified to a lower grade provided no less than two weeks' notice in writing of the council's intention so to do is given; provided that where an employee is so reclassified there shall be no reduction in pay if the employment in the lower grade is for less than four weeks.

#### 26. Clothing

- (i) Clothing shall be provided for employees in accordance with Schedule A, Clothing Regulations to this award.

**27. Driving of Motor Vehicles**

- (i) Driver's Licences - an employee appointed to a position, the duties of which, require the employee to hold a motor vehicle driver's licence or motor cycle rider's licence, shall be reimbursed the annual cost of such licence by the Council provided that:
  - (a) Where an employee is eligible for and elects to renew a licence for a period of more than one year, the Council may reimburse the employee each year an amount equal to the pro-rata annual cost.
  - (b) The Council may elect to reimburse the full cost of an employees' multiple year licence. Where the Council elects to reimburse in full the cost of a multiple year licence, and subsequently;
    - (i) the employee's service is terminated for any reason;
    - (ii) the employee's licence is revoked, suspended or cancelled; or
    - (iii) the employee ceases to carry out duties requiring the employee to drive a vehicle; then the Council shall be entitled to deduct from the wages or salary due to the employee the balance of the yearly proportionate value of the licence.
  - (c) The Council shall not be liable to reimburse any cost of a probationary licence or any penalty imposed on an employee because of traffic infringements by the employee.

(ii)

- (a) Use of Private Vehicles: Where, by mutual arrangement between the Council and the employee concerned, the employee supplies a privately owned motor vehicle and/or other equipment associated therewith, on a regular basis for use in the Council's official business, the parties shall agree upon a mutually acceptable allowance for the use and depreciation thereof; provided that, in the case of a motor vehicle, which is available continuously for use when the employee is on duty, the allowance payable shall be calculated at not less than:

	Kilometres Travelled Each Year on Official Business Cents Per Kilometre
Under 2.5 litres (nominal engine capacity)	See Table 2 - Other Rates and Allowances
2.5 litres (nominal engine capacity) and over	See Table 2 - Other Rates and Allowances

- (b) a minimum payment at the rate of (See Table 2 - Other Rates and Allowances) per annum, paid quarterly to the extent only of any deficiency between the total minimum travelling rate provided under this subclause and the quarterly payment relating to the same period; and similarly, to the extent only of any such deficiency when related and reconciled at the end of each four quarterly periods; with
- (c) such quarterly periods to be extended by any time in which the vehicle is not available to the Council, including absence by the employee whilst on long service leave and/or annual leave in excess of four weeks in any service year and/or sick leave in excess of three weeks.
- (iii) Casual use of Motor Vehicles - an employee who by arrangement, uses a privately owned motor vehicle in the course of, or in connection with, the employees employment, on an intermittent, irregular or casual basis shall be paid for such casual use at the rate set out in paragraph (a) of subclause (ii) of this clause.
- (iv) Termination of Agreement - an agreement for the supply and use of a privately owned motor vehicle under this clause may be terminated by the Council giving the employee or by the employee giving the Council six months' notice of such intention to terminate the agreement.



### 28. Industry Allowance

An industry allowance as set out in item 28 of Table 2 - Other Rates and Allowances, of Part B, Monetary Rates shall be paid to all employees aged twenty years and over who are paid in accordance with the provisions of this award. The allowance shall be paid for all purposes of the award with the exception of travelling time, overtime and other penalty rates.

### 29. Termination of Employment

- (i) An employee shall give to council 2 weeks notice of their intention to terminate their employment. If no such notice is provided, council shall be entitled to deduct pay equivalent to the required notice from any entitlements payable under this award.
- (ii) A council and an employee may agree to a shorter period of notice for the purpose of this subclause, in special circumstances.
- (iii) The council shall give to an employee a period of notice of termination in accordance with the scales set out in subclauses (iv) and (v) of this clause or by payment in lieu thereof. Provided, where the employee's services are terminated by reason of misconduct no such notice shall be required.
- (iv) If the employee is 45 years of age or less -

Employee's Period of Continuous Service	Period of Notice
Less than 3 years	At least 2 weeks notice
3 years and less than 5 years	At least 3 weeks notice
5 years and beyond	At least 4 weeks notice

- (v) If the employee is over 45 years of age

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

- (vi) The provision of this clause shall be read subject to the provisions of Clause 30 Redundancy and Technological Change.

### 30. Redundancy and Technological Change

- (i) Council's Duty to Notify
  - (a) Where a council has made a definite decision to introduce major changes in production, program, organisation structure or technology that are likely to have significant effects on employees, the council shall notify the employees who may be affected by the proposed changes and the unions to which they belong.
  - (b) "Significant effects" include termination of employment, major changes in the composition, operation or size of the council's workforce or in the skills required, the elimination or diminution of job opportunities, promotion opportunities or job tenure, the alteration of hours of work, the need for retraining or transfer of employees to other work or locations and the restructuring of jobs.

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

## (ii) Council's Duty to discuss Change

- (a) Council shall discuss with the employee(s) affected and the union to which they belong, inter alia, the introduction of the changes referred to in sub-clauses (i) of this clause, what affects the changes are likely to have on the employee(s) and measures to avert or mitigate the adverse changes on the employee(s) and shall give prompt consideration to matters raised by the employee(s) and/or their union in relation to the changes.
- (b) The discussion shall commence as early as practicable after a definite decision has been made by the council to make the changes referred to in subclause (i).
- (c) For the purposes of the discussion, the council shall provide to the employee(s) concerned and the union to which they belong, all relevant information about the changes including the nature of the changes proposed, the expected effects of the changes of the employee(s) and any other matters likely to affect the employee(s).

## (iii) Discussion Before Termination

- (a) Where a council has made a definite decision that it no longer wishes the job the employee has been doing done by anyone pursuant to subclause (i) and that decision may lead to the termination of employment, the council shall hold discussions with the employee directly affected and with the union to which they belong.
- (b) The discussion shall take place as soon as it is practicable after the council has made a definite decision which shall invoke the provision of paragraph (a) of this subclause and shall cover, inter alia, any reasons for the proposed terminations, measures to avoid or minimise the terminations and measures to mitigate any adverse effects of the terminations of the employee(s) concerned.
- (c) For the purposes of the discussion, the council shall, as soon as practicable, provide to the employee(s) concerned and the union to which they belong, all relevant information about the proposed terminations including the reasons for effects and the number of employee(s) normally employed and the period over which the terminations are likely to be carried out. Provided that the council shall not be required to disclose confidential information the disclosure of which would adversely affect the council.

## (iv) Notice to Centrelink

Where a decision has been made to terminate employees, the council shall notify Centrelink as soon as possible giving relevant information including the number and categories of the employees likely to be affected and the period over which the terminations are intended to be carried out.

## (v) Notice of Termination

- (a) Four weeks notice to terminate or pay in lieu thereof shall be given except in cases where the employee is 45 years of age or over with 5 years service, where 5 weeks notice shall be given.
- (b) Where an employee is to be terminated because of the introduction of technology the employee shall be entitled to the following:
  - (i) Three (3) months notice of termination or
  - (ii) Payment in lieu of the notice in subparagraph (i) of this paragraph. Provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof.
  - (iii) Notice or payment in lieu of notice under this paragraph shall be deemed to be service with the council for the purposes of calculating leave entitlements under this award.

## (vi) Severance Pay

- (a) This subclause shall apply where an employee is terminated due to redundancy. A council shall be exempt from the operation of this subclause where the employee concerned has been offered, but has refused to accept, an alternative position within the council's organisation structure, being a position which has remuneration no less than the position previously held by the employee.
- (b) In addition to any required period of notice, and subject to subclause (v) of this Clause, the employee shall be entitled to the following:

If the employee is less than 45 years of age:

Completed Years of Service with Council	Entitlement
Less than 1 year	Nil
1 year and less than 2 years	4 weeks pay
2 years and less than 3 years	7 weeks pay
3 years and less than 4 years	10 weeks pay
4 years and less than 5 years	12 weeks pay
5 years and less than 6 years	14 weeks pay
6 years and less than 7 years	16 weeks pay
7 years and beyond	An additional 2 weeks pay for each year in excess of 7 years service up to 10 weeks pay

Employees aged less than 45 years shall receive an entitlement of up to 26 weeks pay in accordance with the above table.

If the employee is 45 years of age and over

Completed Years of Service with Council	Entitlement
Less than 1 year	Nil
1 year and less than 2 years	5 weeks pay
2 years and less than 3 years	8.75 weeks pay
3 years and less than 4 years	12.5 weeks pay
4 years and less than 5 years	15 weeks pay
5 years and less than 6 years	17.5 weeks pay
6 years and less than 7 years	20 weeks pay
7 years and beyond	An additional 2 weeks pay for each year in excess of 7 years service up to 6 weeks pay

Employees aged 45 years of age and over shall receive an entitlement of up to 26 weeks pay in accordance with the above table.

- (vii) 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 council's employment until the expiry of the notice period.
- (viii) During a period of notice of termination given by the council, 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 council the employee shall provide proof of attendance at an interview.
- (ix) If the employee agrees to be redeployed by council 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 redundancy 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 redundancy pay that the employee would have been entitled to for the remainder of the period of salary maintenance shall be paid on termination.

- (x) The council 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 the employee's employment and the classification or the type of work performed by the employee
- (xi) The council 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 Social Security.
- (xii) In the event that council determines that a position is redundant, council where practicable, shall firstly offer such redundancy on a voluntary basis.
- (xiii) 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 unions and the councils bound by this award.
- (xiv) Subject to an application by the council and further order of the Industrial Relations Commission of New South Wales, a council may pay a lesser amount of severance pay than that contained in subclause (v) of this clause if the council obtains acceptable alternative employment for an employee.
- (xv) Nothing in this clause shall restrict an employee with ten years service or more and council from agreeing to further severance payments.

### **31. Miscellaneous**

- (i) Where an employee and Council agree that a telephone installed at the employee's place of abode can be used as a means of communication to such employee the Council shall reimburse the employee the annual rental of such telephone and for the actual charge made for all outward calls made on Council's behalf on such telephone.
- (ii)
  - (a) Employees working with an employer in places situated upon or to the west of line drawn as herein specified shall be paid an allowance (as set out in item 31 of Table 2 - Other Rates and Allowances of Part B, Monetary Rates) per day or part thereof in addition to the salary to which they are otherwise entitled. The line shall be drawn as follows: commencing at a point on the right of the bank of the Murray River opposite Echuca (Victoria) and thence to the following towns in the order stated, namely, Deniliquin, Griffith, Condobolin, Narromine, Coonamble, Moree and Goondiwindi.
  - (b) The above rates shall not form part of the ordinary rates of payment for the purpose of calculation of overtime.
  - (c) For the purpose of this subclause a week shall be five days in each 7 day period.
- (iii) Any employee who is the holder of a current St John's Ambulance First-Aid Certificate or equivalent and is required to act as a first-aid attendant shall be paid an allowance, as set out in item 31 of the said Table 2, in addition to the employee's ordinary rate of pay.

### **32. Disciplinary, Grievance and Dispute Procedures**

#### **A. Disciplinary Procedure**

- (i) Where an employee's work performance or conduct is considered to be 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 or nominee of Council.

Unsatisfactory work performance or conduct shall include neglect of duties, breach of discipline, absenteeism and non-compliance with safety standards. A written record of such initial warning

shall be kept on the employee's personal file and a copy of the warning shall be shown to the employee.

The employee may either make notes on the record or reply in writing and have that reply placed on file.

If, however, a complaint of an employee's performance or conduct is made and investigation shows the complaint to be unfounded, the employee's personal file must have a suitable notation added to it.

- (ii) Where there is a re-occurrence of unsatisfactory performance or conduct, the employee shall be warned formally in writing by the appropriate officer of Council and counselled. Counselling should reinforce:

the standard of work or conduct expected;

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;

whether disciplinary action will follow should the employee's work performance or conduct not improve.

A written record of such formal warning and counselling shall be kept on the employee's personal file and a copy of the warning shall be shown to the employee.

The employee may either make notes on the record or reply in writing and have that reply placed on the file.

- (iii) If the employee's unsatisfactory 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.
- (iv) If the employee's performance or conduct does not improve after the "final warning" further disciplinary action shall be taken.
- (v) This shall not affect the rights of the Council to take other disciplinary action before and/or during the above procedure in cases of misconduct or where the employee's performance warrants such action.
- (vi) Either Council or the employee may request the presence of a Union representative at any stage of this procedure.
- (vii) This procedure shall not affect either party's right to institute the dispute procedure of the award or to notify the Industrial Registrar as to the existence of an industrial dispute.
- (viii) Employees shall have access to their personal file and may take notes and/or obtain copies of the contents of the file.

#### B. Grievance and Dispute Procedures

- (i) At any stage of the procedure, the employee(s) may be represented by the union or its local representative and the council represented by the Association.
- (ii) A grievance or dispute shall be dealt with as follows:

- (a) The employee(s) shall notify the supervisor 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.
- (iii) Nothing in this clause shall affect the right of the parties to enter in to direct negotiation or to seek the assistance of an industrial tribunal at any stage of this procedure.
  - (iv) During this procedure and while the matter is in the course of negotiation and/or arbitration, work is to proceed as normal.

### 33. Council Agreement

- (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 council 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 5, Rates of Pay, Clause 24 Travelling Allowances, Clause 11 Hours, Clause 13 Overtime, Clause 16 Holidays, Clause 12 Part time Employment and Clause 34 Performance Evaluation and Reward.
  - (b) the agreement does not provide less than the entry level rates of pay.
  - (c) the agreement is consistent with the Industrial Relations Act NSW 1996 and current wage fixing principles.
  - (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 Enterprise Arrangement Principle.

- (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 Council and the appropriate union(s) shall sign the agreement and a copy sent to the LGSA.

- (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.

#### **34. Performance Evaluation and Reward**

- (i) The objective of performance development is to enhance the performance of councils. 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.

- (ii) This award recognises that all employees should have on-going feedback about performance. The success of a council ultimately depends upon the collective sum of individual job 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.

#### **35. Consultative Mechanisms**

Each Council shall establish a consultative mechanism and procedure appropriate to its size, structure and needs for consultation and negotiation on matters affecting its efficiency and productivity.

#### **36. Jury Service**

An employee required to attend for jury service shall be entitled to attend without loss of pay less any amount paid by the court for such jury service.

#### **37. Salary Sacrifice**

- (i) Council 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 childcare facilities operated by council on its premises; and additional superannuation and motor vehicles supplied by council under leaseback arrangements where the amount to be salary sacrificed for leaseback of a council motor vehicle is that part of the leaseback fee that exceeds council's fringe benefit tax liability.
- (iii) The value of the benefits shall be agreed between the council 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 council and the employee.
  - (b) The employee may request in writing to change the benefits to be salary sacrificed once each year and the council shall not unreasonably refuse the request.

- (v) The employee's gross pay is their pre tax ordinary pay less the value 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 council will ensure that the salary sacrifice arrangement complies with taxation and other relevant laws.
  - (b) The council 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) Council may maintain and/or enter into other salary sacrifice arrangements with employees.

### **38. Superannuation Fund Contributions**

Subject to the provisions of the *Industrial Relations Act* 1996, a council shall make superannuation contributions to the Local Government Superannuation Scheme and not to any other superannuation fund.

### **39. Area, Incidence and Duration**

This award is made following a review under section 19 of the *Industrial Relations Act* 1996 and rescinds and replaces the Local Government (Electricians) (State) Award published 30 November 2007 (364 I.G.453), as varied.

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 4 December 2018.

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

This award shall apply to all councils (as defined in clause 4) in Local Government within New South Wales (other than the Council of Sydney, the Council of the City of South Sydney and the Council of the city of Newcastle and also excluding the County of Yancowinna).

This award shall only apply to persons engaged in the industries and callings of makers, fitters, repairers and installers of electrical apparatus and installations, and persons assisting therein, or in running electrical plant.

Provided further that this award shall apply only to employees who are members of, or are eligible to be members of, the Electrical Trades Union of Australia, New South Wales.



**PART B****MONETARY RATES**

The rates of pay and allowances in Part B, Monetary Rates take effect from the first pay period on or after 28 September 2018.

Note:

The rates of pay and allowances in this award include the adjustments payable under the State Wage Case 2018. These adjustments may offset against:

- i. Any equivalent over-award payments, and/or
- ii. Award wage increases other than State Wage Case adjustments.

**Table 1 - Wage Rates**

Clause 5 Wage Rates	Rate of Pay Per Week \$
Technical/Trades Band Level 1	909.70
Technical/Trades Band Level 2	1000.60
Technical/Trades Band Level 3	1144.70
Professional Band Level 1	1000.60
Professional Band Level 2	1144.70
Professional Band Level 3	1283.30
Professional Band Level 4	1499.70
Apprentice 1st Year	503.50
Apprentice 2nd Year	594.60
Apprentice 3rd Year	683.20
Apprentice 4th Year	769.30

**Table 2 - Other Rates and Allowances**

Clause 7 - Special Allowances	
(i) Wages	
(a) Dirty work, etc	0.38 per hour
(b) Wet places	0.43 per hour
(c) Confined spaces	0.43 per hour
(d) Working underground	0.38 per hour
(e) Working with raw sewerage	\$8.49 per day

Clause 8 - Tool Allowances	
(i) Electrical Tradesperson	\$35.00 per week
(iv)(b) Amount payable by employee for each claim for compensation of loss of tools	\$89.00

Clause 14 - On Call	
(iii) On call allowance	\$115.80

Clause 15 - Meal Time and Allowances	
(i) Meal allowance	\$15.50
(ii)(a) Meal allowance	\$15.50
(ii)(b) Meal allowance working 4 hours overtime	\$11.90

Clause 24 - Travelling Allowance	
Where the employee works at a distance from the depot greater than:	
(ii) 3-10 kms	\$5.40 per day
10-20 kms	\$9.80 per day
20-30 kms	\$14.00 per day
30-40 kms	\$18.10 per day
40-50 kms	\$22.40 per day
For each additional kilometre	\$0.42

Clause 27 - Driving of Motor Vehicles	
(ii) (a) Use of private vehicle (cents) per kilometre	
Under 2.5 litres	\$0.68
2.5 litres and over	\$0.78
(b) Minimum yearly allowance	\$7556.60

Clause 28 - Industry Allowance	
Industry Allowance	\$57.85 per week

Clause 31 - Miscellaneous	
(ii) (a) West of the line allowance	\$1.03 per day
(iii) First-aid allowance	\$3.364 per day

### SCHEDULE A

#### Clothing Regulations

Classifications and Work Situations	Clothing and Accessories (For day and wet weather) Number Per Issue
1. Apprentices (Electrical Trades)	Dry - 2 pair overalls; 1 pair electrical safety boots or shoes  Wet - 1 set waterproof coat, hat and trousers; 1 pair electrical safety (rubber) boots
2. Electrical Officers (Electrical Trades) Including Engineering Officers and Electrical Engineers	Dry - 2 pair overalls, or 2 sets dry weather coat and trousers; 1 dry weather hat; 1 pair electrical safety boots  Wet - 1 set waterproof coat, hat and trousers; 1 pair electrical safety boots or shoes or 1 pair galoshes
3. Clothing will be issued as stipulated above when required	

P. M. KITE, *Chief Commissioner*

## **MOTELS, ACCOMMODATION AND RESORTS, &c. (STATE) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

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

(Case No. 289498 of 2018)

Before Chief Commissioner Kite

4 December 2019

### **REVIEWED AWARD**

#### **PART A**

##### **1. Arrangement**

##### PART A

Clause No.	Subject Matter
1.	Arrangement
2.	Definitions
3.	Transmission of Business
4.	Index of Facilitative Provisions
5.	Enterprise Flexibility Provisions
6.	Procedure to Avoid Industrial Disputation
7.	Employer Duties
8.	Types of Employment
8.1	General
8.2	Casual Employment
8.3	Regular Part-time Employees
8.4	Apprentices
8.5	Juniors
9.	Standing Down Employees
10.	Redundancy
11.	Termination of Employment
12.	Classifications and Wage Rates
13.	Supported Wage System for Employees with Disabilities
14.	Mixed Functions
15.	Payment of Wages, Time and Wages Records
16.	Allowances
17.	Superannuation
18.	Hours of Work
19.	Meal Breaks
20.	Overtime
21.	Saturday Work
22.	Sunday Work
23.	Annual Leave
24.	Personal Leave
25.	Parental Leave
26.	Jury Service
27.	Public Holidays
28.	National Training Wage
29.	Work Experience

30. Accident Pay
31. Posting of Award
32. Leave for Consultation Meetings
33. Basis of Award
34. Anti-Discrimination
35. Union Dues
36. Leave Reserved
37. Area, Incidence and Duration

## 2. Definitions

In this award:

- 2.1 Accommodation means establishments included in clause 37 of this Award.
- 2.2 Day means the period of time elapsing from the time an employee commences duty to the time the employee ceases duty within any period of 24 hours.
- 2.3 Ordinary earnings means the ordinary wages for each classification for ordinary hours Monday to Friday.
- 2.4 Rostered day off (RDO) means any continuous 24 hour period between the completion of the last ordinary shift and the commencement of the next ordinary shift on which an employee is rostered on for duty.
- 2.5 Union means United Voice, NSW Branch.
- 2.6 Hospitality Services -
  - 2.6.1 Hospitality Services grade 1 means an employee who is primarily engaged in one or more of the following:
    - (a) cleaning, tidying and general assistant of kitchen, food preparation, customer service areas, including the cleaning of equipment, crockery and general utensils;
    - (b) assembly and preparation of ingredients for cooking;
    - (c) handling, storing and distributing goods, including pantry items and linen;
    - (d) setting and/or wiping down tables, removing food plates, emptying ashtrays and picking up glasses;
    - (e) assisting employees who are cooking;
    - (f) general cleaning duties;
    - (g) providing general assistance to employees of a higher grade not including cooking or direct service to customers;
    - (h) laundry and/or linen duties which may include minor repairs to linen or clothing such as buttons, zips, seams, and working with flat materials;
    - (i) the collection and/or delivery of guests personal dry-cleaning and laundry, linen and associated materials to and from accommodation areas;
    - (j) parking guests cars;
  - 2.6.2 Hospitality services grade 2 means an employee who has not achieved the appropriate level of training and who is primarily engaged in one or more of the following:

- (a) receiving, storing and distributing goods;
- (b) servicing accommodation areas and cleaning thereof;
- (c) tray service to guests' rooms;
- (d) transferring guests' baggage and/or property;
- (e) driving a passenger vehicle or courtesy bus;
- (f) providing butler service, basic food and beverage services with personalised guest services;
- (g) assisting in dry-cleaning process;
- (h) cleaning duties using specialised equipment and chemicals;
- (i) handyperson, which means a person who is not a tradesperson and whose duties include the performance of routine repair work and maintenance in and about the employer's premises and other general duties such as pool, garden, etc.;
- (j) security officer;
- (k) preparing and/or cooking a limited range of basic food items such as breakfasts, grills and snacks and a cook employed alone;
- (l) undertaking general waiting duties in a restaurant of food and/or beverages, including cleaning of restaurant equipment, preparing tables and sideboards, taking customer orders, serving food and/or beverages and clearing tables;
- (m) supplying, dispensing or mixing of liquor, including cleaning of bar area and equipment, preparing the bar for service, taking orders and serving drinks;
- (n) taking reservations, greeting and seating guests, taking telephone orders;
- (o) assisting in the cellar;
- (p) receipt of monies;
- (q) attending a snack bar, buffet or meal counter;
- (r) attending in a coffee shop or espresso bar;
- (s) attending in a shop.

2.6.3 Hospitality services grade 3 means an employee who has the appropriate level of training and who is primarily engaged in one or more of the following:

- (a) undertaking general cooking duties, including a la carte cooking, baking, pastry cooking;
- (b) undertaking general waiting duties of both food and/or beverages, including cleaning of restaurant equipment, preparing tables and sideboards, taking customer orders, serving food and/or beverages and clearing tables;
- (c) supplying, dispensing or mixing of liquor, including cleaning of bar area and equipment, preparing the bar for service, taking orders and serving drinks;
- (d) receipt of monies;

- (e) receiving, storing and distributing goods;
  - (f) assisting in the training, co-ordination and supervision of employees of lower grades;
  - (g) major repair of linen and/or clothing including basic tailoring and major alterations and refitting;
  - (h) dry-cleaning;
  - (i) handyperson, which means a person who is not a tradesperson and whose duties include the performance of routine repair work and maintenance in and about the employer's premises and other general duties such as pool, garden, etc.;
  - (j) providing butler services, basic food and beverage services with personalised guest services;
  - (k) cellar work, including stock control, ordering and the receipt, delivering and reordering of goods within such area;
  - (l) designing and mixing a range of sophisticated cocktails and other drinks. May include stocktaking and ordering of stock;
  - (m) supervising, training and co-ordination of employees of lower grades;
  - (n) taking reservations, greeting and seating guests and taking telephone orders.
- 2.6.4 Hospitality services grade 4 means an employee who has completed an apprenticeship or who has passed the appropriate trade test and who is engaged in any of the following:
- (a) undertaking general cooking duties including a la carte, baking, pastry cooking, butcher, waiting, butler.
- 2.6.5 Hospitality services grade 5 means an employee who has the appropriate level of training and who is primarily engaged in one or more of the following:
- (a) solely responsible for other cooks and other kitchen employees in a single kitchen establishment where no other trade qualified cooks are employed;
  - (b) supervising, training and co-ordinating food and beverage staff including maintenance of service and operational standards, preparation of operational reports and staff rostering;
  - (c) general or specialised cooking duties including the training and supervision of other cooks and kitchen staff and relieving Hospitality Services Grade 6 employees on their rostered days off or when on annual or other leave;
  - (d) supervising, training and co-ordinating the work of employees engaged in the housekeeping area.
- 2.6.6 Hospitality services grade 6 means a chef de partie or equivalent who has completed an apprenticeship or has passed the appropriate trade test in cooking, butchery, baking or pastry cooking and has completed additional appropriate training and who performs any of the following:
- (a) general and specialised duties including supervision or training of other trade qualified cooks, ordering and stock control;
  - (b) solely responsible for other cooks and other kitchen employees in a single kitchen establishment where other trade qualified cooks are employed.

## 2.7 Administration Front Office

2.7.1 Hospitality administration and front office grade 1 means an employee who has not achieved the appropriate level of training and who is primarily engaged in one or more of the following:

- (a) front office duties such as receptionist, telephonist, cashier or reservations;
- (b) performs basic clerical and routine office duties such as collating, filing, photocopying and delivering messages;
- (c) general clerical duties such as typing, basic data entry and calculation functions;
- (d) accounts;
- (e) night auditing in addition to any of the above duties such employee may also be required to perform any of the duties of Hospitality services grade 2 or below;
- (f) guest relations officer.

2.7.2 Hospitality administration and front office grade 2 means an employee who has the appropriate level of training and who is primarily engaged in one or more of the following:

- (a) front office duties such as receptionist, telephonist, cashier or reservations;
- (b) clerical and other office duties;
- (c) general clerical duties such as typing, basic data entry and calculation functions;
- (d) accounts;
- (e) night auditing in addition to any of the above duties such employee may also be required to perform any of the duties of Hospitality services grade 2 or below;
- (f) assistant in sales, and/or marketing;
- (g) guest relations officer.

2.7.3 Hospitality administration and front office grade 3 means an employee appointed as such who has the appropriate level of training and

- (a) who carries out general secretarial or stenographic duties, clerical duties of an advanced nature, and
- (b) who has recognised experience in complex duties and may be
- (c) responsible for guidance of other office personnel including juniors and may check and allocate their work, or
- (d) who is responsible for sales and marketing
- (e) and/or is in the front office engaged in duties including assisting in training and supervision of front office employees of a lower grade(s).

2.7.4 Hospitality administration and front office supervisor means an employee appointed as such and who has the appropriate level of training including a supervisor's course and trains and coordinates the work of front office and/or other clerical staff.

## 2.8 Leisure Activities

2.8.1 Leisure attendant grade 1 means a person who is primarily engaged in one or more of the following:

- (a) acts as an assistant instructor;
- (b) does basic testing;
- (c) is responsible for setting up, distribution and care of equipment;
- (d) takes bookings and works at the front desk of a leisure facility;
- (e) provides information to guests on leisure activities and facilities;
- (f) is a pool attendant;
- (g) tests pools and spa waters for optimal levels;
- (h) is a powerboat observer;
- (i) child minding attendant.

2.8.2 Leisure attendant grade 2 means a person who has the appropriate level of training and who is engaged in any of the following:

- (a) takes classes;
- (b) directs leisure activities such as in sporting areas, health clubs and swimming pools;
- (c) leads tours, and/or group activities;
- (d) developing or implementing activities for individuals or group of guests;
- (e) child minding attendant.

2.8.3 Leisure attendant grade 3 means a person who has the appropriate level of training, who plans and co-ordinates leisure activities and/or organises activity programs and may supervise other leisure attendants.

## 2.9 Appropriate Level of Training means:

2.9.1 Completion of a training course deemed suitable according to guidelines issued through Tourism Training Australia for that particular classification. Such course to be accredited by the Australian Hospitality Review Panel;

2.9.2 That the employee's skills have been assessed to be at least the equivalent of those attained through the suitable course described in clause 2.9.1, such assessment to be undertaken by a qualified skills assessor.

2.10 Introductory level means the level of an employee who enters the industry and who has not demonstrated the competency requirements of level 1. Such an employee will remain at this level for up to three months while the appropriate training for level 1 is undertaken and assessment made to move from the introductory level to level 1. At the end of three months from entry, an employee shall move to level 1 other than where agreement has been reached and recorded between the employee and the employer that further training of up to three months is required for the employee to achieve competence for movement to level 1.



## 2.11 Continuous Service

- 2.11.1 In calculating the twelve months' continuous service, the only absences counted as time worked are the following:
- up to 152 ordinary working hours in a 12-month period because of sickness or accident;
  - long service leave that an employee takes under the relevant State long service leave legislation; and
  - annual leave.
- 2.11.2 Where a period of work is less than twelve months, the absences counted as time worked because of sickness or accident are calculated on a proportionate basis.
- 2.11.3 The following events do not break an employee's continuous service:
- sick leave;
  - leave as the result of an accident;
  - leave lawfully granted by the employer; or
  - absence for a reasonable cause. (The employee must prove that the absence was reasonable.)
- 2.11.4 Where employees are temporarily stood down through no fault of their own, service is not to be considered to be broken.
- 2.11.5 Any other absence from work does not break continuity of service unless the employer notifies the employee within fourteen days of the employee returning to work after the absence. The employer must tell the employee in writing.
- 2.11.6 If an individual employee is absent, the employer must tell that employee by:
- giving the notice to him or her personally; or
  - posting the notice to his or her last known address.
- 2.11.7 If a number of employees are absent because of collective action, the employer may tell them all by placing a notice in the place where the employer normally places general notices to employees. The employer must also send a copy of the notice to the Union on the same day.
- 2.11.8 It will also not break an employee's continuous service if the employer breaks or ends the employee's service in order to avoid the employer's obligations in respect of leave.
- 2.11.9 School based apprentice is an employee who is undertaking an apprenticeship under a training contract while also enrolled in the Higher School Certificate. The school based apprenticeship may commence upon the completion of the Year 10 School Certificate exams. Such school based apprenticeships are undertaken at a minimum Certificate III Australian Qualifications Framework (AQF) qualification level as specified in the relevant Vocational Training Order pursuant to the *Apprenticeship and Traineeship Act 2001*.

### 3. Transmission of Business

- 3.1 Where an establishment covered by this award is sold and the new employer continues to employ any employees the continuity of service of such employee shall be deemed not to have been broken by reason of the sale or transmission of the business for the purpose of the provision of clauses 10, Redundancy and 11, Termination of employment and in such circumstances the provisions of clauses 10, Redundancy and 11, Termination of employment shall not apply in respect to the transmitter.

- 3.2 The period of service which the employee has had with the transmitter or any previous transmitter shall be deemed to be service of the employee with the transmittee for the purposes of the provisions of clauses 10, Redundancy and 11, Termination of employment.

#### **4. Index of Facilitative Provisions**

- 4.1 A facilitative provision provides that the standard approach in an Award provision may be departed from by agreement between an individual employer and an employee, or the majority of employees, in the enterprise or part of the enterprise concerned.
- 4.2 Facilitative provisions in this award are contained in the following clauses:

Clause Title	Clause Number
Alternative method of payment	15.2
Make-up time	18.11
Ordinary Hours - method of working	18.2
Overtime - time off in lieu	20.3
Part-time employment	8.3
Payment of wages - method and timing	15.1
Public holidays - payment	27.3
Superannuation - exemption, choice of fund	17.7
Unpaid carers' leave	24.3

#### **5. Enterprise Flexibility Provisions**

Where an employer or employees wish to pursue an agreement at the enterprise or workplace about how the award should be varied so as to make the enterprise or workplace operate more efficiently according to its particular needs the following process shall apply:

- 5.1 A consultative mechanism and procedures appropriate to the size, structure and needs of the enterprise or workplace shall be established.
- 5.2 For the purpose of the consultative process the employees may nominate the Union or another to represent them.
- 5.3 Where agreement is reached an application shall be made to the Commission.

#### **6. Procedure to Avoid Industrial Disputation**

- 6.1 In the event of a dispute arising in the workplace the procedure to be followed to resolve the matter will be as follows:
- 6.1.1 The employee and their supervisor meeting and conferring on the matter; and
- 6.1.2 If the matter is not resolved at such a meeting, the parties shall arrange for further discussions between the employee and his or her nominated representative, if any, and more senior levels of management.
- 6.2 If the matter is still not resolved a discussion shall be held between representatives of the employer and the Union or other employee representative.
- 6.3 If the matter cannot be resolved it may be referred to the Commission.
- 6.4 While the parties attempt to resolve the matter work will continue as normal unless an employee has a reasonable concern about an imminent risk to his or her health and safety.

## 7. Employer Duties

- 7.1 An employer shall not charge a sum against nor deduct any sum from the wages of an employee in respect of breakages of crockery or other utensils except in the case of wilful misconduct.

## 8. Types of Employment

### 8.1 General

8.1.1 Employees under this award will be employed in one of the following categories:

- (a) full-time employees; or
- (b) regular part-time employees; or
- (c) casual employees.

8.1.2 At the time of engagement an employer will inform each employee of the terms of their engagement and in particular whether they are to be full-time, regular part-time or casual.

### 8.2 Casual Employment

8.2.1 A casual employee is an employee engaged as such.

8.2.2 A casual employee shall be paid per hour at the rate of 1/38 of the weekly rate prescribed for the class of work performed, plus the appropriate undermentioned addition to that rate:

- (a) On any ordinary day Monday to Friday inclusive for all time worked, an additional 25 per cent of the wages prescribed in clause 12 - of this Award for the classification in which the employee is casually employed.
- (b) On Saturday and Sunday for all time worked an additional 50 per cent for Saturday and 75 per cent for Sunday of the wages prescribed in clause 12, for the classification in which the employee is casually employed.
- (c) On a holiday as prescribed in clause 27, Public Holidays.
  - (i) a casual employed in any capacity in or in connection with flats and residential chambers and establishments of a like nature will receive an additional 150 per cent of wages prescribed in clause 12 of this Award for the classification in which the employee is casually employed;
  - (ii) all other casuals will receive an additional 175 per cent of wages prescribed in clause 12 of this Award for the classification in which the employee is casually employed.
- (d) The loadings prescribed in paragraphs (a), (b) and (c) comprehend the 1/12th payment payable under the *Annual Holidays Act, 1944*.
- (e) A casual employee shall be employed with a minimum payment of two hours pay for each engagement at the appropriate rate that would have been payable had the employee worked.
- (f) For the purposes of this award engagement means the period or periods for which the employer notifies the employee that he or she is so required to attend on any one day. Each period of engagement stands alone and is treated as an engagement of not less than two hours, and is paid for as such.

- (g) In this clause, ordinary earnings means 1/38 of the wages prescribed in clause 12 of this Award plus an additional 25 per cent.
- (h) By mutual consent casual work may be paid for weekly or at the termination of each engagement.
- (i) Casual employees who are paid their wages at any time other than during their working time shall, if kept waiting for more than fifteen minutes, be paid overtime rates for all such waiting time.

8.2.3 The following Award clauses apply to casual employees:

- (j) 2, 6, 7, 8.1, 8.2, 8.5, 9, 12, 16.3, 16.4, 16.5, 16.6, 16.7.1, 16.7.2, 17, 19, 27, 32, 35.
- (k) Any dispute about a refusal of an election to convert a contract of employment or about the matters referred to in sub-paragraph 8.2.4(b) must be dealt with in accordance with the provisions of clause 6 - Procedure to avoid industrial disputation.

8.2.4 Conversion to full-time or regular part-time employment

- (a)
  - (i) This clause only applies to a regular casual employee.
  - (ii) A regular casual employee means a casual employee who is employed by an employer on a regular and systematic basis for several periods of employment or on a regular and systematic basis for an ongoing period of employment during a period of at least twelve months.
- (b) A regular casual employee who has been engaged by a particular employer for at least twelve months, may elect (subject to the provisions of this clause) to have his or her contract of employment converted to full-time or regular part-time employment.
  - (i) An employee who has worked at the rate of an average of 38 or more hours a week in the period of twelve months casual employment may elect to have his or her employment converted to full-time employment.
  - (ii) An employee who has worked at the rate of an average less than 38 hours a week in the period of twelve months casual employment may elect to have his or her employment converted to regular part-time employment.
  - (iii) Where a regular casual employee seeks to convert to full-time or regular part-time employment, the employer may consent to or refuse the election, but only on reasonable grounds. In considering a request, the employer may have regard to any of the following factors:
    - the size and needs of the workplace or enterprise;
    - the nature of the work the employee has been doing;
    - the qualifications, skills, and training of the employee;
    - the trading patterns of the workplace or enterprise (including cyclical and seasonal trading demand factors);
    - the employee's personal circumstances, including any family responsibilities; and
    - any other relevant matter.

- (c) Where it is agreed that a regular casual employee will have his or her employment converted to full-time or regular part-time employment as provided for in this clause, the employer and employee must discuss and agree upon:
  - (i) to which form of employment the employee will convert - that is, full-time or regular part-time employment; and
  - (ii) if it is agreed that the employee will become a regular part-time employee, the matters referred to in subclause 8.3 of this Award.
- (d) Despite paragraph 8.3.5 of this Award, where a regular casual employee is engaged for a two hour minimum shift pursuant to sub-paragraph 8.2.2(e) of this Award, the employer and employee may agree that the employee will convert to regular part-time employment as provided for in this clause for a minimum of two consecutive hours on any shift. However, nothing in this clause requires an employer to convert a casual employee working two hour shifts to regular part time employment.
- (e) The date from which the conversion will take effect is the commencement of the next pay cycle following such agreement being reached unless otherwise agreed.
- (f) Once a regular casual employee has converted to full-time or regular part-time employment, the employee may only revert to casual employment with the written agreement of the employer.
- (g) An employee must not be engaged and/or re-engaged (which includes a refusal to re-engage) to avoid any obligation under this Award.
- (h) Nothing in this clause obliges a casual employee to convert to full time or regular part time employment, nor permits an employer to require a casual employee to so convert.
- (i) Nothing in this clause requires an employer to convert the employment of a regular casual employee to full time or regular part time employment if the employee has not worked for twelve months or more in a particular establishment or in a particular classification stream.
- (j) Nothing in the clause requires an employer to increase the hours of a regular casual employee seeking conversion to full time or regular part-time employment.
- (k) Any dispute about a refusal of an election to convert a contract of employment or about the matters referred to in sub-paragraph 8.2.4(b) must be dealt with in accordance with the provisions of clause 6 - Procedure to avoid industrial dispute.

### 8.3 Regular Part-Time Employees

8.3.1 An employer may employ regular part-time employees in any classification in this award.

8.3.2 A regular part-time employee is an employee who:

- (a) works less than full-time hours of 38 per week; and
- (b) has reasonably predictable hours of work; and
- (c) receives, on a pro rata basis, equivalent pay and conditions to those of full-time employees who do the same kind of work.

8.3.3 At the time of engagement the employer and the regular part-time employee will agree in writing, on a regular pattern of work, specifying at least the hours worked each day, which days of the week the employee will work and the actual starting and finishing times each day.

- 8.3.4 Any agreed variation to the regular pattern of work will be recorded in writing.
- 8.3.5 An employer is required to roster a regular part-time employee for a minimum of three consecutive hours on any shift.
- 8.3.6 An employee who does not meet the definition of a regular part-time employee and who is not a full-time employee will be paid as a casual employee in accordance with clause 8.2.
- 8.3.7 All time worked in excess of the hours as mutually arranged will be overtime and paid for at the rates prescribed in clause 20 - Overtime, of this award.
- 8.3.8 A regular part-time employee employed under the provisions of this clause must be paid for ordinary hours worked at the rate of 1/38th of the weekly rate prescribed for the class of work performed.

#### 8.4 Apprentices

##### 8.4.1

- (a) An employee apprenticed in accordance with the provisions of the *Apprenticeship and Traineeship Act 2001* must be paid the percentage of the total wage prescribed for Hospitality Services Grade 4 as follows:

Year of Apprenticeship	Percentage
First year	55%
Second year	65%
Third year	80%
Fourth year	95%

- (b) All percentages prescribed in this clause will be calculated to the nearest 10 cents. Any broken part of 10 cents in the result being less than 5 cents will be disregarded; 5 cents and over will go to the higher 10 cents.

##### 8.4.2 Waiting Trade

- (a) An employee apprenticed in accordance with the provisions of the *Apprenticeship and Traineeship Act 2001* (NSW) must be paid the percentage of the total wages prescribed for a qualified waiter in Hospitality Services Grade 4 as follows:

Year of Apprenticeship	Percentage
First six months	65%
Second six months	80%
Third six months	80%
Fourth six months	95%
Fifth six months	95%

- (b) All percentages prescribed in this clause will be calculated to the nearest 10 cents. Any broken part of 10 cents in the result being less than 5 cents will be disregarded; 5 cents and over will go to the higher 10 cents.

- (c) All matters prescribed in subparagraph (a) of this paragraph only apply to apprentices wages and in no other way supersede or affect any other provisions of the *Apprenticeship and Traineeship Act 2001*.

##### 8.4.3 Progression through Wage Structure

- (a) School based apprentices progress through the wage scale at the rate of 12 months' progression for each two years of employment as an apprentice.

- (b) The rates of pay are based on a standard apprenticeship of four years. The rate of progression reflects the average rate of skill acquisition expected from the typical combination of work and training for a school based apprentice undertaking the applicable apprenticeship.

#### 8.4.4 Conversion from a school based to a full time apprenticeship

Where an apprentice converts from a school based to a full-time apprenticeship, all time spent as a full-time apprentice counts for the purpose of progression through the wage scale set out in this Award. This progression applies in addition to the progression achieved as a school based apprentice.

#### 8.4.5 Conditions of Employment

Except as provided by this award, school based apprentices are entitled to pro rata entitlements of all other conditions of employment contained in this Award.

#### 8.4.6 Disputes and Disciplinary Matters

The provisions of the *Apprenticeship and Traineeship Act 2001* shall apply for the resolution of disputes and disciplinary matters.

### 8.5 Juniors

#### 8.5.1 Other Than Office Juniors

The minimum rates of wages for junior employees shall be the undermentioned percentages of the total rate prescribed for the adult classification appropriate to the work performed for the area in which work is performed.

Age	Percentage
17 years of age and under	60%
18 years of age	70%
19 years of age	85%
20 years of age	100%

#### 8.5.2 Junior Office Employees

- (a) The minimum rates of wages for junior office employees shall be the undermentioned percentages based on the total adult rate for the Hospitality Administration and Front Office Grade 1 classification.

Age	Percentage
At 15 years of age and under	37%
At 16 years of age	44%
At 17 years of age	58%
At 18 years of age	72%
At 19 years of age	82.5%
At 20 years of age	94%

- (b) All percentages prescribed in this clause will be calculated to the nearest 10 cents. Any broken part of 10 cents in the result being less than 5 cents will be disregarded, 5 cents and over will go to the higher 10 cents.

#### 8.5.3 Junior employees on reaching the age of 18 years, may be employed in the sale of liquor. However, where such a junior is employed, the adult Award rate for the work being performed shall be paid.

- 8.5.4 An employer may at any time demand the production of a birth certificate or other satisfactory proof for the purpose of ascertaining the correct age of a junior employee. If a birth certificate is required, the cost of it shall be borne by the employer.

### **9. Standing Down Employees**

- 9.1 An employer may deduct payment for any day or part of a day on which an employee cannot be usefully employed for the following reasons:
- 9.1.1 A strike or stop work meeting (except as provided in clause 32, Leave for Consultation Meetings).
  - 9.1.2 A breakdown of machinery.
  - 9.1.3 Rationing of power or the lack of fuel or transport.
  - 9.1.4 The non-delivery of the raw material and finished product in the Liquor Trades Industry.
  - 9.1.5 Any cause which the employer cannot reasonably be held responsible for, but shall not apply to slackness of trade.
- 9.2 In respect to subclauses 9.1.1 and 9.1.5 hereof:
- 9.2.1 No employee shall be deemed to be a casual employee only by reason of being given intermittent work in pursuance of this clause.
  - 9.2.2 At least four hours notice of such deductions shall be exhibited where all employees concerned shall be able to see it.
  - 9.2.3 Service is not to be considered broken merely because employees have been temporarily stood down through no fault of their own.
  - 9.2.4 Continuity of service is to be protected for the purpose of annual leave, holidays and sick pay, as provided by this Award.
  - 9.2.5 Employees allowed or required to commence work at the usual starting time on any day shall be paid for at least four hours, and where they are called upon to attend for duty twice on any one day they shall be paid not less than a full day's pay.

### **10. Redundancy**

- 10.1 Application
- 10.1.1 This clause shall apply in respect of full-time and part-time employees employed in the classifications specified in clause 12.
  - 10.1.2 This clause shall only apply to employers who employ 15 or more employees immediately prior to the termination of employment of employees.
  - 10.1.3 Notwithstanding anything contained elsewhere in this clause, this clause shall not apply to employees with less than one year's continuous service, and the general obligation on employers shall be no more than to give such employees an indication of the impending redundancy at the first reasonable opportunity, and to take such steps as may be reasonable to facilitate the obtaining by the employees of suitable alternative employment.
  - 10.1.4 Notwithstanding anything contained elsewhere in this clause, this clause shall not apply where employment is terminated as a consequence of conduct that justifies instant dismissal, including malingering, inefficiency or neglect of duty, or in the case of casual employees, apprentices or



employees engaged for a specific period of time or for a specified task or tasks or where employment is terminated due to the ordinary and customary turnover of labour.

## 10.2 Introduction of Change

10.2.1 Where an 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 employees, the employer shall notify the employees who may be affected by the proposed changes and the union to which they belong.

10.2.2 "Significant effects" include termination of employment, major changes in the composition, operation or size of the employer's workforce or in the skills required, the elimination or diminution of job opportunities, promotion opportunities or job tenure, the alteration of hours of work, the need for retraining or transfer of employees to other work or locations and the restructuring of jobs.

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

## 10.3 Employer's Duty to Discuss Change

10.3.1 The employer shall discuss with the employees affected and the union to which they belong, inter alia, the introduction of the changes referred to in subclause 10.2. Introduction of Change, of this clause, the effects the changes are likely to have on employees and measures to avert or mitigate the adverse effects of such changes on employees, and shall give prompt consideration to matters raised by the employees and/or the union in relation to the changes.

10.3.2 The discussions shall commence as early as practicable after a definite decision has been made by the employer to make the changes referred to in clause 10.2.1 of this clause.

10.3.3 For the purpose of such discussions, the employer shall provide to the employees concerned and the union to which they belong all relevant information about the changes, including the nature of the changes proposed, the expected effects of the changes on employees and any other matters likely to affect employees, provided that any employer shall not be required to disclose confidential information the disclosure of which would adversely affect the employer.

## 10.4 Discussions Before Terminations

10.4.1 Where an employer has made a definite decision that the employer no longer wishes the job the employee has been doing to be done by anyone pursuant to clause 10.2.1, Introduction of change, of this clause, and that decision may lead to the termination of employment, the employer shall hold discussions with the employees directly affected and with the union to which they belong.

10.4.2 The discussions shall take place as soon as is practicable after the employer has made a definite decision which will invoke the provision of clause 10.4.1 of this subclause and shall cover, inter alia, any reasons for the proposed termination, measures to avoid or minimise the terminations and measures to mitigate any adverse effects of any termination on the employees concerned.

10.4.3 For the purposes of the discussions the employer shall, as soon as practicable, provide to the employees concerned and the union to which they belong all relevant information about the proposed terminations, including the reasons for the proposed terminations, the number and categories of employees likely to be affected, and the number of employees normally employed and the period over which the terminations are likely to be carried out. Provided that any employer shall not be required to disclose confidential information the disclosure of which would adversely affect the employer.

10.5 Notice for Changes in Production, Program, Organisation or Structure - This subclause sets out the notice for provisions to be applied to terminations by the employer for reasons arising from production, program, organisation or structure, in accordance with subclause 10.2.1 of this clause.

10.5.1 In order to terminate the employment of an employee, the employer shall give to the employee the following notice:

Period of Continuous Service	Period of Notice
Less than 1 year	1 week
1 year and less than 3 years	2 weeks
3 years and less than 5 years	3 weeks
5 years and over	4 weeks

10.5.2 In addition to the notice above, employees over 45 years of age at the time of the giving of the notice, with not less than two years' continuous service, shall be entitled to an additional 2 weeks' notice.

10.5.3 Payment in lieu of the notice above shall be made if the appropriate notice period is not given. Provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof.

10.6 Notice for Technological Change - This subclause sets out the notice provisions to be applied to termination by the employer for reasons arising from technology in accordance with subclause 10.2.1 of this clause.

10.6.1 In order to terminate the employment of an employee, the employer shall give to the employee three months' notice of termination.

10.6.2 Payment in lieu of the notice above shall be made if the appropriate notice period is not given, provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof.

10.6.3 The period of notice required by this subclause to be given shall be deemed to be service with the employer for the purposes of the *Long Service Leave Act 1955*, the *Annual Holidays Act 1944*, or any Act amending or replacing either of these Acts.

10.7 Time Off During The Notice Period

10.7.1 During the period of notice of termination given by the employer, an employee shall be allowed up to one day's time off without loss of pay during each week of notice, to a maximum of five weeks, for the purpose of seeking other employment.

10.7.2 If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment the employee shall, at the request of the employer, be required to produce proof of attendance at an interview or the employee shall not receive payment for the time absent.

10.8 Employee Leaving During The Notice Period - If the employment of an employee is terminated (other than for misconduct) before the notice period expires, the employee shall be entitled to the same benefits and payments under this clause had the employee remained with the employer until expiry of such notice. Provided that, in such circumstances, the employee shall not be entitled to payment in lieu of notice.

10.9 Statement of Employment - The employer shall, upon receipt of a request from an employee whose employment has been terminated, provide to the employee a written statement specifying the period of the employee's employment and the classification of or the type of work performed by the employee.

10.10 Notice to Centrelink - Where a decision has been made to terminate employees, the employer shall notify Centrelink thereof as soon as possible, giving relevant information including the number and categories of the employees likely to be affected and the period over which the terminations are intended to be carried out.

- 10.11 Centrelink Employment Separation Certificate - 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 Centrelink.
- 10.12 Transfer To Lower-Paid Duties - Where an employee is transferred to lower-paid duties for reasons set out in subclause 10.2.1, Introduction of change, of this clause, the employee shall be entitled to the same period of notice of transfer as the employee would have been entitled to if the employee's employment had terminated and the employer may, at the employer's option, make payment in lieu thereof of an amount equal to the difference between the former ordinary time rate of pay and the new ordinary-time rates for the number of weeks of notice still owing.
- 10.13 Severance Pay - Where an employee is to be terminated pursuant to subclause 10.5, subject to further order of the Industrial Relations Commission of New South Wales, the employer shall pay the employee the following severance pay in respect of a continuous period of service:

- 10.13.1 If an employee is under 45 years of age, the employer shall pay in accordance with the following scale:

Years of Service	Under 45 Years of Age Entitlement
Less than 1 year	Nil
1 year and less than 2 years	4 weeks
2 years and less than 3 years	7 weeks
3 years and less than 4 years	10 weeks
4 years and less than 5 years	12 weeks
5 years and less than 6 years	14 weeks
6 years and over	16 weeks

- 10.13.2 Where an employee is 45 years of age or over, the entitlement shall be in accordance with the following scale:

Years of Service	45 Years of Age or over Entitlement
Less than 1 year	Nil
1 year and less than 2 years	5 weeks
2 years and less than 3 years	8.75 weeks
3 years and less than 4 years	12.5 weeks
4 years and less than 5 years	15 weeks
5 years and less than 6 years	17.5 weeks
6 years and over	20 weeks

- 10.13.3 "Week's Pay" means the all-purpose rate of pay for the employee concerned at the date of termination and shall include in addition to the ordinary rate of pay, overaward payments, shift penalties and allowances paid in accordance with this award.
- 10.14 Incapacity to Pay - Subject to an application by the employer and further order of the Industrial Relations Commission, an employer may pay a lesser amount (or no amount) of severance pay than that contained in subclause 10.13.

The Commission shall have regard to such financial and other resources of the employer concerned as the Commission thinks relevant, and the probable effect paying the amount of severance pay in subclause 10.13 will have on the employer.

- 10.15 Alternative Employment - Subject to an application by the employer and further order of the Commission, an employer may pay a lesser amount (or no amount) of severance pay than that contained in subclause 10.13 of this clause if the employer obtains acceptable alternative employment for an employee.

## 11. Termination of Employment

### 11.1 Notice of Termination By Employer

11.1.1 In order to terminate the employment of a full-time or regular part-time employee the employer shall give to the employee the period of notice specified in the table below:

Period of Continuous Service	Period of Notice
1 year or less	1 week
Over 1 year and up to the completion of 3 years	2 weeks
Over 3 years and up to the completion of 5 years	3 weeks
Over 5 years of completed service	4 weeks

11.1.2 In addition to this notice, employees over 45 years of age at the time of the giving of the notice with not less than two years continuous service, are entitled to an additional week's notice.

11.1.3 Payment in lieu of the notice will be made if the appropriate notice period is not required to be worked. Employment may be terminated by the employee working part of the required period of notice and by the employer making payment for the remainder of the period of notice.

11.1.4 In calculating any payment in lieu of notice, the wages an employee would have received in respect of the ordinary time they would have worked during the period of notice had their employment not been terminated will be used.

11.1.5 The period of notice in this clause, shall not apply in the case of dismissal for conduct that justifies instant dismissal including inefficiency within the first fourteen days, neglect of duty or misconduct and in the case of casual employees, apprentices or employees engaged for a specific period of time or for a specific task or tasks.

11.1.6 Despite the foregoing provisions, trainees who are engaged for a specific period of time shall once the traineeship is completed and provided that the trainees' services are retained have all service including the training period counted in determining entitlements. In the event that a trainee is terminated at the end of his or her traineeship and is re-engaged by the same employer within six months of such termination the period of traineeship shall be counted as service in determining any future termination.

11.1.7 Continuous service is defined in subclause 2.11.

### 11.2 Notice of Termination by an Employee

11.2.1 The notice of termination required to be given by an employee is the same as that required of an employer, save and except that there is no requirement on the employee to give additional notice based on the age of the employee concerned.

11.2.2 If an employee fails to give notice the employer has the right to withhold monies due to the employee to a maximum amount equal to the ordinary time rate of pay for the period of notice.

11.3 Time Off During Notice Period - Where an employer has given notice of termination to an employee, an employee shall be allowed up to one day's time off without loss of pay for the purpose of seeking other employment. The time off shall be taken at times that are convenient to the employee after consultation with the employer.

## 12. Classifications and Wage Rates

12.1 An adult employee of a classification specified in the table hereunder shall be paid not less than the rate per week assigned to that classification for the area in which such employee is working.

## 12.2 Minimum Rates of Pay

Level & Classification	Beginning of FFP to commence on or after 16/12/18 \$
Introductory Level	709.70
LEVEL 1	
Hospitality Services Grade 1	732.30
LEVEL 2	
Hospitality Services Grade 2	766.10
Leisure Attendant Grade 1	766.10
Hospitality Administration and Front Office Grade 1	766.10
LEVEL 3	
Hospitality Services Grade 3	791.10
Hospitality Administration and Front Office Grade 2	791.10
Leisure Attendant Grade 2	791.10
LEVEL 4	
Hospitality Services Grade 4	836.50
Hospitality Administration and Front Office Grade 3	836.50
Leisure Attendant Grade 3	836.50
LEVEL 5	
Hospitality Services Grade 5	893.00
Hospitality Administration and Front Office Supervisor	893.00
LEVEL 6	
Hospitality Services Grade 6	918.60

12.3 Career Streams - Despite the recognition of three career path streams, such streaming does not prevent employees undertaking duties as are within the limits of the employee's skill, competence and training at the direction of an employer, within or across different streams provided that where work is undertaken at a higher grade and/or higher rate then clause 14 - Mixed Functions is applied.

12.4 The rates of pay in this award include the adjustments payable under the State Wage Case 2018. These adjustments may be offset against:

- (i) Any equivalent over-award payments, and/or
- (ii) Award wage increases since 29 May 1991 other than safety net, State Wage Case and minimum rates adjustments.

## 12.5 Rates of Pay for school based apprentice

- (a) The hourly rates for full time apprentices as set out in this Award shall apply to school based apprentices for total hours worked including time deemed to be spent in off-the job training.
- (b) For the purposes of subclause (a) of this clause, where a school based apprentice is a full time school student, the time spent in off-the-job training for which the school based 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.
- (c) Where this Award specifies a weekly rate for full time apprentices the hourly rate shall be calculated by dividing the applicable weekly rate by 38.

### 13. Supported Wage System for Employees with Disabilities

13.1 Workers Eligible For A Supported Wage - This clause defines the conditions which will apply to employees who because of the effects of a disability are eligible for a supported wage under the terms of this Award. In the context of this clause, the following definitions will apply:

- 13.1.1 Supported wage system means the Commonwealth Government system to promote employment for people who cannot work at full Award wages because of a disability, as documented in Supported Wage System: Guidelines and Assessment Process.
- 13.1.2 Accredited assessor means a person accredited by the management unit established by the Commonwealth under the Supported Wage System to perform assessments of an individual's productive capacity within the Supported Wage System.
- 13.1.3 Disability support pension means the Commonwealth pension scheme to provide income security for persons with a disability as provided under the *Social Security Act 1991*, as amended from time to time, or any successor to that scheme.
- 13.1.4 Assessment instrument means the form provided for under the Supported Wage System that records the assessment of the productive capacity of the person to be employed under the Supported Wage System.

13.2 Eligibility Criteria -

- 13.2.1 Employees covered by this clause will be those who are unable to perform the range of duties to the competence level required within the class of work for which the employee is engaged under this Award, because of the effects of a disability on their productive capacity and who meet the impairment criteria for receipt of a Disability Support Pension.
- 13.2.2 The clause does not apply to any existing employee who has a claim against the employer which is subject to the provisions of workers' compensation legislation or any provision of this Award relating to the rehabilitation of employees who are injured in the course of their current employment.
- 13.2.3 The Award does not apply to employers in respect of their facility, programme, undertaking service or the like which receives funding under the *Disability Services Act 1986* and fulfils the dual role of service provider and sheltered employer to people with disabilities who are in receipt of or are eligible for a disability support pension, except with respect to an organisation which has received recognition under s.10 or s.12A of the *Disability Services Act 1986*, or if a part only has received recognition, that part.

13.3 Supported Wage Rates

- 13.3.1 Employees to whom this clause applies shall be paid the applicable percentage of the minimum rate of pay prescribed by this Award for the class of work which the person is performing according to the following schedule:

Assessed Capacity (subclause 13.4)	% of Prescribed Award Rate
10%*	10%
20%	20%
30%	30%
40%	40%
50%	50%
60%	60%
70%	70%
80%	80%
90%	90%

- 13.3.2 Provided that the minimum amount payable shall be not less than \$71 per week.
- 13.3.3 Where a person's assessed capacity is 10 per cent, they shall receive a high degree of assistance and support.

- 13.4 Assessment of Capacity - For the purpose of establishing the percentage of the Award rate to be paid to an employee under this Award, the productive capacity of the employee will be assessed in accordance with the Supported Wage System and documented in an assessment instrument by either:
- 13.4.1 the employer and a union party to the Award, in consultation with the employee or, if desired by any of these;
  - 13.4.2 the employer and an Accredited Assessor from a panel agreed by the parties to the Award and the employee.
- 13.5 Lodgement of Assessment Instrument
- 13.5.1 All assessment instruments under the conditions of this clause, including the appropriate percentage of the Award wage to be paid to the employee, shall be lodged by the employer with the Registry of the Industrial Relations Commission of NSW.
  - 13.5.2 All assessment instruments shall be agreed and signed by the parties to the assessment, provided that where a union which is party to the Award, is not a party to the assessment, it shall be referred by the Registry to the union by certified mail and shall take effect unless an objection is notified to the Registrar within 10 working days.
- 13.6 Review of Assessment - The assessment of the applicable percentage should be subject to annual review or earlier on the basis of a reasonable request for such a review. The process of review shall be in accordance with the procedures for assessing capacity under the Supported Wage System.
- 13.7 Other Terms and Conditions of Employment - Where an assessment has been made, the applicable percentage shall apply to the wage rate only. Employees covered by the provisions of the clause will be entitled to the same terms and conditions of employment as all other workers covered by this Award paid on a pro rata basis.
- 13.8 Workplace Adjustment - An employer wishing to employ a person under the provisions of this clause shall take reasonable steps to make changes in the workplace to enhance the employee's capacity to do the job. Changes may involve re-design of job duties, working time arrangements and work organisation in consultation with other workers in the areas.
- 13.9 Trial Period -
- 13.9.1 In order for an adequate assessment of the employee's capacity to be made, an employer may employ a person under the provisions of this clause for a trial period not exceeding 12 weeks, except in some cases additional work adjustment time (not exceeding four weeks) may be needed.
  - 13.9.2 During that trial period the assessment of capacity shall be undertaken and the proposed wage rate for a continuing employment relationship shall be determined.
  - 13.9.3 The minimum amount payable to the employee during the trial period shall be no less than \$56 per week.
  - 13.9.4 Work trials should include induction or training as appropriate to the job being trialled.
  - 13.9.5 Where the employer and employee wish to establish a continuing employment relationship following the completion of the trial period, a further contract of employment shall be entered into based on the outcome of assessment under subclause 13.4.

#### **14. Mixed Functions**

- 14.1 An employee engaged for two or more hours on one day on duties carrying a higher rate than the ordinary classification shall be paid the higher rate for such day. If for less than two hours he or she shall be paid the higher rate for the time so worked.

- 14.2 A higher paid employee shall, when necessary, temporarily relieve a lower paid employee without loss of pay.

### **15. Payment of Wages, Time and Wages Records**

- 15.1.1 Except upon the termination of employment, all wages of full time and regular part-time employees including overtime shall be paid on any day other than Friday, Saturday, Sunday in each week and not more than two days wages shall be kept in hand by the employer. However, by agreement between the employer and the majority of employees in the workplace, in a week where a holiday occurs payment of wages may be made on a Friday.

- 15.1.2 By agreement between the employer and the employee wages may be paid either weekly or fortnightly by one of the following means:

- (a) cash;
- (b) cheque; or
- (c) payment into employee's nominated financial institution account, without cost to the employee.

- 15.1.3 In the event of a disagreement, the provisions of clause 6 may be applied.

- 15.1.4 However, an employer may pay an employee weekly by cash without consultation.

- 15.1.5 Employees who are paid their wages at any time other than during their working time shall, if kept waiting for more than 15 minutes, be paid overtime rates for all such waiting time.

- 15.1.6 When notice of termination of employment has been given by an employee or an employee's services have been terminated by an employer, payment of all wages and other monies due shall be made at the employee's normal place of employment during normal office hours, prior to the employee leaving such place of employment. If an employee is kept waiting for more than 15 minutes after termination of employment such employee shall be paid overtime rates for waiting time.

- 15.1.7 Provided where an employee is dismissed for misconduct, such employee shall be paid within one hour from the time of dismissal, if such takes place within ordinary office hours or otherwise as soon thereafter as is practical.

- 15.1.8 For the purposes of this clause, waiting time means all time an employee is kept waiting on the premises of the employer on the day of termination of employment in excess of the waiting time specified herein. In the event of an employee not being paid on the day of termination of employment, such employee shall be paid at the rate of time and a half until payment is effected, with a minimum payment of 2 hours and a maximum of eight hours per day. The above eight hours shall refer to the period of shift normally worked by the employee.

- 15.1.9 Despite the foregoing provisions if it is established the failure to pay an employee correctly at time of termination was due to a genuine error by the employer, payment of waiting time over and above the day of termination shall not apply. Any disputes arising in relation to this issue shall be dealt with in accordance with Clause 6 'Procedure to Avoid Industrial Disputation'.

#### **15.2 Alternative Method of Payment**

- 15.2.1 As an alternative to being paid by the week according to Clause 12 - Classifications and Wage Rates, by agreement between the employer and the employee an employee can be paid at a rate equivalent to an annual salary of at least 25 per cent or more above the rate prescribed in Clause 12 - Classifications and Wage Rates times 52 for the work being performed. In such cases, there is no requirement under Clauses 20 - Overtime, 21 - Saturday work, 22 - Sunday Work, subclause 18.8 - Work Outside Daily Hours and Clause 27 - Public Holidays to pay overtime or penalty rates in addition to the weekly Award wage, provided that the salary paid over a year was sufficient to cover what the



employee would have been entitled if all Award overtime and penalty rate payment obligations had been complied with.

15.2.2 Provided further in the event of termination of employment prior to completion of a year the salary paid during such a period of employment shall be sufficient to cover what the employee would have been entitled to if all Award overtime and penalty rate payment obligations had been complied with.

15.2.3 An employee being paid according to this clause shall be entitled to a minimum of eight days off per four week cycle. Further, if an employee covered by this clause is required to work on a public holiday, such employee shall be entitled to a day off in lieu or a day added to his/her annual leave entitlement.

## 16. Allowances

### 16.1 Meal Allowance

16.1.1 A full time or regular part-time employee required to work overtime for more than two hours without being notified on the previous day or earlier that he or she will be so required to work shall either be supplied with a meal by the employer or paid \$13.25 meal money.

16.1.2 If an employee pursuant to notice has provided a meal and is not required to work overtime or is required to work less than the amount advised, he or she shall be paid as above prescribed for the meal which he or she has provided but which is surplus.

### 16.2 Broken periods of work allowance

16.2.1 A full time or regular part-time employee who has a broken work day shall receive an additional allowance for a spread of hours prescribed as follows:

Spread of Hours	Rate per day SWC 2018 \$
Under 10	Nil
10 but under 10-1/2	1.61
10-1/2 but under 11-1/2	3.16
11-1/2 or more	4.77

### 16.3 Penalty rates not cumulative

Except as provided in clause 19, Meal Breaks, of this award where time worked is required to be paid for at more than the ordinary rate, such time shall not be subject to more than one penalty, but shall be subject to that penalty which is to the employee's greatest advantage.

### 16.4 Board and lodging

#### 16.4.1

- (a) Where board and residence is made available to adult employees the employer shall have the right to deduct from the pay of the employees residing on the premises an amount of \$136.40 per week of seven days.
- (b) Provided that where an adult employee is required to share a room for lodging, the amount to be deducted from the pay of the employee for lodging shall be \$134.60 per week of seven days.

## 16.4.2

- (a) Where lodging only is made available to adult employees, the employer shall have the right to deduct from the pay of the employee residing on the premises the sum of \$130.10 per week of seven days.
- (b) Provided that where an adult employee is required to share a room for lodging, the amount to be deducted from the pay of such employee for lodging, shall be \$129.75 per week of seven days.

16.4.3 In the case of employees who do not reside on the employer's premises a deduction at the rate of \$7.35 for each meal supplied and consumed during the employee's spread of working hours may be deducted by the employer.

16.4.4 The rates for board and lodging for adults shall be increased or decreased by 21 cents, for each meal by one cent, for every 50 cents per week alteration in the rate of classification Hospitality services grade 1 in clause 12 - Classification and wage rates.

16.4.5 Junior employees receiving adult rates of pay as prescribed in this Award shall be subject to the deductions applicable to adults prescribed in this clause.

16.4.6 Junior employees receiving junior rates of pay shall be subject to a deduction at the rate of 50 cents for each meal supplied and consumed during the employee's spread of working hours.

## 16.5 Laundry allowance

Where any employee is required to wear a special uniform such uniform shall be provided and laundered by the employer free of cost to the employee or if mutually agreed that the employee shall launder such uniform the employer shall pay the employee \$2.69 for each uniform so laundered with a maximum of \$8.40 per week.

## 16.6 Clothing, equipment and tools

16.6.1 Where it is necessary that an employee wear waterproof or other protective clothing such as waterproof boots, aprons, or gloves, the employer must reimburse the employee for the cost of purchasing such clothing. The provisions of this clause do not apply where the special clothing is supplied without cost to the employee. Where protective clothing is supplied without cost to the employee, it will remain the property of the employer. In the event of a dispute, the necessity for the provision of protective clothing may be determined by the Motels, Accommodation and Resorts, &c., Employees (State) Industrial Committee.

16.6.2 Where the employer requires an employee to provide and use any tools, brushes, knives, choppers, implements, utensils and materials, the employer must reimburse the employee for the cost of purchasing such equipment. The provisions of this clause shall not apply where the employer supplied such items without cost to the employee.

16.6.3 An employer may require an employee on commencing employment to sign a receipt for item/s of uniform and property. This receipt must list the item/s of uniform and the value of them. If, when an employee ceases employment the employee does not return the item/s of uniform and property (or any of them) in accordance with receipt the employer will be entitled to deduct the value as stated on the receipt from the employees wages.

16.6.4 In the case of genuine wear and tear, damage, loss, or theft that is not the employee's fault the provision of 16.6.3 will not apply.

16.6.5 Any disagreement concerning the value of item/s of uniform and any other aspect of this clause shall be determined by the Motels, Accommodation and Resorts, &c., Employees (State) Industrial Committee.

## 16.7 Travelling, transport and fares

- 16.7.1 Where an employee is detained at work until it is too late to travel by the last ordinary train, tram, vessel or other regular conveyance to his or her usual place of residence the employer shall either provide proper conveyance or provide accommodation for the night free of charge.
- 16.7.2 If an employee is required to start work before his ordinary commencing time and before the first ordinary means of conveyance (hereinbefore prescribed) is available to convey him or her from his or her usual place of residence to the place of employment, the employer shall provide a conveyance or pay the cost thereof.
- 16.7.3 Where a full time or regular part-time employee is engaged for work outside a distance of 44 kilometres from the place of engagement he or she shall be paid all fares actually and necessarily incurred in travelling from the place of engagement to the place of employment; provided that if the employee leaves his or her place of employment or is dismissed for misconduct within a period of three months of the date engagement, the employer may recover from the employee the fare paid on engagement.

## 16.8 Overnight Stay

Where the employer requests and an employee agrees to stay overnight on the employer's premises for a period outside that of the employee's normal rostered hours of duty, the following arrangements shall apply:

- 16.8.1 An employee shall be entitled to an amount of \$52.25 per overnight stay period.
- 16.8.2 This payment shall be deemed to provide compensation for the overnight stay and also includes compensation for all work necessarily undertaken by an employee up to a total of one hour's duration.
- 16.8.3 Any work necessarily performed during an overnight stay period by the employee in excess of a total of one hour's duration shall be paid for at the rate of time and one half. The payments referred to above shall not extend beyond the period of the overnight stay.
- 16.8.4 Any time worked under 16.8.2 or 16.8.3 shall not be taken into account for the purposes of Clause 8 - Types of Employment, Clause 18 - Hours of Work or Clause 20 - Overtime of this award.
- 16.8.5 An employee required to stay overnight in accordance with this clause without being notified on the previous day or earlier that he or she will be so required shall either be supplied with a meal by the employer or paid \$11.50 meal money.

## 17. Superannuation

### 17.1 Preamble

- 17.1.1 Superannuation legislation
- (a) The subject of superannuation contributions is dealt with extensively by legislation including the *Superannuation Guarantee (Administration) Act 1992*, the *Superannuation Guarantee Charge Act 1992*, the *Superannuation Industry (Supervision) Act 1993* and the *Superannuation (Resolution of Complaints) Act 1993*. The legislation, as varied from time to time, governs the superannuation rights and obligations of the parties.
- (b) Notwithstanding 17.1.1(a) above, the following provisions shall also apply.

## 17.2 Definitions

17.2.1 The Fund for the purpose of this clause shall mean the Hospitality Industry Portable Liquor Union Superannuation Trust Deed (HOST-PLUS) which complies with the *Superannuation Industry (Supervision) Act 1993* as amended from time to time, and any scheme which may be made in succession thereto.

17.2.2 Ordinary time earnings for the purpose of this clause, means:

- (a) Award classification rate;
- (b) overaward payment;
- (c) shift loading - including weekend and public holiday penalty rates earned by shift employees on normal rostered shifts forming the ordinary hours of duty not when worked as overtime;
- (d) casual loading in respect to casual employees.

17.2.3 Ordinary time earnings does not include bonuses, Commission, payment for overtime or other extraordinary payment, remuneration or allowance.

## 17.3 Employers to Become a Party to the Fund

17.3.1 An employer shall make application to the Fund to become a participating employer in the Fund and shall become a participating employer upon acceptance by the Trustee of the Fund.

17.3.2 An employer shall provide each employee who is not a member of the Fund with a membership application form upon commencement of this clause and thereafter upon commencement of employment.

17.3.3 Each employee shall be required to complete the membership application and the employer shall forward the completed application to the Fund by the end of the calendar month of commencement of this clause or commencement of employment.

## 17.4 Eligibility of Employees

17.4.1 Each employee shall be eligible to join the Fund upon commencement of employment, subject to 17.3.1.

17.4.2 Each employee shall be eligible to receive contributions from the date of eligibility, notwithstanding the date the membership application prescribed in 17.3.3 was forwarded to the Fund.

## 17.5 Employer Contribution

### 17.5.1

An employer shall contribute to the Fund in respect of each employee such contributions as required to comply with the *Superannuation Guarantee (Administration) Act 1992* and *Superannuation Guarantee Charge Act 1992* as amended from time to time.

### 17.5.2

- (a) Provided that the employer shall make contributions for each employee for each month where the employee earns \$350.00 or more in a calendar month.

- (b) The amount of contributions to the fund shall be calculated to the nearest ten cents, any fraction below five cents shall be disregarded.

17.5.3 An employer shall contribute to the Fund:

- (a) monthly by the last day of the month following the total of the weekly contribution amounts accruing in the previous month in respect of each employee; or
- (b) equivalent monthly contributions at such other times and in such other manner as may be agreed in writing between the Trustees of a Fund and the employer.
- (c) Contributions shall continue to be paid in accordance with this sub-clause during any period in respect of which an employee is entitled to receive Accident Pay in accordance with clause 30 of this Award.

## 17.6 Voluntary Employees Contribution

17.6.1 An employee may make contributions to the Fund in addition to those made by the respondent employer under subclause 17.5.

17.6.2 An employee who wishes to make additional contributions must authorise the respondent employer in writing to pay into the Fund, from the employee's wages, amounts specified by the employer in accordance with the Fund Trust Deed and Rules.

17.6.3 An employer who received written authorisation from the employee, must commence making payments into the Fund on behalf of the employee within fourteen days of receiving the authorisation.

17.6.4 An employee may vary his or her additional contributions by a written authorisation and the employer must alter the additional contributions within 14 days of receiving the authorisation.

17.6.5 Additional employees contributions to the Fund requested under this clause shall be expressed in whole dollars.

17.6.6 Employees shall have the right to adjust the level of contributions made on their own behalf on the first of July each year provided that by agreement with the respondent employer the employees may vary their additional contribution at other times.

## 17.7 Exemptions

17.7.1 Persons employed in any capacity whether permanent or casual in or in connection with flats and residential chambers and establishments of a like nature, shall be exempt from the provisions of this clause except for 17.1.1(a).

17.7.2 Where an agreement is reached at a particular enterprise or workplace, between the employer and the majority of employees, to provide for the payments of superannuation contributions into a fund other than HOST PLUS, an application shall be made to the Commission to vary the operation of the Award in respect of the enterprise or workplace concerned.

17.7.3 The agreement must meet the following requirements to enable the Commission to vary the Award to give effect to it:

- (a) That the majority of employees covered by the agreement genuinely agree to it; and
- (b) That the fund specified is a complying fund under the *Superannuation Industry (Supervision) Act 1993* (SIS).

- (c) The union must be notified of the terms of the agreement at the time it is lodged with the Commission for approval.
- (d) In the event that the union does not notify the Commission of an objection to the agreement within fourteen days of the agreement being lodged, the Commission will vary the Award if satisfied the agreement complies with the SIS Act.
- (e) In the event that the union objects to the agreement within the specified time then the matter will be set down for hearing.

#### 17.7.4

- (a) In respect of non union members in any contested matter, the union must bear the onus of establishing that "special circumstances" exist which warrant the continued specification of HOST PLUS as the prescribed fund. In respect of union members, the employer applicant must bear the onus of establishing its case on the usual grounds of "equity, good conscience and the substantial merits of the case".
- (b) Failure by an employer to give each relevant union an opportunity to be involved in the process leading up to the making of an agreement may result in the Commission adjourning or refusing the application to vary the Award.
- (c) A relevant union in this context means an organisation of employees that:
  - (i) is party to this Award; and
  - (ii) has one or more members employed by the employer to perform work in the relevant enterprise or workplace.

### 18. Hours of Work

18.1 The ordinary hours of work of a full-time employee are an average of 38 hours per week.

18.1.1 The average of 38 hours per week is to be worked in one of the following ways:

- (a) a nineteen day month, of eight hours each day;
- (b) four days at eight hours and one of six hours;
- (c) four days at nine and a half hours per day;
- (d) five days of seven hours and 36 minutes per day;
- (e) 152 hours per each four week period; or
- (f) 160 hours per each four week period, with a day banked per period up to a maximum of five.
- (g) any combination of the above.

18.2 The arrangement for working the average of 38 hours per week is to be agreed between the employer and the employee from the alternatives in clause 18.1.

18.3 The agreed hours of work arrangement must meet the following conditions:

18.3.1 A minimum of six hours and a maximum of eleven and a half hours may be worked on any one day. The daily minimum and maximum hours are exclusive of meal break intervals.

- 18.3.2 An employee cannot be rostered to work for more than ten hours per day on more than three consecutive days without a break of at least 48 hours.
- 18.3.3 No more than eight days of more than ten hours may be worked in a four week period.
- 18.3.4 An employee shall be entitled to eight full days off per four week period; and
- 18.3.5 No employee shall work more than ten days in succession without a rostered day off.
- 18.4 Broken Shifts - Spread of Hours - Where broken shifts are worked the spread of hours can be no greater than twelve hours per day,
- 18.5 Wage Entitlements - Employees shall be entitled to a week's wages in accordance with clause 12 of this Award for each week of work.
- 18.6 Sickness on Rostered Day Off - Where an employee is sick or injured on his/her rostered day off he/she shall not be entitled to sick pay nor shall the sick pay entitlement be reduced as a result of sickness or injury on that day.
- 18.7 Pay Day - In the event that an employee by virtue of the arrangement of his/her ordinary working hours is rostered off duty on a day which coincides with payday such employee shall be paid no later than the working day immediately following such payday.
- 18.8 Work Outside Daily Hours
- 18.8.1 Full time or regular part-time employees who are required to work any of their ordinary hours outside the hours of 7.00 a.m. to 7.00 p.m. on Monday to Friday inclusive, shall be paid \$2.13 per hour, or part thereof, for any such time worked outside the said hours with a minimum payment of \$3.26 for any one day.
- 18.9 Posting of Roster
- 18.9.1 A roster for all full time and regular part-time employees showing normal starting and finishing time and the surname and initials of each employee shall be prepared by the employer and shall be posted in a conspicuous place or places accessible to the employees concerned.
- 18.9.2 The roster for full time and regular part time employees shall be alterable by mutual consent at any time or, in the case of a full time employee, by amendment on 7 days' notice.
- 18.9.3 Where practicable, 2 weeks' notice of rostered day or days off shall be given provided that the days off may be changed by mutual consent or through absence through sickness or other cause over which the employer has no control.
- 18.9.4 Any dispute concerning rostering must be dealt with in accordance with the provisions of Clause 6 - Procedure to Avoid Industrial Disputation.
- 18.10 Work on Rostered Days Off - All work performed on an employee's rostered day off shall be paid for at double time, with a minimum of 4 hours at the rate of double time.
- 18.11 Make-Up Time
- 18.11.1 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, during the spread of ordinary hours provided in the award, at the ordinary rate of pay.

- 18.11.2 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.

### **19. Meal Breaks**

#### **19.1 Meal Breaks**

- 19.1.1 Each employee shall be granted a meal interval of not less than 30 minutes to be commenced after completing one hour 30 minutes and not later than 6 hours of duty. Provided that an employee allowed a crib break of not less than 20 minutes pursuant to subclause 19.1.4 hereof shall be deemed to have been allowed the meal interval provided in this clause.
- 19.1.2 The foregoing provision does not have to apply to casual or part-time employees who are rostered for 6 hours or less in any day.
- 19.1.3 Where it is not possible to grant the meal interval on any day the said meal interval shall be treated as time worked and paid at the rate for the day plus half time additional at the ordinary weekly rate, until released for a meal. Provided that where an employee is required to exceed 5 hours work after the first meal interval he or she shall be granted a further meal interval of 20 minutes to be treated as time worked.
- 19.1.4 Where an employee's hours of work falls wholly between 11.00 p.m. and 8.00 a.m. the employee including a part-time employee shall be allowed a crib break of not less than 20 minutes which shall be counted as time worked.

### **20. Overtime**

#### **20.1 Reasonable Overtime**

- 20.1.1 Subject to paragraph 20.1.2 below, an employer may require an employee to work reasonable overtime at overtime rates or as otherwise provided for in this award.
- 20.1.2 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.
- 20.1.3 For the purposes of paragraph 20.1.2 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 his or her intention to refuse it; and
  - (e) Any other relevant matter.

- 20.2 All time worked by a full time employee in excess of the ordinary hours and/or outside the spread of hours or outside the rostered hours prescribed in clause 18 of this Award shall be overtime and shall be paid for at the following rates:

- 20.2.1 Monday to Friday inclusive time and a half for the first 2 hours and double time for all work thereafter.



- 20.2.2 Between midnight Friday and midnight Saturday time and 3/4 for the first 3 hours and double time for all time worked thereafter.
- 20.2.3 Between midnight Saturday and midnight Sunday double time for all time worked.
- 20.2.4 Overtime on any day shall stand alone.
- 20.2.5 If an employee is so long on overtime duty following his or her normal finishing time that he or she has not had 8 hours interval before his or her next regular starting time such employee shall be allowed at least 8 consecutive hours interval without deduction of pay or shall be paid at overtime rates for all time of duty until such employee has had at least 8 hours interval.
- 20.3 Despite the rate prescribed in clause 20.2.1, 20.2.2 and 20.2.3 at the instigation of the employee there may be an agreement in writing between the employee and employer to take time-off with pay equivalent to the amount for which payment would otherwise have been made. Such accumulated time must be taken within four weeks from the time of accrual.
- 20.4 A regular part-time employee is paid at overtime rates in the circumstances specified in clause 8.3.7.

### **21. Saturday Work**

All ordinary time worked by full time or regular part-time employees from midnight Friday to midnight Saturday shall be paid for at the rate of time and a quarter.

### **22. Sunday Work**

All ordinary time worked by full-time or regular part-time employees from midnight Saturday to midnight Sunday shall be paid for at the rate of time and three quarters.

### **23. Annual Leave**

- 23.1 See *Annual Holidays Act*, 1944.
- 23.2 During any period of annual leave an employee shall receive a loading of 17.5% calculated on the rates of pay prescribed by clause 12, Classifications and Wage Rates.
- 23.3 An employee may elect, with the consent of the employer to take annual leave not exceeding ten days in single-day periods, or part thereof, in any calendar year at a time or times agreed by the parties.
- 23.3.1 Access to annual leave, as prescribed in clause 23.3 above, shall be exclusive of any shutdown period provided for elsewhere under this award.
- 23.3.2 An employee and employer may agree to defer payment of the annual leave loading in respect of single day absences, until at least five consecutive annual leave days are taken.
- 23.3.3 An employee may elect with the employers agreement to take annual leave at any time within a period of 24 months from the date at which it falls due.

### **24. Personal Leave**

- 24.1 Sick Leave -
- 24.1.1 Definition - Sick leave is leave to which an employee other than a casual is entitled without loss of pay because of his or her personal illness or injury.
- 24.1.2 Entitlement
- (a) In the first three calendar months of employment - no more than 10 hours.

- (b) In the second three calendar months of employment - no more than a further 10 hours.
- (c) In the first year of employment - no more than 45.6 hours.
- (d) In the second year of employment and thereafter - no more than 76 hours.
- (e) Sick leave may accumulate to a maximum of 304 hours for full time employees, and for part-time employees, to a maximum of 8 times the average weekly hours such employee works in any one year.
- (f) The amount of personal leave to which a regular part-time employee is entitled is determined on a pro-rata basis, reckoned each calendar month by reference to the following formula:

$$\frac{\text{Total hours worked in the month}}{152} \times \text{relevant full-time entitlement}$$

#### 24.1.3 Employee must give notice

- (a) Before taking sick leave, an employee must give at least two hours' notice before his or her next rostered starting time, unless he or she has a good reason for not doing so.
- (b) The notice must include:
  - the nature of the injury or illness (if known); and
  - how long the employee expects to be away from work.
- (c) If it is not practicable for the employee to give prior notice of absence, the employee must notify the employer by telephone at the first opportunity.

24.1.4 Evidence supporting claim - A claim made for sick leave shall be supported by evidence from the employee satisfactory to the employer that the employee was unable on account of illness or personal injury to attend for duty on the day for which leave is claimed.

24.1.5 The effect of workers' compensation - If an employee is receiving workers' compensation payments, he or she is not entitled to sick leave.

### 24.2 Carer's Leave -

#### 24.2.1 Use of Sick Leave

An employee, other than a casual employee, with responsibilities in relation to a class of person set out in 24.2.3(b) 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 24.1 of clause 24, Personal Leave of the award, for absences to provide care and support for such persons when they are ill, or who require care due to an unexpected emergency. Such leave may be taken for part of a single day.

24.2.2 The employee shall, if required,

- (1) establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person, or
- (2) establish by production of documentation acceptable to the employer or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee.

In normal circumstances, an employee must not take carer's leave under this subclause where another person had taken leave to care for the same person.

- 24.2.3 The entitlement to use sick leave in accordance with this clause is subject to:
- (a) the employee being responsible for the care and support 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, a foster child or an ex-nuptial), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the employee or spouse or de facto spouse of the employee; or
    - 4. a same sex partner who lives with the employee as the de facto partner of that employee on a bona fide domestic basis; or
    - 5. a relative of the employee who is a member of the same household, where for the purposes of this 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.

24.2.4 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 their relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the employee to give prior notice of absence, the employee shall notify the employer by telephone of such absence at the first opportunity on the day of absence.

Note: In the unlikely event that more than 10 days sick leave in any year is to be used for caring purposes the employer and employee shall discuss appropriate arrangements which, as far as practicable, take account of the employer's and employee's requirements.

Where the parties are unable to reach agreement the disputes procedure at clause 6, Procedure to Avoid Industrial Disputation, should be followed.

24.3 Unpaid Leave - 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 24.2.3(b) above who is ill or who requires care due to an unexpected emergency.

24.4 Time Off in Lieu of Payment for Overtime

24.4.1 For the purpose only of providing care and support for a person in accordance with subclause 24.2 of this clause, and despite the provisions of clause 20, Overtime, the following provisions shall apply.

24.4.2 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.

- 24.4.3 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.
- 24.4.4 If, having elected to take time as leave in accordance with paragraph 24.4.1 of this subclause, 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.
- 24.4A Personal Carers Entitlement for casual employees -
- (1) Subject to the evidentiary and notice requirements in 24.2.2 and 24.2.4 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 24.2.3(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.
  - (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.
  - (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.
- 24.4.5 Where no election is made in accordance with the said paragraph 24.4.1, the employee shall be paid overtime rates in accordance with the award.
- 24.5 Bereavement Leave
- 24.5.1 Paid Leave Entitlement
- (a) An employee other than a casual employee shall be entitled to up to two days bereavement leave without deduction of pay on each occasion of the death of a person prescribed in 24.5.3 below.
  - (b) For a regular part-time employee, a "day" for the purposes of this paragraph will be reckoned by dividing the total number of hours worked by the employee in the four week period immediately prior to the employee taking bereavement leave by the number of days worked by the employee in the four week period.
- 24.5.2 The employee must notify the employer as soon as practicable of the intention to take bereavement leave and will, if required by the employer, provide to the satisfaction of the employer proof of death.
- 24.5.3 Bereavement leave shall be available to the employee in respect to the death of a person prescribed for the purposes of Personal/Carer's Leave in 24.2.3, provided that for the purpose of bereavement leave, the employee need not have been responsible for the care of the person concerned.
- 24.5.4 An employee shall not be entitled to bereavement leave under this clause during any period in respect of which the employee has been granted other leave.
- 24.5.5 Bereavement leave may be taken in conjunction with other leave available under subclause 18.11 of clause 18, Hours of Work, subclause 23.3 of clause 23, Annual Leave, and subclauses 24.2, 24.3 and 24.4 of this clause. In determining such a request, the employer will give consideration to the circumstances of the employee and the reasonable operational requirements of the business.

## 24.5.6 Bereavement entitlements for casual employees

- 24.5.6.1 Subject to the evidentiary and notice requirements in 24.5.2 casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of a person prescribed in subclause 24.2.3(b) of clause 24, Personal Leave.
- 24.5.6.2 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.
- 24.5.6.3 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.

**25. Parental Leave**

- (1) Refer to the *Industrial Relations Act 1996* (NSW). The following provisions shall also apply in addition to those set out in the *Industrial Relations Act 1996* (NSW).
- (2) An employer must not fail to re-engage a regular casual employee (see section 53(2) of the Act) because:
- (a) the employee or employee's spouse is pregnant; or
  - (b) the employee is or has been immediately absent on parental leave.

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

- (3) Right to request
- (a) An employee entitled to parental leave may request the employer to allow the employee:
    - (i) to extend the period of simultaneous unpaid parental leave use up to a maximum of eight weeks;
    - (ii) to extend the period of unpaid parental leave for a further continuous period of leave not exceeding 12 months;
    - (iii) to return from a period of parental leave on a part-time basis until the child reaches school age;

to assist the employee in reconciling work and parental responsibilities.
  - (b) The employer shall consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the employer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.
  - (c) Employee's request and the employer's decision to be in writing

The employee's request and the employer's decision made under 3(a)(ii) and 3(a)(iii) must be recorded in writing.

- (d) Request to return to work part-time

Where an employee wishes to make a request under 3(a)(iii), such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the employee is due to return to work from parental leave.

- (4) Communication during parental leave

- (a) Where an employee is on parental leave and a definite decision has been made to introduce significant change at the workplace, the employer shall take reasonable steps to:

(i) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave; and

(ii) provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave.

- (b) The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.

- (c) The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with paragraph (a).

## 26. Jury Service

26.1 A full-time or regular part-time employee required to attend for jury service during their ordinary working hours shall be reimbursed by the employer an amount equal to the difference between the amount paid in respect of their attendance for such jury service and the amount of ordinary wage they would have received Monday to Friday in respect of the ordinary time they would have worked had they not been on jury service.

26.2 An employee shall notify their employer as soon as possible of the date upon which they are required to attend for jury service.

26.3 Further the employee shall give their employer proof of their attendance, the duration of such attendance and the amount in respect of such jury service.

## 27. Public Holidays

27.1 Prescribed Public Holidays

27.1.1 Employees other than casuals shall be entitled to the following holidays without loss of pay: New Years Day, Australia Day, Good Friday, Easter Saturday, Easter Sunday, Easter Monday, Anzac Day, Queens Birthday, Labour Day, Union Picnic Day, Christmas Day and Boxing Day, or such other day as is generally observed in the locality as a substitute for any of the said days respectively.

27.1.2 In respect to Christmas Day and Boxing Day if either day falls on a Saturday or Sunday and an employee is required to work on such day or days then the day or days shall be treated as the public holiday and day substituted shall be paid at the rate that would otherwise be paid on 25 and/or 26 December.

27.2 Provided that when an employee is absent from his or her employment only on one working day or part of a day before or after a holiday, except on account of illness or other legitimate reason, he or she shall not suffer loss of payment for more than one day of the holidays.

### 27.3 Payment for work on a public holiday

- 27.3.1 Subject to 27.6, all time worked by a full-time employee on a holiday herein prescribed shall be paid for at the rate of double time and one-half for the hours worked, with a minimum of four hours additional pay. Alternatively, such employees who work on a prescribed holiday, may, by agreement, perform such work at time and one-half the ordinary Monday to Friday rate, provided that the equivalent of the time worked is also added to the employee's annual leave or one day in lieu of such public holiday shall be allowed to the employee during the week in which such holiday falls. Provided that such holiday may be allowed to employees within 28 days of such holidays falling due.
- 27.3.2 Casual employees working on a public holiday prescribed by this clause, shall be paid according to the provisions of clauses 8.2.2(c) and 8.2.2(e) of this Award.
- 27.3.3 Regular part-time employees required to work on a public holiday prescribed by this clause shall be paid (at the rate of double time and a half for all time worked) according to the provisions of clauses 8.3.4, 8.3.5 and 8.3.6 of this Award.

### 27.4 Additional Public Holidays

Where in a State or Territory or locality within a State or Territory an additional public holiday (other than Easter Saturday) is proclaimed or gazetted by the authority of the Commonwealth Government or of a State or Territory government and such proclaimed or gazetted holiday is to be observed generally by persons throughout that State or Territory or a locality thereof, other than by those covered by Federal Awards, or when such a proclaimed or gazetted day is, by any required judicial or administrative order, to be so observed, then such day shall be deemed to be a holiday for the purposes of this Award, for the employees covered by this Award who are employed in the State, Territory or locality in respect of which the holiday has been proclaimed or ordered as required.

### 27.5 Rostered Day Off Coinciding With a Holiday -

- 27.5.1 Where an full time employee's rostered day or days off coincide(s) with a holiday prescribed in this Award, the holiday shall not be a holiday for such employee and the holiday shall be substituted in one of the methods following:
- (a) one day with pay added to the annual leave;
  - (b) payment of one day's pay shall be made to the employee on the next succeeding pay day;
  - (c) such holiday may be allowed off with pay to the employee within 28 days after such holiday falls;
- NOTE: one of the above methods must be mutually agreed upon by the employee and the employer. Failing such agreement the provision prescribed in 27.5.1(a) hereof shall apply.
- 27.5.2 A regular part-time employee (as defined in clause 8.3) is to be entitled to the public holidays listed in clause 27.1 without loss of pay if those public holidays fall on days the employee would normally work in accordance with clause 8.3.
- 27.5.3 An employer must not alter an employee's roster on any occasion so as to avoid any of the provisions of this clause. Where a roster is altered so as to avoid or reduce payment due or the benefit applicable under this clause, the employee must be paid for such holiday/s as if the roster had not been changed.
- 27.5.4 Despite 27.5.2, a regular part-time employee who was employed on or before 12 August 2005 and who works an average of five days per week must not be disadvantaged while the employee continues in employment as a regular part-time employee with the same employer by the fact that a prescribed holiday falls upon a day when the employee would

not be working. The compensation for such employee will be that set out in paragraph 27.5.1 above.

## 27.6 Substitution of Days

- 27.6.1 An employer and a majority of employees in a workplace may, subject to the following conditions, agree to substitute another day for any prescribed in this clause.
- 27.6.2 If the employer intends to seek agreement on substituting a day or days and the union has members at the particular workplace then the employer must inform the union of its intention and provide the union with an opportunity to participate in negotiations relating to substitution.
- 27.6.3 After the employer and a majority of employees have agreed to a substitute day, the agreement must be recorded in writing and made available to every affected employee.
- 27.6.4 The employer must record substitution day arrangements in the time and wages records kept pursuant to Division 2 of Part 4 of the Industrial Relations (General) Regulations.
- 27.6.5 Any disputes in relation to the practical application of this provision may be dealt with in accordance with Clause 6.

## 28. National Training Wage

The parties to this award shall observe the terms of the National Training Wage Award 1994 as amended, as though bound by clause 3 of that Award.

## 29. Work Experience

The provisions of this Award shall not apply to high or secondary school students whilst undergoing work experience with the written approval of a school career co-ordinator or similar school's officers.

## 30. Accident Pay

See *Workplace Injury Management and Workers Compensation Act 1998*.

## 31. Posting of Award

A copy of this Award, as varied from time to time, shall be maintained in each establishment of an employer and shall be available for inspection at any time by an employee covered by this Award.

## 32. Leave for Consultation Meetings

Each employer must allow his/her employees to attend meetings to discuss industrial matters without loss of ordinary pay provided the following conditions are observed:

- 32.1 At least fourteen days' notice of such meeting is given to the employer.
- 32.2 The period of the meeting is no greater than three hours, with employees returning to duty by 5.00pm if so rostered.
- 32.3 The employer is only obliged to pay wages for the period of the meeting if the employer is in receipt of satisfactory evidence of the employee's attendance at the meeting.
- 32.4 Such consultation meetings are to be held on either a Monday or Tuesday, not being a week in which a public holiday occurs.
- 32.5 The employer is only obliged to pay wages for the period that the employee was rostered for duty.



32.6 The employer is not obliged to pay wages for more than one such meeting in any calendar year.

### 33. Basis of Award

This award was originally made in relation to the award of the Australian Industrial Relations Commission known as the Motels, Accommodation and Resorts Award 1998.

### 34. Anti-Discrimination

34.1 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 or domestic status, disability, homosexuality, transgender identity, age and responsibilities as a carer.

34.2 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.

34.3 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.

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

34.4.1 any conduct or act which is specifically exempted from anti-discrimination legislation;

34.4.2 offering or providing junior rates of pay to persons under 21 years of age;

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

34.4.4 a party to this award from pursuing matters of unlawful discrimination in any State or Federal jurisdiction.

34.5 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.

#### Notes

(a) Employers and employees may also be subject to Commonwealth anti-discrimination legislation.

### 35. Union Dues

(i) The employer shall deduct Union membership fees (not including fines or levies) from the pay of any employee, provided that:

(a) the employee has authorised the employer to make such deductions in accordance with subclause (ii) herein;

(b) the Union shall advise the employer of the amount to be deducted for each pay period applying at the employer's workplace and any changes to that amount;

(c) deduction of Union membership fees shall only occur in each pay period in which payment has or is to be made to an employee; and

(d) there shall be no requirement to make deductions for casual employees with less than two months' service (continuous or otherwise).

- (ii) The employee's authorisation shall be in writing and shall authorise deduction of an amount of Union fees (including any variation in that fee effected in accordance with the Union's rules) that the Union advises the employer to deduct. Where the employee passes any such written authorisation to the Union, the Union shall not pass the written authorisation on to the employer without first obtaining the employee's consent to do so. Such consent may form part of the written authorisation.
- (iii) Monies so deducted from employees' pay shall be remitted to the Union on either a weekly, fortnightly, monthly or quarterly basis at the employer's election, together with all necessary information to enable the reconciliation and crediting of subscriptions to employees' membership accounts, provided that:
  - (a) where the employer has elected to remit on a weekly or fortnightly basis, the employer shall be entitled to retain up to five per cent of the monies deducted; and
  - (b) where the employer has elected to remit on a monthly or quarterly basis, the employer shall be entitled to retain up to 2.5 per cent of the monies deducted.
- (iv) Where the employee has already authorised the deduction of Union membership fees in writing 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 commence or continue.
- (v) The Union shall advise the employer of any change to the amount of membership fees made under its rules, provided that this does not occur more than once in any calendar year. Such advice shall be in the form of a schedule of fees to be deducted specifying either weekly, fortnightly, monthly or quarterly as the case may be. The Union shall give the employer a minimum of two months' notice of any such change.
- (vi) An employee may at any time revoke in writing an authorisation to the employer to make payroll deductions of Union membership fees.
- (vii) Where an employee who is a member of the Union and who has authorised the employer to make payroll deductions of Union membership fees resigns his or her membership of the Union in accordance with the rules of the Union, the Union shall inform the employee in writing of the need to revoke the authorisation to the employer in order for payroll deductions of Union membership fees to cease.

### **36. Leave Reserved**

Leave is reserved for any party to revisit the provisions of the award to consider what amendments, if any, should be made to the award as a result of the decisions of the Commission in matter IRC No. 4330 of 2003, application for variation of awards Re: Secure Employment Clause, and matter IRC No. 7167 of 2003, application for a State Decision pursuant to s51 of the Industrial Relations Act 1996 to address Employment Opportunities.

### **37. Area, Incidence and Duration**

37.1 This award rescinds and replaces:

- (a) the Motels, Accommodation and Resorts, &c., (State) Award published 27 November 2015 (378 I.G. 119), and all variations thereof;
- (b) the Flats, Residentials &c., (State) Award published 5 January 1983 (228 I.G. 58), and all variations thereof;
- (c) the Flats, Residentials &c., Redundancy and Technological Change (State) Award published 9 February 1996 (290 I.G. 628), and all variations thereof; and
- (d) the Flats, Residentials &c., (State) Wages Adjustment Award published 28 February 1997 (296 I.G. 1025), and all variations thereof.

It shall apply to all persons employed in any capacity whether permanent or casual in or in connection with motor inns or motels, unlicensed private hotels, serviced apartments, resorts, time share facilities, health or recreation farms, guest houses, ski lodges, holiday flats/units, holiday ranches or farms, condominiums, flats (being premises (not being an hotel licensed to sell spirituous or fermented liquors) where either furnished, unfurnished or service apartments are let or sub-let to tenants (but does not include a private house) and residential chambers (being a lodging house or residential establishment (not being an hotel licensed to sell spirituous or fermented liquors) where accommodation only is provided) and establishments of a like nature together with restaurants, function areas, convention centres or like facilities, ancillary to or part of any of the above whether such establishments are licensed to serve alcoholic drinks or not and in or in connection with preparing and serving food, cleaning and attending to the premises and all other services associated therewith, excluding the County of Yancowinna and government accommodation houses, and excepting all persons employed by Lutanda Children's Home Ltd at Camp Toukley, provided further that Camp Toukley continues to provide the type of services as identified in the affidavit of John Roberts, dated 11 May 2001, filed in proceedings IRC 2328/2000.

- 37.2 This award shall take effect from the beginning of the first pay period to commence on or after 16 December 2018 and shall remain in force for a period of 12 months.
- 37.3 Unless otherwise agreed (and recorded in writing in the time and wages record), for each employee (full-time, part-time, and casual) who was at 24 March, 1999, employed under the provisions of the 1994 Private Hotels, Motels, Guest Houses &c., Employees (State) Award, as varied from time to time, it is a term of this award that they do not suffer any reduction in wages or salary as a result of the making of this award. In this clause, "an overall reduction in wages or salary" means that, when comparing like work pattern with like work pattern, the gross income of the employee is less under this award than it would have been under the provisions of the 1994 Private Hotels, Motels, Guest Houses, &c., Employees (State) Award immediately prior to 24 March 1999. This clause shall cease to operate on 23 March 2001.

P. M. KITE, *Chief Commissioner*

---

Printed by the authority of the Industrial Registrar.

## NSW HEALTH SERVICE ALLIED HEALTH ASSISTANTS (STATE) AWARD 2019

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by NSW Industrial Registrar.

(Case No. 205923 of 2019)

Before Chief Commissioner Kite

11 July 2019

### AWARD

#### 1. Arrangement

Clause No.	Subject Matter
1.	Arrangement
2.	Definitions
3.	Classification of Allied Health Assistants
4.	Qualifications
5.	Salaries
6.	Conditions of Service
7.	Dispute Resolution
8.	Anti-Discrimination
9.	No Extra Claims
10.	Translation Arrangements
11.	Area, Incidence and Duration

SCHEDULE A - DISCIPLINES WHICH UTILISE ALLIED  
HEALTH ASSISTANTS

SCHEDULE B - CLASSIFICATIONS AND  
QUALIFICATIONS  
FOR ALLIED HEALTH ASSISTANT POSITIONS

PART B - MONETARY RATES

Table 1 - Salary Rates

Table 2 - Transition Arrangements

#### 2. Definitions

"Allied Health Assistant" An Allied Health Assistant works under the supervision and direction of an allied health professional to perform clinical and non-clinical duties. The Allied Health Assistant may be engaged to work in a discipline specific area or assist in the delivery of allied health services across a multi-disciplinary team.

"Clinical Duties" include therapeutic and program related activities and may include the identification and reporting of changes in the client's condition.

"Direct Supervision" means that a supervising Allied Health Professional is physically present to observe and direct the activities of an Allied Health Assistant.

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

"Hospital" means a public hospital as defined in section 15 of the *Health Services Act 1997*.

"Indirect Supervision" is when the supervising Allied Health Professional is on-site, yet not physically present whilst the Allied Health Assistant undertakes activities as previously delegated by the Allied Health Professional. Procedures are to be in place to ensure the supervising Allied Health Professional is contactable to provide further direction if required.

"Recognition of Prior Learning (RPL)" means the process whereby an employee has their qualifications, skills and/or knowledge assessed for equivalence, by a Registered Training Organisation, against the identified set of competencies for placement at Level 2 or Level 3 Allied Health Assistant.

"Remote Supervision" is when the Allied Health Professional is off-site whilst an Allied Health Assistant undertakes activities previously delegated by the Allied Health Professional. Procedures are to be in place to ensure that the supervising Allied Health Professional is contactable to provide further direction if required. This may include the use of technologies such as teleconferencing or videoconferencing.

"Service" means service as an employee with the employer both before and after the commencement of the award.

"Non-Clinical Duties" include administrative and support activities.

"Union" means the Health Services Union.

### **3. Classification of Allied Health Assistants**

3.1 Allied Health Assistants will be classified according to the criteria set out at Schedule B of the Award.

### **4. Qualifications**

4.1 The Minimum qualification requirements for each Allied Health Assistant classification are set out at Schedule B of this Award.

### **5. Salaries**

5.1 Full time Allied Health Assistant employees shall be paid the salaries as set out in Table 1 of Part B - Monetary Rates of this Award.

5.2 On attainment of a relevant qualification Allied Health Assistants will move to Year 1 of the appropriate level of the award.

5.3 Salary progression within Levels will occur following 12 months satisfactory service.

### **6. Conditions of Service**

6.1 The Health Employees Conditions of Employment (State) Award 2018, as varied or replaced from time to time, shall apply to all persons covered by this Award.

6.2 The Health Industry Status of Employment (State) Award 2018, as varied or replaced from time to time, shall also apply to relevant employees.

### **7. Dispute Resolution**

7.1 The dispute resolution procedures contained in the awards identified in Clause 6, Conditions of Service, shall apply.

### **8. Anti-Discrimination**

8.1 It is the intention of the parties bound by this award to seek to achieve the object of 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.

- 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 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:
- 8.4.1 any conduct or act which is specifically exempted from anti-discrimination legislation;
- 8.4.2 offering or providing junior rates of pay to persons under 21 years of age;
- 8.4.3 any act or practice of a body established to propagate religion which is exempted under Section 56(d) of the *Anti-Discrimination Act 1977*;
- 8.4.4 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 legislation referred to in this clause.

Notes:

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

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."

## 9. No Extra Claims

- 9.1 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 2020 by a party to this Award.

## 10. Transitional Arrangements

- 10.1 The transitional arrangement of employees employed in the classifications of Allied Health Assistant, Technical Assistant Grade 1, Diversional Therapist without Diploma, or Technical Assistant (Orthotic/Prosthetic) as at 19 April 2018 are determined in accordance with the Transitional Arrangements contained at Part B - Table 2 of this Award.
- 10.2 The translation to the new structure for employees covered by this award will be undertaken utilising the following basic principles.
- 10.2.1 Anniversary/incremental date of employees will be retained.
- 10.2.2 Nothing contained in this award shall operate to reduce the wages or conditions of employment available to any employee at the time of the award coming into effect.

### 11. Area, Incidence and Duration

- 11.1. This Award takes effect from 1 July 2019 and shall remain in force until 30 June 2020. The rates in the second column in Table 1 of Part B - Monetary Rates will apply from the first full pay period on or after (ffppoa) 1 July 2019.
- 11.2. This Award rescinds and replaces the NSW Health Service Allied Health Assistants (State) Award 2018 published (25 October 2019 (385 I.G. 449) and all variations thereof.
- 11.3. This Award shall apply to persons employed in classifications contained herein employed in the New South Wales Health Service under s115 (1) of the *Health Services Act 1997*, or their successors, assignees or transmittes, excluding the County of Yancowinna.

## SCHEDULE A

### DISCIPLINES WHICH UTILISE ALLIED HEALTH ASSISTANTS

- Dietetics
- Diversional Therapy
- Exercise Physiology
- Mental Health
- Occupational Therapy
- Orthotics/Prosthetics
- Physiotherapy
- Podiatry
- Radiography
- Social Work
- Speech Pathology

Provided that additional classifications for which the Union has constitutional coverage may be added to this list by agreement between the Union and the Employer.

## SCHEDULE B

### CLASSIFICATIONS AND QUALIFICATIONS FOR ALLIED HEALTH ASSISTANT POSITIONS

#### Level 1

A Level 1 Allied Health Assistant engages in basic patient care, clinical duties and/or administrative support under the supervision of the designated Allied Health Professional. The Level 1 Allied Health Assistant is developing skills and progressing from working under direct supervision to undertaking tasks under indirect or remote supervision. An Allied Health Assistant at this level:

- (a) has completed less than 12 months' service as an Allied Health Assistant; and
- (b) does not hold the qualifications of a Level 2 or Level 3 Allied Health Assistant.

#### Level 2

A Level 2 Allied Health Assistant undertakes clinical duties and/or administrative tasks under direct, indirect or remote supervision. An Allied Health Assistant at this level, either:

- (a) has completed 12 or more months' service as an Allied Health Assistant at level 1; or
- (b) has completed a relevant Certificate III qualification or other qualification deemed equivalent by the employer or where they have been successfully assessed as possessing the competencies required for Certificate III by way of RPL. Progression to Level 2 will apply from the date that the employee notifies the Employer and provides evidence of having attained the equivalent qualification or Statements of Attainment.

**Level 3**

A Level 3 Allied Health Assistant undertakes clinical duties and/or administrative tasks under direct, indirect or remote supervision and has completed a relevant Certificate IV qualification or other qualification deemed equivalent by the employer or where they have been successfully assessed as possessing the competencies required for Certificate IV by way of RPL. Progression to Level 3 will apply from the date that the employee notifies the Employer and provides evidence of having attained the equivalent qualification or Statements of Attainment.

**PART B**  
**MONETARY RATES**

**Table 1 - Salaries**

Classification	Rate from 01/07/2019 Per week \$	Rate from ffppoa 01/07/2019 Per week \$
Level 1		
Entry Level 2	983.40	1,007.98
1st Year	1,007.00	1,032.18
2nd Year	1,025.80	1,051.47
3rd Year and Thereafter		
Level 3	1,039.10	1,065.08
1st Year	1,071.50	1,098.29
2nd Year	1,093.00	1,120.32
3rd Year and Thereafter	1,120.00	1,148.00

**Table 2: Transitional Salary Arrangements to Allied Health Assistant (AHA)**

Classification	Yr.	No Qualifications	Cert III or Equivalent	Cert IV or Equivalent
Technical Assistant Grade 1-Therapy Aide	1	AHA level 1 - Entry	AHA Level 2 - 1st year	AHA level 3 - 1st year
	2	AHA level 2 - 1st year	AHA Level 2 - 1st year	AHA level 3 - 1st year
	3	AHA level 2 - 2nd year	AHA level 2 - 2nd year	AHA level 3 - 1st year
Diversional Therapist Without Diploma	1	AHA level 1 - Entry	AHA level 2 - 1st year	AHA level 3 - 1st year
	2	AHA level 2 - 1st year	AHA level 2 - 1st year	AHA level 3 - 1st year
	3	AHA level 2 - 2nd year	AHA level 2 - 2nd year	AHA level 3 - 1st year
Classification	Yr.	No Qualifications	Cert III or Equivalent	Cert IV or Equivalent
Technical Assistant (Orthotic Prosthetic) Level 1	1	AHA level 1 - Entry	AHA Level 2 - 1st year	AHA level 3 - 1st year
	2	AHA level 2 - 1st year	AHA level 2 - 1st year	AHA level 3 - 1st year
	3	AHA level 2 - 2nd year	AHA level 2 - 2nd year	AHA level 3 - 1st year
Level 2	1	AHA level 3 - 2nd year	AHA level 3 - 2nd year	AHA level 3 - 2nd year
	2	AHA level 3 - 3rd year	AHA level 3 - 3rd year	AHA level 3 - 3rd year
	3	AHA level 3 - 3rd year	AHA level 3 - 3rd year	AHA level 3 - 3rd year

1. Employees employed at the operative date of this Award in the classification of Technical Assistant Grade 1, Diversional Therapist Without Diploma, Technical Assistant (Orthotic/Prosthetic) shall transition to the classification of Allied Health Assistant, in accordance with Table 2 to this Schedule. These employees retain their existing incremental date and progress by way of annual increment throughout the new salary range.



2. Employees, who at the operative date of this Award, are in receipt of a salary at the 1st, 2nd or 3rd year of the classification of Technical Assistant (Orthotic/Prosthetic) Level 2, shall transition to the new salary scale of Allied Health Assistant in accordance with Table 2 to this Schedule. Provided that Employees who are in receipt of a salary at the 3rd year of the classification of Technical Assistant (Orthotic/Prosthetic) Level 2:
  - 2.1. shall transition at their applicable rate of pay at the operative date of this Award;
  - 2.2. any percentage-based wage increases which are awarded post-commencement of this Award will be calculated and applied based on the Employee's transitional rate.

P. M. KITE, *Chief Commissioner*

---

Printed by the authority of the Industrial Registrar.

**NURSES (PRIVATE SECTOR) SUPERANNUATION (STATE) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

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

(Case No. 288610 of 2018)

Before Chief Commissioner Kite

9 November 2018

**REVIEWED AWARD****1. Arrangement**

Clause No.	Subject Matter
1.	Arrangement
2.	Title
3.	Definitions
4.	Superannuation Legislation
5.	Contributions
6.	Salary Sacrifice to Superannuation
7.	Exemptions
8.	Grievance Procedure
9.	Area, Incidence and Duration

**2. Title**

This award shall be known as the Nurses' (Private Sector) Superannuation (State) Award.

**3. Definitions**

- (i) "Approved fund" means:
- (a) the Health Employees' Superannuation Trust Australia (H.E.S.T.A.);
  - (b) the First State Super;
  - (c) any superannuation fund as agreed between the Association and employer(s), provided that the fund is a complying regulated fund and holds a Certificate of Compliance issued by the Australian Prudential Regulation Authority. Provided further that the Association shall not unreasonably withhold agreement unless it establishes good and proper reasons;
  - (d) any superannuation fund operating within a place of employment prior to the operative date of this award provided that the fund is a complying regulated fund, holds a Certificate of Compliance issued by the Australian Prudential Regulation Authority, and the Association agrees to the continued approval of that fund. Provided that the Association shall not unreasonably withhold agreement unless it establishes good and proper reasons;
  - (e) any superannuation fund nominated by the employee and approved by the employer in accordance with section 124 of the *Industrial Relations Act (NSW) 1996* ("the 1996 Act").
- (ii) "Complying regulated fund" means a superannuation fund that is regulated under the *Superannuation Industry (Supervision) Act 1993* and has been issued with a Certificate of Compliance by the Australian Prudential Regulation Authority.

- (iii) "Ordinary time earnings" means remuneration for an employee's weekly number of hours of work, excluding overtime hours, calculated at the ordinary-time rate of pay, including the following:
  - (a) Monday to Friday shift premiums for ordinary hours of work;
  - (b) Weekend shift premiums for ordinary hours of work;
  - (c) Public holiday loadings;
  - (d) any percentage addition payable to casual employees for ordinary hours of work;
  - (e) ordinary time award allowances (not including expense-related allowances);
  - (f) over-award payments for ordinary hours of work.
- (iv) "Association" mean the New South Wales Nurses and Midwives' Association.
- (v) "Qualified employee" means:
  - (i) A full-time or part-time employee who has completed at least four weeks' service in the industry of nursing. Provided that once this period has elapsed, payments in accordance with clause 5 shall be made for the entire period of service with the employer;
  - (ii) A casual employee who has earned in excess of \$2000.00 ordinary-time earnings during their employment with an employer in the course of any one year (1 July to 30 June). Provided further that any casual employee who is deemed to be a qualified employee prior to the operative date of this award will continue to be qualified.

#### **4. Superannuation Legislation**

The subject of superannuation is dealt with extensively by federal legislation, including the *Superannuation Guarantee (Administration) Act 1992*, the *Superannuation Guarantee Charge Act 1992*, the *Superannuation Industry (Supervision) Act 1993*, the *Superannuation (Resolution of Complaints) Act 1993*, and section 124 of the *Industrial Relations Act 1996* (NSW). This legislation, as varied from time to time, shall govern the superannuation rights and obligations of the parties.

#### **5. Contributions**

- (i) The employer shall make, in respect of qualified employees, legislated superannuation contributions currently set at 9.5% of ordinary-time earnings into an approved fund. Such contributions shall be remitted to the approved fund on a monthly basis. With respect to casual employees, contributions shall be remitted at the time that employees receive their annual group certificate.
- (ii) It is provided further that an employee may nominate one complying fund to which all award and statutory superannuation contributions in respect of him/her shall be paid, subject to employer approval of the fund nominated by the employee. Provided that the employer shall not unreasonably withhold agreement unless it establishes good and proper reasons for the withholding of agreement.
- (iii) Where no such nomination is made before any such contributions become payable, the contribution referred to in subclause (i) of this clause will be paid to the approved fund for that place of employment.

#### **6. Salary Sacrifice to Superannuation**

- (i) Salary Sacrifice to Superannuation means the option of making additional superannuation contributions by electing to sacrifice a portion of the gross earnings (pre tax dollars) under the parent awards. This will give the effect of reducing the taxable income by the amount for salary sacrifice.
- (ii) Salary sacrifice to superannuation shall be offered to employees by mutual agreement between the employee and employer.

- (iii) Such election must be made prior to the commencement of the period of service to which the earnings relate.
- (iv) One change of a sacrificed amount will be permitted in an employee's anniversary year, which is 12 months from the date of commencement of employment, without incurring an administration charge (\$50.00). Changing from full-time to part-time or part-time to full-time employment will not be classified as a change for administration charge purposes.
- (v) The amount sacrificed must not exceed any relevant superannuation guarantee contribution limit.
- (vi) The sacrificed portion of salary reduces the salary subject to PAYG taxation deductions.
- (vii) Any allowance, penalty rate, overtime, payment for unused leave entitlements, other than any payments for leave taken whilst employed, shall be calculated by reference to the salary which would have applied to the employee in the absence of any salary sacrifice to superannuation. Payment for leave taken whilst employed will be at the post-salary sacrificed amount.
- (viii) Salary sacrifice arrangements can be cancelled by either the employer or employee at any time provided either party gives one month's notice. The employer has the right to withdraw from offering salary sacrifice to employees without notice if there is any alteration to relevant Australian Taxation legislation.
- (ix) Contributions payable by the employer in relation to the Superannuation Guarantee Legislation shall be calculated by reference to the salary which would have applied to the employee under the parent award in the absence of any salary sacrifice.
- (x) Employers will not use any amount that is salary sacrificed by an employee to negate contributions payable under the Superannuation Guarantee Legislation.
- (xi) The employee shall have the portion of payable salary that is sacrificed paid as additional employer superannuation contributions into the same superannuation fund that receives the employer's SGC contributions.
- (xii) Nothing in this clause shall affect the right of an employer to maintain alternate arrangements with respect to salary sacrifice for employees.

## **7. Exemptions**

This award shall not apply to employers who are subject to any of the following:

- (i) Private Hospital and Nursing Home Nurses' Superannuation (State) Award published 2 July 2004 and Award reprinted 27 January 2012;
- (ii) *State Authorities Non-Contributory Superannuation Act 1987*;
- (iii) employers of occupational health nurses working in the retail industry or in the metal trades industry, provided that the parties to this award may seek the question of the constitution of this exemption be relisted for consideration by the Industrial Relations Commission on reasonable notice.

## **8. Grievance Procedure**

Grievances and disputes shall be dealt with in the following manner:

- (i) The employee is to notify (in writing or otherwise) the employer as to the substance of the grievance, requesting a meeting with the employer for discussions and state the remedy sought. This meeting shall take place within two working days of the issue arising (weekends and public holidays excepted).
- (ii) If agreement is not reached, the matter shall then be referred by either party to a higher authority (where this exists) no later than three working days after subclause (i) above (weekends and public holidays

excepted). At the conclusion of the discussion, the employer must provide a response to the employee's grievance if the matter has not been resolved, including reasons (in writing or otherwise) for not implementing the proposed remedy.

- (iii) If the matter is still not settled within a reasonable period of time, it may be referred/notified to the Industrial Relations Commission of New South Wales.
- (iv) The employer may be represented by an industrial organisation of employers and the employee/s may be represented by an organisation of employees for the purposes of each step of the procedure.

#### **9. Area, Incidence and Duration**

- (i) Subject to clause 7, Exemptions, this award shall apply to all persons employed as nurses or in accordance with the profession of nursing in the State of New South Wales excluding the County of Yancawinna.
- (ii) It shall take effect on and from 9 December 2018 and remain in force for a period of 12 months.
- (iii) It shall take effect in respect of paragraph (c) of subclause (iii) of clause 3, Definitions, on 1 July 2000.
- (iv) Clause 6, Salary Sacrifice to Superannuation, shall take effect on the first pay period on or after 13 August 2001.
- (v) This award is made following a review under section 19 of the *Industrial Relations Act* 1996 and rescinds and replaces the Nurses (Private Sector) Superannuation (State) Award published 2 July 2004 (345 I.G. 171), and Award reprinted 27 January 2012 (372 I.G. 584), as varied.

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 9 December 2018.

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

P. M. KITE, *Chief Commissioner*

---

Printed by the authority of the Industrial Registrar.

**NURSING HOMES, &c., NURSES' (STATE) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

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

(Case No. 288708 of 2018)

Before Chief Commissioner Kite

9 November 2018

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

Clause No.	Subject Matter
1.	Definitions
2.	Hours of Work and Free Time of Employees Other Than Directors of Nursing
3.	Hours of Work and Free Time of Directors of Nursing
4.	Remuneration Packaging
5.	Rosters
6.	Salaries
7.	Recognition of Service and Experience
8.	Average Occupied Beds
9.	Special Allowances
10.	Continuing Education Allowance
11.	Climatic and Isolation Allowance
12.	Penalty Rates for Shift Work and Weekend Work
13.	Expense Allowance for Directors of Nursing
14.	Telephone Allowance
15.	Public Holidays
16.	Uniform and Laundry Allowance
17.	Higher Grade Duty
18.	Overtime
19.	Payment and Particulars of Salaries
20.	Proportion
21.	Part-time, Casual and Temporary Employees
22.	Annual Leave
23.	Annual Leave Loading
24.	Sick Leave
25.	Long Service Leave
26.	Compassionate Leave
26A.	Parental Leave
27.	Personal/Carer's Leave
28.	Staff Amenities
29.	Labour Flexibility
30.	Medical Examination of Nurses
31.	Escort Duty
32.	Deputy Director of Nursing and Assistant Director of Nursing
33.	Nursing Unit Managers
34.	Fares and Expenses
35.	Registration or Enrolment Pending
36.	Termination of Employment

37. Award Benefits to be Continuous
38. Special Provisions Relating to Trainee Enrolled Nurses
39. Trainee Enrolled Nurse
40. Right of Entry
41. Lifting Weights
42. Attendance at Meetings and Fire Drills
43. Training for Nurses
44. Resolution of Disputes
45. Anti-Discrimination
46. Enterprise Arrangements
47. Exemptions
48. Leave Reserved
49. Secure Employment
50. Area, Incidence and Duration

## PART B

### MONETARY RATES

Table 1 - Salaries

Table 2 - Other Rates and Allowances

Table 3 - Continuing Education Allowances

## PART A

### 1. Definitions

The following definitions apply in this award, except where otherwise clearly indicated.

- (i) "Assistant in Nursing" means - a person, other than a registered nurse, trainee or enrolled nurse who is employed in nursing duties in a facility.
- (ii) "Assistant Director of Nursing" means:
  - (a) A person appointed as such in any sized facility and includes a person appointed as the nurse in charge during the evening or night in a facility where the adjusted daily average of occupied beds is not less than 150.
  - (b) A person appointed as such to a position approved by the employer including persons appointed to be in charge of a ward or group of wards.
- (iii) "Association" means - the New South Wales Nurses and Midwives' Association.
- (iv) "Board" means - the Nursing and Midwifery Board of Australia.
- (v) "Clinical Nurse Consultant" means - a registered nurse appointed as such to the position, who has had at least five years' post registration experience and who has in addition approved post registration nursing qualifications relevant to the field in which they are appointed or such other qualifications or experience deemed appropriate by the employer.
- (vi) "Clinical Nurse Educator" means - a registered nurse with relevant post registration certificate qualifications or experience deemed appropriate by the employer, who is required to implement and evaluate educational programmes at the nursing home.

The Clinical Nurse Educator shall cater for the delivery of clinical nurse education at the nursing home. The Clinical Nurse Educator may also be responsible for new employee orientation at the nursing home.

A nurse will achieve Clinical Nurse Educator status on a personal basis by being required by the nursing home to provide the educational programmes detailed above.

Nothing in this clause shall affect the role carried out by the Clinical Nurse Specialist as a specialist resource and the Clinical Nurse Consultant in the primary role of clinical consulting, researching etc.

(vii) "Clinical Nurse Specialist":-

(a) In facilities of 250 ADA and above, the definition of a Clinical Nurse Specialist is:

"Clinical Nurse Specialist" means - a registered nurse with specific post registration qualifications and twelve months experience working in the clinical area of her/his specified post registration qualification; or a registered nurse with four years post registration experience in a specific clinical area and working in the clinical area of her/his specified post registration experience.

(b) In facilities of less than 250 ADA the definition for Clinical Nurse Specialist is:

"Clinical Nurse Specialist" means - a registered nurse with specific post registration qualifications and twelve months experience working in the clinical areas of her/his specified post registration qualification.

(viii) "Day Worker" means - a worker who works her/his ordinary hours from Monday to Friday inclusive and who commences work on such days at or after 6.00 am and before 10.00 am, otherwise than as part of the shift system.

(ix) "Deputy Director of Nursing" means - a person appointed to that position or deemed to hold that position pursuant to clause 32, Deputy Director of Nursing and Assistant Director of Nursing, of this award.

(x) "Director of Nursing" means a registered nurse who is registered by her/his employer with the Health Administration Corporation as the person in charge of the facility. There shall be only one person in each facility entitled to be classified as Director of Nursing or whatever title the senior nursing administrator is known by in the individual facility and shall include "Director of Nursing" as defined by Division 4, 104 (3) of the *Public Health Act 2010*.

(xi) "Enrolled Nurse" means - a person enrolled by the Board as such.

(xii) "Experience" in relation to an enrolled nurse or assistant in nursing means experience both before and/or after the commencement of this award whether within New South Wales or elsewhere and in the case of an enrolled nurse or assistant in nursing who was formerly a student nurse includes experience as such student nurse.

(xiii) "Facility" means - a nursing home or residential aged care facility

(xiv)

(xiv) "Industry of Nursing" means - the industry of persons engaged in New South Wales in the profession of nursing in nursing homes and hostels.

(xv) "Nurse" includes Registered Nurses, Enrolled Nurses and Assistants in Nursing.

(xvi) "Nurse Educator" means - a registered nurse with a post registration certificate, who has relevant experience or other qualifications deemed appropriate by the employer, and who is appointed to a position of Nurse Educator.

A Nurse Educator shall be responsible for the development, implementation and delivery of nursing education programmes within a nursing home or group of nursing homes. Nurse education programmes shall mean courses conducted such as post registration certificates, continuing nurse education, orientation programmes including new graduate programmes, post enrolment courses for enrolled nurses and where applicable general staff development courses.



A person appointed to a position of Nurse Educator who holds relevant tertiary qualifications in education or tertiary postgraduate specialist clinical nursing qualifications shall commence on the 3rd year rate of the salary scale.

A person appointed as the sole nurse educator for a group of nursing homes shall be paid at the 3rd year rate of the salary scale.

Incremental progression for Nurse Educators shall be on completion of 12 months satisfactory full-time equivalent service, provided that progression shall not be beyond the 3rd year rate unless the person possesses the qualifications detailed in the two previous paragraphs. Persons appointed to the 3rd year rate by virtue of paragraphs 3 and 4 above shall progress to the 4th year rate after completion of 12 months satisfactory full time service.

- (xvii) "Nursing Home" means a facility at which residential care (within the meaning of the *Aged Care Act* 1997 of the Commonwealth) is provided, being:
- (a) a facility at which care is provided in relation to an allocated place (within the meaning of that Act) that requires a high level of residential care (within the meaning of that Act), or
  - (b) a facility that belongs to a class of facilities prescribed by the regulations
- (xviii) "Registered Nurse" means - a person registered by the Board as such.
- (xix) "Senior Nurse Educator" means - a registered nurse with a post registration certificate or appropriate qualifications, who has, or is working towards, recognised tertiary qualifications in education or equivalent and has demonstrated experience and skills in the field of education, and who is appointed to a position of Senior Nurse Educator.

A Senior Nurse Educator shall be responsible for one or more Nurse Educators in the planning, co-ordination, delivery and evaluation of educational programmes such as post registration certificate courses, continuing nurse education, orientation programmes including new graduate programmes, post enrolment courses for enrolled nurses and where applicable general staff development courses either in a nursing home or in a group of nursing homes.

Incremental progression shall be on completion of 12 months' satisfactory service.

- (xx) "Service" for the purpose of clause 6, Salaries, of this award, means - service before or after the commencement of this award in New South Wales or elsewhere as a registered nurse, plus any actual periods on and from 1 January 1971, during which a registered nurse undertook a prescribed geriatric, infants', midwifery, mothercraft or psychiatric training course, or attended a post-graduate course recognised by the Board whether in New South Wales or elsewhere; provided that in the case of service elsewhere than in New South Wales where the period of the prescribed course of training is less than the period of the prescribed course of training in New South Wales, the nurses shall serve a period after graduation equal to the difference between the period of the prescribed course elsewhere than in New South Wales and the period of the prescribed course in New South Wales before becoming entitled to be paid as a registered nurse, general nurse, geriatric nurse, infants' nurse, midwifery nurse, mothercraft nurse or psychiatric nurse as the case may be.
- (xxi) "Shift Worker" means - a worker who is not a day worker as defined.
- (xxii) "Trainee Enrolled Nurse" means - a person who is being trained to become an enrolled nurse in a nursing home recognised by the Board for that purpose.

## **2. Hours of Work and Free Time of Employees Other Than Directors of Nursing**

- (i) The ordinary hours of work for day workers, other than Directors of Nursing, exclusive of meal times, shall be 152 hours per 28 calendar days, to be worked 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, other than Directors of Nursing, exclusive of meal times, shall not exceed an average of 38 hours per week in each roster cycle.

(iii)

(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 calendar days each employee shall not work his/her ordinary hours of work on more than 19 days in the cycle.

(b) Notwithstanding the provision of paragraph (a) of this subclause, employees may, with the agreement of the employer, work shifts of less than eight hours each over 20 days in each cycle of 28 days.

(c) Provided that on the occasion of an employee's written request, and with the consent of the employer, a 9.5-day fortnight may be worked instead of the 19-day month.

NOTE: This subclause is designed to ensure that rosters achieve increased leisure time for nurses, rather than reduced daily hours. This can be achieved by the working of shifts of longer than eight hours per day, with the result that less than 19 days are worked in 28, but without the accrual of an additional day off, as well as by the working of a 19-day month with an accrued additional day off.

(iv) Each shift shall consist of no more than ten hours on a day shift or 11 hours on a night shift with not less than eight hours break between each shift; provided that an employee shall not work more than seven consecutive shifts unless the employee so requests and the Director of Nursing agrees. Provided also that an employee shall not work more than two quick shifts in any period of seven days, i.e., an evening shift followed by a morning shift, where the break between ordinary shifts is less than ten hours.

(v) The employer is to decide when employees take their additional days off prescribed in subclause (iii) of this clause (as a consequence of the implementation of the 38-hour week). Where necessary, the employer must consult with the affected employees to ascertain the employees' preferences and must take any such preferences into account when arriving at a decision. Where practicable, additional days off duty shall be consecutive with the rostered days off duty prescribed in subclause (xiv) of this clause.

(vi) Once set, the additional day off duty may not be changed, except in accordance with the provisions of clause 5, Rosters.

(vii) Where the employer's decision (in accordance with subclause (v) of this clause) is that an employee's additional days off be accumulated, no more than six days may be accumulated in any one year of employment. By mutual agreement this may be extended to no more than 12 days at any one time.

(viii)

(a) Except for breaks for meals, the hours of duty each day shall be continuous.

(b) "Broken shift" for the purposes of this subclause means a shift worked by a permanent part-time employee that includes a break (other than a meal break) of not more than four hours and where the span of hours is not more than 12 hours.

(c) Notwithstanding paragraph (a) above and subclause (iv) of this clause, an employer association representing an employer may apply to the Association for permission to implement broken shifts.

(d) Broken shifts may be worked without the permission of the Association, but only where:

(1) it is for a period of one month or less; and

(2) it is by reason of an emergency in the roster, e.g., absence of another employee due to sick leave, annual leave on short notice or resignation; and

- (3) the affected employees agree to work the broken shifts.
- (ix)
- (a) Each employee shall be allowed a break of not less than 30 minutes and not more than 60 minutes for each meal occurring on duty.
- (b) Where practicable, employees shall not be required to work more than five hours without a meal break.
- (x) Two separate ten-minute intervals (in addition to meal breaks) shall be allowed each employee on duty during each ordinary shift of 7.6 hours or more; where less than 7.6 ordinary hours are worked, employees shall be allowed one ten-minute interval in each four-hour period. Subject to agreement between the employer and the employee, such intervals may alternatively be taken as one 20-minute interval, or as one ten-minute interval with the employee allowed to proceed off duty ten minutes before the completion of the normal shift finishing time. Such interval(s) shall count as working time.
- (xi) Subclauses (ix) and (x) of this clause shall not apply to an employee who, before going on night duty, is provided with a meal between 9.00 p.m. and 11.00 p.m. and who is allowed two intervals of 20 minutes each during the period of night duty, but such intervals shall count as working time and shall be paid for as such.
- (xii)
- (a) Except as provided for in paragraph (b) of this subclause, an employee shall not be employed on night duty for a longer period than eight consecutive weeks. After having served a period of night duty, an employee shall not be required to serve a further period on night duty until he or she has been off night duty for a period equivalent to the previous period on night duty.
- (b) The provisions of paragraph (a) shall not apply to an Assistant Director of Nursing, a Nursing Unit Manager or a registered nurse in charge, as the case may be, who is employed permanently in charge at night, nor to an employee who requests to be employed on night duty and the Director of Nursing consents.
- (c) Moreover, except in cases of emergency, a trainee enrolled nurse shall not be employed on night duty for more than ten weeks in any one year of training nor shall a trainee enrolled nurse who is sitting for his or her final examination be required to perform night duty during a period of at least two weeks prior to the respective examination or on the two nights following such examination.
- (xiii) An employee changing from night duty to day duty or from day duty to night duty shall be free from duty during the 20 hours immediately preceding the commencement of the changed duty.
- (xiv)
- (a) Each employee shall be free from duty for not less than two full days in each week or four full days in each fortnight or eight full days in each 28-day cycle and no duties shall be performed by the employee on any of such free days except for overtime. Where practicable, days off shall be consecutive and shall not be preceded by an evening shift or a night shift unless an additional eight hours are granted as sleeping time. An evening shift shall be one which commences at or after 1.00 p.m. and before 4.00 p.m.
- (b) An employee, at his or her request, may be given free-from-duty time in one or more periods but no period shall be less than one full day.
- (c) For the purpose of this subclause, "full day" means - from midnight to midnight or midday to midday.

- (xv)
- (a) Employees may be required to remain "on call". Any such time on call shall not be counted as time worked (except insofar as an employee may take up actual duty in response to a call), but shall be paid for in accordance with clause 9, Special Allowances. Provided, however, that no employee shall be required to remain on call whilst on leave or on the day before entering upon leave.
  - (b) No employee shall be required to remain on call while on a rostered day or days off nor on completion of the shift on the day preceding a rostered day off. This provision shall not apply where in special circumstances it is necessary for an employer to place staff on call on rostered days off or on completion of the shift on the day preceding a rostered day off in order to ensure the provision of services.
- (xvi) All rostered time off duty occupied by a trainee enrolled nurse in attendance at lectures and demonstrations given in the course of instruction in the theory and practice of nursing or during the time necessarily occupied in attending at and sitting for prescribed examinations shall be deemed to be time worked.
- (xvii) The provisions of paragraphs (a) and (b) of subclause (xii) and of subclause (xiii) and of paragraph (a) of subclause (xiv) of this clause, shall not apply if the employee is required to perform duty to enable the nursing service of the employer to be carried on or where another employee is absent from duty on account of illness or in an emergency.

### **3. Hours of Work and Free Time of Directors of Nursing**

- (i) A Director of Nursing shall be free from duty for not less than nine days in each 28 consecutive days and such days free from duty may be taken in one or more periods.
- (ii) If any of the days mentioned in subclause (i) of this clause cannot be taken by reason of emergency, such day or days shall be given and taken within 28 days of becoming due.
- (iii) A Director of Nursing shall, where practicable, inform his/her employer by giving not less than seven days' notice of the days he/she proposes to be free from duty; provided that such days shall be subject to the approval of the employer, and such approval shall not be unreasonably withheld.

### **4. Remuneration Packaging**

- (i) Where an employer intends to offer remuneration packaging generally to employees under this award, the employer shall notify the Association at least 21 days prior to making that general offer that it intends to make a general offer of remuneration packaging to employees under this award.
- (ii) Where the employer offers remuneration packaging to an individual employee, the employer shall allow the employee a period of no less than 21 days to seek independent advice on the terms of the proposed remuneration packaging.
- (iii) Remuneration packaging shall be introduced by agreement between an employer and the employee. Neither the employee nor the employer shall be compelled to enter into a salary packaging arrangement. Employees may exercise their rights to continue to receive their applicable salary.
- (iv) The terms and conditions of a package offered to an employee shall not, when viewed objectively, be less favourable than the entitlements otherwise available under the award and shall be subject to the following provisions:
  - (a) The employer shall ensure that the structure of any package complies with taxation and other relevant laws.
  - (b) All award conditions, other than the salary and those conditions as agreed in paragraph (c) below shall continue to apply.

- (c) Where packaging arrangements apply with a Director of Nursing (DON) or a Deputy Director of Nursing (DDON), the employer and employee may by mutual agreement delete the application of certain award clauses, excepting clauses 22 Annual Leave, 24 Sick Leave, 25 Long Service Leave and 27 Personal/Carer's Leave.
- (d)
  - (i) Employees will have the Superannuation Guarantee Contribution (SGC) calculated on their award salary prior to the application of any remuneration packaging arrangements.
  - (ii) Employers shall, by no later than 31 December 2002, renegotiate any remuneration package in operation prior to 13 November 2002, where such package includes a SGC calculated on less than their pre-packaged award salary. The package must provide for future SGC contributions to be based on the pre-packaged award salary.
- (v) A copy of the agreement shall be made available to the employee.
- (vi) The employee shall be entitled to inspect details of the payments made under the terms of this agreement.
- (vii) The configuration of the remuneration package shall remain in force for the period agreed between the employee and the employer.
- (viii) Where at the end of the Fringe Benefit Tax year the full amount allocated to a specific benefit has not been utilised, it will be paid as salary, which will be subject to appropriate taxation requirements. By agreement between the employer and the employee, any unused benefit may be carried forward to the next period on the basis that any FBT obligation is accepted by the employee.
- (ix) In the event that the employer ceases to attract exemption from payment of Fringe Benefit Tax, the employer may terminate all remuneration packaging arrangements and the employee's salary will revert to the applicable award classification rate the employee would have been entitled to receive but for the remuneration packaging agreement.
- (x) One months notice by either party is required for change or termination of a remuneration packaging agreement, unless the change or termination is brought about by legislation or an increase to the award wage.
- (xi) In the event that the employee ceases to be employed by the employer this agreement will cease to apply as at the date of termination. Benefits not paid on or before the date of termination shall be treated as salary and the appropriate tax deducted.
- (xii) Pay increases granted to employees in accordance with this award shall also apply to employees subject to remuneration packaging arrangements.
- (xiii) Any allowance, penalty rate, overtime, payment for unused leave entitlements, other than any payments for leave taken whilst employed, shall be calculated by reference to the salary which would have applied to the employee in the absence of any remuneration packaging arrangements.

## 5. Rosters

- (i) The ordinary hours of work for each employee, other than the Director of Nursing, shall be displayed on a roster in a place conveniently accessible to employees.
- (ii) The roster shall, where practicable, be displayed at least two weeks, and in any event not less than one week, prior to the commencing date of the first working period in the roster.
- (iii) Notwithstanding the foregoing provisions of this clause, a roster may be altered at any time to enable the nursing service of the facility to be carried on where another employee is absent from duty on account of illness or in an emergency; provided that where any such alteration involves an employee working on a

day which would otherwise have been such employee's day off, the day off in lieu thereof shall be as mutually arranged.

- (iv) Prior to the date of the changed shift, such change of roster shall be notified verbally or in writing to the employee concerned.
- (v) Where an employee is entitled to an additional day off duty in accordance with clause 2, Hours of Work and Free Time of Employees other than Directors of Nursing, of this award, such day is to be shown on the roster of hours for that employee.
- (vi) All rosters shall be retained for at least six years.

#### **6. Salaries**

- (i) The minimum salaries per week shall be as set out in Table 1 - Salaries, of Part B, Monetary Rates.
- (ii)

#### **7. Recognition of Service and Experience**

- (i) The employer shall notify each nurse, in writing, of the requirements of this clause at the time of the nurse's commencement of employment. If the employer does not so notify the nurse, then the requirements of this clause shall not commence until the employer does so notify the nurse.
- (ii) From the time of commencement of employment the nurse has three months in which to provide documentary evidence to their employer detailing any other 'service' or 'experience', as defined in clause 1, Definitions, not disclosed at the time of commencement. This evidence, in the absence of other documentary evidence may take the form of a statutory declaration.
- (iii) Until such time as the nurse furnishes any such documentation contemplated in subclause (ii) above, the employer shall pay the nurse at the level for which proof has been provided.
- (iv) If within three months of commencing employment a nurse does provide documentary evidence of other previous service or experience not disclosed at the time of commencement, the employer shall pay the nurse at the appropriate rate as and from the date of commencement that would have been paid from that date had the additional evidence been provided at that time.
- (v) If a nurse provides documentary evidence of other previous service or experience not disclosed at the time of commencement after the said three months period, the nurse shall be paid a rate appropriate for the previous service or experience then proved, but only from the date of providing that evidence to the employer.
- (vi) A nurse who is working as a nurse for more than one organisation shall notify each employer under this award within one month of the end of each quarter of their hours worked with those other employers in the last quarter.
- (vii) A nurse who is entitled to progress to the next year of service or experience (by reason of hours worked with other employers) as and from a particular date must provide proof of that entitlement within three months of that entitlement arising. If that proof is so provided, the nurse shall be paid at the higher rate as and from the date they were entitled to progress to the next year of service or experience. If the proof is provided outside that three-month period, the nurse shall be paid at the higher rate only from the date that proof is provided.

#### **8. Average Occupied Beds**

The average shall be taken for the 12 months ended 30 June in each and every year and such average shall relate to the salary of the Director of Nursing and Deputy Director of Nursing for the succeeding year. On request, an employer shall furnish to the Association a statement in writing showing the adjusted daily average of occupied beds for the twelve months ending on the preceding 30 June.

### 9. Special Allowances

- (i)
  - (a) A registered nurse in charge during the day, evening or night of a facility having a daily average of occupied beds of less than 150 shall be paid, in addition to his or her appropriate salary, whilst so in charge, the relevant sum set out in Item 1 of Table 2, Other Rates and Allowances, of Part B Monetary Rates, per shift.
  - (b) A registered nurse who is designated to be in charge of a shift in a ward shall be paid, in addition to his or her appropriate salary, the sum set out in Item 2 of the said Table 2, per shift.
  - (c) This subclause shall not apply to registered nurses holding classified positions of a higher grade than a registered nurse.
  - (d) An enrolled nurse shall not be required to be in charge of a facility, shift, ward or unit.
- (ii)
  - (a) An employee required by her or his employer to be on call otherwise than as provided for in paragraph (b) of this subclause shall be paid the sum set out in Item 3 of Table 2 for each period of 24 hours or part thereof, provided that only one allowance shall be payable in any period of 24 hours.
  - (b) An employee required to be on call on rostered days off in accordance with paragraph (b) of subclause (xv) of clause 2, Hours of Work and Free Time of Employees Other Than Directors of Nursing, shall be paid the sum set out in Item 4 of Table 2 for each period of 24 hours or part thereof, provided that only one allowance shall be payable in any period of 24 hours.
  - (c) An employee who is directed to remain on call during a meal break shall be paid the sum set out in Item 5 of Table 2, provided that no allowance shall be paid if, during a period of 24 hours, including such period of on call, the employee is entitled to receive the allowance prescribed in paragraph (a) of subclause (ii) of this clause.
  - (d) Where an employee on remote call leaves the facility and is recalled to duty, she or he shall be reimbursed all reasonable fares and expenses actually incurred, provided that where an employee uses a motor car in those circumstances the allowance payable shall be calculated utilising the rate per kilometre in Item 6 of Table 2.
  - (e) This subclause shall not apply to a Director of Nursing, subsidiary nursing home Director of Nursing, Deputy Director of Nursing or Assistant Director of Nursing.
- (iii) Where an employee is called upon and agrees to use his or her own private vehicle for official business, payment of an allowance shall be made by utilising the rate per kilometre in Item 6 of Table 2. This subclause shall apply to all employees.

### 10. Continuing Education Allowance

- (i) A registered nurse or enrolled nurse who holds a continuing education qualification in a clinical field, in addition to the qualification leading to registration or enrolment, shall be paid an allowance subject to the conditions set out in this clause.
- (ii) The qualification must be accepted by the employer to be directly relevant to the competency and skills used by the employee in the duties of the position.
- (iii) The allowance is not payable to Deputy Directors of Nursing or Directors of Nursing unless it can be demonstrated to the satisfaction of the employer that more than fifty per cent of the employee's time is spent doing clinical work.

- (iv) The allowance is not payable to Clinical Nurse Specialists, Clinical Nurse Consultants or Clinical Nurse Educators.
- (v) An RN or EN holding more than one relevant qualification is only entitled to the payment of one allowance, being the allowance of the highest monetary value.
- (vi) The employee claiming entitlement to a continuing education allowance must provide evidence to the employer that they hold that qualification.
- (vii) An RN who holds a relevant postgraduate certificate in a clinical field (not including a hospital certificate) that is accepted by the employer to be directly relevant to the competency and skills used by the RN in carrying out the duties of the position shall be paid a weekly allowance as set out in Item 1 of Table 3, Continuing Education Allowances of Part B, Monetary Rates.
- (viii) An RN who holds a relevant postgraduate diploma or degree in a clinical field (other than a nursing undergraduate degree) that is accepted by the employer to be directly relevant to the competency and skills used by the RN in carrying out the duties of the position shall be paid a weekly allowance as set out in Item 2 of Table 3, Continuing Education Allowances of Part B, Monetary Rates.
- (ix) An RN who holds a relevant master's degree or doctorate in a clinical field that is accepted by the employer to be directly relevant to the competency and skills used by the RN in carrying out the duties of the position shall be paid a weekly allowance as set out in Item 3 of Table 3, Continuing Education Allowances of Part B, Monetary Rates.
- (x) An EN who holds a relevant certificate IV qualification in a clinical field (not including a certificate IV qualification which has the effect of upgrading the qualification leading to enrolment) that is accepted by the employer to be directly relevant to the competency and skills used by the EN in carrying out the duties of the position shall be paid a weekly allowance as set out in Item 4 of Table 3, Continuing Education Allowances of Part B, Monetary Rates.
- (xi) The allowances set out in sub-clauses (vii), (viii), (ix) and (x) hereof are not included in the employee's ordinary rate of pay and will not constitute part of the all-purpose rate.
- (xii) A registered nurse or enrolled nurse who is employed on a part-time or casual basis shall be paid these allowances on a pro rata basis.
- (xiii) The rates for these allowances shall be adjusted in accordance with increases in other wage-related allowances contained in this award.
- (xiv) Where a disagreement or dispute arises concerning the eligibility of an employee for payment of a continuing education allowance, and such disagreement or dispute is not resolved by the process set out in sub-clauses (i) and (ii) of clause 43, Resolution of Disputes, negotiations between the employer and the Association must occur prior to referral to the Industrial Relations Commission for determination.

#### **11. Climatic and Isolation Allowance**

- (i) Subject to subclause (ii) of this clause, persons employed in facilities in places situated upon or to the west of a line drawn as herein specified shall be paid the sum per week as set out in Item 7 of Table 2 - Other Rates and Allowances, of Part B, Monetary Rates, in addition to the salary to which they are otherwise entitled. The line shall be drawn as follows:

Commencing at 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) Persons employed in facilities in places situated upon or to the west of a line drawn as herein specified shall be paid the sum per week as set out in Item 8 of the said Table 2 in addition to the salary to which they are otherwise entitled. The line shall be drawn as follows:



Commencing at a point on the right bank of the Murray River opposite 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 by this clause shall be regarded as part of the salary for the purposes of this award.
- (iv) The allowances prescribed by this clause are not cumulative.
- (v) An employee who works less than 38 hours per week shall be entitled to the allowances prescribed by this clause in the same proportion as the average hours worked each week bears to 38 hours.

### **12. Penalty Rates for Shift Work and Weekend Work**

- (i) Employees working afternoon or night shift shall be paid the following percentages in addition to the ordinary rate for such shift. Provided that employees who work less than 38 hours per week shall only be entitled to the additional rates where their shifts commence prior to 6.00 a.m. or finish subsequent to 6.00 p.m.

Afternoon shift commencing at 10.00 a.m. and before 1.00 pm	10 per cent.
Afternoon shift commencing at 1.00 p.m. and before 4.00 pm	12.5 per cent.
Night shift commencing at 4.00 p.m. and before 4.00 am	15 per cent.
Night shift commencing at 4.00 a.m. and before 6.00 am	10 per cent.

- (ii) "Ordinary rate" and "ordinary time" shall not include any percentages addition by reason of the fact that an employee works less than 38 hours per week, but shall include amounts payable under clause 6, Salaries, subclauses (i) and (ii) of clause 9, Special Allowances, and subclauses (i) and (ii) of clause 11, Climatic and Isolation Allowance.
- (iii) For the purposes of this clause, day, afternoon and night shifts shall be defined as follows:
 

"Day shift" means - a shift which commences at or after 6.00 a.m. and before 10.00 a.m.

"Afternoon shift" - means a shift which commences at or after 10.00 a.m. and before 4.00 p.m.

"Night shift" means - a shift which commences at or after 4.00 p.m. and before 6.00 a.m. on the day following.
- (iv) Employees whose ordinary working hours include work on a Saturday and/or Sunday, shall be paid for ordinary hours worked between midnight on Friday and midnight on Saturday at the rate of time and one-half and for ordinary hours worked between midnight on Saturday and midnight on Sunday at the rate of time and three-quarters. These extra rates shall be in substitution for and not cumulative upon the shift premiums prescribed in subclause (i) of this clause.

The foregoing paragraph shall apply to employees who work less than 38 hours per week, but such employees shall not be entitled to be paid in addition any allowance prescribed by clause 21, Part-time, Casual and Temporary Employees, in respect of their employment between midnight on Friday and midnight on Sunday.

- (v) The additional payments prescribed by this clause shall not form part of the employee's ordinary pay for the purposes of this award, except as provided in clause 22, Annual Leave.

### **13. Expense Allowance for Directors of Nursing**

- (i) The Director of Nursing shall be paid the appropriate sum as set out in Item 9 of Table 2 - Other Rates and Allowances, of Part B, Monetary Rates, according to the adjusted daily average of the facility.

Payment equal to one quarter of the annual amount is to be made at the end of each three month period subsequent to appointment as Director of Nursing or Subsidiary Nursing Home Director of Nursing in a particular nursing home.

- (ii) Provided that this clause shall only apply to persons employed as at 12 December 1994 in nursing homes conducted by members of the Aged & Community Services Association of NSW & ACT Incorporated.

#### **14. Telephone Allowance**

- (i) If an employee is required, for the purpose of his/her employment, to be on call on a regular basis or where an employee is required by his/her employer to have a telephone installed for the purpose of his/her employment, the employer shall be responsible for the following payments:
  - (a) Where the employee already has a telephone installed:
    - (i) three-quarters of the cost of rental of the telephone;
    - (ii) the cost of all official trunk line calls.
  - (b) Where the employee does not have the telephone installed:
    - (i) the cost of installation of the telephone;
    - (ii) three-quarters of the cost of rental of the telephone;
    - (iii) the cost of all official trunk line calls.
- (ii) Provided that this clause shall not apply to persons employed in facilities conducted by members of the Aged & Community Services Association of NSW. & ACT Incorporated.

#### **15. Public Holidays**

- (i) The following days shall be public holidays, viz: New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, Labour Day, Christmas Day, Boxing Day, and any other day or part thereof proclaimed and observed as a public holiday within the area in which the facility is situated. All five-day workers shall be allowed every public holiday prescribed by this subclause without loss of pay.
- (ii) In addition to those public holidays prescribed in subclause (i) of this clause, employees are entitled to an extra public holiday each year. Such public holiday will occur on a day between Christmas Day and New Year's Day as determined by the employer following consultation with the Association. This subclause shall apply in substitution for any additional local public holiday or half public holiday proclaimed in a local government area.
- (iii)
  - (a) A full time employee who is covered by paragraph (b) of subclause (i) of clause 22, Annual Leave, and who is required to and does work on a public holiday prescribed by subclauses (i) and (ii) of this clause shall have one day or one half day, as appropriate, added to his/her period of annual leave and shall be paid at the rate of time and one-half for the time actually worked.

Such payment is in lieu of any additional rate for work or weekend work which would otherwise be payable had the day shift not been a public holiday. In lieu of adding to annual leave under this paragraph, an employee may elect to be paid for the time actually worked at the rate of time and one-half in addition to his/her ordinary weekly rate. Such election shall be made on the commencement of employment and then on the anniversary date each year. The employee may not alter such election during the year except with the agreement of the employer. Where payment is made in lieu of leave in respect of the time worked on a public holiday, payment shall

be made for a minimum of four hours' work, and any balance of the day or shift not worked shall be paid at ordinary rates.

- (b) Where a public holiday falls on a rostered day off of a full-time shift worker as defined in clause 1, Definitions, who receives four weeks annual leave in accordance with paragraph (b) of subclause (i) of clause 22, Annual Leave, such shift worker shall be paid one day's pay in addition to the weekly rate or, if the employee so elects, shall have one day added to the period of annual leave prescribed by the said paragraph (b) of subclause (i) of the said clause 22.
- (c) For the purposes of this subclause, the hourly rate of pay shall be calculated on the basis of one thirty-eighth of the appropriate ordinary weekly rate of pay prescribed in clause 6, Salaries.
- (iv) Employees engaged upon a seven-day shift roster and who are required to work on any public holiday prescribed by subclause (i) of this clause shall be paid, in addition to their ordinary pay for that day, an allowance of 50 per cent of their ordinary day's pay for work performed within ordinary hours and double time and a half for all time worked outside ordinary hours.

### **16. Uniform and Laundry Allowance**

- (i) Subject to subclause (iii) of this clause, sufficient suitable and serviceable uniforms, including one pair of shoes per annum which shall be of a recognised acceptable standard for the performance of nursing duties, and one cardigan or jacket, shall be supplied free of cost to each employee required to wear a uniform or part of a uniform. An employee to whom a new uniform or part of a uniform has been issued who, without good reason, fails to return the corresponding article last supplied shall not be entitled to have such article replaced without payment therefore at a reasonable price.
- (ii) An employee, on leaving the service of an employer, shall return any uniform or part thereof supplied by that employer which is still in use immediately prior to leaving.
- (iii)
  - (a) In lieu of supplying uniforms and shoes to an employee, an employer shall pay the said employee the sum per week set in Item 10 of Table 2 - Other Rates and Allowances of Part B, Monetary Rates for uniforms and the sum per week set out in Item 11 of the said Table 2 for shoes.
  - (b) In lieu of supplying a cardigan or jacket to an employee, an employer shall pay the said employee the sum per week set out in Item 12 of Table 2.
  - (c) In lieu of supplying stockings to a female employee, an employer shall pay the said employee the sum per week set out in Item 13 of Table 2.
  - (d) In lieu of supplying socks to an employee, the employer shall pay the said employee the sum per week set out in Item 14 of Table 2.
- (iv) If, in any facility, the uniforms of an employee are not laundered at the expense of the facility, the sum per week set out in Item 15 of Table 2 shall be paid to the said employee. Provided that the payment of such laundry allowance shall not be made to any employee on absences exceeding one week.
- (v) Where the employer requires any employee to wear headwear, the facility shall provide headwear free of charge to the employee.
- (vi) The allowances referred to in subclause (iii) are also payable during any period of paid leave.

### **17. Higher Grade Duty**

- (i) Subject to subclauses (ii), (iii) and (iv) of this clause, an employee who is called upon to relieve an employee in a higher classification or is called upon to act in a vacant position of a higher classification, shall be entitled to receive for the period of relief or the period during which he/she so acts the minimum payment for such higher classification.

- (ii) The provisions of subclause (i) of this clause shall not apply where the employee of the higher classification is off duty pursuant to clause 3, Hours of Work and Free Time of Directors of Nursing, except insofar as a Director of Nursing accumulates days off for a continuous period of one week or more; nor when an employee in a higher grade is absent from duty by reason of his/her additional day off duty as a consequence of working a 38 hour week.
- (iii) Further, the provisions of subclause (i) of this clause shall not apply where a Director of Nursing is absent from duty for a period of three working days or less for any reason other than pursuant to the said clause 3.
- (iv) Subject to subclauses (ii) and (iii) above, the provisions of subclause (i) shall not apply where a day worker is being relieved and is absent from duty for a period of three consecutive working days or less

### 18. Overtime

- (i) Employees shall work reasonable overtime when required by the employer.
- (ii) 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.
- (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 facility;
  - (d) the notice (if any) given by the employer of the overtime and by the employee of his or her intention to refuse it; and
  - (e) any other relevant matter.
- (iv) This subclause is subject to subclause (x) below.
  - (a) Subject to paragraph (b) of this subclause, all time worked by employees other than Directors of Nursing in excess of the rostered daily ordinary hours of work shall be overtime and shall be paid for at the rate of time and one-half for the first two hours and double time thereafter in respect of each overtime shift worked or in respect of overtime worked prior to or at the conclusion of a normal shift. Provided that overtime worked on Sundays shall be paid for at the rate of double time and on public holidays at the rate of double time and one-half.
  - (b) All time worked by employees pursuant to Part I of clause 21, Part-time, Casual and Temporary Employees, in excess of the 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 and on public holidays at the rate of double time and one-half.

Time worked up to the 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.
- (v) The ordinary hours of work for Directors of Nursing shall be 38 per week and shall not, without payment of overtime at the rate of time and one-half, exceed:
  - (a) 43 hours in any week; or

- (b) 86 hours in any fortnight; or
  - (c) 129 hours in any 21 consecutive days; or
  - (d) 172 hours in any 28 consecutive days.
- (vi) An employee required to work overtime following on the completion of his or her normal shift for more than two hours shall be allowed 20 minutes for the partaking of a meal and a further 20 minutes after each subsequent four hours overtime; all such time shall be counted as time worked, provided that the benefits of this subclause shall not apply to an employee employed pursuant to Part I of clause 21, Part-time, Casual and Temporary Employees, until the expiration of the normal shift for a majority of the full-time employees employed on that shift in the ward or section concerned.
- (vii) 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 20 minutes for the partaking of a meal and a further 20 minutes after each subsequent four hours' overtime; all such time shall be counted as time worked.
- (viii) The meals referred to in subclauses (vi) and (vii) of this clause shall be allowed to the employee free of charge. Where the facility is unable to provide such meals, the sum per meal set out Item 16 of Table 2 shall be paid to the employee concerned.
- (ix) Where an employee is required to work an overtime shift on his or her rostered day off, the appropriate meal breaks for that shift, as prescribed by clause 2, Hours of Work and Free Time of Employees other than Directors of Nursing, shall apply.
- (x) Employees who work so much overtime:
- (a) between the termination of their ordinary work on any day or shift and the commencement of their 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 or a public holiday, not being ordinary working days, or on a rostered day off without having had eight consecutive hours off duty in the 24 hours preceding the ordinary commencing time on the next ordinary 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 the employer such an employee resumes or continues to work without having such eight consecutive hours off duty, they shall be paid at double time of the appropriate rate applicable on such day until they are released from duty for such period and they then shall be entitled to be absent until they have had eight consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.
- (xi) An employee recalled to work overtime after leaving the employer's premises shall be paid for a minimum of four hours work at the appropriate rate for each time so recalled. If the work required is completed in less than four hours, the employee shall be released from duty; provided that this subclause does not apply to a Director of Nursing.
- (xii) By agreement between the employee and employer, an employee may be compensated by way of time off in lieu of payment of overtime on the following basis:
- (a) Time off in lieu of overtime must be taken at ordinary rates within three months of it being accrued.
  - (b) Where it is not possible for a nurse to take the time off in lieu of overtime within the three-month period, it is to be paid out at the appropriate overtime rate based on the rates of pay applying at the time payment is made.
  - (c) Nurses cannot be compelled to take time off in lieu of overtime.

- (d) Time off in lieu of overtime should only be considered as an option in those circumstances where the employer is able to provide adequate replacement staff to ensure that the level of the quality of service that would otherwise have been provided had the overtime been worked, is in fact provided.
- (e) Records of all time off in lieu of overtime owing to nurses and taken by nurses must be maintained by the employer.

### **19. Payment and Particulars of Salaries**

- (i) All salaries and other payments shall be paid weekly or fortnightly, provided that payment for any overtime worked may be deferred to the pay day next following the completion of the working cycle within which such overtime is worked, but for no longer; provided further that the payment of shift and weekend penalties relating to work performed in the second week of a fortnightly roster period may be deferred to the pay day next following the completion of the working cycle within which such shifts were worked, but for no longer. Provided further that, for the purpose of adjustments of wages related to variations in the basic wage, the pay period shall be deemed to be weekly.
- (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. Salaries shall be deposited by facilities in sufficient time to ensure that wages are available for withdrawal by employees by no later than pay day, provided that this requirement shall not apply where employees nominate accounts with non-bank financial institutions; but in such cases facilities shall take all reasonable steps to ensure that the wages of such employees are available for withdrawal by no later than pay day.
- (iii) Notwithstanding the provisions of subclause (ii) of this clause, an employee who has given or has been given the required notice of termination of employment, in accordance with clause 36, Termination of Employment, shall be paid all moneys due to him/her prior to ceasing duty on the last day of employment.

Where an employee is summarily dismissed or his/her services are terminated without due notice, any moneys due to him/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 written statement containing the following particulars, namely: name, the amount of ordinary salary, the total number of hours or overtime worked, if any, the amount of any overtime payment, the amount of any other moneys paid and the purpose for which they are paid, the amount of the deductions made from the total earnings and the nature thereof.

### **20. Proportion**

Except in cases of emergency, not more than four enrolled nurses and/or assistants in nursing to each registered nurse shall be employed in a facility and for this purpose a Director of Nursing who is a registered nurse shall count; provided that the proportions specified by this clause may be altered in respect of any particular facility by agreement between the facility concerned and the New South Wales Nurses and Midwives' Association.

### **21. Part-Time, Casual and Temporary Employees**

#### **PART I**

##### **PERMANENT PART-TIME EMPLOYEES**

- (i) A permanent part-time employee is one who is permanently appointed by a facility to work a specified number of hours which are less than those prescribed for a full-time employee. By agreement between employer and employee, the specified number of hours may be balanced over a week and/or a fortnightly period, provided that the average weekly hours shall be deemed to be the specified number of hours for the purposes of accrual of annual leave, long service leave and sick leave. 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.

- (ii) Employees engaged under Part I of this clause shall be paid an hourly rate calculated on the basis of one thirty-eighth of the appropriate rate prescribed by clause 6, Salaries, and where applicable, one thirty-eighth of the appropriate allowance or allowances prescribed by clause 10, Special Allowances, with a minimum payment of two hours for each start, and one thirty-eighth of the appropriate allowances prescribed by clause 16, Uniform and Laundry Allowance, but shall not be entitled to an additional day off or part thereof as prescribed by subclauses (iii) and (v) of clause 2, Hours of Work and Free Time of Employees Other than Directors of Nursing.
- (iii) Four weeks annual leave on ordinary pay is to be granted on completion of each 12 months' service. The provisions of subclauses (iii) to (ix) of clause 22, Annual Leave, and clause 23, Annual Leave Loading, shall apply to employees engaged under this Part of this clause. The remaining provisions of the said clause 22 shall not apply.

Where an employee has any period of permanent part-time employment during any 12 month qualifying period for annual leave, payment for such annual leave shall be calculated on the basis of the proportion that the average number of hours worked each week bears to 38.

- (iv) A public holiday occurring on an ordinary working day shall be allowed to employees without loss of pay; provided that an employee who is required to and does work on a public holiday shall have one day or one half day, as appropriate, added to his/her period of annual leave and be paid at the rate of one half time extra for the time actually worked. Such payment is 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. In lieu of adding to annual leave under this paragraph, an employee may elect to be paid for the time actually worked at the rate of time and one-half in addition to his/her ordinary weekly rate. Such election shall be made on the commencement of employment and then on the anniversary date each year. The employee may not alter such election during the year except with the agreement of the employer. Where payment is made in lieu of leave in respect of time worked on a public holiday, payment shall be made for a minimum of four hours work, and any balance of the day or shift not worked shall be paid at ordinary rates.
- (v) To the leave prescribed by subclause (iii) of this Part of this clause there shall be added one working day for each public holiday or one half working day for each half public holiday which occurs on what would have been an ordinary working day during a period of annual leave.
- (vi) For the purpose of this Part of this clause, the following are to be public holidays, namely: New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, local Labour Day, Christmas Day, Boxing Day and any other day duly proclaimed and observed as a public holiday within the area in which the facility is situated.
- (vii) In addition to those public holidays prescribed in subclause (vi) of this Part I of this clause, there shall be an extra public holiday each year. Such public holiday will occur on the August Bank Holiday or a date which is agreed upon by the Association and the Aged & Community Services Association of NSW & ACT Incorporated and the Australian Nursing Homes and Extended Care Association (New South Wales). The foregoing does not apply in areas where, in each year:
  - (a) a day in addition to the ten named public holidays specified in subclause (vi) of this Part of this clause are proclaimed and observed as a public holiday; or
  - (b) two half days in addition to the ten named public holidays specified in the said subclause (vi) are proclaimed and observed as half public holidays.
- (viii) In areas where in each year one half day in addition to the ten named public holidays specified in the said subclause (vi) is proclaimed and observed as a half public holiday, for the purposes of this award the whole day is to be regarded and observed as a public holiday, and no additional public holiday which would otherwise apply as a result of this subclause will be observed.

- (ix) Employees engaged under this Part of this clause shall be entitled to all other benefits of this award not otherwise expressly provided for herein in the same proportion as their ordinary hours of work bear to full-time hours.

## **PART II**

### **CASUAL EMPLOYEES**

- (i) A casual employee is one engaged on an hourly basis otherwise than as a permanent part-time or full-time employee.
- (ii) A casual employee shall be paid an hourly rate calculated on the basis of one thirty-eighth of the appropriate rate prescribed by clause 6, Salaries, and, where applicable, one thirty-eighth of the appropriate allowance or allowances prescribed by clause 9, Special Allowances, plus ten per cent thereof, with a minimum payment of two hours for each start, and one thirty-eighth of the appropriate allowances prescribed by clause 16, Uniform and Laundry Allowance.
- (iii) With respect to a casual employee, the provisions of clause 3, Hours of Work and Free Time of Directors of Nursing; clause 5, Rosters; clause 13, Expense Allowance for Directors of Nursing; clause 18, Overtime; clause 22, Annual Leave; clause 23, Annual Leave Loading; clause 24, Sick Leave; clause 25, Long Service Leave; clause 26, Compassionate Leave; clause 32, Deputy Director of Nursing and Assistant Director of Nursing; clause 34, Fares and Expenses, shall not apply. Further, casual employees shall not be entitled to an additional day off or part thereof as prescribed by subclauses (iii) and (v) of clause 2, Hours of Work and Free Time of Employees Other than Directors of Nursing.
- (iv) For the entitlement to payment in respect of annual leave, see *Annual Holidays Act 1944*.
- (v) For the entitlement to payment in respect of long service leave, see *Long Service Leave Act 1955*.
- (vi) A casual employee who is required to and does work on a public holiday as defined in subclauses (i) and (ii) of clause 15, Public Holidays, shall be paid for the time actually worked at the rate of double time and one-half, such payment being in lieu of weekend or shift allowances which would otherwise be payable had the day not been a public holiday; provided that a casual employee shall not be entitled to be paid, in addition, the allowance of ten per cent prescribed in subclause (ii) of this Part in respect of such work.

## **PART III**

### **TEMPORARY EMPLOYEES**

- (i) A temporary employee is one engaged for a set period not exceeding 13 weeks, provided that fixed term contracts of employment, whether for periods greater or lesser than 13 weeks, must not be offered in preference to ongoing contracts unless they are necessary to meet the genuine operational requirements of the employer, which may include but not be limited to parental leave, limited term funding arrangements, long term leave relief, forthcoming service reductions, and anticipated peak demand times
- (ii) A temporary employee shall be paid, in addition to all rates and allowances to which the said employee is entitled under this award, an allowance equal to ten per cent of the rates prescribed for his or her classification by clause 6, Salaries, provided that this subclause shall cease to apply upon:
- (a) the said period of engagement being extended after the said period of 13 weeks;
- (b) the employer and the employee agreeing during the said period of 13 weeks that the employee shall be employed on a permanent part-time or full-time basis.
- (iii) For entitlement to payment in respect of annual leave, see *Annual Holidays Act 1944*.



**22. Annual Leave**

- (i) Annual leave on full pay is to be granted on completion of each 12 months service as follows:
  - (a) Employees required to work on a seven-day basis - six weeks annual leave.
  - (b) All other employees - four weeks annual leave.
- (ii)
  - (a) An employee to whom paragraph (a) of subclause (i) of this clause applies and who is required to and does work on a public holiday shall be paid, in addition to the appropriate ordinary weekly rate of pay, at the rate of one half time extra for the time actually worked on such holiday. Such payment shall 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.
  - (b) To the leave prescribed by paragraph (a) of subclause (i) there shall be added one working day or one half working day for each special public holiday or half public holiday, not being one of the ten specifically named public holidays prescribed by subclause (i) of clause 15, Public Holidays (or a special day proclaimed in lieu of any of them) which may occur during the qualifying period for annual leave or during the period of annual leave.
  - (c) To the leave prescribed by paragraph (b) of subclause (i) of this clause there shall be added one working day or one half working day for each public holiday or half public holiday which occurs on what would have been an ordinary working day during a period of annual leave; provided that in the case of a full-time shift worker the provisions of this paragraph shall apply to any public holiday falling during the period of annual leave.
- (iii)
  - (a) An employee shall be eligible for annual leave when 12 months have elapsed since the date on which the first annual leave would have begun if taken immediately it had become due or, if the employee has not previously had annual leave, since the commencement of employment.
  - (b) Credit of time towards an allocated day off duty shall not accrue when an employee is absent in accordance with subclause (i) of this clause. Employees entitled to allocated days off duty in accordance with clause 2, Hours of Work and Free Time of Employees Other Than Directors of Nursing, 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 paragraph (b) of subclause (ii) of this clause and paragraph (a) of subclause (iii) of clause 15, Public Holidays.
- (iv) Annual leave shall be given and taken either in one consecutive period or two periods or, if the employer and employee so agree, in either three or four separate periods but not otherwise. Provided that no employee shall be compelled to take annual leave in periods of less than one week in place of any other leave provided for by this award.
- (v)
  - (a) Annual leave shall be given and shall be taken within a period of six months after the date when the right to annual leave accrued; provided that the giving and taking of such leave may be postponed by mutual agreement between the parties for a further period not exceeding six months.
  - (b) Nothing in this subclause shall prevent an employer by agreement with the employee from allowing annual leave to an employee before the right thereto has accrued, but where leave is taken in such a case a further period of annual leave will not commence to accrue until the expiration of the 12 months in respect of which annual leave was taken before it accrued.

- (c) The employer shall give each employee, where practicable, three months notice of the date upon which he or she shall enter upon leave and, in any event, such notice shall not be less than 28 days.
- (vi)
- (a) Each employee before going on leave shall be paid for the period of the leave at the ordinary rate of salary to which he or she is entitled under this award. Where an employee has any period of permanent part-time employment during any 12-month qualifying period for annual leave, payment for such annual leave shall be calculated on the basis of the proportion that the average number of hours worked each week bears to 38.
  - (b) An employee to whom paragraph (a) of subclause (i) applies shall be paid during the first 28 consecutive days while on annual leave his or her ordinary rate of salary plus shift allowances and weekend penalties relating to ordinary time the employee would have worked if he or she had not been on annual leave. Additional annual leave accrued under subclause (ix) attracts shift allowances and weekend penalties relating to ordinary time the employee would have worked if he or she had not been on annual leave. Provided that the provisions of the preceding paragraphs of this subclause shall not apply to public holidays which occur during a period of annual leave or days which have been added to annual leave in accordance with paragraph (b) of subclause (ii) of this clause and subclause (ii) of clause 15, Public Holidays.
- (vii) Except as provided in subclauses (viii) and (ix) of this clause, payment for annual leave shall not be made or accepted in lieu of annual leave.
- (viii) Where the employment of an employee is terminated, the employee shall be entitled to receive, in addition to all other amounts due, in respect of service of less than one year an amount equal to one-twelfth (6/46 in respect of employees rostered to work on a seven-day basis) of his or her ordinary pay for that period of employment, together with payment for any days added to annual leave in accordance with subclause (iii) of the said clause 15.
- (ix)
- (a) In addition to the leave prescribed by subclause (i) of this clause, employees who work their ordinary hours on Sundays and/or public holidays prescribed by clause 15 are entitled to receive additional annual leave as follows:

Number of ordinary shifts worked on Sundays and/or public holidays during a qualifying period of employment for annual leave purposes -

4 to 10	1 day's additional annual leave
11 to 17	2 days additional annual leave
18 to 24	3 days additional annual leave
25 to 31	4 days additional annual leave
32 or more	5 days additional annual leave

Provided that an employee may elect to be paid when proceeding on annual leave an amount equivalent to the value of his or her 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 and is irrevocable during the currency of that year of employment.

- (b) On termination of employment, employees are to be paid for any untaken annual leave due under this subclause, together with payment for any leave in respect of an uncompleted year of employment calculated in accordance with this subclause, together with payment for any untaken annual leave due in accordance with subclause (viii) of this clause.
- (c) Permanent part-time employees shall be entitled to the benefits of this subclause in the same proportion as their average weekly hours of work bear to full-time hours.

### 23. Annual Leave Loading

- (i) Before an employee is given and takes his or her annual holiday or where, by agreement between the employer and the employee, the annual holiday is given and taken in more than one separate period, then before each of such separate periods the employer shall pay the employee a loading determined in accordance with this clause.
- (ii) The loading is payable in addition to the pay for the period of holiday given and taken and due to the employee under paragraph (b) of subclause (i) and paragraph (c) of subclause (ii) of clause 22, Annual Leave, or in the case of permanent part-time employees, for the period of holiday given and taken and due to the employee in accordance with the provisions of the *Annual Holidays Act, 1944*.
- (iii) The loading is the amount payable for the period or the separate periods, as the case may be, at the rate per week of 17½ per cent of the appropriate ordinary weekly time rate of pay prescribed by this award for the classification in which the employee was employed immediately before commencing his/her annual holiday, together with any allowances prescribed by subclauses (i) and (ii) of clause 9, Special Allowances.
- (iv) No loading is payable to an employee who takes an annual holiday wholly or partly in advance; provided that, if the employment of such an employee continues until the day when the employee would have become entitled under the said clause 22 to an annual holiday, the loading then becomes payable in respect of the period of such holiday and is to be calculated in accordance with subclause (iii) of this clause, applying the award rates and wages payable on that day.
- (v)
  - (a) When the employment of an employee is terminated by the employer for a cause other than misconduct, and at the time of the termination the employee has not been given and has not taken the whole of an annual holiday to which the employee became entitled, he/she shall be paid a loading calculated in accordance with subclause (iii) of this clause for the period not taken.
  - (b) Except as provided by paragraph (a) of this subclause, no loading is payable on the termination of an employee's employment.
- (vi) This clause extends to an employee who is given and takes an annual holiday and who would have worked as a shift worker if she/he had not been on holidays; provided that, if the amount to which the employee would have been entitled by way of shift work allowances and weekend penalty rates for the ordinary time (not including time on a public or special holiday) which the employee would have worked during the period of the holiday exceeds the loading calculated in accordance with this clause, then that amount shall be paid to the employee in lieu of the loading.

### 24. Sick Leave

- (i) Subject to the following limitations and conditions, an employee shall be entitled to sick leave on full pay calculated by allowing 76 rostered ordinary hours of work for each year of continuous service, less any sick leave on full pay already taken.
  - (a) An employee during his/her first year of employment with an employer shall be entitled to sick leave at the rate of 7.6 hours at the end of each of the first five months continuous service. Upon completion of six months continuous service the employee shall be entitled to a further 38 hours sick leave. For the purpose of this subclause, where service is continuous, each new entitlement will accrue at the monthly anniversary date of the commencement of employment, i.e., a person starting on 6 March would be entitled to their first 7.6 hours on 6 April.
  - (b) An employee shall not be entitled to sick leave on full pay for any period in respect of which such employee is entitled to workers' compensation; provided, however, that an employer shall pay to an employee who has sick leave entitlement 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 that proportion of 38 hours which the difference paid bears to full pay.

- (c) All periods of sickness shall be certified to by the Director of Nursing of the facility or by the employee's own legally qualified medical practitioner. The employer may dispense with the requirements of a medical certificate when the absence does not exceed two consecutive days or where, in the employer's opinion, the circumstances are such as not to warrant such requirement.
  - (d) Each employee shall notify her/his employer of an absence from work due to illness or injury prior to the commencement of her/his rostered shift or as soon as practicable thereafter and shall, as far as possible, inform the employer of the estimated duration of the absence.
  - (e) For the purpose of determining a full-time employee's sick leave credit as at 19 September 1986, sick leave entitlement shall be proportioned on the basis of 76:80.
- (ii) The employer shall not change the rostered hours of work of an employee fixed by the roster or rosters applicable to the 14 days immediately following the commencement of sick leave merely by reason of the fact that she or he is on sick leave.
  - (iii) For the purpose of this clause, "service" means - service in the employment of an employer.
  - (iv) For the purpose of this clause, continuity of service in the employment shall not be broken by:
    - (a) absences from such employment on account of illness;
    - (b) absences from such employment for the purposes of pursuing a post-graduate course in nursing (i.e. a course which results in obtaining a certificate, diploma or qualifications whether in Australia or elsewhere) and where the course is pursued outside Australia an employee shall be deemed to be absent for the purpose of pursuing the course throughout the time reasonably occupied travelling to the place of study and return to Australia, the actual duration of the course, a period of three months after completion of the course before returning to Australia and a period of one month after returning to Australia, provided that subclauses (iii) and (iv) shall only apply to persons employed in facilities conducted by members of the Aged & Community Services Association of NSW & ACT Incorporated.
  - (v) Permanent Part-time Employees - A permanent 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 12 months or from the time of commencement of employment, whichever is the lesser, bears to 38 ordinary hours. Such entitlements shall be subject to all the above conditions applying to full-time employees.
  - (vi) With respect to an employee who is eligible for sick leave and who produces a satisfactory medical certificate to the effect that he/she has been incapacitated for a period of at least one week's duration while on annual leave, the employer may re -credit such employee with an equivalent period of annual leave, provided that no such re-crediting shall be granted to an employee on leave prior to retirement, resignation or termination of services and provided further the employer is satisfied on the circumstances and the nature of the incapacity.
  - (vii) Subject to the provision of a satisfactory medical certificate and sick leave being due, extended or long service leave shall be re-credited where an illness of at least one week's duration occurs during the period of extended or long service leave; provided that the period of leave does not occur prior to retirement, resignation or termination of services.

## 25. Long Service Leave

- (i) For long service leave falling due prior to 20 February 1981, see *Long Service Leave Act 1955*.
- (ii) For long service leave falling due after 20 February 1981, the following provisions shall apply:

(a)

- (1) Every employee after ten years' continuous service with the same employer shall be entitled to two months' long service leave on full pay; after 15 years' continuous service to an additional one month's long service leave on full pay; and for each five years' continuous service thereafter to an additional one and one-half months' long service leave on full pay.

Such leave shall be taken at a time to be mutually arranged between the employer and the employee as soon as practicable after each period of leave falls due, having regard to the reasonable preferences of each party. Where required by the employer, the term "as soon as practicable" shall mean that leave is taken by the employee within 12 months of the date that the leave falls due. The leave is to be taken in one continuous period unless the employer and employee agree otherwise.

Notwithstanding anything contained elsewhere in this clause, an employer and an employee may mutually agree that the taking of the leave be deferred beyond the initial twelve months referred to above. In such a case the employer and employee may agree that the employee shall be paid for that leave at the rate of pay applicable at the time of the agreement to further postpone the leave, and not at the rate of pay applicable at the time that the leave is taken. For any such agreement to be valid, it must be in writing and be signed by both the employer and the employee.

- (2) Where the service of an employee with at least five years' service is terminated, the employee shall be entitled to long service leave as follows:

For the first five years' service - one month.

For the next ten years' service - a proportionate amount calculated on the basis of one month for each additional five years. For the purpose of calculation, each completed whole month of continuous service gives an entitlement equal to 0.0722 weeks' pay.

For all subsequent service - a proportionate amount calculated on the basis of 1.5 months for each additional five years. For the purpose of calculation, each completed whole year of continuous service gives an entitlement equal to 1.2996 weeks' pay.

- (b) Subject to subclause (a) of this clause, where an employee has acquired a right to long service leave, then:

- (1) If, before such leave has been entered upon, the employment of such employee has been terminated, such employee shall be entitled to receive the monetary value of the leave to which such employee has become entitled, computed at the rate of salary which such employee had been receiving immediately prior to the termination of employment.
- (2) If such employee dies before entering upon such extended leave, or if, after having entered upon the same, dies before its termination, his/her widow/widower or, in the case of a widow/widower leaving children, his/her children or their guardians or other dependent relatives or their legal representatives, shall be entitled to receive the monetary value of the leave not taken or not completed, as the case may be, and computed at the rate of salary which the employee had been receiving at the time of death.

- (c) For the purpose of this clause:

- (1) Continuous service in the same facility prior to the coming into force of this award shall be taken into account.
- (2) One month equals four and one-third weeks.
- (3) Continuous service shall be deemed not to have been broken by:

- (A) absence of an employee from the facility while a member of the Defence Forces of the Commonwealth in time of war;
- (B) any period of absence on leave without pay not exceeding six months.
- (d) Where any employee has been granted a period of long service leave prior to the coming into force of this award, the amount of such leave shall be debited against the amount of leave due under this award.
- (e) Except where the total actual service is less than five years -
  - (1) all service in facilities to which subclause (i) of clause 11, Climatic and Isolation Allowance, applies shall be counted as one and one-half times the actual time served;
  - (2) all service in a facility to which subclause (ii) of the said clause 11 applies shall be counted as twice the actual time served.
- (f) Any period(s) of part-time employment with the same employer shall count towards long service leave as provided for in paragraphs (a) and (e) of this subclause. Such long service leave shall be paid for on the basis of the proportion that the average number of hours worked per week bears to 38.
- (g) 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.

## **26. Compassionate Leave**

- (i) In general, compassionate leave with pay should be granted only in extraordinary or emergent circumstances where a member of the staff of a facility is forced to absent himself/herself from duty because of urgent pressing necessity, and such leave as is granted should be limited to the time necessary to cover the immediate emergency.
- (ii) Any absence occasioned by personal exigencies which might fairly be regarded as an obligation on the employee rather than the employer to make good, should be covered by the grant of leave without pay or, if the employee so desires, charged against his/her annual leave credit.
- (iii) The following basic principles should be kept in mind when dealing with applications:
  - (a)
    - (i) An employee, other than a casual employee, shall be entitled to a maximum of two days compassionate leave without deduction of pay, on each occasion of the death of a person as prescribed in subparagraph (iii) of this paragraph. Provided that, where the employee is involved in funeral arrangements, travelling, etc., leave may be allowed for up to three days.
    - (ii) The employee must notify the employer as soon as practicable of the intention to take compassionate leave and will, if required by the employer, provide, to the satisfaction of the employer, proof of death.
    - (iii) Compassionate leave shall be available to the employee in respect to the death of a person prescribed for the purposes of personal/carer's leave as set out in subparagraph (ii) of paragraph (c) of subclause (1) of clause 27, Personal/Carer's Leave, provided that, for the purpose of compassionate leave, the employee need not have been responsible for the care of the person concerned.

- (iv) An employee shall not be entitled to compassionate leave under this clause during any period in respect of which the employee has been granted other leave.
  - (v) Compassionate leave may be taken in conjunction with other leave available under subclauses (2), (3), (4), (5) and (6) of the said clause 27. In determining such a request, the employer will give consideration to the circumstances of the employee and the reasonable operational requirements of the business.
- (b) Illnesses in the family - Except in very special circumstances, leave with pay should be limited to one day which, as a general rule, would prove sufficient time to meet the immediate emergency and allow the employee to make any other arrangements necessary. It would be expected that no one but the employee would be available to care for the sick member of the family.
- (iv) The above principles are not intended to codify completely purposes for which compassionate leave with pay may be allowed. The element of unforeseen emergency could be present in other situations, e.g., floods and bushfires, which clearly prevent attendance for duty.
- (v) In view of the purpose for which compassionate leave is intended, it is not possible to prescribe a precise limitation of the amount of leave to be granted in a given period. It is suggested, however, that only under the most exceptional circumstances should leave exceeding a total of three days be granted to an employee in any year.
- (vi) Bereavement entitlements for casual employees
- (a) Subject to the evidentiary and notice requirements in 26(iii)(a)(ii) casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of a person prescribed in subclause 27(1)(c)(ii) of clause 27, Personal/Carer's Leave.
  - (b) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
  - (c) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not engage a casual employee are otherwise not affected.
- (vii) The provisions of this clause will have no application to employees of bodies established by the Catholic Church to propagate religion.

#### **26A. Parental Leave**

- (1) Refer to the *Industrial Relations Act 1996* (NSW). The following provisions shall also apply in addition to those set out in the *Industrial Relations Act 1996* (NSW).
- (2) An employer must not fail to re-engage a regular casual employee (see section 53(2) of the Act) because:
- (a) the employee or employee's spouse is pregnant; or
  - (b) the employee is or has been immediately absent on parental leave.
- The rights of an employer in relation to engagement and re-engagement of casual employees are not affected, other than in accordance with this clause.
- (3) Right to request
- (a) An employee entitled to parental leave may request the employer to allow the employee:

- (i) to extend the period of simultaneous unpaid parental leave use up to a maximum of eight weeks;
- (ii) to extend the period of unpaid parental leave for a further continuous period of leave not exceeding 12 months;
- (iii) to return from a period of parental leave on a part-time basis until the child reaches school age;

to assist the employee in reconciling work and parental responsibilities.

- (b) The employer shall consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the employer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.

- (c) Employee's request and the employer's decision to be in writing

The employee's request and the employer's decision made under 3(a)(ii) and 3(a)(iii) must be recorded in writing.

- (d) Request to return to work part-time

Where an employee wishes to make a request under 3(a)(iii), such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the employee is due to return to work from parental leave.

(4) Communication during parental leave

- (a) Where an employee is on parental leave and a definite decision has been made to introduce significant change at the workplace, the employer shall take reasonable steps to:

- (i) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave; and
- (ii) provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave.

- (b) The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.

- (c) The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with paragraph (a).

## 27. Personal/Carer's Leave

(1) Use of Sick Leave

- (a) An employee, other than a casual employee, with responsibilities in relation to a class of person set out in 27(1)(c)(ii) 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 24, Sick Leave, of the award, for absences to provide care and support for such persons when they are ill, or who require care due to an unexpected emergency. Such leave may be taken for part of a single day.



- (b) The employee shall, if required,
- (1) establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person, or
  - (2) establish by production of documentation acceptable to the employer or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee.

In normal circumstances, an employee must not take carer's leave under this subclause where another person had taken leave to care for the same person.

- (c) The entitlement to use sick leave in accordance with this subclause is subject to:
- (i) the employee being responsible for the care and support of the person concerned; and
  - (ii) the person concerned being:
    - (A) a spouse of the employee; or
    - (B) a de facto spouse, who, in relation to a person, is a person of the opposite sex to the first mentioned person who lives with the first mentioned person as the husband or wife of that person on a bona fide domestic basis although not legally married to that person; or
    - (C) a child or an adult child (including an adopted child, a 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 purposes of this subparagraph:
      - (1) "relative" means - a person related by blood, marriage or affinity;
      - (2) "affinity" means - a relationship that one spouse because of marriage has to blood relatives of the other; and
      - (3) "household" means - a family group living in the same domestic dwelling.

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

Note: In the unlikely event that more than 10 days sick leave in any year is to be used for caring purposes the employer and employee shall discuss appropriate arrangements which, as far as practicable, take account of the employer's and employee's requirements.

Where the parties are unable to reach agreement the disputes procedure at clause 43, Resolution of Disputes, should be followed.

- (2) Unpaid Leave for Family Purpose
- (a) An employee may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care and support to a class of person set out in 27(1)(c)(ii) above who is ill or who requires care due to an unexpected emergency.
- (3) Annual Leave
- (a) An employee may elect, with the consent of the employer to take annual leave not exceeding ten days in single-day periods, or part thereof, in any calendar year at a time or times agreed by the parties.
- (b) Access to annual leave, as prescribed in paragraph (a) of this subclause, shall be exclusive of any shutdown period provided for elsewhere under this award.
- (c) An employee and employer may agree to defer payment of the annual leave loading in respect of single day absences, until at least five consecutive annual leave days are taken.
- (d) An employee may elect with the employers agreement to take annual leave at any time within a period of 24 months from the date at which it falls due.
- (4) Time Off in Lieu of Payment for Overtime
- (a) For the purpose only of providing care and support for a person in accordance with subclause (1) of this clause, and despite the provisions of subclause (xii) of clause 18, Overtime, the following provisions shall apply.
- (b) 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.
- (c) 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.
- (d) If, having elected to take time as leave in accordance with paragraph (a) of this subclause, 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.
- (e) Where no election is made in accordance with the said paragraph (a), the employee shall be paid overtime rates in accordance with the award.
- (5) Make-up Time
- (a) 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.
- (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 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.
- (6) Additional Rostered Days Off
- (a) An employee may elect, with the consent of the employer, to take a rostered day off at any time.
- (b) An employee may elect, with the consent of the employer, to take rostered days off in part day amounts.

- (c) 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.
  - (d) 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.
- (7) Personal Carers Entitlement for casual employees -
- (1) Subject to the evidentiary and notice requirements in 27(1)(b) and 27(1)(d) 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 27(1)(c)(ii) 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.
  - (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.
  - (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.
- (8) The provisions of this clause will have no application to employees of bodies established by the Catholic Church to propagate religion.

#### **28. Staff Amenities**

- (i)
  - (a) The employer shall provide for the use of employees:
    - (1) toilet facilities; provided that this provision shall not apply to a facility the registered number of beds of which is less than nine;
    - (2) a full-length locker fitted with lock and key or other suitable place for the safe keeping of clothing and personal effects of such employee.
  - (b) An employer shall provide for employees morning and afternoon tea, supper and early morning tea (which shall include tea or coffee, together with milk and sugar).
  - (c) Where an employee requests, the employer shall provide an employee with meals of a reasonable standard. The employer may make a charge, provided that the charge for breakfast shall be the sum set out in Item 17 of Table 2 - Other Rates and Allowances, of Part B, Monetary Rates, and the sum set out in Item 18 of the said Table 2 for other meals.
- (ii) The charges referred to in subclause (i) of this clause are to be adjusted in accordance with the movement in wage rates following State Wage Case decisions. The employers are entitled to set prices for meals at a level to cover labour and ingredient costs (not indirect costs).

#### **29. Labour Flexibility**

- (i) Nurses shall not be required to perform as a matter of routine duties: washing, sweeping, polishing and/or dusting of floors, walls, windows, corridors, annexes, bathrooms or verandas, except in an emergency.

- (ii) Nothing in subclause (i) of this clause shall preclude the employment of nurses in the washing of beds, bedspreads, mattresses, bedside tables or the like, following the discharge of a patient suffering a notifiable infectious disease.
- (iii) Nothing in subclause (i) of this clause shall preclude any nurse from being required to perform all or any of the specified duties, at any time when domestic staff is not available to perform them; provided that the employer has made all reasonable efforts to obtain domestic staff.
- (iv) Subject to subclause (i) of this clause, an employer may direct a nurse to carry out such duties as are within the limits of the nurse's skill, competence and training. Such duties may include work which is incidental or peripheral to the nurse's main tasks, provided that such duties are not designed to promote deskilling.

Any employer may direct a nurse to carry out duties and use such equipment as may be required, provided that the nurse has been properly trained or has otherwise acquired the necessary skills in the use of such equipment. Any such direction issued by the employer shall be consistent with the employer's responsibility to provide a safe and healthy working environment for nurses and the employer's duty of care to residents.

- (v) Assistants in Nursing may be employed under this award to perform mixed functions, provided that:
  - (a) The primary duties performed by the Assistant in Nursing, being the delivery of direct care to residents, occupy no less than the majority of the hours for which they are employed in any 28 day cycle.
  - (b) The Assistant in Nursing shall be paid at the appropriate rate for an Assistant in Nursing for all work performed for their employer in that classification.
  - (c) An Assistant in Nursing shall not be required to perform mixed functions where the employer does not provide adequate staff to ensure that the level of the quality of the service that would have otherwise been provided if the Assistant in Nursing did not perform mixed functions, is in fact provided.
  - (d) Subject to paragraph (a) of this subclause, an Assistant in Nursing may perform duties associated with a resident's well-being and comfort, including functions of a laundry, kitchen or other personal support nature.

### **30. Medical Examination of Nurses**

On commencement of employment the employee shall be notified of the availability of the following provisions, which the employer shall provide at the request of the employee:

- (i) For protection against tuberculosis:
  - (a) Before a nurse commences duty, a PA chest x-ray examination of the nurse, unless a radiologist's report of a normal chest x-ray taken within the previous six months is available.
  - (b) As soon as practicable after the nurse commences duty, a Mantoux test on the nurse, then -
    - (i) where the Mantoux test is negative, immunisation with BCG vaccine;
    - (ii) where the Mantoux test is positive (otherwise than as a result of BCG vaccination), referral to a chest clinic for assessment.
  - (c) A Mantoux test annually to -
    - (i) previously Mantoux-negative nursing staff;
    - (ii) nursing staff whose Mantoux reaction has been converted by BCG vaccination.

- (d) A chest x-ray annually to nursing staff whose Mantoux reaction is positive (otherwise than as a result of BCG vaccination).
  - (e) Where a nurse has been caring for open tuberculosis cases, a PA chest x-ray examination of the nurse one year after completion of employment.
- (ii) For protection against other communicable diseases:
- (a) where a nurse has not had a complete course of immunisation against diphtheria, tetanus, poliomyelitis, measles, mumps and hepatitis, immunisation against those diseases;
  - (b) booster immunisation against tetanus at ten-year intervals;
  - (c) a rubella antibody test and, where a nurse has a negative result, rubella immunisation.
- (iii) For protection against radiation exposure, nurses required to work in close proximity to a source of ionising radiation should be provided with a film badge or personal radiation dosimeter, and a record should be maintained of the radiation exposure measured by such film badge or dosimeter.
- (iv) The costs involved in the various screening and protection procedures should be borne by the employer.

### **31. Escort Duty**

- (i) Periods during which an employee, other than a Director of Nursing, is engaged in nursing duties, viz., in attendance on a patient, shall be paid as working time under this award. Where applicable, overtime shall be payable.
- (ii) All reasonable out-of-pocket expenses shall be reimbursed.
- (iii) Rostered time shall be paid as such, even though an employee may be travelling, in hotel/motel accommodation or waiting for transport.
- (iv) In respect of non-rostered time not spent in nursing duties -
  - (a) Periods in hotel/motel accommodation or waiting for transport shall not be counted as working time.
  - (b) Periods in travelling shall count as working time.

### **32. Deputy Director of Nursing and Assistant Director of Nursing**

- (i) Subject to subclause (ii) of this clause, the following appointments shall be made in nursing homes with daily averages of occupied beds as specified hereunder:
 

Less than 150 beds - a Deputy Director of Nursing.

150 beds and over - a Deputy Director of Nursing and Assistant Director of Nursing.
- (ii) There is no requirement to appoint a Deputy Director of Nursing in nursing homes of 40 beds and under in the following circumstances:
  - (a) the registered nurses at the nursing home are all given the same duties and no registered nurse is delegated Deputy Director of Nursing duties; and
  - (b) the Director of Nursing perceives no requirement for a Deputy Director of Nursing to be employed.

Provided that no Deputy Director of Nursing employed as at 16 December 1994 shall be dismissed or demoted from that position as a result of the implementation of this subclause.

- (iii) Where a decision is made, pursuant to subclause (ii) of this clause, not to appoint a Deputy Director of Nursing, the employer shall notify the Association in writing of that decision within 14 days and must certify that the requirements of paragraphs (a) and (b) of subclause (ii) have been met.
- (iv) In the event of a dispute arising as to the operation of this clause, the procedures set out in clause 44, Resolution of Disputes, shall be followed.
- (v) Appointments under subclause (i) of this clause shall be made within two calendar months of the date this award becomes operative and thereafter within two calendar months of the occurrence of a vacancy. In default of appointment within the said period of two calendar months, the registered nurse employed as such or in a higher classification who has customarily relieved in the vacant position, or if no one has so customarily relieved, the general nurse employed in the same or the next senior classification below the vacant position with the longest service in such classification at the nursing home shall be deemed to be appointed until such time as another appointment is made by the nursing home.
- (vi) This clause shall not apply to a nursing home using members, novices or aspirants of religious orders where a member of an order carries out the duties under this clause of an Assistant Director of Nursing or Deputy Director of Nursing.
- (vii) This clause shall not apply to a nursing home which is owned by two or more registered nurses who are actively engaged as Directors of Nursing in the running of the nursing home.

### **33. Nursing Unit Managers**

No person appointed to any level of the former classification of Nursing Unit Manager as at 1 March 1999 shall be dismissed or demoted as a result of the deletion of that classification from this award. Provided that the salary rates appearing under that classification in Table 1 - Salaries, of Part B, Monetary Rates, are to be payable, on a strictly personal basis, only to those persons appointed to such positions as at 1 March 1999.

### **34. Fares and Expenses**

- (i) An employee required to travel in the performance of duty shall be reimbursed first class fares (including sleeper accommodation) and all reasonable out-of-pocket expenses.
- (ii)
  - (a) An employee who is engaged for an indefinite period and who remains in the employment for at least six months shall be reimbursed forward fares from the place of engagement; provided that the distance of normal travel there from to the employment exceeds 40 kilometres.
  - (b) An employee who is engaged for an indefinite period, and who is dismissed within six months for any reason other than misconduct or inefficiency, shall be reimbursed forward fares from the place of engagement, provided that the distance of normal travel there from to the employment exceeds 40 kilometres, and shall also be reimbursed return fares to such place of engagement or the employee's immediate destination, whichever is the cheaper.
- (iii) An employee who is engaged for a definite period and who completes the period of engagement or who is dismissed before completing such period for any reason other than misconduct or inefficiency, shall be reimbursed forward fares from the place of engagement, provided that the distance of normal travel there from to the employment exceeds 40 kilometres, and shall also be reimbursed return fares to such place of engagement or to the employee's immediate destination, whichever is the cheaper.
- (iv) Fares within the meaning of this clause shall include only fares incurred in respect of travel within New South Wales.
- (v) An employee who claims reimbursement of fares pursuant to this clause shall furnish to the employer, if so required, satisfactory proof that he or she has not received from another employer reimbursement in respect of those fares.

### 35. Registration Or Enrolment Pending

- (i) A registered nurse or enrolled nurse who has trained outside New South Wales shall be paid as a registered nurse or enrolled nurse as from the date she or he is notified that she or he is eligible for registration or enrolment as a registered nurse or enrolled nurse; provided that she or he makes application for registration within seven days after being so notified.
- (ii) He or she shall notify the employer as soon as possible after he or she has applied.

### 36. Termination of Employment

- (i) Except for misconduct justifying summary dismissal, the services of an employee shall be terminated only by notice or by the payment of salary in lieu thereof other than a Director of Nursing, as follows;

Period	Employee's period of continuous service with the employer at the end of the day the notice is given	Period
1	Not more than 1 year	1 week
2	More than 1 year but not more than 3 years	2 weeks
3	More than 3 years but not more than 5 years	3 weeks
4	More than 5 years	4 weeks

In the case of a Director of Nursing payment of salary in lieu thereof notice period can be made, except that where the employment of a Director of Nursing is terminated within 13 weeks of her/his engagement, there shall be given 14 days notice or the payment of 14 days salary in lieu thereof.

- (ii) No employee shall, without the consent of the employer, resign without having given seven days' notice (or, in the case of a Director of Nursing, 28 days' notice) of the intention so to do or forfeiting salary earned during the pay period current at the time of resignation; provided that in no circumstances shall the employee other than the Director of Nursing forfeit more than seven days' pay and the Director of Nursing more than 28 days' pay at the rates prescribed for his or her classification by clause 6, Salaries.
- (iii) Upon the termination of the services of an employee, the employer shall furnish the employee with a written statement, duly signed by or on behalf of the employer, setting out the period of the employment and the capacity in which the employee was employed. In addition, an employer shall provide to Assistants in Nursing a statement of in-service training and/or education which the employee has undertaken.
- (iv) Employees who have accrued additional days off duty pursuant to subclause (vii) of clause 2, Hours of Work and Free Time of Employees Other Than Directors of Nursing, shall be paid for such accrued time as ordinary rate of pay upon termination.

### 37. Award Benefits to be Continuous

- (i) In the event of any change of ownership, licensee or management of any facility covered by this award, all employee rights and benefits provided by this award shall continue as if no such change in ownership, licensee or management had taken place, and no employee shall be dismissed for the reason of such change.

Where such changes do occur, no employee shall be paid out for accrued annual leave, long service leave or any other benefits, but such benefits shall be continuous.

- (ii) No employee, full-time or part-time, shall have their employment terminated or be required to take leave without pay where such termination or leave is used to avoid the requirements of any Act or to avoid payment of any rights or benefits provided by this award.

### 38. Special Provisions Relating to Trainee Enrolled Nurses

- (i) Where a trainee enrolled nurse has transferred from one training school to another, the time allowed by the Board in the first training school shall be counted in computing salary.
- (ii) A trainee enrolled nurse, who is absent from training for not more than two weeks, exclusive of annual leave, in any period of 12 months training shall, for the purpose of annual increase in salary under clause 6, Salaries, be deemed to have completed the particular year of training 12 calendar months after the commencement thereof notwithstanding such absence, but if absent for more than the aforesaid time in any such period, the particular year of training shall not be deemed to have been completed until the employee has served the actual period of excess of such time.

### 39. Trainee Enrolled Nurse

- (a) Objective:

The objective of this clause is to assist with the establishment of a system of traineeships for Trainee Enrolled Nurses, which provides approved training in conjunction with employment and which is to be at the same AQF level as the existing Certificate IV course.

- (b) Application:

- (i) This clause applies only to the employment of Trainee Enrolled Nurses undertaking Certificate IV in Nursing whilst performing the duties of a Trainee Enrolled Nurse.

- (ii) The system is neither designed nor intended for those who are already trained and job ready.

- (c) Definitions:

"Structured Training" means - training which is specified in the Training Plan, which is part of the Training Contract registered with the relevant NSW Training Authority. It includes training undertaken both on and off-the-job in a Traineeship and involves formal instruction, both theoretical and practical, and supervised practice. The training reflects the requirements of a Traineeship approved by the relevant NSW Training Authority.

"Trainee" is an individual who is signatory to a Training Contract registered with the relevant NSW Training Authority and is involved in paid work and structured training both on and off the job. A trainee can be full time, part time or school-based.

"Traineeship" means - a system of training, which has been approved by the relevant NSW Training Authority, and includes full time traineeships and part time traineeships including school-based traineeships.

"Training Contract" means - a contract entered into for the purposes of establishing a Traineeship under the Apprenticeship and Traineeship Act 2001 (NSW).

"Training Plan" means - a programme of training which forms part of a Training Contract registered with the relevant NSW Training Authority.

"Relevant NSW Training Authority" means - the Department of Education, or successor organisation.

"School Based Trainee Enrolled Nurse" is a student enrolled in the Higher School Certificate, or equivalent qualification, who is undertaking a Traineeship which forms part of a recognised component of their HSC curriculum, and is endorsed by the relevant NSW Training Authority, NSW Board of Studies and NSW Nurses Registration Board as such.



## (d) Training Conditions

- (i) The employer shall provide a level of registered nurse supervision during the traineeship period in accordance with the training contract.
- (ii) Trainee Enrolled Nurses will not be required to perform the duties of registered or enrolled nurses in the event of absenteeism. In the event that a registered or enrolled nurse needs to be replaced, existing staff including casuals will be offered the shift, or agency staff will be used.
- (iii) The employer agrees that the overall training programme will be monitored by officers of the relevant NSW Training Authority. Training records or work books may be utilised as part of this monitoring process.
- (iv) A Traineeship shall not commence until the relevant Training Contract has been signed by the employer and the trainee and lodged for registration with the relevant NSW Training Authority.

## (e) Full Time, Part Time Traineeships

A full time Trainee Enrolled Nurse shall be engaged as a full-time employee for a maximum of one year's duration.

A part time Trainee Enrolled Nurse shall be engaged as a part time employee for a maximum of two years' duration.

A Trainee Enrolled Nurse who undertakes a Traineeship on a part-time basis works less than full-time ordinary hours, and shall undertake the approved training at the same or lesser training time than a full-time trainee.

## (f) Employment Conditions

- (i) A Trainee Enrolled Nurse shall be subject to a satisfactory probation period of up to one month which may be reduced at the discretion of the employer.
- (ii) By agreement in writing, and with the consent of the relevant NSW Training Authority, the relevant employer and the Trainee may vary the duration of the Traineeship and the extent of approved training. Any agreement to vary shall be in accordance with the relevant Traineeship.
- (iii) Where the trainee completes the qualification in the Training Contract earlier than the time specified in the Training Contract then the Traineeship may be concluded by mutual agreement.
- (iv) A traineeship shall not be terminated before its conclusion except in accordance with the *Apprenticeship and Traineeship Act 2001*(NSW) or by mutual agreement.
- (v) An employer who chooses not to continue the employment of a Trainee upon the completion of the Traineeship shall notify, in writing, the relevant NSW Training Authority of their decision.
- (vi) The Trainee will be permitted to be absent from work without loss of continuity of employment and/or wages to attend training in accordance with the Traineeship Agreement.
- (vii) Where the employment of a Trainee by an employer is continued after the completion of the traineeship period, such employment period shall be counted as service for the purposes of this Award or any other legislative entitlement.
- (viii) The Traineeship Agreement may restrict the circumstances under which the Trainee may work overtime and shiftwork in order to ensure the training programme is successfully completed.
  - A. No Trainee Enrolled Nurses shall work overtime or shiftwork unless under the direct supervision of a registered nurse.

- B. No Trainee Enrolled Nurse shall work shiftwork unless the parties to a Traineeship agree that such shiftwork makes satisfactory provision for structured training.
  - C. Such training may be applied over a cycle in excess of a week, but must average over the relevant period no less than the amount of training required for non-shiftwork Trainee Enrolled Nurses.
  - D. No Trainee Enrolled Nurse shall be rostered to work a shift any less than 8 hours prior to attending off the job training requirements, or any less than 8 hours after having completed off the job training requirements.
- (ix) The Trainee Enrolled Nurse wages shall be in accordance with Table 1 - Salaries, of Part B, Monetary Rates and shall be the basis for the calculation of overtime and/or shift penalty rates prescribed by this award.
  - (x) A Trainee who fails to either complete the Traineeship or who cannot for any reason be placed in employment with the employer on successful completion of the Traineeship shall not be entitled to any severance payments
  - (xi) All the terms and conditions of this award or former industrial agreements that are applicable to the Trainee Enrolled Nurse shall apply unless specifically varied by this clause.

#### **40. Right of Entry**

See Part 7 of Chapter 5 of *the Industrial Relations Act 1996*.

#### **41. Attendance at Meetings and Fire Drills**

- (i) Any employee required to work outside the ordinary hours of work in satisfaction of the requirements for compulsory fire safety practices (e.g., fire drill and evacuation procedures), contained within the NSW Health Policy Directive PD2010\_024 - Fire Safety in Health Care Facilities, shall be entitled to be paid the "ordinary rate" for the actual time spent in attendance at such practices. Such time spent in attendance shall not be viewed as overtime for the purposes of this award.
- (ii) Any employee required to attend Occupational Health and Safety Committee and/or Board of Management meetings in the capacity of employee representative shall, if such meetings are held outside the ordinary hours of work, be entitled to receive payment at the "ordinary rate" for the actual time spent in attendance at such meetings. Such time spent in attendance shall not be viewed as overtime for the purposes of this award.
- (iii) For the purposes of this clause, "ordinary rate" shall include amounts payable under clause 6, Salaries, subclauses (i) and (ii) of clause 9, Special Allowances, and clause 11, Climatic and Isolation Allowance, plus, where appropriate, the ten per cent loading prescribed in clause 21, Part-time, Casual and Temporary Employees, for employees engaged otherwise than as a full-time or permanent part-time employee.

#### **42. Training for Nurses**

- (i) Each employer shall provide a minimum of 12 hours of in-service training per annum to Assistants in Nursing.
- (ii) Each employer may make training available to nurses other than Assistants in Nursing.
- (iii) Each employee shall provide to their employer details of their attendance at in-service training and the employer shall keep a record of this attendance.
- (iv) Upon termination of the employee's employment the employer shall provide to the employee a written statement of the hours of in-service training attended by the employee.

- (v) Where practicable, such training shall be provided to employees during the normal rostered hours of work. Where it is not practicable to provide such training during the normal rostered hours of work then:
  - (a) Employees shall attend in-service training outside their normal rostered working hours when required to do so by the employer.
  - (b) An employer shall provide employees with two weeks notice of the requirement to attend training outside of their normal rostered working hours.
  - (c) Notwithstanding clause 18, Overtime, attendance at such training shall be paid at ordinary rates.
  - (d) Notwithstanding subclause (iv) of clause 2, Hours of Work and Free Time of Employees Other Than Directors of Nursing, attendance at such in-service training outside the normal rostered working time of an employee shall not affect the ordinary rate paid to the employee during normal rostered working time.

#### 43. Resolution of Disputes

- (i) With a view to an amicable and speedy settlement of all disputes which cannot be resolved between the employees or their representatives and the supervising staff, such dispute shall be referred to the management of the facility, who will arrange for the matter to be discussed with the employee concerned and a representative or representatives of the Association.
- (ii) Failing settlement of the issue at this level, the matter shall be submitted to a committee consisting of not more than four members, two of whom shall be appointed by the facility concerned (and for the purpose of this subclause the facility may ask their employer organisation to assist) and two by the Association.
- (iii) Whilst these procedures are continuing, no stoppage of work or any form of ban or limitation of work shall be applied.
- (iv) The Association reserves the right to vary this procedure where it is considered a safety factor is involved.
- (v) This clause shall not interfere with the right of either party to institute proceedings for the determination of any matter in accordance with the *Industrial Relations Act 1996*.

#### 44. Anti-Discrimination

- (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.
- (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.
- (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.
- (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 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.
- (5) This clause does not create legal rights or obligations in addition to those imposed upon the parties by 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".

#### **45. Enterprise Arrangements**

##### **PART 1 - PARTIES**

- (i) As part of the Structural Efficiency exercise and as an ongoing process for improvements in productivity and efficiency, discussion should take place at an enterprise to provide more flexible working arrangements, improvement in the quality of working life, enhancement of skills, training and job satisfaction, and positive assistance in the restructuring process and to encourage consultation mechanisms across the workplace to all employees in an enterprise and consideration of a single bargaining unit in all multi-union/union award workplaces. Union delegates at the place of work may be involved in such discussions.
- (ii) The terms of any proposed genuine arrangement reached between an employer and employee(s) in any enterprise shall, after due processing, substitute for the provisions of this award to the extent that they are contrary, provided that:
  - (a) A majority of employees affected genuinely agree.
  - (b) Such arrangement is consistent with the current State Wage Case principles.
- (iii)
  - (a) Before any arrangement requiring variation to the award is signed and processed in accordance with Part 2 of this clause, details of such arrangements shall be forwarded in writing to the union or unions with members in that enterprise affected by the changes and the employer association, if any, of which the employer is a member. A union or an employer association may, within 14 days thereof, notify the employer in writing of any objection to the proposed arrangements, including the reasons for such objection.
  - (b) When an objection is raised, the parties are to confer in an effort to resolve the issue.

##### **PART 2 - PROCEDURES TO BE FOLLOWED - SUCH ENTERPRISE ARRANGEMENTS SHALL BE PROCESSED AS FOLLOWS**

- (i) All employees will be provided with the current prescriptions (e.g., award, industrial agreement, enterprise agreement or enterprise arrangement) that apply at the place of work.

- (ii)
- (a) Where an arrangement is agreed between the employer and the employees or their authorised representative at an enterprise, such arrangement shall be committed to writing.
- Where the arrangement is agreed between the employer and an absolute majority of permanent employees under this award at an enterprise, such arrangement shall be committed to writing.
- (b) The authorised representative of employees at an enterprise may include a delegate, organiser or official of the relevant union if requested to be involved by the majority of employees at the establishment.
- (iii) The arrangement shall be signed by the employer, or the employer's duly authorised representative, and the employees, or their authorised representative with whom agreement was reached.
- (iv) Where an arrangement is objected to in accordance with paragraph (a) of subclause (iii) of Part 1 of this clause and the objection is not resolved, an employer may make application to the Industrial Relations Commission of New South Wales to vary the award to give effect to the arrangement.
- (v) The union and/or the employer association shall not unreasonably withhold consent to the arrangements agreed upon by the parties.
- (vi) If no party objects to the arrangement, then a consent application shall be made to the Industrial Relations Commission to have the arrangement approved and the award varied in the manner specified in subclause (vii). Such applications are to be processed in accordance with the appropriate State Wage Case principles.
- (vii) Where an arrangement is approved by the Industrial Relations Commission and the arrangement is contrary to any provisions of the award, then the name of the enterprise to which the arrangement applies, the date of operation of the arrangement, the award provisions from which the said enterprise is exempt, and the alternative provisions which are to apply in lieu of such award provisions (or reference to such alternative provisions), shall be set out in a schedule to the award.
- (viii) Such arrangement when approved shall be displayed on a notice board at each enterprise affected.
- (ix) No existing employee shall suffer a reduction in entitlement to earnings, award or over award, for working ordinary hours of work as the result of any award changes made as part of the implementation of the arrangement.

#### **46. Exemptions**

This award shall not apply to members, novices or aspirants of religious orders in any facility.

#### **47. Leave Reserved**

- (i) Leave is reserved to the Association to apply with respect to:
- (a) senior nurse management restructure;
- (c) paid maternity, paternity and adoption leave;
- (d) entitlements for Association Branch officers;
- (e) continuing education allowance for Assistants in Nursing; and
- (f) reasonable workloads.

- (ii) Leave is reserved to the Aged & Community Services Association of NSW. & ACT Inc., the Australian Nursing Homes & Extended Care Association (NSW), Australian Business Industrial and the Catholic Commission for Employment Relations to apply with respect to:
  - (a) definition of a seven day shift worker;
  - (b) definition of ordinary pay;
  - (c) span of hours; and
  - (d) leave without pay.

#### **48. Secure Employment**

- (a) Objective of this Clause

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

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and

- (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.

(c) Occupational Health and Safety

- (i) For the purposes of this subclause, the following definitions shall apply:

- (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
- (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.

- (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):

- (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
- (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
- (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
- (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.

- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.

(d) Disputes Regarding the Application of this Clause

Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.

- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.

#### 49. Area, Incidence and Duration

- (i) This award is made following a review under section 19 of the *Industrial Relations Act 1996* and rescinds and replaces the Nursing Homes, &c., Nurses' (State) Award reprinted and published 27 January 2012 ((372 I.G. 621) as varied.

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 27 January 2012 (372 I.G. 621) and take effect on 9 November 2018

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

- (ii) It shall apply to persons engaged in the industry of nursing as defined herein within the State of New South Wales, within the jurisdiction of the Private Hospital, Day Procedure Centre, Nursing Home, &c., Nurses' (State) Industrial Committee, which includes as part of its coverage the following:

Trained nurses, trainees and Assistants in Nursing and all persons employed as nurses in the industry and calling of nursing and employed in or in connection with a residential aged care facility.

- (iii) The rates of pay in this award include the adjustments payable under the State Wage Case 2018. These adjustments may be offset against:

- (a) any equivalent overaward payments, and/or
- (b) award wage increases since 29 May 1991 other than the safety net, State Wage Case, and minimum rates adjustments.

The rates of pay and allowances in Part B, Monetary Rates take effect from the first pay period on or after 28 September 2018.



**PART B****MONETARY RATES****Table 1 - Salaries****WAGES****Effective from the first full pay period on or after 28 September 2018**

CLASSIFICATION	SWC 2017 FFPP 28/09/2017	Increase 3.5%	SWC 2018 FFPP 28/09/2018
ASSISTANT IN NURSING/TRAINEE ENROLLED NURSE UNDER 18 YEARS			
FIRST YEAR OF EXPERIENCE	\$667.10	3.5%	\$690.40
SECOND YEAR OF EXPERIENCE	\$696.70	3.5%	\$721.10
THEREAFTER	\$724.30	3.5%	\$749.70
18 YEARS AND OVER			
FIRST YEAR OF EXPERIENCE	\$784.00	3.5%	\$811.40
SECOND YEAR OF EXPERIENCE	\$808.10	3.5%	\$836.40
THIRD YEAR OF EXPERIENCE	\$832.70	3.5%	\$861.80
THEREAFTER	\$857.90	3.5%	\$887.90
ENROLLED NURSE			
FIRST YEAR OF EXPERIENCE	\$956.70	3.5%	\$990.20
SECOND YEAR OF EXPERIENCE	\$976.20	3.5%	\$1,010.40
THIRD YEAR OF EXPERIENCE	\$997.10	3.5%	\$1,032.00
FOURTH YEAR OF EXPERIENCE	\$1,017.60	3.5%	\$1,053.20
THEREAFTER	\$1,038.20	3.5%	\$1,074.50
REGISTERED NURSE GENERAL, MR PSYCH., INFANTS, GERIATRIC, MIDWIFERY			
FIRST YEAR OF SERVICE	\$1,080.50	3.5%	\$1,118.30
SECOND YEAR OF SERVICE	\$1,138.00	3.5%	\$1,177.80
THIRD YEAR OF SERVICE	\$1,195.20	3.5%	\$1,237.00
FOURTH YEAR OF SERVICE	\$1,256.40	3.5%	\$1,300.40
FIFTH YEAR OF SERVICE	\$1,317.40	3.5%	\$1,363.50
SIXTH YEAR OF SERVICE	\$1,378.30	3.5%	\$1,426.50
SEVENTH YEAR OF SERVICE	\$1,448.00	3.5%	\$1,498.70
EIGHTH YEAR OF SERVICE	\$1,506.20	3.5%	\$1,558.90
NURSING UNIT MANAGER (personal to current occupants as at 1 March 1999).			
LEVEL 1			
FIRST YEAR	\$1,667.70	3.5%	\$1,726.10
SECOND YEAR	\$1,714.00	3.5%	\$1,774.00
LEVEL 2	\$1,758.70	3.5%	\$1,820.30
LEVEL 3	\$1,801.10	3.5%	\$1,864.10
NURSE UNDERGOING PRE-REGISTRATION ASSESSMENT	\$935.30	3.5%	\$968.00
CLINICAL NURSE SPECIALIST	\$1,567.00	3.5%	\$1,621.80
CLINICAL NURSE CONSULTANT	\$1,845.90	3.5%	\$1,910.50
CLINICAL NURSE EDUCATOR	\$1,567.00	3.5%	\$1,621.80
NURSE EDUCATOR			
FIRST YEAR	\$1,667.60	3.5%	\$1,726.00
SECOND YEAR	\$1,714.00	3.5%	\$1,774.00
THIRD YEAR	\$1,755.30	3.5%	\$1,816.70
FOURTH YEAR	\$1,845.90	3.5%	\$1,910.50

SENIOR NURSE EDUCATOR			
FIRST YEAR	\$1,889.90	3.5%	\$1,956.00
SECOND YEAR	\$1,928.00	3.5%	\$1,995.50
THIRD YEAR	\$1,991.40	3.5%	\$2,061.10
ASSISTANT DIRECTOR OF NURSING			
LESS THAN 150 BEDS	\$1,714.00	3.5%	\$1,774.00
150-250 BEDS	\$1,845.90	3.5%	\$1,910.50
250 BEDS AND OVER	\$1,889.90	3.5%	\$1,956.00
DEPUTY DIRECTOR OF NURSING			
LESS THAN 20 BEDS	\$1,748.20	3.5%	\$1,809.40
20 BEDS, LESS THAN 75 BEDS	\$1,792.60	3.5%	\$1,855.30
75 BEDS, LESS THAN 100 BEDS	\$1,833.50	3.5%	\$1,897.70
100 BEDS, LESS THAN 150 BEDS	\$1,871.90	3.5%	\$1,937.40
150 BEDS, LESS THAN 200 BEDS	\$1,927.90	3.5%	\$1,995.40
200 BEDS, LESS THAN 250 BEDS	\$1,991.40	3.5%	\$2,061.10
250 BEDS, LESS THAN 350 BEDS	\$2,065.00	3.5%	\$2,137.30
350 BEDS, LESS THAN 450 BEDS	\$2,137.60	3.5%	\$2,212.40
450 BEDS, LESS THAN 750 BEDS	\$2,216.10	3.5%	\$2,293.70
750 BEDS AND OVER	\$2,300.80	3.5%	\$2,381.30
DIRECTOR OF NURSING			
LESS THAN 25 BEDS	\$1,951.60	3.5%	\$2,019.90
25 BEDS, LESS THAN 50 BEDS	\$2,065.00	3.5%	\$2,137.30
50 BEDS, LESS THAN 75 BEDS	\$2,108.60	3.5%	\$2,182.40
75 BEDS, LESS THAN 100 BEDS	\$2,151.90	3.5%	\$2,227.20
100 BEDS, LESS THAN 150 BEDS	\$2,213.10	3.5%	\$2,290.60
150 BEDS, LESS THAN 200 BEDS	\$2,286.30	3.5%	\$2,366.30
200 BEDS, LESS THAN 250 BEDS	\$2,359.00	3.5%	\$2,441.60
250 BEDS, LESS THAN 350 BEDS	\$2,446.70	3.5%	\$2,532.30
350 BEDS, LESS THAN 450 BEDS	\$2,592.80	3.5%	\$2,683.50
450 BEDS, LESS THAN 750 BEDS	\$2,741.70	3.5%	\$2,837.70
750 BEDS AND OVER	\$2,912.10	3.5%	\$3,014.00

Table 2 - Other Rates and Allowances

ITEM NO.	BRIEF DESCRIPTION	CLAUSE NO.	Rate 2017	increase	Rate 2018	PERIOD
1	In Charge of Nursing Home	9(i)(a)				
	(a) less than 100 beds		\$26.79	3.5%	\$27.73	per shift
	(b) 100 beds and less than 150 beds		\$43.12	3.5%	\$44.63	per shift
2	In Charge of ward/unit	9(i)(b)	\$26.79	3.5%	\$27.73	per shift
3	On Call	9(ii)(a)	\$23.86	3.5%	\$24.70	per 24 hours
						or part thereof
4	On Call on rostered days off	9(ii)(b)	\$47.73	3.5%	\$49.40	per 24 hours
						or part thereof
5	On Call During Meal Break	9(ii)(c)	\$12.92	3.5%	\$13.37	per shift
6	Travelling Allowance	9(ii)(d)	\$0.76	2.1%	\$0.78	per km
7	Climatic Allowance	11(i)	\$4.95	3.5%	\$5.12	per week
8	Isolation Allowance	11(ii)	\$9.57	3.5%	\$9.90	per week
9	Expense Allowance for DON's	13				
	less 100 beds		\$277.45	2.1%	\$283.28	per annum
	100 - 299 beds		\$553.73	2.1%	\$565.36	per annum
	300 - 499 beds		\$831.20	2.1%	\$848.66	per annum
	over 500 beds		\$1,109.03	2.1%	\$1,132.32	per annum
10	Uniforms	16(iii)(a)	\$7.44	2.1%	\$7.60	per week
11	Shoes	16(iii)(a)	\$2.30	2.1%	\$2.35	per week
12	Cardigan or Jacket	16(iii)(b)	\$2.23	2.1%	\$2.28	per week
13	Stockings	16(iii)(c)	\$3.88	2.1%	\$3.96	per week

14	Socks	16(iii)(d)	\$0.77	2.1%	\$0.79	per week
15	Laundry	16(iv)	\$6.22	2.1%	\$6.35	per week
16	Meal on Overtime	18(vi)	\$10.96	2.1%	\$11.19	per week
17	Breakfast	28(i)(c)	\$4.10	2.1%	\$4.19	per week
18	Other Meals	28(i)(c)	\$7.43	2.1%	\$7.59	per week

**Table 3, Continuing Education Allowances**

ITEM NO.	BRIEF DESCRIPTION	CLAUSE NO.	Rate 2017	Increase	Rate 2018	PERIOD
1	Continuing education allowance: RN	10 (vii)	\$22.47	3.5%	\$23.26	per week
2	Continuing education allowance: RN	10 (viii)	\$37.45	3.5%	\$38.76	per week
3	Continuing education allowance: RN	10 (ix)	\$44.94	3.5%	\$46.51	per week
4	Continuing education allowance: EN	10 (x)	\$14.98	3.5%	\$15.50	per week

P. M. KITE, *Chief Commissioner*

---

Printed by the authority of the Industrial Registrar.

**PUBLIC HOSPITALS (MEDICAL SUPERINTENDENTS) AWARD 2019**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Ministry of Health.

(Case No. 215400 of 2019)

Before Chief Commissioner Kite

18 July 2019

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

Clause No.	Subject Matter
1	Definitions
2	Salaries
3	Grading Committee
4	Annual Leave
5	Sick Leave
6	Maternity, Adoption and Parental Leave
6A	Lactation Breaks
7	Public Holidays
8	Long Service Leave
9	Higher Grade Duty
10	Payment and Particulars of Salaries
11	Settlement of Disputes
12	Anti-Discrimination
13	Mobility, Excess Fares and Travelling
14	Family and Community Services Leave and Personal/Carer's Leave
14A	Family Violence Leave
15	Labour Flexibility
16	Termination of Employment
17	Salary Packaging
18	Reasonable Hours
19	Salary Sacrifice to Superannuation
20	No Extra Claims
21	Area, Incidence and Duration

**PART A****1. Definitions**

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

"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.

"Higher Medical Qualification" means such qualification obtained by a medical practitioner subsequent to graduation and includes:

- (a) post-graduate University degrees and diplomas recognised by the Medical Board of Australia as qualifications; or
- (b) membership or fellowship of the Royal College or Royal Australian College of Physicians or Fellowship of the Royal College or Royal Australasian College of Surgeons or membership or fellowship of the Royal College of Obstetricians and Gynaecologists; or Fellowship of the Australian College of Medical Administrators;
- (c) such other post-graduate qualification recognised by the Medical Board of Australia and acceptable to the Ministry of Health.

"Hospital" means a public hospital as defined under s.15 of the *Health Services Act 1997*.

"Officer" means a person who is a registered medical practitioner and who is employed as a Chief Executive Officer, Deputy Chief Executive Officer, Medical Superintendent, Deputy Medical Superintendent, Assistant Medical Superintendent or Clinical Superintendent in a position as such by the employer.

"Service" unless the context otherwise indicates or requires, means service before or and/or after the commencement of this Award with the employer.

"Union" means the Health Services Union NSW and the Australian Salaried Medical Officers' Federation (New South Wales).

"Weekly rates" will be ascertained by dividing an annual amount by 52.17857 or a weekly rate can be multiplied by 52.17857 to obtain the annual amount.

## **2. Salaries**

Salaries for Medical Superintendents shall be as set out in the Health Professional and Medical Salaries (State) Award.

## **3. Grading Committee**

A Committee consisting of up to three representatives of the employer and up to three representatives of the Union shall be constituted to consider and recommend to the Industrial Commission of New South Wales upon application by the Union or the employer:

- (i) The grading of any new position or any variation of grading of a position as a result of any substantial change in duties and/or responsibilities; and
- (ii) the date of the effect of the grading recommended. Provided that -
  - (a) an officer shall, whilst the grading of his/her position is under consideration, be ineligible to be a member of the Committee;
  - (b) the Committee shall not, without sufficient reason, recommend the retrospective operation of any grading or remuneration; and
  - (c) where a retrospective date of effect is recommended such date shall not be earlier than a date six months prior to the date on which the matter was referred to the Committee.

## **4. Annual Leave**

- (i) Annual leave shall accrue at the rate of five calendar weeks per annum.

- (ii) Annual leave shall not accrue beyond ten calendar weeks without the approval of the employer.
- (iii) Such annual leave shall be taken by officers at mutually convenient times as arranged with the employer.
- (iv) The employer shall pay each officer in advance before the commencement of any period of annual leave his ordinary pay for the period of the leave.
- (v) Where any special or public holiday for which the officer is entitled to payment under this Award or under any Act or under his contract of employment occurs during any period of annual leave taken by an officer, the holiday shall not be reckoned as a deduction from the officer's annual leave entitlement.
- (vi) Annual leave for a period of accrual of less than twelve months shall accrue on a proportionate basis at the rate of five calendar weeks per annum.
- (vii) Where the employment of an officer who has become entitled to a period of annual leave is terminated or the officer resigns, the due period of annual leave shall be deemed to be taken from the date of termination or resignation and the employer shall forthwith pay to the officer, in addition to all other amounts due to him, his ordinary pay for the period of annual leave.

NOTATION: The conditions under when the annual leave loading shall be paid to officers are the same as generally applied through circulars issued by the Ministry of Health.

- (viii) The provisions of subclause 4(i) above entitle Medical Superintendents to paid annual leave additional to that available under clause 3(1)(b) of the *Annual Holidays Act 1944*, which is four weeks paid leave per annum. A Medical Superintendent entitled to such additional paid annual leave can elect at any time to be paid an amount equivalent to the value of accrued additional annual leave in lieu of taking the 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.

## 5. Sick Leave

An officer shall be entitled to ten days per year for each year of continuous service less any sick leave on full pay already taken, subject to the following conditions:

- (a) The employer may require the sickness to be certified to by a legally qualified medical practitioner approved by the employer or may require other satisfactory evidence thereof.
- (b) An officer shall not be entitled to sick leave until after three months' continuous service.
- (c) An officer shall not be entitled to sick leave on full pay for any period in respect of which such officer is entitled to accident pay or workers' compensation.

Provided, however, that where an officer is not in receipt of accident pay, the employer shall pay to an officer, who has sick leave entitlements under this clause, the difference between the amount received as workers' compensation and full pay. The officer's sick leave entitlements under this clause shall, for each week during which such difference is paid, be reduced by that proportion of hours which the difference paid bears to full pay. On the expiration of available sick leave, weekly compensation payments only shall be payable.

- (d) For the purpose of this clause "service" means service in any of the positions covered by this Award provided that any person who was employed by the employer immediately prior to becoming an officer in any position covered by this Award shall be entitled to add to his or her service under this Award the service that he or she has had under any other Award or agreement covering his/her employment with the employer; provided that officers who are employed at the date of commencement of this Award shall retain to their credit until exhausted, any accumulation of sick leave to their credit immediately prior to such date; and provided further that such credit is not less than the entitlement otherwise prescribed by this clause.

- (e) The employer shall not terminate the services of an employee, except on the grounds of misconduct, during the currency of any period of paid sick leave unless an agreed independent registered medical practitioner certifies that an employee is fit to continue in employment and the employee refuses to resume duty.

If a dispute arises as to whether an employee is fit to continue in employment, such dispute shall be referred to a Disputes Committee.

## 6. 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 as varied from time to time.

#### (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, as varied from time to time, 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 her pregnancy an employee is unable to continue to work then she can elect to use any available paid leave (sick, annual and/or long service leave) or to take sick leave without pay.

Where an employee is entitled to paid maternity leave, but because of illness, is on sick, annual, long service leave, or sick leave without pay prior to the birth, such leave ceases nine weeks prior to the expected date of birth. The employee then commences maternity leave with the normal provisions applying.

(x) Transfer to a More Suitable Position

Where, because of an illness or risk associated with her pregnancy, an employee cannot carry out the duties of her position, an employer is obliged, as far as practicable, to provide employment in some other position that she is able to satisfactorily perform. This obligation arises from Section 70 of the *Industrial Relations Act* 1996. A position to which an employee is transferred under these circumstances must be as close as possible in status and salary to her substantive position.

(xi) Miscarriages

In the event of a miscarriage any absence from work is to be covered by the current sick leave provisions

(xii) Stillbirth

In the case of a stillbirth, (as classified by the Registry of Births, Deaths and Marriages) an employee may elect to take sick leave, subject to production of a medical certificate, or maternity leave. She may resume duty at any time provided she produces a doctor's certificate as to her fitness.

(xiii) Effect of Premature Birth on Payment of Maternity Leave

An employee who gives birth prematurely and prior to proceeding on maternity leave shall be treated as being on maternity leave from the date leave is commenced to have the child. Should an employee return to duty during the period of paid maternity leave, such paid leave ceases from the date duties are resumed.

## (xiv) Right to Return to Previous Position

In accordance with the obligations set out in Section 66 of the *Industrial Relations Act 1996*, an employee returning from maternity leave has the right to resume her former position.

Where this position no longer exists the employee is entitled to be placed in a position nearest in status and salary to that of her former position and 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 *Worker's Compensation Act 1987* as varied from time to time.

## (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 1987* as varied from time to time.

(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 anytime 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, 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.

#### **6A. 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.

#### **7. Public Holidays**

No deduction shall be made from the salary of an officer for any public or statutory holidays on which he/she is not required to work. For the purpose of this clause, the following shall be deemed public holidays: New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, Eight Hour Day, Christmas Day, Boxing Day, and such other public holidays as may be proclaimed throughout the State of New South Wales or for any district therein which an officer is employed.

#### **8. 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 his or her 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, he/she 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, he/she 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, he/she 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 shall be determined in accordance with the provisions of Section 7 of the NSW Health Policy Directive PD2019\_010 Leave Matters for the NSW Health Service, as amended from time to time.
  - (b) Broken periods of service in one or more hospitals shall count as service subject to the following:
    - (1) where an officer, after ceasing employment with the employer is re-employed by the employer subsequent to the 1st July 1974, any service of that officer before he/she was so re-employed shall not be counted for the purpose of determining any long service leave due to that officer in respect of his/her service after he/she was so re-employed unless he/she has completed at least five years' continuous service from the date of his/her being so re-employed;
    - (2) an officer employed in a hospital at the 1st July 1974, and who was entitled to count broken service under the provisions of the Award in force prior thereto shall be entitled to count such broken service prior to the 1st July 1974.
  - (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 July 1974;
    - (2) any period of part-time service, except permanent part-time service.
- (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 transfers his/her leave entitlement in accordance with Section 7 of NSW Health Policy Directive PD2019\_010 Leave Matters for the NSW Health Service, as amended 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) Rights to long service leave under this clause shall be in replacement of rights to long service leave, if any, which at the 1st July 1974, may have accrued or may be accruing to an officer and shall apply only to persons in the employ of the employer on or after the 1st July 1974. Where an officer has been granted long service leave or has been paid its monetary value prior to the 1st July 1974, the employer shall be entitled to debit such leave against any leave to which the officer may be entitled pursuant to this clause.

### **9. Higher Grade Duty**

An officer who is called upon to relieve continuously in a higher classification 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 the minimum salary of such higher classification for all such periods of relief.

### **10. Payment and Particulars of Salary**

- (i) All salaries and other payments shall be paid 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. Salaries shall be deposited by the employer in sufficient time to ensure that wages are available for withdrawal by employees by no later than payday, 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 wages of such employees are available for withdrawal by no later than payday.

- (iii) 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.

#### **11. 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 for the matter to be 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 then 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 a 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 a committee consisting of not more than six members, with equal representatives of the Secretary and the Union. 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 party to institute proceedings for the determination of any matter in accordance with the *Industrial Relations Act 1996*.

## 12. 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.

## 13. 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 the excess 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 his/her 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 as prescribed from time to time by the Crown Employees (Public Service Conditions of Employment) Award.

(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 decision after such discussion or if a significant number of employees are involved, the matter should be referred to the Ministry of Health which 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 per day in travelling to and from the relief site, the excess shall be reimbursed.
- (c) Where a reliever, with the prior approval of the employer, travels by his/her own mode of conveyance and incurs travelling costs in excess of \*\$5 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 by the Crown Employees (Public Service Conditions of Employment) Award, less \*\$5.

This \$5 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.

#### **14. 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 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 (vi)(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 take 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 his/her first year of employment, of 18 hours of FACS leave. If the employee takes FACS leave for a full rostered shift eg 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, he/she 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 subclause (c) above.
- (e) The employee shall, if required, establish either by production of a medical certificate or statutory declaration that the illness of the person concerned is such as to require care by another person.
- (f) The employee has the right to choose the method by which the ground for leave is established, that is, by production of either a medical certificate or statutory declaration.

- (g) The employee is not required to state the exact nature of the relevant illness on either a medical certificate or statutory declaration.
  - (h) The employee shall, wherever practicable, give the employer notice prior to the absence of the intention to take leave, the name of the person requiring care and that person's relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the employee to give prior notice of absence, the employee shall notify the employer by telephone of such absence at the first opportunity on the day of absence.
  - (i) In normal circumstances, the employee must not take leave under this 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) Use of make-up time

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.

#### 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 (ie 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 carers 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 (ie 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.

#### **14A. 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* as varied from time to time. 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.

#### **15. 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.

## 16. Termination of Employment

Employment may be terminated only by four weeks' notice given in writing either by the employer or the officer at any time during the week or by payment or forfeiture of four weeks' salary as the case may be, provided that the officer and the employer may agree to a lesser period of notice. Nothing in this clause shall prevent the summary dismissal of an officer for misconduct or neglect of duty.

## 17. 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 PD 2018\_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 local health districts 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 varied 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 PD 2018\_044 Salary Packaging as amended from time to time.

#### **18. 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) 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.
- (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 his or her intention to refuse it; and
  - (e) Any other relevant matter.

#### **19. 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 17. Salary Packaging, of this Award may be made up to one hundred (100) per cent of the salary payable under the relevant 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 of the relevant Award 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 the 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.

## 20. 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 2020 by a party to this Award.

## 21. Area, Incidence and Duration

- (i) This Award takes effect from 1 July 2019 and shall remain in force for a period of one year.

- (ii) This Award rescinds and replaces the Public Hospitals (Medical Superintendents) Award 2018 published 2 August 2019 (384 I.G. 853) and all variations thereof.
- (iii) This Award shall apply to persons employed in classifications contained herein employed in the New South Wales Health Service under section 115(1) of the *Health Services Act 1997*, or their successors, assignees or transmittes.

P. M. KITE, *Chief Commissioner*

---

Printed by the authority of the Industrial Registrar.

**PUBLIC HOSPITALS DENTAL ASSISTANTS (STATE) AWARD 2019**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by NSW Industrial Registrar.

(Case No. 206022 of 2019)

Before Chief Commissioner Kite

11 July 2019

**AWARD****1. Arrangement**

Clause No.	Subject Matter
1.	Arrangement
2.	Definitions
3.	Classifications
4.	Anti-Discrimination
5.	Conditions of Employment
6.	Rates of Pay
7.	No Extra Claims
8.	Area, Incidence and Duration

**2. Definitions**

"Employee" means a person employed in any Hospital or Local Health District in the classification of Junior Dental Assistant or Dental Assistant, Grade 1, 2 or 3.

"Hospital" means a public hospital as defined under section 15 of the *Health Services Act 1997*.

"Local Health District" means a Local Health District constituted pursuant to section 17 of the *Health Services Act 1997*.

"Ministry" means the Ministry of Health.

"Service", unless the context otherwise indicates or requires, means relevant service before and/or after commencement of this Award in any one or more New South Wales public health organisations or other organisations deemed acceptable by the Ministry.

"Union" means the Health Services Union NSW.

**3. Classifications****3.1 Dental Assistant Grade 1**

- (a) A Dental Assistant Grade 1 means a person appointed as such who has successfully completed a qualification in a relevant field recognised by the Dental Assistant Education Council of Australia or up to the level of Certificate III issued by a tertiary education institution or qualifications deemed by the Ministry to be equivalent.
- (b) Unqualified but experienced dental assistants can be employed as Dental Assistants Grade 1. Such employees commence and remain on level 1 year 1 until they obtain formal qualifications through study or recognition of prior learning. The employee is responsible for obtaining formal qualifications in their own time and at their own expense.

### 3.2 Dental Assistant Grade 2

- (a) A Dental Assistant Grade 2 means a person who is appointed to such a position and who has successfully completed a nationally recognised Dental Assisting Certificate course at Certificate Level IV or qualifications deemed by the Ministry to be equivalent.

### 3.3 Supervision Allowance

- (a) A dental assistant who, in addition to the normal range of duties, is required to supervise two or more dental assistants will be paid a supervision allowance. In order to be paid this allowance, the supervising dental assistant must be responsible for:
  - (i) A range of administrative tasks associated with clinical operations as required by the Health Service, and
  - (ii) The day to day supervision of staff including functions such as rostering, allocation of duties, conduct of or participation in performance reviews and input into management decisions.
- (b) The supervision allowance is to be paid as part of the employee's permanent salary, following a merit selection process. The rate of allowance paid is dependent upon the number of employees supervised and is contained in Table 1 of Part B, Monetary Rates in the Health Professional and Medical Salaries (State) Award 2018, as varied or replaced from time to time. If an employee is required to relieve for 5 days or more in the role of the supervisor, and performs all of the duties of the supervisor, then the supervision allowance will be paid to such employee.

### 3.4 Dental Assistant Level 3

- (a) Dental Assistant Grade 3 means a person who is appointed to such a position and who has a coordinating role across either a number of clinics in a Local Health District(s) or has the same level of responsibility in large teaching hospitals. The Level 3 dental assistant is a promotional position and is not eligible for a supervision allowance. Generally, if a level 3 dental assistant is responsible in one location, no other dental assistants in that clinic would be in receipt of a supervision allowance as prescribed in clause 3.3 above.
- (b) The scope of grade 3 positions is Local Health District(s)-wide or a comparable level of responsibility in a large clinic. Positions which require employees to perform the duties outlined below, will be graded at level 3.
- (c) A level 3 dental assistant will be required to do most or all of the following duties:
  - (i) Perform the usual range of dental assistant duties when required.
  - (ii) Recruitment of dental assistants.
  - (iii) Manage trainee dental assistant programs.
  - (iv) Participate in sector or area wide committees such as infection control, education, and performance improvement.
  - (v) Manage/participate in conflict resolution where required.
  - (vi) Chair dental assistant forums and meetings.
  - (vii) Mentor other dental assistants in their role as supervisors, including performance management and review processes.
  - (viii) Assist in managing safety issues.

- (ix) Manage the educational needs of dental assistants.
- (x) Manage staff relief across the sector/area.
- (xi) Prioritising of workload in conjunction with oral health practitioners.
- (xii) Co-ordinate and order all stock and consumables including:
  - liaison with external providers, and
  - being fully conversant with State contract processes.
- (xiii) Ensure the proper maintenance of equipment through:
  - training and monitoring of dental assistants in maintenance duties,
  - effecting minor repairs,
  - co-ordinate the repair services provided by external and internal providers, and
  - ensure contractual requirements of external providers are met.

#### 4. Anti-Discrimination

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

#### NOTES -

- (i) Employers and employees may also be subject to Commonwealth anti-discrimination legislation.



- (ii) 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.

### **5. Conditions of Employment**

Conditions of Employment for employees shall be those prescribed in the Public Hospital (Professional and Associated Staff) Conditions of Employment (State) Award 2018, as varied or replaced from time to time, subject to the preservation of accrued rights for employees transferred from the Public Service on 1 October 1986.

### **6. Rates of Pay**

Full time Dental Assistant employees shall be paid the salaries as set out in the Health Professional Medical Salaries (State) Award 2018, as varied or replaced from time to time.

Previous service as a Dental Assistant is to be taken into account in determining the commencing salary on employment.

### **7. 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 2020 by a party to this Award.

### **8. Area, Incidence and Duration**

- (a) This Award takes effect on 1 July 2019 and shall remain in force for a period of one year.
- (b) This Award rescinds and replaces the Public Hospitals Dental Assistants (State) Award 2018 published 5 July 2019 (384 I.G. 760) and all variations thereof.
- (c) This Award shall apply to persons employed in classifications contained herein employed in the New South Wales Health Service under s.115(1) of the *Health Services Act 1997*, or their successors, assignees or transmittes.

P. M. KITE, *Chief Commissioner*

---

Printed by the authority of the Industrial Registrar.

**SHOP EMPLOYEES (STATE) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

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

(Case No. 289544 of 2018)

Before Chief Commissioner Kite

13 February 2019

**REVIEWED AWARD****PART A****1. Arrangement**

## PART A

Clause No.	Subject Matter
1.	Arrangement
2.	Definitions
3.	Engagement, Payment and Termination
4.	Part-time Employees
5.	Casual Employees - All Shops
5A.	Secure Employment
6.	Meal Allowances
7.	Flexibility of Work
8.	Commitment to Training and Careers
9.	Mixed Enterprise
10.	Hours
11.	Shift Work (Night Fill) - General Shops
12.	Special Provisions for Substituted Late Shopping Night (General Shops)
13.	Savings Clause
14.	Weekend and Late Night Penalty Rates and Loadings
15.	Overtime
16.	Meal Times and Rest Pauses
17.	Holidays
18.	Sick Leave
19.	Blood Donor Leave
20.	Bereavement Leave
21.	Personal/Carer's Leave
21A.	Parental Leave
22.	Jury Service
23.	Annual Holiday Loading
24.	Travelling Time, Expenses, Allowances, etc.
25.	Uniforms, Protective Clothing
26.	Facilities
27.	Renovations in Retail Shops
28.	Notations
29.	Exemptions
30.	Cleaning Duties
31.	Dispute Settlement Procedures
31A.	Deduction of Union Membership Fees
32.	Anti-Discrimination
33.	Redundancy

- 34. Supported Wage System for Workers with Disabilities
- 35. Allowances and/or Additional Rates
- 36. Agricultural, Pastoral or Horticultural Societies' Shows, etc.
- 37. Area, Incidence and Duration
- 38. Wages

## PART B

### MONETARY RATES

Table 1 - Wages

Table 2 - Other Rates and Allowances

## 2. Definitions

- (i) "General Shops" means and includes all shops other than special shops, and confection shops as defined in this award.
- (ii) "Special Shops" means and includes audio shops, book shops, video shops, cake and pastry shops, cooked provisions shops, take-away food shops, fish shops, flower shops, garden plant shops, hairdressers' shop, newsagencies, pet shops, souvenir and gift shops, tobacconists' shops (each as defined in Schedule 1 to the Shops and Industries Regulation 2007 to the *Shops and Industries Act 1962*), small shops (as defined in Section 78B of the *Shops and Industries Act 1962*) and retail liquor shops.
- (iii) "Confection Shops" means and includes confectioners' shops, refreshment shops and fruit and vegetable shops as defined in Schedule 1 of the Shops and Industries Regulation 2007 to the *Shops and Industries Act 1962*),
- (iv) "Light Refreshments" means and includes a beverage, hot or cold, served with biscuits, cakes, pastry, sandwiches, meat pies or the like.
- (v) "Shop" - See Section 3, *Retail Trading Act 2008*.
- (vi) "Ticket Writer" means employees engaged in forming or designing letters or figures on paper or cardboard having an area not exceeding 7741.92 square centimetres or on pulp board, beaver board and other similar board having dimensions not exceeding 508 millimetres by 762 millimetres or designing or lettering price tickets on any medium having dimensions not exceeding 508 millimetres by 762 millimetres, provided that the paper board and tickets are for the employer's own use and not for sale.
- (vii) "Salesperson Outdoor" shall mean an employee employed to solicit retail sales or in the hire of goods by retail, away from the employer's place of business.
- (viii) "Section Head" means an employee appointed as such in a section of a shop where there are four or more employees.
- (ix) "Qualified First-aid Attendant" shall mean an employee who is a qualified first-aid attendant and is employed to carry out the duties of a first-aid attendant.
- (x) "Qualified Automotive Parts and Accessories Salesperson" shall mean an employee who has passed an appropriate course of technical training.
- (xi) "Retail Merchandiser" local and country shall mean a person who is employed to stack shelves in a shop and/or carry out such other duties normally associated with the work of a shop assistant, excluding persons employed by a bread manufacturer and, except in an emergency, the preparation of gondola ends and display units where defined in the Commercial Travellers, &c. (State) Award published 9 November 2001 (329 I.G. 329) This classification shall not apply to any persons employed by a retail employer in a shop.

- (xii) "Improver Waiter/Waitress" shall mean a waitress in a confection shop under 21 years of age with not more than six months experience.
- (xiii) "Rostered Day Off" means the day off arising from the working of ordinary hours in a 19-day four-week cycle.
- (xiv) "Long Day" means a day on which ordinary hours exceed nine hours but shall not exceed 11 hours.
- (xv) "Trolley Collector" means an employee who is engaged by a retail store, wholesaler or contractor, and who is responsible for the collection of shopping trolleys and the loading onto a trailer for transporting to designated storage areas, and the unloading of the trolleys at those areas.
- (xvi) "Union" means the Shop, Distributive and Allied Employees' Association, New South Wales and/or the Shop Assistants and Warehouse Employees' Federation of Australia, Newcastle and Northern New South Wales.

### 3. Engagement, Payment and Termination

- (i) Engagement - An employee may be employed as a weekly, part-time or a casual employee. Provided that no later than three months after the coming into force of this award, in a general shop employing 13 or more employees (employee as defined in paragraph (ix) of subclause (II), General Shops - Rosters for Five-day Week, of clause 10, Hours) the total number of hours worked by casual employees shall not exceed 25 per cent of the total hours worked in that shop. Hours worked by shift work (night fill) employees shall not be included in this calculation. Provided that the 25 per cent limitation on casual hours in general shops shall not apply to: tourist resort areas during the tourist extended trading hours, Christmas and Easter, and provided further that any shop which at the time of the making of the award employs casuals to an extent exceeding 25 per cent of total hours worked in the shop may continue to do so, provided that no additional casuals are employed until the limit of hours of 25 per cent is achieved. The 25 per cent limitation contained in this subclause does not apply to the employment of retail merchandisers as defined.

An employer who is of the opinion that a shop may not operate efficiently within the prescribed limit may seek exemption from this provision by application to the Industrial Relations Commission of New South Wales.

- (ii) Proof of Age - Upon the engagement of an employee, such employee, if required to do so, must furnish to the employer a correct statement in writing of his or her age certified to by statutory declaration or birth certificate. When an employee cannot prove his or her age in the ordinary way, a passport, military or naval discharge or Consular document shall be proof of age.
- (iii) Time and Payment of Wages - All wages shall be paid weekly in addition to any commission, bonus or premium to which the employee is entitled. Such payment shall be made on the same day of each week, which shall not be a Friday, a Saturday or a Sunday except as herein provided for, and shall be made up to and including at least the third day preceding the day of payment; provided that, in a week where an award holiday falls on the day in which wages are usually paid, payment thereof shall be made not later than the working day immediately preceding the award holiday. Other arrangements regarding payment may be made by agreement between the employer and the union.

Notwithstanding the foregoing:

- (1) Overtime shall be paid not later than a week from the second day succeeding the day on which it was earned. Provided that where an employee is paid fortnightly in accordance with paragraph (7) of this subclause, then overtime worked in the second week of a pay period may be paid in the following pay period.
- (2) Where employment is terminated an employee shall be paid forthwith all ordinary wages due and shall be paid all overtime and other moneys due within seven days of the date of the termination of employment.

- (3) In the event of an employer not paying the said overtime and other moneys due at the time on which he/she has undertaken to pay, then the employer shall reimburse the employee all expenses he/she has incurred in attending to collect the amounts due to him/her.
  - (4) By mutual agreement between the employer and employee, casual employees and part-time employees may elect to be paid on a Friday, Saturday or Sunday.
  - (5) When an employee is required by an employer to wait beyond the ordinary ceasing times of the employee for payment of ordinary wages or, when an employee is terminated, to wait for payment of ordinary wages after the period of the termination for a period of more than 15 minutes, he/she shall be paid ordinary wages for the period during which he/she is so required to wait.
  - (6) Wages may be paid by electronic funds transfer. Provided that where wages are paid by electronic funds transfer, additional costs associated with the introduction and operation of electronic funds transfer shall be paid for by the employer.
  - (7) Wages may be paid fortnightly, provided that the employee is paid no later than the third day of the second week of the pay period.
- (iv) Termination of Employment -
- (a) In the case of misconduct justifying instant dismissal an employee may be instantly dismissed.
  - (b) In all other cases employment may be terminated by either party -
    - (1) during the first month of employment by a moment's notice;
    - (2) thereafter, by one week's notice or by the payment or forfeiture of one week's pay.
  - (c) Employment shall not be terminated, except for misconduct, while the employee is legitimately absent from duty on accrued sick leave.
  - (d) Termination Immediately Prior to Holiday - Subject to paragraph (ii) of subclause (A) of clause 17, Holidays, a full-time or part-time employee after more than two weeks' employment whose employment is terminated by the employer on the business day preceding a holiday or holidays, other than for misconduct, shall be paid for such holiday or holidays.
  - (e) Termination Prior to Christmas - Notwithstanding the provisions of paragraph (d) of this subclause, an employee engaged on or after 1 December in any year whose employment finished before Christmas Day and who is not re-employed within four weeks of Christmas Day by the same employer is not entitled to payment for the Christmas holidays.
  - (f) Certificate of Service - An employee who has been employed for not less than one month, on leaving or being discharged shall, upon request, be entitled to a statement in writing containing the date when the employment began and the date of termination. The statement shall be the property of the employee and shall be returned to him/her un-noted by any subsequent employer within seven days of the engagement.

#### **4. Part-Time Employees**

- (A) General Shops -
- (a) Part-time employees shall be paid an hourly rate equal to the appropriate weekly rate divided by 38.
  - (b) Ordinary hours of work, exclusive of meal times, shall be the same as those prescribed for full-time employees but shall not in any case be less than three hours work per day nor less than 12 hours work per week nor more than 30 hours work per week.

Provided further that where an employee's regular rostered work is in excess of 30 hours per week, then such an employee shall be deemed to be a weekly employee and paid as such.

Provided that employees employed prior to the first pay period in August 1988 shall work their ordinary hours, except where such employees agree otherwise, as follows:

- (i) Ordinary hours of work, exclusive of meal times, shall be the same as those prescribed for full-time employees but shall not in any case be less than three hours work per day nor less than 16 hours work per week nor more than 30 hours work per week, except as provided in subparagraph (ii) of this paragraph.
- (ii) Provided that where an employee's regular rostered work is in excess of 30 hours per week, then such an employee shall be deemed to be a full-time employee and paid as such.
- (c) Save for the meal times prescribed, all time between the actual commencing time and the actual ceasing time on any one day shall count and shall be paid for as time worked.
- (d) Notwithstanding the provisions of paragraphs (a) to (c) of this subclause, the union and an employer may agree, in writing, to observe other conditions in order to meet special cases.

**(B) Special and Confection Shops -**

- (a) Part-time employees shall be paid an hourly rate equal to the appropriate weekly rate divided by 38.
- (b) Ordinary hours of work, exclusive of meal times, shall be the same as those prescribed for full-time employees but shall not, in any case, be less than three hours work per day nor less than nine hours work per week nor more than 30 hours work per week.

Provided that the minimum weekly engagement for all part-time employees employed as at 26 September 1990 shall be 12 hours per week.

Provided further that where an employee's regular rostered work is in excess of 30 hours per week, then such an employee shall be deemed to be a full-time employee and paid as such.

Provided further that employees employed prior to the first pay period in October 1988 shall work their ordinary hours, except where such employees agree otherwise, as follows:

The ordinary hours of work, exclusive of meal times, shall be the same as those prescribed for weekly employees but shall not, in any case, be less than 20 hours per week.

- (c) Save for the meal times prescribed, all time between the actual commencing time and the actual ceasing time on any one day shall count and shall be paid for as time worked.
- (d) Notwithstanding the provisions of paragraphs (a) to (c) of this subclause, the union and an employer may agree, in writing, to observe other conditions in order to meet special cases.

**5. Casual Employees - All Shops**

All Shops - Casual employees shall be paid an hourly rate equal to the appropriate weekly rate divided by 38, plus 15 per cent, calculated to the nearest half cent with a minimum payment on any one shift of three hours work.

Provided that upon employment, a new casual employee may be engaged for a minimum of two hours for the first two engagements, provided that these engagements shall be for the purpose of training only.

NOTATION: See Saturday penalty rates in clause 14, Weekend and Late Night Penalty Rates and Loadings, as shown in Item 5 of Table 2 - Other Rates and Allowances, of Part B, Monetary Rates.

- (a) Theatres, Sportsgrounds, etc. - Night interval employees, other than at continuous picture shows, working only during the interval of picture shows, theatres and like places of amusement, during not more than one hour at any interval, shall be paid at an hourly rate equal to the appropriate casual rate prescribed by this clause plus, for each night worked, the amount shown in Item 1 of Table 2 - Other Rates and Allowances, of Part B, Monetary Rates. Provided that employees working only one night per week shall be paid such appropriate casual hourly rate plus, for each night worked, the amount shown in Item 2 of Table 2. 'Night interval' or 'night' shall include Saturday afternoon.
- (b) Employees engaged only in selling goods from trays in picture shows, theatres and like places of amusement, other than continuous picture shows, shall be paid a sum of money per night equal to 12.5 per cent commission on all sales made by them; provided that such payment shall allow the employees to receive per week a sum not less than 17.5 per cent of the appropriate adult weekly rate; provided also that an employee employed on only one night in any week shall be guaranteed for such night one-fifth of the above amount, plus six cents.

For the purposes of this paragraph, "night" includes Saturday afternoon. Persons employed in accordance with the provisions of this paragraph shall not be under 14 years of age and shall not be required to perform any work other than tray work.

- (c) Sports Grounds, etc. - Employees working at sports grounds and the like shall be paid an hourly rate equal to the appropriate adult weekly rate divided by thirty-eight, plus 7.5 per cent, with a minimum payment on any one day for four hours.
- (d) Personal/Carers Entitlement for Casual Employees
  - (i) Subject to the evidentiary and notice requirements in paragraphs (b) and (d) of subclause (1) of Clause 21 Personal/Carer's Leave, 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 (ii) of paragraph (c) of subclause (1) of Clause 21 Personal/Carer's Leave, who are sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child.
  - (ii) 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.
  - (iii) 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.
- (e) Bereavement Leave Entitlements for Casual Employees
  - (i) Subject to the evidentiary and notice requirements in paragraphs (b) and (d) of subclause (1) of Clause 21 Personal/Carer's Leave casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of a person prescribed in subparagraph (ii) of paragraph (c) of subclause (1) of Clause 21 Personal / Carer's Leave.
  - (ii) 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.
  - (iii) 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.

### 5A. Secure Employment

(a) Objective of this Clause

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

(b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of twelve months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of twelve months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW).

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.



- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (ix) Exemption

The abovementioned casual conversion clause will not apply to persons who:

- (a) perform work pursuant to the *Technical and Further Education Commission Act 1990* and/or the *Public Sector Employment and Management Act 2002*.
- (c) Occupational Health and Safety
  - (i) For the purposes of this subclause, the following definitions shall apply:
    - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
    - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
  - (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
    - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
    - (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
    - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
    - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
  - (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Work, Health and*

*Safety Act 2011 or the Workplace Injury Management and Workers Compensation Act 1998.*

(d) Disputes Regarding the Application of this Clause

Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.

- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.

### 6. Meal Allowances

- (i) An employee who works overtime after 6.30 pm shall be paid, on such day, the amount set out in Item 3 Table 2 - Other Rates and Allowances, of Part B, Monetary Rates, as a meal allowance or with the prior agreement of the union, shall be provided with a suitable meal approved of by the union, provided that in general shops:
- (a) An employee who is working their normal ordinary hours after 6.30 p.m. on a Thursday or Friday night shall not become entitled to a meal allowance until that employee works overtime of more than 30 minutes after the completion of such ordinary hours.
- (b) An employee who is required to work overtime on a Sunday beyond 1.00 pm shall be paid, on that day, the amount set out in Item 3 of the said Table 2, as a meal allowance and if required to work beyond 6.00 pm a further sum of the same amount.
- (c) A full-time or part-time employee in a general shop employed in the industry prior to 25 July 1984 (who elects not to work ordinary hours on a Saturday after 12 noon or on the second additional late night after 6.00 pm), who works after 6.00 p.m. on Thursday (Friday in the Shire of Gosford and the Shire of Wyong), shall be paid the amount set out in Item 3 of Table 2 as a meal allowance, provided that if the shop closes at 7.00 p.m. or earlier, such meal allowance shall not be payable.
- (ii) Breakfast - An amount set out in Item 4 of Table 2 shall be paid.

### 7. Flexibility of Work

An employer may direct an employee to carry out such duties as are within the limits of the employee's skill, competence and training.

Employees shall take all reasonable steps to achieve quality, accuracy and completion of any job or task assigned to the employee.

Employees shall not impose any restrictions or limitations on a reasonable review of work methods or standard work times.

### 8. Commitment to Training and Careers

The parties acknowledge that varying degrees of training are provided to employees in the retail industry, both via internal, on the job and through external training providers.

The parties commit themselves to continuing such training as is regarded by them as appropriate and improving training in cases where this is required.

It is agreed that the parties will co-operate in ensuring that appropriate training is available for all employees in the retail industry and the parties agree to co-operate in encouraging both employers and employees to avail themselves of the benefits to both from such training.

The parties are committed to encouraging young people to view the retail industry as one which has the capacity to provide them with an interesting career as they progress not only through junior ranks but also as adults.

The parties agree to continue discussions on issues raised by the unions relating to training.

### **9. Mixed Enterprise**

A mixed enterprise is defined as an establishment where the primary operation is not covered by this award to the extent that at least 75 per cent of employees are engaged in an industry other than the retail industry.

For the purpose of increasing productivity, flexibility and efficiency in mixed enterprises, as well as enhancing opportunities for employees, broadbanning may extend, by agreement between an employer and an employee, to allow the employee to perform any work in a mixed enterprise within the scope of their skills and competence. Discussion shall take place at the enterprise with a view to reaching agreement for employees to perform a wider range of tasks, removal of demarcation barriers and participation of employees in additional training.

Subject to the provisions of the previous paragraph, employees in a mixed enterprise shall not impose or continue to enforce demarcation barriers between the work of employees, provided that it is agreed that the work lies within the scope of the skill and competence of the employee concerned.

### **10. Hours**

#### **(I) General Shops - Hours -**

- (i) Weekly Hours - The ordinary hours of work of employees in shops shall not exceed 38 per week, to be worked in accordance with subclause (II), General Shops - Rosters for Five-day Week, of this clause, Monday to Saturday (Monday to Sunday in shops which may lawfully trade on a Sunday), both days inclusive and, save for the meal times prescribed, all time between the actual commencing time and the actual ceasing time on any one day shall count and shall be paid for as time worked.

- (ii) Commencing Times and Ceasing Times -

7.00 am to 6.00 pm - Monday, Tuesday, Wednesday and Saturday.

7.00 am to 9.00 pm - Thursday and Friday.

8.00 am to 5.00 pm - Sunday.

Employees in supermarkets/food stores and hardware shops or departments can be rostered to commence one hour earlier.

- (iii) Within the commencing and ceasing times prescribed respectively in paragraph (ii) of this subclause, full-time and part-time employees on engagement shall be notified of:

- (a) the quantum of ordinary hours to be worked each week;
- (b) the days of the week on which such work is to be performed; and
- (c) the commencing and ceasing times of such hours of work for each day of the week on which work is to be performed.

The above subparagraphs (a), (b) and (c) shall not be changed except:

upon not less than seven days' notice; or

by agreement between the employee and the employer where the extra/other hours may be expressly agreed to be worked as part of a roster change and paid at ordinary rates; where no expressed agreement exists overtime rates must apply.

In the event of an emergency, subparagraphs (b) and (c) above may be changed, the quantum of hours may be increased but not decreased.

Provided that where it is alleged by the unions that a change in rosters is contrary to the wishes of the majority of employees or operates unfairly or to the disadvantage of employees, the employer shall give, in lieu of seven days' notice, 14 days' notice, during which time there shall be discussions and, where practicable, agreement reached with the union.

- (iv) Where an employee's roster is changed with the appropriate notice for a once-only event caused by particular circumstances not constituting an emergency, and the roster reverts back to the previous pattern in the following week, then work done by the employee because of the roster change shall be paid for at the overtime rate of pay. (This does not apply where an agreed change to a roster is made at the request of the employee.)

(II) General Shops - Rosters for Five-day Week -

- (i) All full-time and part-time employees shall be rostered their ordinary hours of work on any five days of the week, Monday to Saturday inclusive (Monday to Sunday in shops which may lawfully trade on a Sunday), on the following basis:
- (a) At least once every two weeks an employee shall be granted two consecutive days off which shall not include the rostered day off (RDO).
- (b) There shall not be more than one long day in any week. A long day is defined as a day exceeding nine ordinary hours of work. Provided that, by mutual agreement, additional long days may apply.
- (c) The maximum number of ordinary hours which may be worked on any one day shall be 11 hours.
- (d) Provided that ordinary hours may be worked on six days in one week if in the following week ordinary hours are worked on not more than four days.
- (e) The following provisions shall apply in general shops which may lawfully trade on a Sunday:
- (i) Once every four weeks, an employee who works ordinary hours on a Sunday shall be given three consecutive days off (not including the 19-day month RDO) which shall include Saturday and Sunday. By mutual agreement alternative arrangements may apply.
- (ii) Where an employee transfers at his/her own request to a store where Sunday trading is already lawful, the employee will not have the right to refuse to work on Sundays at the new store.

Where an employee transfers at the employer's request to another store where Sunday trading is already lawful, the employee will retain the right to refuse to work on Sundays at the new store.

- (f) Subparagraphs (a) to (e) of this paragraph do not apply to employees engaged pursuant to clause 11, Shift Work (Night Fill) - General Shops.

- (g) Each full-time weekly employee shall be rostered so that the maximum number of hours that shall constitute an ordinary week's work without the payment of overtime shall not exceed, on average, 38 per week and may be worked in any of the following forms:
- (i) 38 hours in one week;
  - (ii) 76 hours in two consecutive weeks;
  - (iii) 114 hours in three consecutive weeks;
  - (iv) 152 hours in four consecutive weeks.
- (ii) There shall 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.
- (iii) When establishing a roster or changing a roster, the employer will have regard for the family responsibilities of the employee.

In having regard for the family responsibilities, it is accepted that the existence of such responsibilities does not in itself prevent an employer changing an employee's roster where necessary.

- (iv) Full-time and part-time employees shall be provided with a regular roster which shall not be subject to frequent variations unless by mutual agreement.
- (v) Provided further that in shops with five or less full-time and part-time employees the rostered days off shall be decided by mutual arrangement between the employer and employees.
- (vi) Provided further that the rostering of store managers shall be by mutual arrangement between the employer and employees.
- (vii) Provided that in shops employing on a regular basis 20 or more employees per week, unless specific agreement exists to the contrary between an employer and an employee, the employee shall not be required to work ordinary hours on more than 19 days in each four-week cycle.

Where specific agreement exists between an employer and an employee, the employee may be worked on the basis of:

not more than four hours work on one day in each two-week cycle;

not more than six hours work on one day per week.

- (viii) Provided that in shops employing on a regular basis more than five employees but less than 20 employees per week, unless specific agreement exists to the contrary between an employer and an employee, the employees may be worked their ordinary hours on one of the following bases at the employer's direction:

not more than 19 days work in each four-week cycle;

not more than four hours work on one day in each two-week cycle;

not more than six hours work on one day in each week.

Where specific agreement exists between an employer and an employee, the employee may be worked on not more than 7.6 hours per day.

Provided further that no existing employee who was employed as at 26 September 1990 and who was entitled to a rostered day off shall lose their entitlement to such rostered day off.

- (ix) Provided that in shops employing on a regular basis five or less employees per week, employees may be worked their ordinary hours on one of the following bases at the employer's discretion:

not more than 19 days in each four-week cycle;

not more than four hours work on one day in each two-week cycle;

not more than six hours work on one day in each week;

not more than 7.6 hours work on any day.

- (x) In any case where agreement is reached between an employer and an employee pursuant to paragraphs (vii) and (viii) of this subclause, the relevant union shall be notified seven days prior to the implementation of such agreement. Any dispute as to such agreement shall be referred to the Industrial Registrar.

- (xi) Provided that, for the purposes of this clause, "employing on a regular basis" includes persons of the following types:

(a) employees of the employer engaged on the premises whose terms of employment are not regulated by this award;

(b) employees other than those employed by the employer whose terms of employment are regulated by this award and who regularly work on the premises performing work as demonstrators and the like, but not including the employees of a bona fide franchisor operating on the premises.

- (xii) Every employer shall, by legible notice which shall bear the date when it is fixed, exhibit in a place accessible to employees the current starting and finishing times for each employee for each day of the week. The employer shall retain superseded notices for 12 months. The roster of hours shall, upon request, be produced for inspection by any person authorised to inspect the same.

(III) Special and Confection Shops - Hours and Rosters -

- (i) Weekly Hours - The ordinary hours of work of employees in shops shall not exceed 38 per week and shall be worked on five days of the week, Monday to Sunday, inclusive. Provided that ordinary hours may be worked on six days in one week if in the following week ordinary hours are worked on not more than four days. Save for meal times prescribed, all time between the actual commencing time and ceasing time on any one day shall count and shall be paid for as time worked. Provided that an employee may be worked so that the maximum number of hours that shall constitute an ordinary week's work without the payment of overtime shall not exceed an average of 38 per week and may be worked in any one of the following forms:

(a) 38 hours in one week;

(b) 76 hours in two consecutive weeks;

(c) 114 hours in three consecutive weeks;

(d) 152 hours in four consecutive weeks.

- (ii) Commencing Times - The commencing time of the ordinary hours of work shall be 7.00 am (6.00 am in take-away food shops, fruit and vegetable shops and newsagencies).

- (iii) Ceasing Times - The time for the cessation of the ordinary hours of work by employees shall be:

- (a) In cake and pastry shops, cooked provisions shops, fish shops, pet shops, souvenir and gift shops, tobacconists' shops and small shops, Monday to Sunday, both days inclusive - 10.30 pm.
  - (b) In take-away food shops, Monday to Sunday, both days inclusive-midnight.
  - (c) In flower shops and garden plant shops, Monday to Sunday, both days inclusive - 8.30 pm.
  - (d) In hairdressers' shops, Monday to Friday, both days inclusive - 5.45 pm and Saturday - 12.45 pm.
  - (e) In retail liquor shops, Monday to Sunday, both days inclusive - 10.00 pm. Provided that for employees employed prior to the first pay period in October 1988 the following provisions shall continue to apply, unless the employees agree otherwise:  

In retail liquor shops, Monday to Saturday, both days inclusive 10.00 pm.
  - (f) In newsagencies, Monday to Sunday, both days inclusive - 9.00 pm.
  - (g) In book shops, Monday to Sunday, both days inclusive - 9.00 pm.
  - (h) In video shops, Monday to Sunday, both days inclusive - midnight.
  - (i) In fruit and vegetable shops, Monday to Sunday, both days inclusive - 9.00 pm.
  - (j) In confectionery and refreshment shops, Monday to Sunday, both days inclusive - 11.30 pm.
  - (k) Audio Shops - Monday to Sunday, both days inclusive - 9.00 pm. All employees employed prior to 25 October 1991 will continue to be employed and paid in accordance with general shops award conditions.
- (iv) Within the commencing and ceasing times prescribed respectively in paragraphs (ii) and (iii) of this subclause, employees shall be given a regular starting and ceasing time for each day which shall not be changed except upon not less than seven days' notice, unless by agreement with the employee or in the event of an emergency.
- (v) Every employer shall, by legible notice, which shall bear the date when it is fixed, exhibit and keep exhibited in a place accessible to the employees, the current starting and finishing times for each employee for each day of the week and shall show thereon any change in the commencing time and ceasing time of any employee and the date on which the change was effected.
- The employer shall retain superseded notices for 12 months.
- The roster of hours shall, upon request, be produced for inspection by any person authorised to inspect the same.
- (vi) There shall be not less than a ten-hour break between finishing work (including overtime) on one day or shift and the commencement of work on the next day or shift.
- (vii) When establishing a roster or changing a roster, the employer will have regard for the family responsibilities of the employee.

In having regard for the family responsibilities, it is accepted that the existence of such responsibilities does not in itself prevent an employer changing an employee's roster where necessary.

- (viii) Full-time and part-time employees shall be provided with a regular roster which shall not be subject to frequent variations unless by mutual agreement.
- (IV) 38-Hour Week Special and Confection Shops - Method of Implementation - Method of implementation of the 38-hour week is at the employer's discretion, except where the special/confection shop is under the same roof as a company general shop, then the same method of implementation that operates in the general shop would operate in the special/confection shop.

### **11. Shift Work (Night Fill) - General Shops**

Application: This clause shall apply only to night fill operations performed in a shop.

(a) Full-time Employees -

- (i) Notwithstanding any other provision for ordinary hours within the award, an employee may be engaged to work on any five days, Monday to Saturday, afternoon or night shifts, providing they are paid the following additional allowances:

- (a) Monday to Friday -

- (1) Afternoon shift - finishing after 6.00 pm and at or before midnight - 17.5 per cent.
- (2) Night shift - finishing after midnight and at or before 8.00 am - 30 per cent.

- (b) Saturday - Shifts as defined in subparagraph (a) of this paragraph, finishing after midnight on a Friday and at or before midnight on a Saturday - 50 per cent.

- (c) Sunday - Night shift finishing after midnight Saturday and at or before 8.00 am on a Sunday - 100 per cent.

The shift loading payable for the entire shift shall be determined by the time at which the shift finishes.

Provided further that the above shift provisions do not apply to an employee engaged on either of the late shopping nights (Thursday or Friday) finishing at or before 9.00 pm.

- (ii) Junior shift workers shall receive the following percentages of the appropriate adult rate prescribed in subclause (c) of clause 38, Wages:

- (a) At 18 years of age and under - 70 per cent.
- (b) At 19 years of age - 80 per cent.
- (c) At 20 years of age - 90 per cent.

Plus the appropriate additional allowance as prescribed in paragraph (i) of subclause (a) of this clause.

(b) Part-time Employees -

- (i) Ordinary hours of work, exclusive of meal times, shall not be less than three hours work per shift nor less than 16 hours per week nor more than 30 hours work per week.

All time between the actual commencing time and the actual ceasing time on any one day shall count and shall be paid for as time worked.

- (ii) Starting and finishing times of an employee on a given shift may be changed, provided the employee can be contacted prior to arriving at work.



- (iii) Nights on which an employee is rostered to work shall not be altered except upon not less than seven days' notice prior to the commencement of the employee's roster cycle.
- (iv) Each part-time employee shall receive a guaranteed minimum number of hours of work each week.
- (v) The performance of work on any night which is additional to those nights contained in an employee's particular roster week shall be at the option of the employee.

Where an employee agrees to work an additional night or nights, then the employee shall be paid at ordinary time for the additional night or nights (provided the employee is informed of this prior to agreeing to work), unless the work performed is in excess of eight hours on any shift or in excess of 30 hours in any week or in excess of five starts for the week.

- (vi) The provisions contained under this subclause shall apply only to part-time employees working afternoon shift and/or night shift.

In the case of an employee working day shift plus afternoon and/or night shift in a single week, the provisions of this subclause shall only apply in respect to any afternoon and/or night shift.

- (vii) The provisions of subclause (a), Full-time Employees, of this clause shall apply to part-time employees.

NOTATION: The above provisions are intended to cover the special features of night-fill work and will not be used as a precedent to achieve similar flexibility for day work.

(c) Casual Employees -

- (i) Casual employees shall be paid an hourly rate equal to the appropriate weekly rate divided by 38, plus 15 per cent, and the appropriate additional allowance as prescribed in paragraph (i) of subclause (a) of this clause, calculated to the nearest half cent, with a minimum payment on any shift of three hours.

Provided that for junior casual employees such hourly rate shall be determined by reference to the percentages prescribed in paragraph (ii) of subclause (a) of this clause.

- (ii) Casual employees may only be employed after the prescribed ceasing time pursuant to paragraph (iii) of subclause (I) General Shops-Hours, of clause 10, Hours, except on the late shopping nights (Thursday and Friday) or any substitute late shopping night(s) when the employee may be engaged not prior to 8.00 pm on such a night.

(d) Overtime - An employee engaged on shift work shall be paid overtime at the rate of time and a half for the first two hours and double time thereafter for all work:

- (i) in excess of 38 hours per week;
- (ii) in excess of an average of 38 hours per week;
- (iii) in excess of five days in any week;
- (iv) in excess of eight hours on any shift;
- (v) in excess of 30 hours per week in the case of part-time employees.
- (vi) Before an employee's regular commencing time on any one day and/or after an employee's regular ceasing time on any one day, except in the case of part-time employees whose commencing and/or ceasing time has been varied within the terms of paragraph (ii) of subclause (b), Part-time Employees, of this clause.

- (vii) Any portion of an hour less than 30 minutes shall be reckoned as 30 minutes, and any portion of an hour over 30 minutes shall be reckoned as one hour.
- (e) Crib Breaks and Rest Pauses -
  - (i) An employee engaged on shift work shall be provided with a crib break of not less than 20 minutes where that employee works more than five hours. Such crib break shall be taken between the fourth and sixth hour of work and shall be counted and paid for as time worked.
  - (ii) An employee who works seven hours or more on any day shall be allowed both a crib break and one paid rest pause of ten minutes. Provided that where such crib break commences on or before the middle of a shift, then the rest pause shall be taken after the crib break and where the crib break commences after the middle of a shift, then the rest pause shall be taken before the crib break.
  - (iii) An employee who works for five hours or less but more than four hours on any shift shall be allowed a paid rest pause of ten minutes.
  - (iv) No rest pause shall be given or taken within one hour of the employee's commencing or ceasing time or within one hour before or after any crib break.
- (f) Exemptions - The general provisions of this award shall apply to shift workers with the following exemptions: clause 4 Part-time Employees, clause 5 Casual Employees - All Shops, clause 14 Weekend and Late Night Penalty Rates and Loadings, clause 15 Overtime, clause 16 Meal Times and Rest Pauses, and subclause (2) Junior Employees of Table 1, Wages.

### **12. Special Provisions for Substituted Late Shopping Night (General Shops)**

- (i) Where a public holiday falls on a Thursday and trading is not permitted, a substituted late night shall apply automatically on the preceding Tuesday.
- (ii) Where a public holiday falls on a Friday and trading is not permitted, a substituted late night shall apply automatically on the preceding Wednesday.
- (iii) During any week in which a Thursday and/or Friday is substituted for another specified day in accordance with subclause (i) and/or (ii) of this clause, then such specified day shall be deemed to be a Thursday and/or Friday, and Thursday and/or Friday shall be deemed to be the specified day for all purposes of this award except as to clause 17, Holidays.
- (iv) Provided that where a public holiday pursuant to the said clause 17 falls on a Thursday and/or Friday and Thursday and/or Friday is deemed to be another day, employees shall not receive less time off than they might otherwise have received had the substitution not been made.

### **13. Savings Clause**

- (A) General Shops -
  - (i) Notwithstanding anything otherwise contained in this award, full-time and part-time employees employed in the industry prior to 23 July 1984 shall not be required to work their ordinary hours of work after 12.00 noon on Saturdays nor be required to work their ordinary hours of work past 6.00 pm on any night of the week, Monday to Friday, other than Thursday night (Friday night in the Shire of Gosford and the Shire of Wyong).
  - (ii) Provided that by mutual agreement an employer and an employee employed in the industry prior to 23 July 1984 may agree to observe different provisions, such provisions to be otherwise consistent with this award.

- (iii) Provided further that persons who were employed as full-time or part-time employees of:

Fosseys (Australia) Pty Limited;

Katies Fashions Pty Limited;

Woolworths Variety Division;

employed as at 22 April 1988 under the Shop Employees' (Major General Shops) (State) Interim Award published 3 February 1988 (247 I.G. 450) shall not by reason only of the making of this award, while their service with that employer remains continuous, suffer a reduction in any items in the award that affect wages payable to them under that award.

- (iv) The following provisions shall apply in general shops which may lawfully trade on a Sunday:

(a) All work on Sundays within ordinary hours of work shall be voluntary for all employees (including casuals) employed in that shop at 25 October 1991.

(b) Where a shop gains the right to trade lawfully on a Sunday after 25 October 1991 all work on Sundays within ordinary hours of work shall be voluntary for all employees (including casuals) employed in that shop at the date that the Sunday trading becomes lawful.

- (B) Special and Confection Shops - Persons employed in fruit and vegetable shops as at 25 May 2000 shall not be required to commence these ordinary hours prior to 7.00 am.

#### **14. Weekend and Late Night Penalty Rates and Loadings**

- (a) Saturday -

(i) All ordinary hours worked by full-time and part-time employees on Saturday shall be paid for at the rate of time and one-quarter.

All employees engaged by their employer on or prior to 25 August 1989 shall continue to be paid for Saturday afternoon work in ordinary time at the employee's penalty rate applicable at that time. No employee shall be disadvantaged by this variation to the award.

(ii) General Shops - Casual employees working on a Saturday shall receive the amounts set out in Item 5 of Table 2 - Other Rates and Allowances, of Part B, Monetary Rates, by way of a fixed loading in addition to the day's pay.

(iii) Special and Confection Shops - Casual employees working on a Saturday shall receive the amounts set out in the said Item 5 by way of a fixed loading in addition to the day's pay.

- (b) Sunday -

(i) All ordinary hours worked by employees on a Sunday in a shop that may lawfully trade shall be paid at the rate of time and one-half.

- (c) Late Night Trading -

(i) General Shops Only - All ordinary hours worked by full-time and part-time employees after 6.00 pm on Thursday and Friday shall be paid for at the rate of time and one-quarter.

(ii) Confection Shops Only - Finishing after 10.00 pm - Any employee continuing ordinary hours of work after 10.00 pm on any night shall be paid an additional amount set out in Item 6 of Table 2 for such night.

- (d) The provisions of section 52 of the *Industrial Relations Act* 1996 are hereby expressly excluded in respect of the fixed loading additions referred to in this clause.

- (e) The penalties and loadings prescribed in this clause shall not be taken into consideration in calculating any payment for overtime or public holidays, or for any period of sick leave.

### 15. Overtime

The rate of overtime shall 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 shall be paid for at the rate of double time.

- (i) An employee shall be paid overtime for all work as follows:
- (a) In excess of:
- (1) 38 hours per week; or
- an average of 38 hours per week in accordance with clause 10, Hours;
- (2) five days per week (or six days or four days pursuant to subparagraph (d) of paragraph (i) of subclause (II) and paragraph (i) of subclause (III) of the said clause 10);
- nine hours on any one day, provided that on one day per week up to 11 hours may be worked without the payment of overtime; by mutual agreement, additional days of up to 11 ordinary hours may be worked without the payment of overtime;
- in general shops 30 hours per week for a part-time employee, where that work is not done on a regular basis.
- (b) before an employee's regular commencing time on any one day;
- (c) after the prescribed ceasing time on any one day;
- (d) outside the ordinary hours of work.
- (e) In general shops full-time employees who work on their rostered day off or part-time employees who work on any day on which they would not normally work shall be paid overtime with a minimum payment of four hours at the appropriate overtime rate.
- (f) As prescribed by paragraphs (iii) and (iv), of subclause (I), of clause 10, Hours.
- (ii) Where an employee works overtime on a Sunday and that work is not immediately preceding or immediately following ordinary hours, then that employee must be paid double time, with a minimum payment of four hours at such rate.
- (iii) Any portion of an hour less than 30 minutes shall be reckoned as 30 minutes and any portion of an hour over 30 minutes shall be reckoned as one hour, except where an employee is required to work after closing time to attend to customers then in the shop, or in connection with closing the shop, including the checking of cash received, when the time actually worked shall count.
- (iv) By mutual agreement the rate for overtime may be time off in lieu of overtime, provided that:
- (a) Time off shall be calculated at the penalty equivalent.
- (b) The employee is entitled to a fresh choice of payment or time off on each occasion overtime is worked.
- (c) Time off must be taken within one calendar month of the working of the overtime, or it shall be paid out.

- (v) Subject to clause (v)(a) an employer may require an employee to work reasonable overtime at overtime rates, or as otherwise provided for by this Award.
  - (a) 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.
  - (b) For the purposes of clause (v)(a) what is unreasonable or otherwise will be determined having regard to:
    - (i) any risk to employee health and safety;
    - (ii) the employee's personal circumstances including any family and carer responsibilities;
    - (iii) the needs of the workplace or enterprise;
    - (iv) the notice (if any) given by the employer of the overtime and by the employee of his or her intention to refuse it; and
    - (v) any other relevant matter.

### 16. Meal Times and Rest Pauses

- (i) When and where it can be conveniently arranged by the employer, an employee who works more than four ordinary hours on any day shall be allowed a rest pause of ten minutes.
- (ii) A rest pause shall be counted and paid for as time worked. No rest pause shall 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.
- (iii) In general shops an employee who works more than five hours on any day must be allowed both a rest pause of ten minutes and a meal break of one hour (45 minutes in any establishment in which a clean, well ventilated room, adequate table and seating accommodation and sufficient crockery, cutlery and hot water are provided for the employee), provided that where agreement exists between the employee and the employer, a meal break of 30 minutes may apply.

In special and confection shops the meal break will be not less than 30 minutes nor more than one hour, the duration of which will be decided by the employer having regard to the needs of the business.

- (iv) A meal break shall be given and taken so that no employee shall work more than five consecutive hours without a meal break.
- (v) Meal breaks are not counted and not paid for as time worked.
- (vi) An employee who works nine hours or more on any day shall be allowed two rest pauses (each of ten minutes duration) if only one meal break is taken; or one rest pause of ten minutes if two meal breaks are taken.

Provided that where two rest pauses and one meal break are taken, then one rest pause shall be taken before the meal break and one rest pause shall be taken after the meal break.

Provided further that where two meal breaks and one rest pause are taken during any shift, then the rest pause shall be taken during the longest unbroken part of such shift.

- (vii) Confection Shops - An employee commencing before 7.00 am in circumstances not covered by paragraph (ii) of subclause (III) of clause 10, Hours, shall be allowed not less than 30 minutes nor more than one hour off for breakfast before 9.00 am. If, through distance of residence, the employee cannot return home for breakfast, the employee shall be paid the sum set out in subclause (ii) of clause 6, Meal Allowances, for breakfast each morning the employee starts work before 7.00 am.

- (viii) Special and Confection Shops - Subject to the provisions contained in this clause, the actual period of the meal break shall be determined by the employer but shall be subject to discussions and, where practicable, agreement with the union concerned in respect of any individual shop where it is alleged arrangements adopted as to the duration or time of a meal break are contrary to the wishes of the majority of employees or operate unfairly or to the disadvantage of employees.

### 17. Holidays

#### (A) Public Holidays -

- (i) Subject to subclause (B), work done on any of the holidays prescribed in paragraph (ii) of this subclause shall be paid for at the rate of double time and one-half, with a minimum payment of three hours.

(ii)

- (a) The days observed as New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Sunday, Easter Monday, Anzac Day, Queen's Birthday, Labour Day, the first Tuesday in November, Christmas Day, Boxing Day and all days proclaimed as public holidays for the State shall be holidays; provided that any day proclaimed as a holiday for the State for a special purpose but observed throughout the State on different days also shall be a holiday.

- (b) For all holidays not including the first Tuesday in November:

Every full-time or part-time employee allowed a holiday specified herein shall be deemed to have worked in the week in which the holiday falls the number of ordinary working hours that he/she would have worked had the day not been a holiday.

Provided that any full-time or part-time employee whose roster is changed with the intent of avoiding or reducing payment due or the benefit applicable under this clause and who would, but for the change of roster, have been entitled otherwise to a payment or benefit for a public holiday or holidays shall be paid for such holiday or holidays as if his/her roster had not been changed.

Provided further that where a full-time or part-time employee working an average of five days per week is rostered so that he/she does not work his/her ordinary hours on the same days each week and the employee's rostered day off falls on a day prescribed as a holiday in subparagraph (a) of this paragraph, the employee shall be paid by mutual agreement between the employer and the employee in one of the following methods:

- (1) payment of an additional day's wages;
- (2) addition of one day to the employee's annual holidays;
- (3) another day may be allowed off with pay to the employee within 28 days after the holiday falls, or during the week prior to the holiday.

For the purposes of this paragraph, "day" means the average number of hours in the employee's normal roster cycle worked by the employee prior to the day on which the public holiday falls.

- (iii) A full-time or part-time employee absent without leave on their last working day before or their first working day after any award holiday shall be liable to forfeit wages for the day of absence as well as for the holiday, except where an employer is satisfied that the employee's absence was caused through illness, in which case wages shall not be forfeited for the holiday; provided that an employee absent on one day only either before or after a group of holidays shall forfeit wages only for one holiday as well as for the period of absence.

- (B) The first Tuesday in November - Full-time and part-time employees rostered to work shall be entitled to a holiday without loss of pay on the first Tuesday of November in any year.  
Work on the first Tuesday in November shall not be paid at the rate of double time and a half, but shall be paid as follows:

Where the establishment of an employer remains open and a full-time or part-time employee volunteers to work on the first Tuesday in November, such employee shall then be given another day off without loss of pay. Such alternative day shall be given and taken not later than 28 days after the nominated day on a day mutually agreed between the employer and the employee.

Provided that in no circumstances shall an employee forfeit entitlement to the additional holiday and should such extenuating circumstances arise where the day is not taken as described above, it must be given and taken on a day without loss of pay added to the employee's next period of annual leave.

Provided further that where an employee's employment terminates prior to the taking of such alternative day, the employee shall receive an additional day's pay on termination.

Provided further that employees on annual leave or long service leave on the day referred to in this subclause shall have an additional day added to their next period of annual leave.

### 18. Sick Leave

- (i) This clause only applies to full-time and part-time employees.
- (ii) An employee who, subject to subclause (iii) of this clause, is unable to attend for duty during ordinary working hours by reason of personal illness or personal incapacity not due to his/her own serious and wilful misconduct, shall be entitled to be paid at ordinary-time rates of pay for the time of such non-attendance, subject to the following:
- (a) An employee shall not be entitled to paid leave of absence for any period in respect of which he/she is entitled to workers' compensation.
- (b) A full-time employee shall not be entitled during his/her first year of continued employment with an employer to sick pay for more than 38 hours and during the second or subsequent years of continued employment with an employer to sick pay for more than 61 hours. Part-time employees have a pro rata entitlement to sick leave based on the number of hours worked in the week in comparison to 38 hours.
- Any period of paid sick leave allowed by the employer to an employee in any year of continued employment shall be deducted from the period of sick leave which may be allowed or may be carried forward under this award in or in respect of such year.
- (c) The rights under this clause shall accumulate from year to year so long as employment continues with the employer whether under this or any other award so that any part of the entitlement prescribed in paragraph (b) of this subclause which has not been allowed in any year may be claimed by the employee and shall be allowed by the employer, subject to the conditions prescribed by this clause, in a subsequent year of such continued employment. Provided that in any year an employee shall not be entitled to take more than 380 hours accumulated sick leave.
- (iii) The payment for any absence on sick leave in accordance with this clause during the first three months of employment of an employee may be withheld by the employer until the employee completes such three months of employment, at which time the payments shall be made.
- (iv) The granting of sick leave shall be subject to the following conditions and limitations:
- (a) The employee shall, within 24 hours of the commencement of such absence, inform the employer of his/her inability to attend for duty and, as far as possible, state the nature of the illness or injury and the estimated duration of the absence.

- (b) The employee shall furnish to the employer such evidence as the employer reasonably may desire that he/she was unable by reason of such illness or injury to attend for duty on the day or days for which sick leave is claimed.
- (c) For the purposes of this clause as it relates to part-time employees, "day" shall mean the number of hours the employee would have worked on the day on which he/she was absent, had he/she not been sick.
- (v) For the purpose of this clause, continuous service shall be deemed not to have been broken by:
  - (a) any absence from work on leave granted by the employer; or
  - (b) any absence from work by reason of personal illness, injury or other reasonable cause, proof whereof shall, in each case, be upon the employee.
- (vi) Service before the date of coming into force of this clause shall be counted as service for the purpose of qualifying thereunder.
- (vii) For the purpose of this clause, the word "year" shall mean a period of 12 months commencing on the day on which the employment commenced.
- (viii) For the purpose of sick leave accumulated for years prior to June 1988 (1984 for general shops) the term 'day' shall mean a period of eight hours or pro rata for part-time employees.

#### **19. Blood Donor Leave**

A full-time or part-time employee who is absent during ordinary working hours for the purpose of donating blood shall not suffer any deduction of pay up to a maximum of two hours on each occasion and subject to a maximum of four separate absences for the purpose of donating blood each calendar year.

Provided further that such employee shall arrange for his/her absence to be on a day suitable to the employer and be as close as possible to the beginning or ending of the ordinary working hours.

Proof of the attendance of the employee at a recognised place for the purpose of donating blood, and the duration of such attendance, shall first be furnished to the satisfaction of the employer.

Further, the employee shall notify the employer as soon as possible of the time and date upon which the employee is requesting to be absent for the purpose of donating blood.

#### **20. Bereavement Leave**

- (1) An employee, other than a casual employee, shall be entitled to up to three days bereavement leave without deduction of pay on each occasion of the death of a person as prescribed in subclause (3) of this clause. Where the death of a relative named herein occurs outside Australia and the employee does not attend the funeral, he/she shall be entitled to one day only, unless he/she can demonstrate to his/her employer that additional time up to a period of three days is justified.
- (2) The employee must notify the employer as soon as practicable of the intention to take bereavement leave and will, if required by the employer, provide to the satisfaction of the employer proof of death, together with proof of attendance in the case of a funeral outside of Australia.
- (3) Bereavement leave shall be available to the employee in respect to the death of a person prescribed for the purposes of personal/carer's leave as set out in subparagraph (ii) of paragraph (c) of subclause (1) of clause 21, Personal/ Carer's Leave, provided that, for the purpose of bereavement leave, the employee need not have been responsible for the care of the person concerned.
- (4) An employee shall not be entitled to bereavement leave under this clause during any period in respect of which the employee has been granted other leave.



- (5) Bereavement leave may be taken in conjunction with other leave available under subclauses (2), (3), (4), (5) and (6) of the said clause 21. In determining such a request the employer will give consideration to the circumstances of the employee and the reasonable operational requirements of the business.

## 21. Personal/Carer's Leave

(1) Use of Sick Leave -

- (a) An employee, other than a casual employee, with responsibilities in relation to a class of person set out in subparagraph (ii) of paragraph (c), 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 18, Sick Leave, of the award, for absences to provide care and support for such persons when they are ill, or who require care due to an unexpected emergency. Such leave may be taken for part of a single day.
- (b) The employee shall, if required,
- (i) establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person, or
- (ii) establish by production of documentation acceptable to the employer or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee.

In normal circumstances, an employee must not take carer's leave under this subclause where another person had taken leave to care for the same person."

- (c) The entitlement to use sick leave in accordance with this subclause is subject to:
- (i) the employee being responsible for the care of the person concerned; and
- (ii) the person concerned being:
- (a) a spouse of the employee; or
- (b) a de facto spouse, who, in relation to a person, is a person of the opposite sex to the first mentioned person who lives with the first mentioned person as the husband or wife of that person on a bona fide domestic basis although not legally married to that person; or
- (c) a child or an adult child (including an adopted child, a 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 purposes of this subparagraph:
1. "relative" means a person related by blood, marriage or affinity;
  2. "affinity" means a relationship that one spouse because of marriage has to blood relatives of the other; and
  3. "household" means a family group living in the same domestic dwelling.

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

Notation:

In the unlikely event that more than 10 days sick leave in any year is to be used for caring purposes, the employer and employee shall discuss appropriate arrangements which, as far as practicable, take account of the employer's and employee's requirements.

Where the parties are unable to reach agreement the disputes procedure at Clause 31 Dispute Settlement Procedures should be followed.

(2) Unpaid Leave for Family Purpose -

- (a) An employee may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care and support to a class of person set out in subparagraph (ii) of paragraph (c) of subclause (1) above who is ill or who requires care due to an unexpected emergency.

(3) Annual Leave -

- (a) An employee may elect, with the consent of the employer to take annual leave not exceeding ten days in single-day periods, or part thereof, in any calendar year at a time or times agreed by the parties.
- (b) Access to annual leave, as prescribed in paragraph (a) of this subclause, shall be exclusive of any shutdown period provided for elsewhere under this award.
- (c) An employee and employer may agree to defer payment of the annual leave loading in respect of single day absences, until at least five consecutive annual leave days are taken.
- (d) An employee may elect with the employers agreement to take annual leave at any time within a period of 24 months from the date at which it falls due.

(4) Time Off in Lieu of Payment for Overtime -

- (a) For the purpose only of providing care and support for a person in accordance with subclause (1) of this clause, and despite the provisions of subclause (iv) of clause 15 Overtime, the following provisions shall apply.
- (b) 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.
- (c) 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.
- (d) If, having elected to take time as leave in accordance with paragraph (a) of this subclause, 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.
- (e) Where no election is made in accordance with the said paragraph (a), the employee shall be paid overtime rates in accordance with the award.

- (5) Make-up Time -
- (a) 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.
  - (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 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.
- (6) Rostered Days Off -
- (a) An employee may elect, with the consent of the employer, to take a rostered day off at any time.
  - (b) An employee may elect, with the consent of the employer, to take rostered days off in part day amounts.
  - (c) 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.
  - (d) 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.

#### **21A. Parental Leave**

- (1) Refer to the *Industrial Relations Act 1996* (NSW). The following provisions also apply in addition to those set out in the *Industrial Relations Act 1996* (NSW)
- (2) An employer must not fail to re-engage a regular casual employee (see section 53(2) of the Act) because:
- (a) the employee or employee's spouse is pregnant; or
  - (b) the employee is or has been immediately absent on parental leave.

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

- (3) Right to request
- (a) An employee entitled to parental leave may request the employer to allow the employee:
    - (i) to extend the period of simultaneous unpaid parental leave use up to a maximum of eight weeks;
    - (ii) to extend the period of unpaid parental leave for a further continuous period of leave not exceeding 12 months;
    - (iii) to return from a period of parental leave on a part-time basis until the child reaches school age;to assist the employee in reconciling work and parental responsibilities.
  - (b) The employer shall consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the employer's

business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.

- (c) Employee's request and the employer's decision to be in writing

The employee's request and the employer's decision made under 3(a)(ii) and 3(a)(iii) must be recorded in writing.

- (d) Request to return to work part-time

Where an employee wishes to make a request under 3(a)(iii), such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the employee is due to return to work from parental leave.

- (4) Communication during parental leave

- (a) Where an employee is on parental leave and a definite decision has been made to introduce significant change at the workplace, the employer shall take reasonable steps to:

- (i) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave; and
- (ii) provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave.

- (b) The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.

- (c) The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with paragraph (a).

## 22. Jury Service

A full-time or part-time employee shall be allowed leave of absence during any period when required to attend for jury service.

During such leave of absence, an employee shall be paid the difference between the jury service fees received and the employee's award rate of pay as if working.

An employee shall be required to produce to the employer proof of jury service fees received and proof of requirement to attend and attendance on jury service and shall give the employer notice of such requirement as soon as practicable after receiving notification to attend for jury service.

## 23. Annual Holiday Loading

- (i) In this clause the *Annual Holidays Act 1944* is referred to as "the Act".
- (ii) Before an employee is given and takes their annual holiday or, where by agreement between the employer and employee the annual holiday is given and taken in more than one separate period, then before each of such separate periods the employer shall pay the employee a loading determined in accordance with this clause. (NOTE: The obligation to pay in advance does not apply where an employee takes an annual holiday wholly or partly in advance - see subclause (vi).)
- (iii) The loading is payable in addition to the pay for the period of holiday given and taken and due to the employee under the Act.

- (iv) The loading is to be calculated in relation to any period of annual holiday under the Act (but excluding days added to compensate for public or special holidays falling on an employee's rostered day off not worked) or, where such a holiday is given and taken in separate periods, then in relation to each such separate period. (NOTE: See subclause (vi) as to holidays taken wholly or partly in advance.)
- (v) The loading is the amount payable for the period or the separate period, as the case may be, stated in subclause (iv) at the rate per week of 17.5 per cent of the appropriate ordinary weekly time rate of pay prescribed by Part B, Monetary Rates, or the appropriate junior percentage rate of this award, for the classification in which the employee was classified when the loading is paid. Such wage shall also include payments under subclauses (i) and (ii) of clause 35 Allowances and/or Additional Rates, where applicable, but shall not include other allowances, penalty rates, overtime rates or any other payments prescribed by this award.
- (vi) No loading is payable to an employee who takes an annual holiday wholly or partly in advance; provided that, if the employment of such an employee continues until the day when he/she would have become entitled under the Act to an annual holiday, the loading then becomes payable in respect of the period of such holiday and is to be calculated in accordance with subclause (v) of this clause, applying the rates of wages payable on that day.
- (vii) Where, in accordance with the Act, an employer's establishment or part of it is temporarily closed down for the purpose of giving an annual holiday or leave without pay to the employees concerned -
  - (a) An employee who is entitled under the Act to an annual holiday and who is given and takes such a holiday shall be paid the loading calculated in accordance with subclause (v) of this clause.
  - (b) An employee who is not entitled under the Act to an annual holiday and who is given and takes leave without pay shall be paid in addition to the amount payable to him/her under the Act such proportion of the loading that would have been payable to him/her under this clause if he/she had become entitled to an annual holiday prior to the closedown as his/her qualifying period of employment in completed weeks bears to 52.
- (viii)
  - (a) When the employment of an employee is terminated by the employer for a cause other than misconduct and at the time of the termination the employee has not been given and has not taken the whole of an annual holiday to which he/she has become entitled after 1 February 1974, he/she shall be paid a loading calculated in accordance with subclause (v) for the period not taken.
  - (b) Except as provided by paragraph (a) of this subclause, no loading is payable on the termination of an employee's employment.
- (ix) This clause extends to an employee who is given and takes an annual holiday and who would have worked as a shift worker if he/she had not been on holiday; provided that, if the amount to which the employee would have been entitled by way of shift work allowances and weekend penalty rates for the ordinary time (not including time on a public or special holiday) which the employee would have worked during the period of the holiday exceeds the loading calculated in accordance with this clause, then that amount shall be paid to the employee in lieu of the loading.

#### **24. Travelling Time, Expenses, Allowances, Etc.**

- (i) If an employee is required by the employer to temporarily transfer from one branch to another the employee shall be allowed any extra cost of travelling and shall be paid at ordinary rates for any excess time occupied in travelling.
- (ii)
  - (a) A window dresser employed by an employer who contracts to dress windows for retail shops shall, at the direction of the employer, present themselves for work at the job at their usual time of starting work.

- (b) The employee shall be paid for all time spent in excess of the time usually spent by themselves in travelling to or from their home to the employer's business premises at their ordinary rate of pay, except on a Sunday or a public holiday, when payment shall be at the rate of time and one-half.
  - (c) The employee also shall be paid any extra cost of travelling and shall be provided with first-class hotel accommodation at the employer's expense and where rail travelling necessarily is involved first-class rail ticket and sleeping car accommodation, where available, shall be provided.
- (iii) Where an employee is required to work after the ordinary ceasing time prescribed by this award until it is too late to travel by train, omnibus, vessel, or other regular conveyance to his or her usual place of residence, the employer shall provide either proper conveyance or the fare for such conveyance to the employee's usual place of residence.

### **25. Uniforms, Protective Clothing**

- (i) In any shop where an employee wears a uniform, cap, coat, overall or other uniform dress the same shall be provided by the employer and shall be laundered by the employer at the employer's expense. Provided that where, by mutual agreement, the laundering is done by the employee or the employer having refused, neglected or failed to launder the articles and laundering is done by the employee, the employee shall be paid the allowances set out in Item 7 of Table 2 - Other Rates and Allowances, of Part B, Monetary Rates.
- (ii) Suitable protective clothing shall be provided, upon request, to employees who are to load or unload trucks or customers' vehicles.

### **26. Facilities**

- (i) First-aid Outfit - See Occupational Health and Safety Regulation 2001.
- (ii) Lockers - Where practicable, an employer shall provide locker accommodation for each employee. Lockers, where provided, shall be maintained in good working order. Any dispute as to the practicability of providing the locker accommodation may be referred by the employer or the union to the Industrial Relations Commission of New South Wales.
- (iii) Dining Accommodation - Where practicable, an employer shall provide a room containing adequate seating accommodation with a sufficient supply of hot water to allow employees to partake of meals during their lunch hour.

Any dispute as to the practicability of providing such a room may be referred by the employer or the union to the Industrial Relations Commission of New South Wales.

- (iv) Notice Board - An employer shall permit the erection, in a prominent position to be decided by the employer, on the premises of a notice board of reasonable dimensions or a number of such notice boards reasonable in the circumstances, upon which an accredited representative of an industrial union of employees bound by this award shall be permitted to post formal union notices signed by the Secretary of the union concerned. Provided that such notices shall be referred to the employer before being posted on the notice board. Any notice posted on a board not so signed or not referred to the employer may be removed by an accredited representative of the union concerned or by the employer.

### **27. Renovations in Retail Shops**

- (i) As soon as practicable after a decision has been made to undertake the renovations of premises, the employer shall notify the following:

the workplace occupational health and safety committee;

the employees affected;

the appropriate union.

- (ii) The employer shall take appropriate measures to minimise and, where possible, eliminate any disabilities caused by the renovations.
- (iii) Where an issue or disagreement arises regarding the renovations, such issue or disagreement shall be resolved by taking the matter through the following procedures until it is settled: -
  - (a) discussions between the union and the Company;
  - (b) discussions between the union and The Australian Retailers Association - New South Wales;
  - (c) referral of the matter to the Industrial Registrar and/or to SafeWork NSW.

### 28. Notations

- (i) Annual Holidays - See *Annual Holidays Act 1944*. Provided that a full-time employee shall be entitled to not less than a total period of annual leave equivalent to 152 ordinary hours of work and pro rata thereof in the case of part-time employees.
- (ii) Long Service Leave - See *Long Service Leave Act 1955*.
- (iii) Manual handling procedures will be consistent with the Occupational Health and Safety Regulation 2001.
- (iv) Right of Entry - See Chapter 5 - Part 7 of the *Industrial Relations Act 1996*.

### 29. Exemptions

- (i) Members of The Australian Retailers Association of New South Wales and the R.H.I. Stall Holders' Association shall be exempt from clause 36 Agricultural, Pastoral or Horticultural Societies' Shows, etc., during such time as the members observe the provisions of Industrial Agreement No. 8712, or any other agreement which rescinds or replaces the said agreement, made between the said Associations and the Shop, Distributive and Allied Employees' Association, New South Wales and the Shop Assistants and Warehouse Employees' Federation of Australia, Newcastle and Northern, New South Wales, filed with the Industrial Registrar on 25 March 1992.
- (ii) Leave is reserved to the parties to apply to have the exemption varied or removed in its present terms from this award.
  - (a) Members of the Timber Trade Industrial Association shall be exempt from observing the provisions of subclause (B), Picnic Day, of clause 17, Holidays, and in lieu thereof shall observe the additional holiday provisions for New South Wales in paragraph (a) of subclause (ii) of clause 17, Holidays, of the Federal Timber Industry Award in force from time to time.
  - (b) This award shall not apply to employees covered by the Ski Industry (State) Award published 12 March 1993 (273 I.G. 972), as varied, performing duties within the confines of the Kosciusko National Park

### 30. Cleaning Duties

- (i) It shall be part of employees' duties to perform cleaning functions incidental to their work. Without limiting the generality of the foregoing, the dusting of shelves and of stock, the sweeping up of string and wrapping around counters, the cleaning of implements and fixtures used in the work, and the cleaning (including vacuum cleaning) of the immediate work area, shall be so included.
- (ii) An employee shall not be required to wet wash floors, clean lavatories, sweep pavements or clean the exteriors of windows other than for the removal of occasional defacements.
- (iii) An employee shall not be required to carry out systematic cleaning duties which go beyond the incidental functions as outlined in subclause (i) of this clause.

### **31. Dispute Settlement Procedures**

The procedure for the resolution of grievances and industrial disputation concerning matters arising under this award shall be in accordance with the following procedural steps:

- (i) Procedure relating to a grievance of an individual employee:
  - (a) The employee shall notify the employer (in writing or otherwise) as to the substance of the grievance, request a meeting with the employer for bilateral discussions and state the remedy sought.
  - (b) The grievance must initially be dealt with as close to its source as possible, with graduated steps for further discussion and resolution at higher levels of authority.
  - (c) Reasonable time limits must be allowed for discussion at each level of authority.
  - (d) At the conclusion of the discussion, the employer must provide a response to the employee's grievance, if the matter has not been resolved, including reasons for not implementing any proposed remedy.
  - (e) While a procedure is being followed, normal work must continue.
  - (f) The employee may be represented by an industrial organisation of employees for the purpose of each procedure.
- (ii) Procedure for a dispute between an employer and the employees:
  - (a) A question, dispute or difficulty must initially be dealt with as close to its source as possible, with graduated steps for further discussion and resolution at higher levels of authority.
  - (b) Reasonable time limits must be allowed for discussion at each level of authority.
  - (c) While a procedure is being followed, normal work must continue.
  - (d) The employer may be represented by an industrial organisation of employers and the employees may be represented by an industrial organisation of employees for the purpose of each procedure.

#### **31a. Deduction of Union Membership Fees**

- (i) The employer shall deduct Union membership fees (not including fines or levies) from the pay of any employee, provided that:
  - (a) the employee has authorised the employer to make such deductions in accordance with subclause (ii) herein;
  - (b) the Union shall advise the employer of the amount to be deducted for each pay period applying at the employer's workplace and any changes to that amount;
  - (c) deduction of union membership fees shall only occur in each pay period in which payment has or is to be made to an employee; and
  - (d) there shall be no requirement to make deductions for casual employees with less than two months' service (continuous or otherwise).
- (ii) The employee's authorisation shall be in writing and shall authorise the deduction of an amount of Union fees (including any variation in that fee effected in accordance with the Union rules) that the Union advises the employer to deduct. Where the employee passes any such written authorisation to the Union, the Union shall not pass the written authorisation on to the employer without first obtaining the employee's consent to do so. Such consent may form part of the written authorisation.



- (iii) Monies so deducted from employees' pay shall be remitted to the Union on either a weekly, fortnightly, monthly or quarterly basis at the employer's election, together with all necessary information to enable the reconciliation and crediting of subscriptions to employees' membership accounts, provided that:
  - (a) where the employer has elected to remit on a weekly or fortnightly basis, the employer shall be entitled to retain up to five per cent of the monies deducted; and
  - (b) where the employer has elected to remit on a monthly or quarterly basis, the employer shall be entitled to retain up to 2.5 per cent of the monies deducted.
- (iv) Where an employee has already authorised the deduction of Union membership fees in writing 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 commence or continue.
- (v) The Union shall advise the employer of any change to the amount of membership fees made under its rules, provided that this does not occur more than once in any calendar year. Such advice shall be in the form of a schedule of fees to be deducted specifying either weekly, fortnightly, monthly, or quarterly as the case may be. The Union shall give the employer a minimum of two months' notice of any such change.
- (vi) An employee may at any time revoke in writing an authorisation to the employer to make payroll deductions of Union membership fees.
- (vii) Where an employee who is a member of the Union and who has authorised the employer to make payroll deductions of Union membership fees resigns his or her membership of the Union in accordance with the rules of the Union, the Union shall inform the employee in writing of the need to revoke the authorisation to the employer in order for payroll deductions of union membership fees to cease.

### 32. Anti-Discrimination

- (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.
- (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.
- (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.
- (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 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.
- (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.

- (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.

### 33. Redundancy

#### (1) Application -

- (i) This clause shall apply in respect of full-time and part-time employees
- (ii) This clause shall apply in respect of employers who employ 15 employees or more immediately prior to the termination of employment of employees, in the terms of subclause 3, Termination of Employment.
- (iii) Notwithstanding anything contained elsewhere in this clause, this clause shall not apply to employees with less than one year's continuous service, and the general obligation on employers shall be no more than to give such employees an indication of the impending redundancy at the first reasonable opportunity, and to take such steps as may be reasonable to facilitate the obtaining by the employees of suitable alternative employment.
- (iv) Notwithstanding anything contained elsewhere in this clause, this clause shall not apply where employment is terminated as a consequence of conduct that justifies instant dismissal, including malingering, inefficiency or neglect of duty, or in the case of casual employees, apprentices or employees engaged for a specific period of time or for a specified task or tasks or where employment is terminated due to the ordinary and customary turnover of labour.

#### (2) Introduction of Change -

- (i) Employer's duty to notify:
  - (a) Where an 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 employees, the employer shall notify the employees who may be affected by the proposed changes and the union to which they belong.
  - (b) "Significant effects" include termination of employment, major changes in the composition, operation or size of the employer's workforce or in the skills required, the elimination or diminution of job opportunities, promotion opportunities or job tenure, the alteration of hours of work, the need for retraining or transfer of employees to other work or locations and the restructuring of jobs.

Provided that where the award specified in subclause 1, Application, makes provision for alteration of any of the matters referred to herein, an alteration shall be deemed not to have significant effect.

- (ii) Employer's duty to discuss change:
  - (a) The employer shall discuss with the employees affected and the union to which they belong, inter alia, the introduction of the changes referred to in paragraph (i) of this subclause, the effects the changes are likely to have on employees and measures to avert or mitigate the adverse effects of such changes on employees, and shall give prompt consideration to matters raised by the employees and/or the union in relation to the changes.

- (b) The discussion shall commence as early as practicable after a definite decision has been made by the employer to make the changes referred to in the said paragraph (i).
- (c) For the purpose of such discussion, the employer shall provide to the employees concerned and the union to which they belong all relevant information about the changes, including the nature of the changes proposed, the expected effects of the changes on employees and any other matters likely to affect employees, provided that any employer shall not be required to disclose confidential information the disclosure of which would adversely affect the employer.
- (iii) Discussions before terminations:
- (a) Where an employer has made a definite decision that the employer no longer wishes the job the employee has been doing to be done by anyone pursuant to subparagraph (a) of paragraph (i) of subclause 2, Introduction of Change, and that decision may lead to the termination of employment, the employer shall hold discussions with the employees directly affected and with the union to which they belong.
- (b) The discussions shall take place as soon as is practicable after the employer has made a definite decision which will invoke the provision of subparagraph (a) of this subclause and shall cover, inter alia, any reason for the proposed terminations, measures to avoid or minimise the terminations and measures to mitigate any adverse effects of any termination on the employees concerned.
- (c) For the purpose of the discussion the employer shall, as soon as practicable, provide to the employees concerned and the union to which they belong all relevant information about the proposed terminations, including the reasons for the proposed terminations, the number and categories of employees likely to be affected, and the number of employees normally employed and the period over which the terminations are likely to be carried out. Provided that any employer shall not be required to disclose confidential information the disclosure of which would adversely affect the employer.
- (3) Termination of Employment -
- (i) Notice for changes in Organisation or structure - This subclause sets out the notice provisions to be applied to terminations by the employer for reasons arising from Organisation or structure in accordance with subclause 2, Introduction of Change:
- (a) In order to terminate the employment of an employee, the employer shall give to the employee the following notice:
- | Period of continuous service  | Period of notice |
|-------------------------------|------------------|
| Less than 1 year              | 1 week           |
| 1 year and less than 3 years  | 2 weeks          |
| 3 years and less than 5 years | 3 weeks          |
| 5 years and over              | 4 weeks          |
- (b) In addition to the notice above, employees over 45 years of age at the time of the giving of the notice, with not less than two years' continuous service, shall be entitled to an additional week's notice.
- (c) Payment in lieu of the notice above shall be made if the appropriate notice period is not given. Provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof.
- (ii) Notice for technological change - This paragraph sets out the notice provisions to be applied to terminations by the employer for reasons arising from technology in accordance with the said subclause 2.

- (a) In order to terminate the employment of an employee, the employer shall give to the employee three months' notice of termination.
  - (b) Payment in lieu of the notice above shall be made if the appropriate notice period is not given. Provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof.
  - (c) The period of notice required by this subclause to be given shall be deemed to be service with the employer for the purposes of the *Long Service Leave Act 1955*, the *Annual Holidays Act 1944*, or any Act amending or replacing either of these Acts.
- (iii) Time off during the notice period -
- (a) During the period of notice of termination given by the employer, an employee shall be allowed up to one day's time off without loss of pay during each week of notice, to a maximum of five weeks, for the purpose of seeking other employment.
  - (b) If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee shall, at the request of the employer, be required to produce proof of attendance at an interview or the employee shall not receive payment for the time absent.
- (iv) Employee leaving during the notice period - If the employment of an employee is terminated (other than for misconduct) before the notice period expires, the employee shall be entitled to the same benefits and payments under this clause had the employee remained with the employer until the expiry of such notice. Provided that in such circumstances the employee shall not be entitled to payment in lieu of notice.
- (v) Statement of employment - The employer shall, upon receipt of a request from an employee whose employment has been terminated, provide to the employee a written statement specifying the period of the employee's employment and the classification of or the type of work performed by the employee.
- (vi) Notice to Centrelink or its successor - Where a decision has been made to terminate employees, the employer shall notify Centrelink thereof as soon as possible, giving relevant information, including the number and categories of the employees likely to be affected and the period over which the terminations are intended to be carried out.
- (vii) Employment Separation Certificate - 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 Centrelink or its successors.
- (viii) Transfer to lower paid duties - Where an employee is transferred to lower paid duties for reasons set out in paragraph (i), Employer's duty to notify, of subclause 2, Introduction of Change, the employee shall be entitled to the same period of notice of transfer as the employee would have been entitled to if the employee's employment had been terminated, and the employer may, at the employer's option, make payment in lieu thereof of an amount equal to the difference between the former ordinary-time rate of pay and the new ordinary-time rates for the number of weeks of notice still owing.
- (4) Severance Pay -
- (i) Where an employee is to be terminated pursuant to subclause 3, Termination of Employment, subject to further order of the Industrial Relations Commission of New South Wales, the employer shall pay the employee the following severance pay in respect of a continuous period of service:
    - (a) If an employee is under 45 years of age, the employer shall pay in accordance with the following scale:

Years of service	Under 45 years of age entitlement
Less than 1 year	Nil
1 year and less than 2 years	4 weeks
2 years and less than 3 years	7 weeks
3 years and less than 4 years	10 weeks
4 years and less than 5 years	12 weeks
5 years and less than 6 years	14 weeks
6 years and over	16 weeks

- (b) Where an employee is 45 years of age or over, the entitlement shall be in accordance with the following scale:

Years of service	Over 45 years of age entitlement
Less than 1 year	Nil
1 year and less than 2 years	5 weeks
2 years and less than 3 years	8.75 weeks
3 years and less than 4 years	12.5 weeks
4 years and less than 5 years	15 weeks
5 years and less than 6 years	17.5 weeks
6 years and over	20 weeks

- (ii) "Week's pay" means the all-purpose rate for the employee concerned at the date of termination and shall include, in addition to the ordinary rate of pay, overaward payments, shift penalties and allowances paid in accordance with the relevant clauses of this award.
- (iii) Incapacity to pay - Subject to an application by the employer and further order of the Industrial Relations Commission, an employer may pay a lesser amount (or no amount) of severance pay than that contained in paragraph (i) of this clause.
- (iv) The Commission shall have regard to such financial and other resources of the employer concerned as the Commission thinks relevant, and the probable effect paying the amount of severance pay in the said paragraph (i) will have on the employer.
- (v) Alternative employment - Subject to an application by the employer and further order of the Commission, an employer may pay a lesser amount (or no amount) of severance pay than that contained in paragraph (i) if the employer obtains acceptable alternative employment for an employee.
- (5) Savings Clause - Nothing in this award shall be constructed 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 Industrial Organisation of Employees and any employer bound by this award.

### 34. Supported Wage System for Workers With Disabilities

Employees Eligible for a Supported Wage -

- (a) Definition - This clause defines the conditions which will apply to employees who, because of the effects of a disability, are eligible for a supported wage under the terms of this award. In the context of this clause, the following definitions will apply:
- (i) 'Supported Wage System' means the Commonwealth Government system to promote employment for people who cannot work at full award wages because of a disability, as documented in "Supported Wage System: Guidelines and Assessment Process".
- (ii) 'Accredited Assessor' means a person accredited by the management unit established by the Commonwealth under the Supported Wage System to perform assessments of an individual's productive capacity within the Supported Wage System.

- (iii) 'Disability Support Pension' means the Commonwealth pension scheme to provide income security for persons with a disability as provided under the Social Security Act 1991, as amended from time to time or any successor to that scheme.
  - (iv) 'Assessment Document' means the form provided for under the Supported Wage System that records the assessment of the productive capacity of the person to be employed under the Supported Wage System.
- (b) Eligibility Criteria - Employees covered by this clause will be those who are unable to perform the range of duties to the competence level required within the class of work for which the employee is engaged under this award, because of the effects of a disability on their productive capacity, and who meet the impairment criteria for receipt of a Disability Support Pension.

(This clause does not apply to any existing employee who has a claim against the employer which is subject to the provisions of workers' compensation legislation or any provision of this award relating to the rehabilitation of employees who are injured in the course of their current employment)

The award does not apply to employers in respect of their facility, program, undertaking, service or the like which receives funding under the Disability Services Act 1986 and fulfils the dual role of service provider and sheltered employer to people with disabilities who are in receipt of or are eligible for a disability support pension, except with respect to an Organisation which has received recognition under section 10 or section 12A of the said Act, or if a part only has received recognition, that part.

- (c) Supported Wage Rates - Employees to whom this clause applies shall be paid the appropriate percentage of the minimum rate of pay prescribed by this award for the class of work which the person is performing, according to the following schedule:

Assessed capacity (subclause (d))	Percentage of prescribed award rate
10% *	10%
20%	20%
30%	30%
40%	40%
50%	50%
60%	60%
70%	70%
80%	80%
90%	90%

(Provided that the minimum amount payable shall be not less than \$71.00 per week.)

Where a person's assessed capacity is 10 per cent, they shall receive a high degree of assistance and support

- (d) Assessment of Capacity - For the purpose of establishing the percentage of the award rate to be paid to an employee under this award, the productive capacity of the employee will be assessed in accordance with the Supported Wage System and documented in an assessment instrument by either:
- (i) the employer and a union party to the award, in consultation with the employee or, if desired, by any of these;
  - (ii) the employer and an accredited Assessor from a panel agreed by the parties to the award and the employee.

- (e) Lodgement of Assessment Document -
- (i) All assessment documents under the conditions of this clause, including the appropriate percentage of the award wage to be paid to the employee, shall be lodged by the employer with the Registrar of the Industrial Relations Commission.
- (ii) All assessment documents shall be agreed and signed by the parties to the assessment, provided that where a union which is party to the award is not a party to the assessment, it shall be referred by the Registrar to the union by certified mail and will take effect unless an objection is notified to the Registrar within ten working days.
- (f) Review of Assessment - The assessment of the appropriate percentage should be subject to annual review or earlier on the basis of a reasonable request for a review. The process of review must be in accordance with the procedures for assessing capacity under the Supported Wage System.
- (g) Other Terms and Conditions of Employment - Where an assessment has been made, the appropriate percentage will apply to the wage rate only. Employees covered by the provisions of this clause will be entitled to the same terms and conditions of employment as all other workers covered by this award, paid on a pro rata basis.
- (h) Workplace Adjustment - An employer wishing to employ a person under the provisions of this clause must take reasonable steps to make changes in the workplace to enhance the employee's capacity to do the job. Changes may involve redesign of job duties, working time arrangements and work Organisation in consultation with other workers in the area.
- (i) Trial Period -
- (i) In order for an adequate assessment of the employee's capacity to be made, an employer may employ a person under the provisions of this clause for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding 4 weeks) may be needed.
- (ii) During the trial period the assessment of capacity must be undertaken and the proposed wage rate for a continuing employment relationship must be determined.
- (iii) The minimum amount payable to the employee during the trial period shall be no less than an amount as set out in subclause (c) of this clause.
- (iv) Work trials should include induction or training as appropriate to the job being trialed.
- (v) Where the employer and employee wish to establish a continuing employment relationship following the completion of the trial period, a further contract of employment shall be entered into based on the outcome of assessment under subclause (d) of this clause.

### 35. Allowances and/or Additional Rates

- (i) The rates set out in the following Items of Table 2 - Other Rates and Allowances, of Part B, Monetary Rates, shall be paid in addition to the appropriate adult weekly rate prescribed in Table 1 of Part B, Monetary Rates:

Item No. (Table 2)

(a)	Section head	9
(b)	Qualified adult automotive parts and accessories salesperson	10
(c)	An employee who holds a licence under the <i>Liquor Act 2007</i>	11

Provided that an employee paid in accordance with Group 4 of Table 1 - Clause 38, Wages, shall not receive less than the amount shown in Item 11 of the said Table 2 per week, in addition to the appropriate rate prescribed by Clause 38 Wages.

- (ii) The rates set out in the following Items of Table 2 shall be paid in addition to the appropriate weekly rates prescribed by the said Clause 38 Wages or the appropriate junior percentage rate:

(a)	Employee delivering goods (other than newspapers and the like) by box tricycle	12
(b)	Employee engaged on photographic or other modelling or mannequin work, whilst so engaged	13
(c)	Qualified first-aid attendant	14
(d)	Employee employed by a shop to speak a language in addition to English for the purpose of making sales in that shop	15
(e)	Ticket writer who has passed an appropriate technical college course,	
	21 years of age and over	16
	Under 21 years of age	16

- (iii) An employee who attends an appropriate course of training at a technical college at the request of his/her employer shall be reimbursed at the completion of this course, if successful, the fees for such course.
- (iv) An employee required to provide a bicycle or motorcycle shall be paid the amounts set out in Item 17 of Table 2 per week extra. An employee required to provide a motor car shall be paid the amount set out in Item 18 of Table 2 per week extra. Provided that where an employee occasionally uses his/her car by agreement with his/her employer, on the employer's business, he/she shall be paid an allowance for each kilometre so travelled as set out in Item 19 of Table 2. If the employer provides a vehicle, he/she shall pay the whole of the cost of the upkeep, registration, insurance and running expenses.

Provided that a full-time retail merchandiser local or country shall receive the benefits of this subclause where applicable, with the exception of the occasional kilometre allowance.

Provided further, a part-time or casual retail merchandiser local or country shall be paid for the use of his/her motor vehicle an amount set out in Item 19 of Table 2 per kilometre travelled in connection with his/her employment, with no standing charge contained in this subclause to apply.

- (v) Freezer and Dairy Allowance and Conditions -
- (a) Employees whose primary function is the handling or loading of goods into or out of freezer rooms or freezer cabinet (i.e. a room or cabinet with an inside temperature falling below 0 degrees Celsius) shall:
- (1) be paid a disability allowance of the amount set out in Item 20 of Table 2, in the case of full-time employees and a pro rata amount in the case of casual and part-time employees;
  - (2) when working in freezer rooms be provided with the following protective clothing:
    - (i) fully insulated parka with hood;
    - (ii) fully insulated protective gloves;
    - (iii) fully insulated protective trousers (upon request).
- (b) Employees whose primary function is working in a public dairy room or backfilling a dairy cabinet shall:
- (1) be paid a disability allowance of the amount set out in Item 21 of Table 2 per week in the case of full-time employees and a pro rata amount in the case of casual and part-time employees;
  - (2) be provided with the following protective clothing:
    - (i) fully insulated parka with hood;



- (ii) fully insulated protective gloves;
  - (iii) fully insulated protective trousers;
  - (iv) waterproof boots.
- (c) Employees whose primary function is backfilling in a freezer room (i.e., a room with an inside temperature falling below 0 degrees Celsius), shall:
- (1) be paid a disability allowance of the amount set out in Item 22 of Table 2 per week in the case of full-time employees and a pro rata amount in the case of casual and part-time employees;
  - (2) be provided with the following protective clothing:
    - (i) fully insulated protective boiler suit;
    - (ii) fully insulated protective head gear;
    - (iii) fully insulated protective gloves;
    - (iv) fully insulated protective boots;
  - (3) not be required to work in such room for longer than two hours without a ten-minute paid rest pause and, where applied, such rest pause shall be in substitution for any other rest pause under the award, which occurs at or around the same time.
- (d)
- (1) Employees whose primary function is the handling or loading of goods into or out of freezer cabinets shall be provided with fully insulated protective gloves and, upon request, a fully insulated parka.
  - (2) Employees whose primary function is the handling or loading of goods into or out of dairy cabinets shall be provided with fully insulated protective gloves.
- (e) Items of protective clothing detailed in this clause shall be laundered by the employer at the employer's expense.

### **36. Agricultural, Pastoral or Horticultural Societies' Shows, etc.**

Subject to the Minister for Industrial Relations giving approval to any agricultural, pastoral or horticultural society's show or any trade exhibition or trade fair under section 101 of the *Shop and Industries Act 1962*, persons employed thereat shall be paid as follows:

- (i) Casual Employees -
  - (a) The hourly rate of pay for all time worked between 9.00 am and 6.00 pm shall be as set out in Item 23 of Table 2 - Other Rates and Allowances, of Part B, Monetary Rates, with a minimum payment of six hours on any day or part thereof.

NOTE: The *Annual Holidays Act 1944* requires that casual employees shall, in addition to their ordinary pay, receive for annual holiday purposes an additional amount equivalent to 1/12 of their ordinary pay.

Upon any increase to the weekly rates prescribed by subclause (a) of Clause 38 Wages, the hourly rates contained herein shall be adjusted by adding thereto one thirty-eighth of the increase in the weekly rate calculated to the nearest cent, any part of a cent not exceeding half a cent to be disregarded.

- (b) Saturday Penalty - The additional amount set out in Item 23 of the said Table 2, shall be paid by way of fixed penalty addition for any Saturday worked.
  - (c) Time and one-half shall be paid for all time worked in excess of eight hours or after 12 noon on Saturday or before 9.00 am or after 6.00 pm on any one day. Double time shall be paid for all time worked on public holidays and Sundays.
  - (d) Meal Money - Unless a suitable meal consisting of at least two courses and a beverage is provided, an amount set out in Item 3 of Table 2 shall be paid nightly to each employee who works after 6.00 pm
- (ii) Regular Employees - The provisions of the award shall apply to an employer in respect of any regular employee of his/her covered by this award except as to subclause (v) of clause 10, Hours, and the following provisions which shall be in substitution for the appropriate provisions of the award:
- (a) An amount set out in Item 3 of Table 2 shall be paid as meal money if the employee works after 6.00 pm on any day, Monday to Friday, inclusive, and on Saturdays and Sundays a lunch allowance of the same amount if he/she works after 12.30 pm and a tea allowance of the same amount if he/she works after 8.00 pm
  - (b) For each Saturday worked a fixed penalty addition as set out in Item 23 of Table 2 shall be paid.
  - (c) Payment at the rate of time and one-half for all time worked after 12 noon on any Saturday during the said show, other than Easter Saturday, shall be made.
  - (d) Payment at the rate of double time for all time worked on public holidays, with a minimum payment as for four hours worked, shall be made.
  - (e) For each day they attend the show, etc., an additional amount to reimburse them for fares equal to the normal bus fare from the city to the show and return shall be paid, but in the case of the Royal Agricultural Show this amount shall be the special bus fare from the city to the Showground and return. This reimbursement shall not be made when transport to the show is provided by the employer.

### **37. Area, Incidence and Duration**

This award rescinds and replaces the following award:

- (a) Shop Employees (State) Award published 27 November 2015 (378 I.G. 210) as varied.

It shall apply to all classes of employees employed under classifications in this award who work in or in connection with a retail shop, employees employed in the sale of goods by retail away from the employer's place of business in the State within the jurisdiction of the Retail Employees (State) Industrial Committee and the Salesmen, Outdoor (State) Industrial Committee, excluding the County of Yancowinna.

It shall take effect from the beginning of the first pay period to commence on or after 16 December 2018 and shall remain in force for a period of 12 months.

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 16 December 2018.

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

**PART B****MONETARY RATES****38. Wages**

- (a) The minimum rate of pay for each classification incorporating both the base rate and supplementary payments is expressed for each classification as set out in Table 1 - Wages.
- (b) The rates of pay in this award include the adjustments payable under the State Wage Case 2018. These adjustments may be offset against:
- (i) any equivalent overaward payments, and/or
  - (ii) award wage increases since 29 May 1991 other than safety net, State Wage Case, and minimum rates adjustments.'
- (c) Junior Employees - Junior employees and improver waiters/waitresses shall receive the percentages set out in (iv) of Table 1 - Wages of the appropriate adult rate prescribed in Group No. 1 of Table 1 - Wages.

**Table 1 - Wages**

(i)

Group No.	Description	Former Rate Per Week \$	SWC2018 2.5% \$	Total Rate Per Week \$
1	Shop assistants, demonstrators, trolley collector, salespersons outdoor, employees driving a forklift or using mechanical equipment as required, the role of Santa Claus, ticket writers, mannequins, order hands, reserve stock hands (including reserve stock hands in theatre distributing services), employees delivering goods (other than newspapers and the like) by bicycle or tricycle, employees engaged in the cooking or the preparation of provisions for sale in the shop of the employer, cashiers in special shops, persons employed on information desks and/or on customer services or as full-time messengers, employees engaged in the installation (other than installation requiring trade skill), servicing, stocking, collection of money from, and preparation of, commodities for sale in automatic vending devices, employees engaged in the pre-packing, weighing, pricing of fruit and/or vegetables on the shop premises, employees principally engaged in hiring out activities in a shop, and waitresses in confection shops employed waiting on tables for two hours or more per day	769.50	19.20	788.70
2	(a) Window Dresser Employees principally engaged in dressing windows. (b) Window dressers under 21 years of age shall be paid as per Item 8 of table 2 - Other Rates and Allowances, of Part B Monetary Rates, in addition to the rates prescribed by subclause (c) of clause 38, Wages.	777.60	19.40	797.00

3	Branch Supervisor Shop assistants engaged in supervising branch grocery shops	783.70	19.60	803.30
4	Shop Assistants in charge of a shop or a department in a shop not being a shop assistant temporarily in charge during the absence of persons ordinarily in charge of the shop or department, but including employees employed as relieving shop assistants in charge of a shop:			
	(i) Without the duty of buying -			
	In charge of from nil to 4 assistants	783.80	19.6	803.40
	In charge of from 5 to 12 assistants	795.10	19.90	815.00
	In charge of from 13 to 25 assistants	808.90	20.20	829.10
	In charge of over 25 assistants	819.30	20.50	839.80
	(ii) With the duty of buying -			
	In charge of from nil to 4 assistants	785.80	19.60	805.40
	In charge of from 5 to 12 assistants	798.20	20.00	818.20
	In charge of from 13 to 25 assistants	814.60	20.40	835.00
	In charge of over 25 assistants	823.90	20.60	844.50
5	Employees in charge of a motor and/or horse drawn vehicle selling stock carried on the vehicle products of a kind which usually are sold by confection/ take-away food shops Employees under the age of 21 years but not less than the age of 18 years shall be paid the percentages of the rate for an adult contained in(ii) of Table 1 - clause 38, Wages.	792.50	19.80	812.30
6	Retail Merchandiser as defined by subclause (xi) of clause 2, Definitions	769.50	19.20	788.70

Notation: Hourly rates of pay for full-time, part-time and casual employees shall be calculated to the nearest half cent.

(ii) Juniors - Selling from a vehicle

	Percentage
At 18 years of age	70
At 19 years of age	80
At 20 years of age	90

(iii) Retail Merchandiser - Juniors

	Percentage
At 18 years of age and under	70
At 19 years of age	80
At 20 years of age	90

(iv)

(a) Juniors

	Percentage
Under 16 years of age	40
At 16 years of age	50
At 17 years of age	60
At 18 years of age	70
At 19 years of age	80

At 20 years of age

90

Improver Waiters/Waitresses

	Percentage
1st 3 months	78.5
2nd 3 months	82.5
Thereafter	100

Junior rates shall be calculated to the nearest five cents, any part of five cents not exceeding half of five cents to be disregarded.

**Table 2 - Other Rates & Allowances**

Item No.	Clause No.	Brief Description	Amount \$
1	5(a)	Night interval employees	2.92 per shift
2	5(a)	Night interval employees (working one night per week)	4.65 per shift
3	6(i) (b),(c) 36(i)(d) 6(ii)(a)	Meal Allowances	15.40
4	6(ii) 16(vii)	Breakfast Allowance	8.50
5	14(a)(ii)	General Shops - Loading for casual employees working on a Saturday: Engagements up to and including four hours - Adult employees Employees under 21 years of age Engagements exceeding four hours - Adult Employees Employees under 21 years of age	8.60 per shift 5.50 per shift 17.60 per shift 9.50 per shift
	14(a)(iii)	Special and Confection Shops - Loading for casual employees working on a Saturday: Adult Employees Employees under 21 years of age	8.60 per shift 5.50 per shift
6	14(c)(ii)	Confection Shop - Employees working after 10.00 p.m. on any night	2.55 each night
7	25(i)	Laundering Allowance (if any article requires ironing): Full-time employee Part-time and casual employee Maximum payment Laundering Allowance (if none of the articles require ironing): Full-time employee Part-time and casual employee Maximum payment	11.40 4.00 11.40 6.80 2.50 6.80
8	38(1)(i)2(b)	Window Dressers under the age of 21	11.70 per week
9	35(i)(a)	Section Head	17.30 per week
10	35(i)(b)	Qualified adult automotive parts and accessories salesperson	39.20 per week
11	35(i)(c)	Employee with a licence under the <i>Liquor Act 2007</i>	26.90 per week
12	35(ii)(a)	Employee delivering goods	5.70 per week
13	35(ii)(b)	Employee engaged in photographic or other modelling	56.70 per week 11.50 per day
14	35(ii)(c)	First-aid attendant	2.30 per day
15	35(ii)(d)	Employee engaged to speak a second language	11.30 per week
16	35(ii)(e)	Ticket writer - At or over 21 years of age Under 21 years of age	23.20 per week 11.50 per week

17	35(iv)	Bicycle Allowance Motorcycle Allowance	13.80 per week 41.60 per week
18	35(iv)	Motor Car Allowance: car up to and including 2000cc car over 2000cc allowance per kilometre travelled	144.60 per week 172.20 per week 0.43 per km
19	35(iv)	Allowance for kilometre travelled: car under and including 2000cc car over 2000cc	0.65 per km 0.71 per km
	35(iv)	Part-time or Casual Retail Merchandiser local or Country, for the use of his/her vehicle.	0.78 per km
20	35(v)(a)(1)	Disability allowance for employees working in freezer room	10.90 per week
21	35(v)(b)(1)	Disability allowance for employees working in public dairy room	16.40 per week
22	35(v)(c)(1)	Disability allowance for employees backfilling in a freezer room	21.90 per week
23	36(i)(a)	Casual hourly rate of pay for persons employed at trade fairs, etc., between 9.00 a.m. and 6.00 p.m., with a minimum payment of six hours At 19 years of age and over Under 19 years of age	19.94 per hour 19.56 per hour
	36(ii)(b)	Saturday Loading - Adult Employees Under 21 years	8.60 5.50

- (vi) The rates at Table 1 and Table 2 shall take effect from the first full pay period to commence on or after 16 December 2018

## RETAIL EMPLOYEES (STATE) INDUSTRIAL COMMITTEE

### Industries and Callings

#### Section I

All persons employed in or in connection with a shop<sup>2</sup> and/or automatic vending device<sup>3</sup> including (but without limiting the generality of the foregoing) sales assistants, self-service employees, demonstrators, ticket writers, checkout operators, grocery orderperson, reserve stock hands, display hands, window dressers, persons engaged in the hiring of goods in a shop, office assistants, telephone attendants, delivery clerks, persons employed on machines designed to perform or assist in performing any clerical work whatsoever, and cashiers employed solely as cashiers and/or on other clerical duties, in the State, excluding the County of Yancowinna;

excepting -

Van salesperson;

Storeperson and packers;

Employees, other than sales assistants, in restaurants, tea shops and cafeterias;

Persons employed selling motor oils, accessories and petrol at or in motor garages and parking and/or service stations or petrol from petrol pumps;

Drivers of trolleys, drays, carts, motor and other power-propelled vehicles, loaders, brakesperson, extra hands, grooms, stableperson and yardperson;

Cleaners;

Employees, other than sales assistants, in or in connection with hospitals, mental hospitals, public charitable institutions or ambulance work;

Butchers, persons engaged in the sale of uncooked meat by retail, carters and other persons delivering such meat, and cashiers in butchers' shops;

and excepting persons employed by -

Sydney Electricity;

The Australian Gas Light Company;

The Council of the City of Newcastle;

Newcastle Gas Company Limited;

and excepting also employees within the jurisdiction of the following Industrial Committees -

Commercial Travellers (State);

County Councils (Electricity Undertakings) Employees;

Models and Mannequins (State);

Motor Vehicle Salesperson (State);

Northern Rivers County Council;

Pharmacies (State);

Shortland County Council.

NOTE:

1In establishing this committee on 23 March 1977 the Commission (Macken J., Matter 109 of 1977) stated:

Section I of the committee shall convene and sit as a separate section when matters are raised which fall solely within the constitution of Section I.

Section II of the committee shall convene and sit as a separate section when matters are raised which fall solely within the constitution of Section II.

Both sections of the committee will sit together when a matter extends beyond the constitutions of either one of the sections of the committee.

2"Shop" in this constitution shall have the same meaning as "shop" as defined in section 3 of the *Retail Trading Act 2008*, or in any Act amending or replacing that Act.

3"Automatic vending device" in this constitution means any automatic machine or mechanical contrivance in which goods are offered for sale by retail.

## Section II

Shop1 assistants, cashiers, office assistants and workers employed in or in connection with automatic vending devices2, confectioners, soft drinks, fountain drinks, milk drinks, sundae, fruit and vegetable shops, including persons engaged in the reception, sale or delivery of goods in such shops, and including also employees engaged in the preparing or serving of light refreshments3 in such shops in the State, excluding the County of Yancowinna;

excepting -

Storepersons and packers, carters and cleaners;

Employees within the jurisdiction of the Cement Workers, &c. (State) Industrial Committee.

NOTE:

1 "Shop" in this constitution means place, building or any part thereof, stall, tent, vehicle, boat or pack in which goods are sold or offered or exposed for sale by retail.

2 "Automatic vending device" in this constitution means any automatic machine or mechanical contrivance in which goods are offered or exposed for sale by retail.

3 "Light refreshment" in this constitution means a beverage, hot or cold, served with biscuits, cakes, pastry, sandwiches, meat pie or the like.

P. M. KITE, *Chief Commissioner*

---

Printed by the authority of the Industrial Registrar.



## TRANSPORT INDUSTRY - QUARRIED MATERIALS, &c., CARRIERS INTERIM CONTRACT DETERMINATION

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Transport Workers' Union of New South Wales, Industrial Organisation of Employees.

(Case No. 268335 of 2019)

Before Commissioner Murphy

18 November 2019

### DETERMINATION

1. Delete Annexure A of the determination published 8 February 2008 (364 I.G. 1162) and insert in lieu thereof the following:

### ANNEXURE A

#### SCHEDULE IA

#### VEHICLES WITH A GCM OF 42.5 TONNES CARTAGE RATES QUANTITY / DISTANCE RATES

Quantity/Distance Rates 2019			
Symbol	Item	Rate (\$)	Unit
F.F	Flag Fall	3.36	Per Tonne
A		0.20	Per Tonne
B		0.18	Per Tonne
C		0.17	Per Tonne
D		0.15	Per Tonne
E		0.14	Per Tonne
F		0.13	Per Tonne
G		0.13	Per Tonne
H	Large Material	1.01	Per Tonne
I	Large Material 600+ Material	1.71	Per Tonne

Notation:

The cartage rates above have been calculated by applying the following percentages to the rates in Schedule 1 of Annexure A of the TIQMCD:

Schedule IA - 75%

#### SCHEDULE 1B

#### VEHICLES WITH A GCM OF 48 TONNES CARTAGE RATES QUANTITY/ DISTANCE RATES

Quantity/Distance Rates 2019			
Symbol	Item	Rate (\$)	Unit
F.F	Flag Fall	3.13	Per Tonne
A		0.18	Per Tonne
B		0.17	Per Tonne
C		0.16	Per Tonne
D		0.14	Per Tonne

E		0.13	Per Tonne
F		0.13	Per Tonne
G		0.12	Per Tonne
H	Large Material	0.95	Per Tonne
I	Large Material	1.60	Per Tonne
	600+ Material		

Notation:

The cartage rates above have been calculated by applying the following percentages to the rates in Schedule 1 of Annexure A of the TIQMCD:

Schedule IB - 70%

2. This variation shall take effect on and from 18 December 2019.

J.V. MURPHY, *Commissioner*

Printed by the authority of the Industrial Registrar.

**NURSES' (PRIVATE SECTOR) TRAINING WAGE (STATE) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

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

(Case No. 288650 of 2018)

Before Chief Commissioner Kite

9 November 2018

**REVIEWED AWARD**

1. Delete the definition of "Association" in Clause 4, Definitions, of the award published 2 August 1996 (294 I.G. 77) and Award reprinted 27 January 2012 (372 I.G. 588), and insert in lieu thereof the following:

"Association" means the New South Wales Nurses and Midwives' Association.

2. Delete the definition of "Relevant NSW Training Authority" in clause 4, and insert in lieu thereof the following:

"Relevant NSW Training Authority" means the Department of Education, or successor organisation.

3. Delete the definition of "Relevant Union" in clause 4, and insert in lieu thereof the following:

"Relevant Union" means the New South Wales Nurses and Midwives' Association which is entitled to enrol the Trainee as a member.

4. Delete clause 12, Area, Incidence and Duration and insert in lieu thereof the following:

**12. Area, Incidence and Duration**

- (a) This award shall apply to all classes of trainees who would ordinarily be covered by the following award:

Nursing Homes, &c., Nurses' (State) Award reprinted and published 27 January 2012 (372 I.G. 588), as varied;

- (b) The rates of pay in this award include the adjustments payable under the State Wage Case 2018. These adjustments may be offset against:

- (a) any equivalent overaward payments, and/or
- (b) award wage increases since 29 May 1991 other than the safety net, State Wage Case, and minimum rates adjustments.

The rates of pay and allowances in Part B, Monetary Rates take effect from the first pay period on or after 28 September 2018.

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 9 November 2018.

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

P. M. KITE, *Chief Commissioner*

---

Printed by the authority of the Industrial Registrar.

**TRANSPORT INDUSTRY (STATE) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

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

(Case No. 289568 of 2018)

Before Chief Commissioner Kite

18 December 2018

**REVIEWED AWARD**

1. Delete Part B, Monetary Rates, of the award published 20 April 2000 (315 I.G. 192) and Award reprinted 27 January 2012 (372 I.G. 855) and in lieu thereof insert the following:

**PART B****MONETARY RATES****Table 1 - Wages (Clause 1.1 - General Rates)**

	Former Rate Per Week \$	SWC 2016 %	SWC 2017 %	SWC 2018 %	New Rate Per Week \$
Transport Worker Grade One	757.07	2.5	2.5	2.5	815.28
Transport Worker Grade Two	778.59	2.5	2.5	2.5	838.46
Transport Worker Grade Three	793.56	2.5	2.5	2.5	854.58
Transport Worker Grade Four	806.68	2.5	2.5	2.5	868.71
Transport Worker Grade Five	840.19	2.5	2.5	2.5	904.79
Transport Worker Grade Six	848.60	2.5	2.5	2.5	913.85
Transport Worker Grade Seven	874.02	2.5	2.5	2.5	941.22
Transport Worker Grade Eight	926.29	2.55	2.5	2.5	997.51

**Table 2 - Wages (Clause 1.2 Mobile Cranes &c., Rates)**

	Former Rate Per Week \$	SWC 2016 %	SWC 2017 %	SWC 2018 %	New Rate Per Week \$
(i) Mobile Cranes					
Grade A	919.12	2.5	2.5	2.5	989.79
Grade B	940.03	2.5	2.5	2.5	1012.31
Grade C	960.63	2.5	2.5	2.5	1034.49
Grade D	981.23	2.5	2.5	2.5	1056.68
Additional Amount	20.81	2.5	2.5	2.5	22.41
(ii) Mobile Hydraulic Platforms					
Grade A	838.55	2.5	2.5	2.5	903.03
Grade B	843.17	2.5	2.5	2.5	908
Grade C	873.61	2.5	2.5	2.5	940.78
Grade D	894.62	2.5	2.5	2.5	963.41
Grade E	919.12	2.5	2.5	2.5	989.79
Additional Amount	1.95	2.5	2.5	2.5	2.10
Grade F	919.12	2.5	2.5	2.5	989.79
(iii) Crane Offsider	919.12	2.5	2.5	2.5	989.79
(iv) Advanced Crane Offsider	960.63	2.5	2.5	2.5	1034.49

**Table 3 - Wages (Clause 1.3 - Ancillary Plant Drivers)**

	Former Rate Per Week \$	SWC 2016 %	SWC 2017 %	SWC 2018 %	New Rate Per Week \$
Grade A	854.24	2.5	2.5	2.5	919.92
Grade B	879.35	2.5	2.5	2.5	946.96
Grade C	894.31	2.5	2.5	2.5	963.07
Grade D	904.87	2.5	2.5	2.5	974.45
Grade E	913.48	2.5	2.5	2.5	983.72
Grade F	948.13	2.5	2.5	2.5	1021.03

**Table 4 - Wages (Clause 1.4 - Mobile Concrete Pump Driver/Operators)**

	Former Rate Per Week \$	SWC 2016 %	SWC 2017 %	SWC 2018 %	New Rate Per Week \$
Grade A	825.95	2.5	2.5	2.5	889.46
Grade B	843.17	2.5	2.5	2.5	908.00
Grade C	873.61	2.5	2.5	2.5	940.78
Grade D	894.62	2.5	2.5	2.5	963.41
Grade E	919.12	2.5	2.5	2.5	989.79
Additional Amount	1.95	2.5	2.5	2.5	2.10

**Table 5 - Wages (Clause 1.5 Furniture Removals)**

	Former Rate Per Week \$	SWC 2016 %	SWC 2017 %	SWC 2018 %	New Rate Per Week \$
Furniture Removalist Offsider	764.86	2.5	2.5	2.5	823.67

**Table 6 - Wages (Clause 1.6 - Chauffeurs)**

	Former Rate Per Week \$	SWC 2016 %	SWC 2017 %	SWC 2018 %	New Rate Per Week \$
Chauffeurs/drivers of vehicles used for the purpose of carrying persons	763.42	2.5	2.5	2.5	822.12

**Table 7 - Allowances**

Item No.	Clause No.	Brief Description	Former Rate \$	SWC 2016 %	SWC 2017 %	SWC 2018 %	New Rate \$
1	2.1	Furniture Removals	33.39 Per week	2.5	2.5	2.5	35.96 Per week
2	2.2.1	Driving agitator trucks	0.65 Per hour	2.5	2.5	2.5	0.70 Per hour
3	2.2.1	Maximum Payment - agitator trucks	25.58 Per week	2.5	2.5	2.5	27.55 Per week
4	2.2.2	Delivery/placement of concrete rate	2.03 Per week	2.5	2.5	2.5	2.19 Per week
5	2.3	Leading Hands	40.30 Per week	2.5	2.5	2.5	43.40 Per week
6	2.4	Collecting Butcher Bones, Fat, etc.	8.42 Per week	2.5	2.5	2.5	9.07 Per week

7	2.5	Extra Horses	20.91 Per horse	2.5	2.5	2.5	22.52 Per horse
8	2.6	Working in Forests	26.39 Per week	2.5	2.5	2.5	28.42 Per week
9	2.7.1.2	Long/wide loads	2.03 per hour or part thereof	2.5	2.5	2.5	2.19 per hour or part thereof
10	2.7.1.2	Long/wide loads - minimum payments	8.42 Per day	2.5	2.5	2.5	9.07 Per day
11	2.7.1.3	Long/wide loads	3.96 Per hour or part thereof				4.26 Per hour or part thereof
12	2.7.1.3	Long/wide loads - minimum payment	15.63 Per day	2.5	2.5	2.5	16.83 Per day
13	2.7.2	Rear-end steering	5.68 Per day	2.5	2.5	2.5	6.12 Per day
14	2.7.2	Rear-end steering - minimum payment	22.84 Per day	2.5	2.5	2.5	24.60 Per day
15	2.8	HIAB cranes, etc.	36.64 Per day	2.5	2.5	2.5	39.46 Per day
16	2.9	Removal and Delivery of Furniture, etc.	6.70 Per day	2.5	2.5	2.5	7.22 Per day
17	2.1	Handling diapers - weekly employees	2.84 Per week	2.5	2.5	2.5	3.06 Per week
18	2.1	Handling diapers - casual employees	0.54 Per day	2.5	2.5	2.5	0.58 Per day
19	2.11	In charge of plant	19.59 Per week	2.5	2.5	2.5	21.10 Per week
20	2.12.1	Collecting moneys - > \$30 - \$150	6.29 Per week	2.5	2.5	2.5	6.77 Per week
21	2.12.2	Collecting moneys - > \$150 - \$250	8.83 Per week	2.5	2.5	2.5	9.51 Per week
22	2.12.3	Collecting moneys - > \$250 - \$400	12.79 Per week	2.5	2.5	2.5	13.77 k Per week
23	2.12.4	Collecting moneys - > \$400 - \$600	18.68 Per week	2.5	2.5	2.5	20.12 Per week
24	2.12.5	Collecting moneys - \$600	24.87 Per week	2.5	2.5	2.5	26.78 Per week
25	2.13.1	Carrying goods - on the level	1.22 Per tonne	2.5	2.5	2.5	1.31 Per tonne
26	2.13.2	Carrying goods - upstairs	1.83 Per tonne	2.5	2.5	2.5	1.97 Per tonne
27	2.14	Carrying salt	1.22 Per tonne	2.5	2.5	2.5	1.31 Per tonne
28	2.15.1. 1	Obnoxious materials - soda, ash, etc.	1.12 Per hour	2.5	2.5	2.5	1.21 Per hour
29	2.15.1. 2	Obnoxious materials - oxides	0.81 Per hour	2.5	2.5	2.5	0.87 Per hour
30	2.15.2	Obnoxious materials - loading and unloading	1.12 Per hour	2.5	2.5	2.5	1.21 Per hour
31	2.15.3	Obnoxious materials - transportation	0.61 Per hour	2.5	2.5	2.5	0.66 Per hour
32	2.15.7	Obnoxious materials - blast furnaces, etc.	0.91 Per hour	2.5	2.5	2.5	0.98 Per hour
33	2.16	First Aid	2.74 Per day	2.5	2.5	2.5	2.95 Per day

34	2.17	Garaging	25.68 Per week	2.5	2.5	2.5	27.65 Per week
----	------	----------	-------------------	-----	-----	-----	-------------------

**Table 8 - Travelling and Living Away Allowance (Clause 7)**

Item No.	Clause No.	Brief Description	Former Rate \$	SWC 2016 %	SWC 2017 %	SWC 2018 %	New Rate \$
1	7.4.3	Overnight Expenses	44.96 Per day	2.5	2.5	2.5	48.42 Per day
2	7.6	Weekend/Holiday Expenses	41.72 Per day	2.5	2.5	2.5	44.93 Per day
3	7.7	Camping out - weekly	96.93 Per week	2.5	2.5	2.5	104.38 Per week
4	7.7	Camping out- daily	14.01 Per day	2.5	2.5	2.5	15.09 Per day

**Table 9 - Meal Allowances (Clause 8)**

Clause No.	Brief Description	Former Amount \$	SWC 2016 %	SWC 2017 %	SWC 2018 %	New Amount \$
8.2.1	Meal Allowance	13.70	2.5	2.5	2.5	14.75

**Table 10 - Long Distance Rates (Clause 14) Table 10 - Long Distance Rates (Clause 14)**

Item No.	Classification	Former Amount (cents/km)	SWC 2016 %	SWC 2017 %	SWC 2018 %	New Amount (cents/km)
1	Transport Workers Grade 7 and below	35.57	2.5	2.5	2.5	38.30
2	Transport Worker Grade 8	37.21	2.5	2.5	2.5	40.07

**Table 11 - Income Protection on Six Day Rosters - Saturday (Clause 3.2.1)**

	Former Rate Per Week \$	SWC 2016 %	SWC 2017 %	SWC 2018 %	Rate Per Week \$
Transport Worker Grade One	611.11	2.5	2.5	2.5	658.10
Transport Worker Grade Two	632.53	2.5	2.5	2.5	681.17
Transport Worker Grade Three	647.29	2.5	2.5	2.5	697.06
Transport Worker Grade Four	659.69	2.5	2.5	2.5	710.41
Transport Worker Grade Five	693.41	2.5	2.5	2.5	746.73
Transport Worker Grade Six	701.31	2.5	2.5	2.5	755.23
Transport Worker Grade Seven	726.21	2.5	2.5	2.5	782.05
Transport Worker Grade Eight	777.98	2.5	2.5	2.5	837.80

**Table 12 - Income Protection on Six Day Rosters - Sunday (Clause 3.2.2)**

	Former Rate Per Week \$	SWC 2016 %	SWC 2017 %	SWC 2018 %	Rate Per week \$
Transport Worker Grade One	681.32	2.5	2.5	2.5	733.71
Transport Worker Grade Two	705.10	2.5	2.5	2.5	759.32
Transport Worker Grade Three	721.60	2.5	2.5	2.5	777.08



Transport Worker Grade Four	735.95	2.5	2.5	2.5	792.54
Transport Worker Grade Five	772.85	2.5	2.5	2.5	832.27
Transport Worker Grade Six	782.18	2.5	2.5	2.5	842.32
Transport Worker Grade Seven	810.37	2.5	2.5	2.5	872.68
Transport Worker Grade Eight	867.97	2.5	2.5	2.5	934.71

**Table 13 - Income Protection On Seven Day Rosters - Saturday And Sunday (Clause 3.2.3)**

	Former Rate Per Week \$	SWC 2016 %	SWC 2017 %	SWC 2018 %	Rate Per Week \$
Transport Worker Grade One	914.51	2.5	2.5	2.5	984.83
Transport Worker Grade Two	946.49	2.5	2.5	2.5	1019.27
Transport Worker Grade Three	968.63	2.5	2.5	2.5	1043.11
Transport Worker Grade Four	987.90	2.5	2.5	2.5	1063.86
Transport Worker Grade Five	1037.51	2.5	2.5	2.5	1117.28
Transport Worker Grade Six	1050.01	2.5	2.5	2.5	1130.75
Transport Worker Grade Seven	1088.04	2.5	2.5	2.5	1171.70
Transport Worker Grade Eight	1165.12	2.5	2.5	2.5	1254.71

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 16 December 2018

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

P. M. KITE, *Chief Commissioner*

---

Printed by the authority of the Industrial Registrar.

**CITY OF RYDE (CHRISTMAS LEAVE) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by NSW Industrial Registrar.

(Case No. 288234 of 2018)

Before Chief Commissioner Kite

8 November 2018

**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.

M. MORGAN *Industrial Registrar.***Schedule of Award and Variations Incorporated**

Clause	Award/ Variation Serial No.	Date of Publication	Date of Taking Effect	Industrial Gazette	
				Vol.	Page
Award	78217	17/11/1982	On and from 18/12/1981	227	1482
1 & 2	C2800	11/02/2005	First pay period on or after 24/07/2000	348	501

**1. Concession Leave**

All employees of the City of Ryde shall in addition to their normal annual holidays and public holidays, be granted concession leave between Christmas Day and New Year's Day.

**2. Area, Incidence and Duration**

This award shall apply to all employees of the City of Ryde.

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 NSW on 28 April 1999 (310 I.G. 359) and take effect on 8 June 2004.

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

---

Printed by the authority of the Industrial Registrar.

**ENTERPRISE AGREEMENTS APPROVED  
BY THE INDUSTRIAL RELATIONS COMMISSION**

(Published pursuant to s.45(2) of the *Industrial Relations Act 1996*)

**EA20/01 - Sydney Opera House Enterprise Agreement 2019 - 2020**

**Made Between:** Sydney Opera House Trust -&- Media, Entertainment and Arts Alliance New South Wales.

**New/Variation:** Replaces EA16/09

**Approval and Commencement Date:** Approved and commenced 18 December 2019.

**Description of Employees:** The agreement applies to all employees employed by the Sydney Opera House Trust located at Bennelong Point, Sydney NSW 2000, except Senior Executives and employees covered by the Crown Employees (Public Service Conditions of Employment) Award 2009.

**Nominal Term:** 6 Months.

---

Printed by the authority of the Industrial Registrar.

**SERIAL C8991**

## **CLOTHING TRADES (STATE) INDUSTRIAL COMMITTEE**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by NSW Industrial Registrar.

(Case No. 380639 of 2019)

Acting Chief Commissioner Constant

18 December 2019

### **ORDER**

The Commission orders that:

1. The duration of the Industrial Committee, known as the Clothing Trades (State) Industrial Committee published 19 February 2016 (379 I.G. 368), be extended for a further three years up to 17 December 2022.
2. This order shall take effect on and from 18 December 2019.

N. Constant, *Acting Chief Commissioner.*

---

Printed by the authority of the Industrial Registrar.