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NEW SOUTH WALES
INDUSTRIAL GAZETTE

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CROWN EMPLOYEES (PARLIAMENTARY ELECTORATE OFFICERS) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by The Speaker NSW Legislative Assembly.

(No. IRC 642 of 2010)

Before The Honourable Justice Walton, Vice-President

4 August 2010

AWARD

PART A

1. Arrangement

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PART B

MONETARY RATES

Table 1 - Salaries

Table 2 - Remuneration

Table 3 - Other Rates and Allowances

2. Definitions

"Act" means the *Industrial Relations Act 1996*.

"Award" means an enterprise award or an industrial award under the former Act.

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

"Clerk" means the Clerk of The Legislative Assembly of The Parliament of New South Wales.

"Commission" means the Industrial Relations Commission of New South Wales.

"Legislature" means The Legislative Assembly of The Parliament of New South Wales.

"Member" means a person who is an elected member of the Legislative Assembly of The Parliament of New South Wales.

"Officer" means and includes all persons employed by the Speaker of the Legislative Assembly of The Parliament of New South Wales as an Electorate Officer or Research Assistant to an Independent Member.

"Speaker" means The Speaker of The Legislative Assembly of The Parliament of New South Wales.

3. Parties

3.1 The parties to the award are

- (a) The Speaker of the Legislative Assembly of the Parliament of New South Wales, and
- (b) The Public Service Association and Professional Officers Association Amalgamated Union of New South Wales.

4. Salaries

4.1 Electorate Officers shall be paid the annual salary rates set out in Table 1 - Salaries, of Part B, Monetary Rates.

4.2 Special Salary Scale

Provided that, where a Member certifies in writing that an Electorate Officer Grade 1 performs under limited, or no supervision and in an on-going manner, the following duties for a majority of time:

- research work; and
- speech writing; and
- interviewing constituents; and
- preparing non-routine correspondence

Such Electorate Officer may be appointed, or promoted, by the Member, to the special salary scale as set out in the said Table 1 of Part B.

Progression through the special salary is dependent upon the Electorate Officer Grade 1 continuing to perform such duties for a majority of the officer's time. If any Electorate Officer Grade 1 ceases to perform the required duties, or performs them for a lesser time, consideration may be given by the

Member to reducing the salary to the level appropriate to the work performed, or to retaining the Electorate Officer Grade 1 on his or her current salary.

- 4.3 Research Assistants shall be paid the annual remuneration rates set out in Table 2 - Remuneration of Part B, Monetary Rates.

Independent Members of the Legislative Assembly are entitled to an additional position of Research Assistant - the remuneration in Table 2 of Part B is remuneration for all incidence of employment including any additional hours of worked outside the standard office hours.

5. All Incidence of Employment Allowance

- 5.1 In addition to the salary payable in clause 3, Salaries of this award, officers will be entitled to an allowance on the following scale.
- (a) Electorate Officer Grade 1 - an amount per annum as set out in Item 1 of Table 3- Other Rates and Allowances, of Part B, Monetary Rates.
 - (b) Electorate Officer Grade 1 Special Salary Scale - an amount per annum as set out in Item 2 of Table 3 - Other Rates and Allowances, of Part B, Monetary Rates.
 - (c) Electorate Officer Grade 2 - an amount per annum as set out in Item 3 of Table 3 - Other Rates and Allowances, of Part B, Monetary Rates.
- 5.2 The All Incidence of Employment Allowance is defined as salary for superannuation and leave purposes.
- 5.3 The All Incidence of Employment Allowance shall be regarded a salary for the purpose of the application of salary movements.

6. Commencing Salaries

- 6.1 Electorate Officer Grade 1
- (a) The Clerk may consider a commencement rate at any salary point in the Electorate Officer Grade 1 scale depending on the person's qualifications, skills, knowledge and experience, and will progress to the next rate on the anniversary date of appointment.
 - (b) A person with a university degree with at least one year office experience or a person with four years or more office experience will commence on Year 7 of the scale for Electorate Officer Grade 1.
- 6.2 Electorate Officer Grade 2
- (a) From the date of the commencement of this award, persons appointed as Electorate Officers Grade 2 will commence on the Year 1 rate and will progress to the next rate on the anniversary date of appointment.
 - (b) A commencement rate above the Year 1 rate will be considered in the following circumstances:
 - (i) Persons appointed as Electorate Officers Grade 2 can commence on the Year 2 or Year 3 rate if they have formal post-secondary secretarial or office management qualifications (minimum course duration of 12 months equivalent full time) together with a minimum three years or four years (equivalent full time) in a secretarial/office administrator role; or
 - (ii) The Clerk may consider a commencement rate above the Year 1 rate depending on the person's qualifications, skills, knowledge and experience.

- (c) Electorate Officers Grade 2 employed at the date of the commencement of this award will continue to be paid at their current pay rates and will progress to the next rate on their anniversary date of appointment.

7. Higher Duties Allowance

- 7.1 An Electorate Officer Grade 1 who acts in a position of Electorate Officer Grade 2 for 1 working day or more and who, in the opinion of the Member, assumes the whole of the responsibilities of that position during that period shall be paid by allowance any difference between the officer's present salary and the salary to which the officer would be entitled if appointed to that position.

Higher duties will be paid where the absence of the Electorate Officer Grade 2 is due to approved leave. No relief will be paid during an officer's travel to Parliament House for training or familiarisation with the organisation and the officer is otherwise considered on duty.

- 7.2 Where a public holiday falls at the beginning of a period of relief it will not be paid. Where the period of relief is less than 5 days and a public holiday is at the end of the relief period the allowance will not be paid for the public holiday. Where the period of relief is 5 days or more and a public holiday falls at the end of the relief period and on or before the Friday of the week relief is being worked the allowance will be paid for the public holiday.
- 7.3 However, where an officer has an absence of 5 days or more during a period of relief, including public holidays or any other form of approved leave, higher duties allowance will not be paid for that period of absence.
- 7.4 Officers who have acted for 12 months or more in the same higher graded position and who continue to act in that position are eligible for payment of higher duties allowance for any recreation, extended, sick or family and community leave which is taken during the further period of relief after 12 months.
- 7.5 Officers who at the date of the commencement of this award were eligible for higher duties allowance to the Year 3 rate will continue to receive the allowance to the Year 3 rate of the Electorate Officer Grade 2 salary scale.

8. Saving of Rights

- 8.1 At the time of making of this award, no officer covered by this award will suffer a reduction in his or her rate of pay.
- 8.2 The Association and Legislature intends that, should there be any variation to the Crown Employees (Public Sector - Salaries 2008) Award or an award replacing that award, officers covered by this award will maintain the same salary and allowance relationship to the rest of the public service.

The Association and Legislature intend that any such salary or allowance increase will be reflected in this award either by variation to it, or by the making of a new award.

9. Hours of Work

- 9.1 The ordinary hours of work shall be 9:00a.m. to 5:00p.m., Monday to Friday, regardless of whether duties are performed at the electorate office or Parliament House, with one hour for lunch. Flexible working hours will not apply.
- 9.2 The Member may require an officer to perform duty beyond the hours determined under subclause (a) of this clause but only if it is reasonable for the officer to be required to do so. An officer may refuse to work additional hours in circumstances where the working of such hours would result in the officer working unreasonable hours. In determining what is unreasonable the following factors shall be taken into account:
- (a) the officer's prior commitments outside the workplace, particularly the officer's family and carer responsibilities, community obligations or study arrangements,

- (b) any risk to the officer's health and safety,
- (c) 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,
- (d) the notice (if any) given by the Member regarding the working of the additional hours, and by the officer of their intention to refuse the working of additional hours, or
- (e) any other relevant matter.

10. Lactation Breaks

- 10.1 This clause applies to officers 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.
- 10.2 A full time officer or a part time officer working more than 4 hours per day is entitled to a maximum of two paid lactation breaks of up to 30 minutes each per day.
- 10.3 A part time officer working 4 hours or less on any one day is entitled to only one paid lactation break of up to 30 minutes on any day so worked.
- 10.4 A flexible approach to lactation breaks can be taken by mutual agreement between an officer 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 officer.
- 10.5 The Clerk shall provide access to a suitable, private space with comfortable seating for the purpose of breastfeeding or expressing milk.
- 10.6 Other suitable facilities, such as refrigeration and a sink, shall be provided where practicable. Where it is not practicable to provide these facilities, discussions between the manager and officer will take place to attempt to identify reasonable alternative arrangements for the officer's lactation needs.
- 10.7 Officers 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.
- 10.8 Officers needing to leave the workplace during time normally required for duty to seek support or treatment in relation to breastfeeding and the transition to the workplace may utilise sick leave in accordance with clause 15, Sick Leave of this award, or access to the make up time provisions in clause 17, Family and Community Service Leave, Personal/Carer's Leave and Flexible Use of Other Leave Entitlements of this award, where applicable.

11. Overtime

The remuneration prescribed in this award includes payment for all incidents of work including overtime. Work will not be conducted on weekends or public holidays without reasonable prior consultation with the officer or the Association.

12. Relief Arrangements

- 12.1 Where an Electorate Officer is absent for one working day or longer on approved leave (including where an Electorate Officer Grade 1 relieves in a position of Electorate Officer Grade 2), relief may be engaged by the Member subject to the following conditions:
 - (a) Members are responsible for the selection of relief staff;

- (b) No relief may be engaged while staff are attending word processing or other training courses or in instances where staff travel to Sydney for familiarisation with parliamentary business and;
- (c) Relief staff are paid a daily rate for the number of days worked, calculated by dividing the annual salary for Electorate Officer Grade 1 or 2, by 260.8929 including 1/12th of total earnings on termination;
- (d) Relief staff are not entitled to any paid leave during their period of relief.

13. Training

- 13.1 Training will be provided to electorate office staff as per the Legislative Assembly Staff Training and Development Policy subject to the following conditions:
- (a) All efforts will be made to ensure that staff are released from their normal duties to attend training provided sufficient notice has been given of intention and provided the relevant authorities have been obtained.
 - (b) Release to attend training will be at the discretion of the Member where that discretion is based on the need to ensure the proper functioning of the electorate office and maintenance of appropriate levels of service.
 - (c) Where an application to attend training has been refused, the officer may utilise the grievance and dispute resolution procedures contained within this award should they wish to seek further clarification regarding the reasons for refusal.
 - (d) No provision of relief will be provided for training other than those provisions that exist within the aforementioned policy specifically relating to electorate office staff.

14. Recreation Leave

- 14.1 All leave entitlements for officers will be administered in accordance with the policies of the NSW Legislative Assembly and the New South Wales Parliament.
- 14.2 All officers working under job-share arrangements are eligible to the leave entitlements, contained within this clause, which will accrue on a pro-rata basis.
- 14.3 Officers shall be eligible, after completion of each 12 months of service, to recreation leave in the following amount:
- (a) 4 weeks (accrued at the rate of 1.66 days per month) in addition to any public holiday occurring during such period of recreation leave; or
 - (b) 5 weeks (accrued at the rate of 2.08 days per month) for officers working in areas designated as "Western Division".
- 14.4 An amount of leave may be taken, on or pro-rata basis, within the first 12 months of service and during each 12 months of service thereafter, where a sufficient amount of leave has been accrued up to the date upon which the leave is to be taken.
- 14.5 Limits on Accumulation of recreation leave and direction to take leave
- (a) At least two (2) consecutive weeks of recreation leave (or a combination of recreation leave and public holidays, extended leave or, if the officer elects, leave without pay) shall be taken by an officer every 12 months for recreation purposes, except by agreement with the Clerk in special circumstances.
 - (b) Where the operational requirements permit, the application for leave shall be dealt with by the Clerk according to the wishes of the officer.

- (c) The Clerk shall notify the officer in writing when accrued recreation leave reaches 6 weeks or its hourly equivalent and at the same time may direct an officer to take at least 2 weeks recreation leave within 3 months of the notification.
- (d) The Clerk shall notify the officer in writing when accrued recreation leave reaches 8 weeks or its hourly equivalent and may direct the officer to take at least 2 weeks recreation leave within 6 weeks of the notification.

14.6 Conservation of recreation leave -

- (a) If the Clerk is satisfied that an officer is prevented by operational or personal reasons from taking sufficient recreation leave to reduce the accrued leave below an acceptable level of less than 8 weeks, or its hourly equivalent the Clerk shall:
 - (i) specify in writing the period of time during which the excess shall be conserved; and
 - (ii) on the expiration of the period during which conservation of leave applies, grant sufficient leave to the officer at a mutually convenient time to enable the accrued leave to be reduced to an acceptable level below the 8 week level specified.
- (b) The Clerk will inform an officer in writing on a regular basis of the officer's recreation leave accrual.

15. Annual Leave Loading

- 15.1 General - Unless more favourable conditions apply to a staff member under another industrial instrument, a staff member, other than a trainee who is paid by allowance, is entitled to be paid an annual leave loading as set out in this subparagraph. Subject to the provisions set out in subclauses 14.2 to 14.6 of this clause the annual leave loading shall be 17½% on the monetary value of up to 4 weeks recreation leave accrued in a leave year.
- 15.2 Loading on additional leave accrued - Where additional leave is accrued by a staff member:-
 - (a) as compensation for work performed regularly on Sundays and/or Public Holidays, the annual leave loading shall be calculated on the actual leave accrued or on five weeks, whichever is the higher.
 - (b) if stationed in an area of the State of New South Wales which attracts a higher rate of annual leave accrual, the annual leave loading shall continue to be paid on a maximum of 4 weeks leave.
- 15.3 Shift workers - Shift workers proceeding on recreation leave are eligible to receive the more favourable of:
 - (a) the shift premiums and penalty rates, or any other allowances paid on a regular basis in lieu thereof, which they would have received had they not been on recreation leave; or
 - (b) 17½% annual leave loading.
- 15.4 Maximum Loading - Unless otherwise provided in an Award or Agreement under which the staff member is paid, the annual leave loading payable shall not exceed the amount which would have been payable to a staff member in receipt of salary equivalent to the maximum salary for a Grade 12 Clerk.
- 15.5 Leave year - For the calculation of the annual leave loading, the leave year shall commence on 1 December each year and shall end on 30 November of the following year.
- 15.6 Payment of annual leave loading - Payment of the annual leave loading shall be made on the recreation leave accrued during the previous leave year and shall be subject to the following conditions:

- (a) annual leave loading shall be paid on the first occasion in a leave year, other than the first leave year of employment, when a staff member takes at least two consecutive weeks leave for recreation purposes. Such leave may be a combination of recreation leave and any of the following: public holidays, flex leave, extended leave, leave without pay, time off in lieu, rostered day off.
- (b) if at least two weeks leave as set out in paragraph (a) of this subclause is not taken in a leave year, then the payment of the annual leave loading entitlement for the previous leave year shall be made to the staff member as at 30 November of the current year.
- (c) while annual leave loading shall not be paid in the first leave year of employment, it shall be paid on the first occasion in the second leave year of employment when at least two weeks leave, as specified in subparagraph (a) of this subclause is taken.
- (d) a staff member who has not been paid the annual leave loading for the previous leave year, shall be paid such annual leave loading on resignation, retirement or termination by the employer for any reason other than the staff member's serious and intentional misconduct.
- (e) Except in cases of Voluntary Redundancy, proportionate level loading is not payable on cessation of employment.

16. Purchased Leave

- 16.1 An officer may apply to enter into an agreement with the Clerk to purchase either 10 days (2 weeks) or 20 days (4 weeks) additional leave in a 12 month period.
- (a) Each application will be considered subject to operational requirements and personal needs and will take into account business needs and work demands.
 - (b) The leave must be taken in the 12 month period specified in the Purchased Leave Agreement and will not attract any leave loading.
 - (c) The leave will count as service for all purposes.
- 16.2 The purchased leave will be funded through the reduction in the officer's ordinary rate of pay.
- (a) Purchased leave rate of pay means the rate of pay an officer receives when their ordinary salary rate has been reduced to cover the cost of purchased leave.
 - (b) To calculate the purchased leave rate of pay, the officer's ordinary salary rate will be reduced by the number of weeks of purchased leave and then annualised at a pro rata rate over the 12 month period.
- 16.3 Purchased leave is subject to the following provisions:
- (a) The purchased leave cannot be accrued and will be refunded where it has not been taken in the 12 month period.
 - (b) Other leave taken during the 12 month purchased leave agreement period i.e. sick leave, recreation leave, extended leave or leave in lieu will be paid at the purchased leave rate of pay.
 - (c) Sick leave cannot be taken during a period of purchased leave.
 - (d) The purchased leave rate of pay will be the salary for all purposes including superannuation and shift loadings.
 - (e) Overtime and salary related allowances not paid during periods of recreation leave will be calculated using the officer's hourly rate based on the ordinary rate of pay.

- (f) Higher Duties Allowance will not be paid when a period of purchased leave is taken.

16.4 Specific conditions governing purchased leave may be amended from time to time by the Clerk in consultation with the Association. The Clerk may make adjustments relating to its salary administration arrangements.

17. Sick Leave

17.1 Sick leave accrual

- (a) At the commencement of employment with the NSW Legislative Assembly, an officer is granted an accrual of 5 days sick leave.
- (b) After the first four months of employment, the officer shall accrue sick leave at the rate of 10 working days per year for the balance of the first year of service.
- (c) After the first year of service, the officer shall accrue sick leave day to day at the rate of 15 working days per year of service.
- (d) Part time staff are entitled to sick leave on a pro rata basis to the full time rate.
- (e) Existing officers at the commencement of this award (4 August 2010) will commence accruing sick leave in accordance with paragraph (c) of this subclause from 1 January 2011.

17.2 Payment for sick leave is subject to the officer:

- (a) Informing their Member as soon as reasonably practicable that they are unable to perform duty because of illness. This must be done as close to the officer's starting time as possible; and
- (b) Providing evidence of illness as soon as practicable if required by subclause 15.4 of this clause.

17.3 The Clerk may direct an officer to participate in a return to work program if the officer has been absent on a long period of sick leave.

17.4 Requirements for evidence of illness

- (a) An officer absent from duty for more than 2 consecutive working days because of illness must furnish evidence of illness to the Clerk in respect of the absence.
- (b) In addition to the requirements under subclause 15.2 of this clause an officer may absent themselves for a total of 5 working days due to illness in a calendar year without the provision of evidence of illness to the Clerk. Officers who absent themselves in excess of 5 working days in a calendar year may be required to furnish evidence of illness to the Clerk for each occasion absent for the balance of the calendar year
- (c) As a general practice backdated medical certificates will not be accepted. However, if an officer provides evidence of illness that only covers the latter part of the absence, they can be granted sick leave for the whole period if the Clerk is satisfied that the reason for the absence is genuine.
- (d) If an officer is required to provide evidence of illness for an absence of 2 consecutive working days or less, the Clerk will advise them in advance.
- (e) If the Clerk is concerned about the diagnosis described in the evidence of illness produced by the officer, after discussion with the officer, the evidence provided and the officer's application for leave can be referred to HealthQuest for advice.
 - (i) The type of leave granted to the officer will be determined by the Clerk based on HealthQuest's advice.

- (ii) If sick leave is not granted, the Clerk will, as far as practicable, take into account the wishes of the officer when determining the type of leave granted.
- (f) The granting of paid sick leave shall be subject to the officer providing evidence which indicates the nature of illness or injury and the estimated duration of the absence. If an officer is concerned about disclosing the nature of the illness to the Member they may elect to have the application for sick leave dealt with confidentially by an alternate manager or the human resources section of the Legislature.
- (g) The Clerk has the discretion to accept other forms of evidence to satisfy that an officer had a genuine illness.

18. Parental Leave

- 18.1 Parental leave includes maternity, adoption and "other parent" leave.
- 18.2 Maternity leave shall apply to an officer who is pregnant and, subject to this clause the officer shall be entitled to be granted maternity leave as follows:
- (a) For a period up to 9 weeks prior to the expected date of birth; and
 - (b) For a further period of up to 12 months after the actual date of birth.
 - (c) An officer who has been granted maternity leave and whose child is stillborn may elect to take available sick leave instead of maternity leave.
- 18.3 Adoption leave shall apply to an officer adopting a child and who will be the primary care giver, the officer shall be granted adoption leave as follows:
- (a) For a period of up to 12 months if the child has not commenced school at the date of the taking of custody; or
 - (b) For such period, not exceeding 12 months on a full-time basis, as the Clerk may determine, if the child has commenced school at the date of the taking of custody.
 - (c) Special Adoption Leave - An officer shall be entitled to special adoption leave (without pay) for up to 2 days to attend interviews or examinations for the purposes of adoption. Special adoption leave may be taken as a charge against recreation leave, extended leave, flexitime or family and community service leave.
- 18.4 Where maternity or adoption leave does not apply, "other parent" leave is available to male and female staff who apply for leave to look after his/her child or children. Other parent leave applies as follows:
- (a) Short other parent leave - an unbroken period of up to 8 weeks at the time of the birth of the child or other termination of the spouse's or partner's pregnancy or, in the case of adoption, from the date of taking custody of the child or children;
 - (b) Extended other parent leave - for a period not exceeding 12 months, less any short other parental leave already taken by the officer as provided for in paragraph 18.4.1 of this subclause. Extended other parental leave may commence at any time up to 2 years from the date of birth of the child or the taking of custody of the child.
- 18.5 An officer taking maternity or adoption leave is entitled to payment at the ordinary rate of pay for a period of up to 14 weeks, an officer entitled to short other parent leave is entitled to payment at the ordinary rate of pay for a period of up to 1 week, provided the officer:
- (a) applied for parental leave within the time and in the manner determined set out in subclause 18.10 of this clause; and

- (b) prior to the commencement of parental leave, completed not less than 40 weeks' continuous service.
 - (c) Payment for the maternity, adoption or short other parent leave may be made as follows:
 - (i) in advance as a lump sum; or
 - (ii) fortnightly as normal; or
 - (iii) fortnightly at half pay; or
 - (iv) a combination of full-pay and half pay.
- 18.6 Payment for parental leave is at the rate applicable when the leave is taken. An officer holding a full time position who is on part time leave without pay when they start parental leave is paid:
- (a) at the full time rate if they began part time leave 40 weeks or less before starting parental leave;
 - (b) at the part time rate if they began part time leave more than 40 weeks before starting parental leave and have not changed their part time work arrangements for the 40 weeks;
 - (c) at the rate based on the average number of weekly hours worked during the 40 week period if they have been on part time leave for more than 40 weeks but have changed their part time work arrangements during that period.
- 18.7 An officer who commences a subsequent period of maternity or adoption leave for another child within 24 months of commencing an initial period of maternity or adoption leave will be paid:
- (a) at the rate (full time or part time) they were paid before commencing the initial leave if they have not returned to work; or
 - (b) at a rate based on the hours worked before the initial leave was taken, where the officer has returned to work and reduced their hours during the 24 month period; or
 - (c) at a rate based on the hours worked prior to the subsequent period of leave where the officer has not reduced their hours.
- 18.8 Except as provided in subclauses 18.5, 18.6 and 18.7 of this clause parental leave shall be granted without pay.
- 18.9 Right to request
- (a) An officer who has been granted parental leave in accordance with subclause 18.2, 18.3 or 18.4 of this clause may make a request to the Clerk to:
 - (i) extend the period of unpaid parental leave for a further continuous period of leave not exceeding 12 months;
 - (ii) return from a period of full time parental leave on a part time basis until the child reaches school age (Note: returning to work from parental leave on a part time basis includes the option of returning to work on part time leave without pay);to assist the officer in reconciling work and parental responsibilities.
 - (b) The Clerk shall consider the request having regard to the officer's circumstances and, provided the request is genuinely based on the officer's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the Clerk's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.

18.10 Notification Requirements

- (a) When the Clerk is made aware that an officer or their spouse is pregnant or is adopting a child, the Clerk must inform the officer of their entitlements and their obligations under the award.
- (b) An officer who wishes to take parental leave must notify the Clerk in writing at least 8 weeks (or as soon as practicable) before the expected commencement of parental leave:
 - (i) that she/he intends to take parental leave, and
 - (ii) the expected date of birth or the expected date of placement, and
 - (iii) if she/he is likely to make a request under subclause 18.9 of this clause.
- (c) At least 4 weeks before an officer's expected date of commencing parental leave they must advise:
 - (i) the date on which the parental leave is intended to start, and
 - (ii) the period of leave to be taken.
- (d) Officer's request and the Clerk's decision to be in writing

The officer's request under paragraph 18.9(a) and the Clerk's decision made under paragraph 18.9(b) must be recorded in writing.
- (e) An officer intending to request to return from parental leave on a part time basis or seek an additional period of leave of up to 12 months must notify the Clerk in writing as soon as practicable and preferably before beginning parental leave. If the notification is not given before commencing such leave, it may be given at any time up to 4 weeks before the proposed return on a part time basis, or later if the Clerk agrees.
- (f) An officer on maternity leave is to notify the Clerk of the date on which she gave birth as soon as she can conveniently do so.
- (g) An officer must notify the Clerk as soon as practicable of any change in her intentions as a result of premature delivery or miscarriage.
- (h) An officer on maternity or adoption leave may change the period of leave or arrangement, once without the consent of the Clerk and any number of times with the consent of the Clerk. In each case she/he must give the Clerk at least 14 days notice of the change unless the Clerk decides otherwise.

18.11 An officer has the right to her/his former position if she/he has taken approved leave or part time work in accordance with subclause 16.9 of this clause, and she/he resumes duty immediately after the approved leave or work on a part time basis.

18.12 If the position occupied by the officer immediately prior to the taking of parental leave has ceased to exist, but there are other positions available that the officer is qualified for and is capable of performing, the officer shall be appointed to a position of the same grade and classification as the officer's former position.

18.13 An officer does not have a right to her/his former position during a period of return to work on a part time basis. If the Clerk approves a return to work on a part time basis then the position occupied is to be at the same classification and grade as the former position.

18.14 An officer who has returned to full time duty without exhausting their entitlement to 12 months unpaid parental leave is entitled to revert back to such leave. This may be done once only, and a minimum of 4 weeks notice (or less if acceptable to the Clerk) must be given.

- 18.15 An officer who is sick during her pregnancy may take available paid sick leave or accrued recreation or extended leave or sick leave without pay. An officer may apply for accrued recreation leave, extended leave or leave without pay before taking maternity leave. Any leave taken before maternity leave, ceases at the end of the working day immediately preceding the day she starts her nominated period of maternity leave or on the working day immediately preceding the date of birth of the child, whichever is sooner.
- 18.16 An officer may elect to take available recreation leave or extended leave within the period of parental leave provided this does not extend the total period of such leave.
- 18.17 An officer may elect to take available recreation leave at half pay in conjunction with parental leave provided that:
- (a) accrued recreation leave at the date leave commences is exhausted within the period of parental leave;
 - (b) the total period of parental leave is not extended by the taking of recreation leave at half pay;
 - (c) when calculating other leave accruing during the period of recreation leave at half pay, the recreation leave at half pay shall be converted to the full time equivalent and treated as full pay leave for accrual of further recreation, extended and other leave at the full time rate.
- 18.18 If, for any reason, a pregnant officer is having difficulty in performing her normal duties or there is a risk to her health or to that of her unborn child the Clerk should, in consultation with the officer, take all reasonable measures to arrange for safer alternative duties. This may include, but is not limited to greater flexibility in when and where duties are carried out, a temporary change in duties, retraining, multi-skilling, teleworking and job redesign.
- 18.19 If such adjustments cannot reasonably be made, the Clerk must grant the officer maternity leave, or any available sick leave, for as long as it is necessary to avoid exposure to that risk as certified by a medical practitioner, or until the child is born which ever is the earlier.
- 18.20 Communication during parental leave
- (a) Where an officer is on parental leave and a definite decision has been made to introduce significant change at the workplace, the Clerk 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 officer held before commencing parental leave; and
 - (ii) provide an opportunity for the officer to discuss any significant effect the change will have on the status or responsibility level of the position the officer held before commencing parental leave.
 - (b) The officer shall take reasonable steps to inform the Clerk about any significant matter that will affect the officer's decision regarding the duration of parental leave to be taken, whether the officer intends to return to work and whether the officer intends to request to return to work on a part time basis.
 - (c) The officer shall also notify the Clerk of changes of address or other contact details which might affect the Clerk's capacity to comply with paragraph 18.20(a) of this subclause.

19. Family and Community Service Leave, Personal/Carer's Leave and Flexible Use of Other Leave Entitlements

19.1 Definitions

The definition of "family" and "relative" for these purposes is the same as that provided in the Standard Clause of the State Personal/Carer's Leave Case (30 August 1996). The person who needs the officer's care and support is referred to as the "person concerned" and is:

- (a) a spouse of the officer; 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 or legal guardian), grandparent, grandchild or sibling of the officer or of the spouse or de facto spouse of the officer; or
- (d) a same sex partner who lives with the officer as the de facto partner of that officer on a bona fide domestic basis; or
- (e) a relative of the officer who is a member of the same household, where for the purposes of this paragraph:
 - (i) 'relative' means a person related to 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.

19.2 Family and Community Service Leave - general

- (a) The Clerk shall grant to an officer some or all, of their accrued family and community service leave on full pay, for reasons relating to unplanned and emergency family responsibilities in subclause 19.3 of this clause. The Clerk may also grant leave for the purposes in subclause 19.4 of this clause. Non-emergency appointments or duties shall be scheduled or performed outside of normal working hours or through the approved use of flexible working arrangements or other appropriate leave.
- (b) Family and Community Service Leave replaces Short Leave.

19.3 Such unplanned and emergency situations may include, but no limited to the following:-

- (a) Compassionate grounds - such as the death or illness of a close member of the family or a member of the officer's household;
- (b) 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;
- (c) Emergency or weather conditions; such as when flood, fire, snow or disruption to utility services etc, threatens an officer's property and/or prevents an officer from reporting for duty;
- (d) Attending to unplanned or unforeseen family responsibilities, such as attending child's school for emergency reason or emergency cancellation by child care providers;

- (e) Attendance at court by an officer to answer a charge of criminal offence, only if the Clerk considers the granting of family and community service leave to be appropriate in a particular case.

19.4 Family and Community Service Leave may also be granted for:

- (a) An absence during normal working hours to attend meetings, conferences or to perform other duties, for officers holding office in Local Government, and whose duties necessitate absence during normal working hours for these purposes, provided that the officer does not hold the position of Mayor of a Municipal Council, President of a Shire Council or Chairperson of a County Council; and
- (b) Attendance as a competitor in a major amateur sport (other than Olympic or Commonwealth Games) for officers who are selected to represent Australia or the State.

19.5 Family and Community Service Leave - entitlement.

- (a) The maximum amount of family and community service leave on full pay that may be granted to an officer is:
 - (i) 2.5 working days during the first year of service and 5 working days in any period of 2 years after the first year of service, or
 - (ii) 1 working day for each year of service after 2 years' continuous service, minus any period of family and community service leave already taken by the officer, which ever is the greater period.
- (b) Family and Community Service Leave is available to part-time officers on a pro rata basis, based on the number of hours worked.
- (c) Where family and community service leave has been exhausted, additional paid family and community service leave of up to 2 days may be granted on a discreet, 'per occasion' basis to an officer on the death of a person as defined in subclause 19.1 of this clause.

19.6 Use of sick leave to care for a sick dependant - general

When family and community service leave, as outlined in subclause 19.4 of this clause, is exhausted, the sick leave provisions under subclause 19.7 of this clause may be used by an officer to care for a sick dependant.

19.7 Use of sick leave to care for a sick dependant - entitlement

- (a) The entitlement to use sick leave in accordance with this clause is subject to:
 - (i) the officer being responsible for the care and support of the person concerned, and
 - (ii) the person concerned being as defined in subclause 19.1 of this clause.
- (b) An officer with responsibilities in relation to a person who needs their care and support shall be entitled to use sick leave available from that year's annual sick leave entitlement minus any sick leave taken from that year's 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 paragraph (b) of this subclause, sick leave accrued from the previous 3 years may also be accessed by an officer with responsibilities in relation to a person who needs their care and support.

- (d) The Clerk may, in special circumstances, make a grant of additional sick leave. This grant can only be taken from sick leave accrued prior to the period referred to in paragraph (c) of this subclause.
- (e) The Electoral officer 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 to require care by another person.
- (f) The officer 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 officer shall, wherever practicable, give the Member 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 officer, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the officer to give prior notice of absence, the officer shall notify the Member by telephone of such absence at the first opportunity on the day of absence.
- (h) In normal circumstances, the officer must not take leave under this subclause where another person has taken leave to care for the same person.

19.8 Time Off in Lieu of Payment for Overtime

There is no provision for time off in lieu of overtime as clauses 5, All Incidence of Employment Allowance, and clause 11, Overtime, replace payment for overtime with an annual allowance prescribed in this award.

19.9 Use of make-up time

- (a) An officer may elect, with the consent of the employer, to work "make-up time". "Make-up time" is worked when the officer takes time off during ordinary hours for family or community service responsibilities, and works those hours at a later time, during the spread of ordinary hours, at the ordinary rate of pay.
- (b) An officer on shift work may elect, with the consent of the employer, to work "make-up time" (under which the officer takes time off during ordinary hours for family or community service responsibilities and works those hours at a later time) at the shift work rate which would have been applicable to the hours taken off.

19.10 Use of other leave entitlements

The Clerk may grant an officer other leave entitlements for reasons related to family responsibilities, or community service by, the officer. An officer may elect, with the consent of the Clerk, to take:

- (a) recreation leave;
- (b) extended leave; and
- (c) leave without pay.

19.11 Grievance and dispute handling process

In the event of any grievance or dispute arising in connection with any part of the provisions of this determination, such a grievance or dispute shall be processed in accordance with the grievance and dispute handling provisions of this award.

20. Termination of Employment

20.1 Electorate Office staff are employed by the Clerk of the Legislative Assembly.

- 20.2 An officer's services may be terminated by the giving of 2 weeks notice by either the Clerk, being the employer, or the individual officer or upon the end of the term of office of the Member for whom the officer works.
- 20.3 Termination of service other than by way of resignation or voluntary withdrawal of service may only be made by the Clerk of the Legislative Assembly.

21. Separation from Service Provisions

- 21.1 At general election time, or upon a seat in the Legislative Assembly becoming vacant for any reason, every endeavour will be made to retain the services of currently employed officers having regard to the wishes of each incoming Member.
- 21.2 Where an officer's services are terminated (other than at the officer's own request or where the officer is found guilty of a breach of discipline), the following termination arrangements are to apply:

(a) **Basis of entitlement**

Officers whose services are terminated in circumstances where the relevant Member of the Legislative Assembly has ceased to hold office for any reason and provided that:

- (i) the officer continues to work at the existing location and the incoming Member notifies the Clerk of the Legislative Assembly, within three months of the declaration of the poll, of his/her intention not to continue with the existing staffing arrangements, or
- (ii) the officer continues to work for the incoming Member and,
 - (1) after the expiration of two months and before the expiration of the third month from the date of the declaration of the poll, and
 - (2) to that date the member has not given to the officer/s a clear indication regarding an offer to continue employment, and
 - (3) the officer identifies that they can no longer continue with the existing arrangements, and that they notify the Clerk of the Legislative Assembly of this, they shall be entitled to separation payments as provided in paragraph (b) of this subclause, however,
- (iii) Should an offer of employment be made and the officer declines to accept the offer on grounds other than those identified above and this voluntary withdrawal of service is either before the third month or after the third month, it shall be treated as voluntary resignation and so not attract an entitlement to payment of the separation provisions.

(b) **Separation payments**

- (i) Officers whose employment is terminated under paragraph (a) of this subclause will be entitled to termination payments and non-monetary support programs as agreed between the parties in the Electorate Officers Entitlements on Termination of Employment Agreement and the guidelines and policies of the Parliament of New South Wales.

(c) **Exclusions**

Excluded from entitlement to separation payments are:

- (i) Relief Electorate Officers;
- (ii) Officers on workers' compensation whose claim is based on compensation for termination or officers awaiting determination of claims against the employer for termination of services;

- (iii) Officers subject to termination on the grounds of misconduct or unsatisfactory services;
 - (iv) Officers who resign for any reason other than in circumstances envisaged in subparagraphs (a)(i) or (a)(ii) of this subclause;
 - (v) Officers whose appointments were facilitated by way of leave without pay from the Public Service (on the basis that they will return to employment in the Public Service upon displacement).
- (d) Repayment of separation monies
- (i) Officers who have received payment of monies in consideration of separation from the service, do so on the understanding that they are liable to reimburse the employer, being the Clerk of the N.S.W. Legislative Assembly, all or part thereof (on a pro-rata basis) any sum paid where they are reappointed to another position as an officer under this award or to any other position in Crown employment.
- (e) Superannuation Fund entitlements

The Fund entitlements for contributors under paragraph (b) of this subclause will be as follows:

- (i) Officers who are contributors to either the State Authorities Superannuation Scheme (SASS) or the State Superannuation Fund (SSF) who are eligible for separation payments in accordance with subclause (b) shall be regarded as having been retrenched, as defined in the *State Authorities Superannuation Act 1987*, for the purpose of determining their entitlements to benefits under those schemes.
- (ii) Officers who are contributors to either of those schemes who are not eligible for separation payments in accordance with paragraph (b) of this subclause shall be regarded as having resigned for the purpose of determining their entitlements benefits under those schemes.

22. Public Sector Appeals

Notwithstanding anything contained in this award, the provisions of Part 7 Public Sector Promotion and Disciplinary Appeals of the *Industrial Relations Act 1996* shall continue to apply.

23. Consultative Committee

- 23.1 An Electorate Officers joint consultative committee shall be established to monitor the implementation of this Award and make recommendations to the Clerk on any changes to the Award that may be thought appropriate during its period of operation. Any variation/s approved by the Clerk shall be processed in accordance with the relevant legislation applying at the time the variation is sought.
- 23.2 The Committee shall consist of a representative of the Clerk and a representative of the Association, the latter chosen at the Association's discretion. In addition, no more than 4 staff representatives nominated by the Association may be co-opted onto the consultative committee. A representative of the Department of Premier and Cabinet may be co-opted to assist the Committee as required.

24. Grievance and Dispute Handling Procedures

- 24.1 It is agreed between the parties that, wherever possible, informal means will be used to resolve any industrial dispute.
- 24.2 Should a dispute arise, in the first instance, the officer(s) will notify (in writing or otherwise) the Member, or other appropriate person, as to the substance of the grievance/dispute, request a bilateral meeting to discuss it, and state the remedy sought. A meeting should be held within 1 week of notification.

- 24.3 Where the grievance or dispute involves confidential or other sensitive material (including issues of harassment or discrimination under the *Ant-Discrimination Act 1977*) that makes it impractical for the officer to advise the Member the notification may occur to the next appropriate level of management, including where required, to the Clerk or appointed deputy.
- 24.4 If the matter is not resolved in this meeting, the matter shall be further discussed by the officer(s), and, at their request, the workplace delegate, or other appropriate person, the Member and/or where practicable, a senior officer of the Legislative Assembly. This should take place within 1 week of the completion of the step in subclause 22.2.
- 24.5 If the matter remains unresolved, the matter shall be further discussed by the officer(s), and, at their request, the workplace delegate, or other appropriate person, the Member and/or a more senior management representative. This should take place within 1 week of the completion of step (c) where possible or advice given to the time frame required to arrange a meeting.
- 24.6 If the matter remains unresolved and the officer(s) is/are union member(s), it should be discussed/negotiated between representatives of the Association and the Clerk or the Speaker (or both) of the Legislative Assembly. If the officer is not a member of the union they may nominate a person to act on their behalf. These actions should take place as soon as it is apparent that the earlier discussions will not resolve the grievance/dispute. In addition, in the case of a grievance, if the matter has not been resolved at the conclusion of this stage of discussions, the employer must provide a written response to the grievance, including reasons for not implementing any proposed remedy.
- 24.7 A matter relating to the conditions of employment fixed by this Award may be submitted by one or the other of the parties when all other steps have been exhausted in subclauses 22.1 to 22.6 of this clause, to the NSW Industrial Relations Commission which may exercise its functions under the *Industrial Relations Act 1996*.
- 24.8 Where the issue in dispute relates to a change of a work or management practice, the pre-existing practice shall be allowed to continue until the issue has been finally resolved. Neither party shall be prejudiced as to the final settlement by the continuance of work in accordance with this sub-clause.

25. Deduction of Union Membership Fees

- 25.1 The Association shall provide the Clerk with a schedule setting out Association fortnightly membership fees payable by members of the Association in accordance with the Association's rules.
- 25.2 The Association shall advise the Clerk of any change to the amount of fortnightly membership fees made under its rules. Any variation to the schedule of Association fortnightly membership fees payable shall be provided to the Clerk at least one month in advance of the variation taking effect.
- 25.3 Subject to subclauses 23.1 and 23.2 of this clause, the Clerk shall deduct Association fortnightly membership fees from the salary of any officer who is a member of the Association in accordance with the Association's rules, provided that the officer has authorized the Clerk to make such deductions.
- 25.4 Monies so deducted from officers' salary shall be forwarded regularly to the Association together with all necessary information to enable the Association to reconcile and credit subscriptions to officers' Association membership accounts.
- 25.5 Unless other arrangements are agreed to by the Clerk and the Association, all Association membership fees shall be deducted on a fortnightly basis.
- 25.6 Where an officer has already authorized the deduction of Association membership fees from his or her pay prior to this clause taking effect, nothing in this clause shall be read as requiring the officer to make a fresh authorization in order for such deductions to continue.

26. Anti-Discrimination

- 26.1 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.
- 26.2 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.
- 26.3 Under the *Anti-Discrimination Act 1977*, it is unlawful to victimise an employee because the officer has made or may make or has been involved in a complaint of unlawful discrimination or harassment.
- 26.4 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.
- 26.5 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.

27. Secure Employment

27.1 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.

27.2 Casual Conversion

- (a) 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.
- (b) 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.
- (c) Any casual employee who has a right to elect under paragraph 25.2(a), 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.

- (d) 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.
- (e) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (f) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph 25.2(c), the employer and employee shall, in accordance with this paragraph, and subject to paragraph 25.2(c), discuss and agree upon:
 - (i) whether the employee will convert to full-time or part-time employment; and
 - (ii) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (g) Following an agreement being reached pursuant to paragraph (f), 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.
- (h) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.

27.3 Occupational Health and Safety

- (a) For the purposes of this subclause, the following definitions shall apply:
 - (i) 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.
 - (ii) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
- (b) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):

- (i) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
 - (ii) 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;
 - (iii) 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
 - (iv) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (c) Nothing in this subclause 25.3 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*.

27.4 Disputes Regarding the Application of this Clause

Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.

27.5 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.

28. Area, Incidence and Duration

- 28.1 This award applies to all officers of the Legislative Assembly employed as Electorate Office Staff to Members of the Legislative Assembly.
- 28.2 This award rescinds and replaces the Crown Employees (Parliamentary Electorate Officers) Award published 28 September 2007 (363 I.G. 752) and all variations thereof.
- 28.3 This award will be operative from 4 August 2010 and will remain in force for a period of one year.

PART B

MONETARY RATES

Effective from the beginning of the first pay period to commence on or after the dates in the column headings

Table 1 - Salaries

Classification and Grades	Common Salary Point	1.7.09 Per annum \$	1.7.10 Per annum +4% \$
Parliamentary Electorate Officers			
Grade 1			
Year 1 or 18 years	7	29,262	30,432
Year 2, min at 20 years	11	35,393	36,809
Year 3, min at 21 years	17	38,144	39,670
Year 4	20	39,185	40,752
Year 5	23	40,843	42,477
Year 6	25	41,585	43,248

Year 7	28	42,615	44,320
Year 8	32	44,191	45,959
Year 9	36	45,793	47,625
Year 10	40	47,485	49,384
Grade 2			
Year 1	64	59,498	61,878
Year 2	67	61,328	63,781
Year 3	75	66,116	68,761
Year 4	78	68,201	70,929
Grade 1 Special Salary Scale			
Year 1	52	53,011	55,131
Year 2	55	54,465	56,644
Year 3	58	56,009	58,249
Year 4	61	57,697	60,005

Table 2 - Remuneration

Classification and Grades	Common Salary Point	1.7.09 Per annum \$	1.7.10 Per annum +4% \$
Research Assistant to Independent Members of the Legislative Assembly	98	83,171	86,498

Table 3 - Other Rates and Allowances

Item	Clause No	Brief Description	1.7.09 Per annum \$	1.7.10 Per annum +4% \$
1	4.1(a)	Electorate Officer Grade 1	4,337	4,510
2	4.1(a)	Electorate Officer Grade 1 Special Salary Scale	5,202	5,410
3	4.1(a)	Electorate Officer Grade 2	6,937	7,214

M. J. WALTON J , *Vice-President*

Printed by the authority of the Industrial Registrar.

(1310)

SERIAL C7500

**CROWN EMPLOYEES (PUBLIC SERVICE CONDITIONS OF
EMPLOYMENT) AWARD 2009**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Director of Public Employment.

(No. IRC 494 of 2010)

Before Mr Deputy President Grayson

13 July 2010

VARIATION

1. Insert the following new paragraph 82.7.1 in subclause 82.7 of clause 82, Sick Leave - Workers Compensation, of the award published 31 July 2009 (368 I.G. 884).

82.7.1 Before approving the use of sick leave in this subclause, the Department Head must be satisfied that the staff member is complying with the obligations imposed by the *Workplace Injury Management and Workers Compensation Act 1998* which requires that the staff member must:

- (a) participate and cooperate in the establishment of the required injury management plan for the staff member;
 - (b) comply with obligations imposed on the staff member by or under the injury management plan established for the staff member;
 - (c) when requested to do so, nominate as their treating doctor for the purposes of the injury management plan a medical practitioner who is prepared to participate in the development of, and in the arrangements under, the plan;
 - (d) authorise the nominated treating doctor to provide relevant information to the insurer or the Department Head for the purposes of the injury management plan; and
 - (e) make all reasonable efforts to return to work as soon as possible, having regard to the nature of the injury.
2. This variation shall take effect on and from 13 July 2010.

J. P. GRAYSON *D.P.*

Printed by the authority of the Industrial Registrar.

(1424)

SERIAL C7502

**CROWN EMPLOYEES AGEING, DISABILITY AND HOME CARE -
DEPARTMENT OF HUMAN SERVICES NSW (COMMUNITY LIVING
AWARD) 2010**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Department of Ageing, Disability and Home Care.

(No. IRC 865 of 2010)

Before The Honourable Mr Justice Staff

30 August 2010

AWARD

PART A

1. Arrangement

PART A

Clause No.	Subject Matter
1.	Arrangement
2.	Definitions
3.	Salaries
4.	Hours
5.	Roster of Hours
6.	Part-time Staff Members
7.	Casual Employees
8.	Temporary Employees
9.	Overtime
10.	Sleepovers
11.	Penalty Rates for Shift Work and Weekend Work and Special Working Conditions
12.	Meals
13.	Recreation Leave
14.	Public Holidays
15.	Paid Union Leave
16.	Payment and Particulars of Salary
17.	Accommodation and Amenities
18.	Uniforms and Protective Clothing
19.	Dispute Resolution Procedures
20.	Anti-Discrimination
21.	Association Representatives
22.	Notice Board
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PART B

Schedule 1 - Monetary Rates

Schedule 2 - Transitional Arrangements

2. Definitions

"Act" means the *Public Sector Employment and Management Act 2006* and its Regulations and any replacement Act and Regulations.

"ADHC" means Ageing, Disability and Home Care of the Department of Human Services.

"Allocated day off" (ADO) means a day off in a roster cycle at a time operationally convenient as provided in Clause 4.

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

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

"Casual employee" means any employee engaged in terms of Chapter 2, Part 2.6 Casual Employees, of the Act and any guidelines issued thereof or as amended from time to time.

"Day Worker" means a worker who works their ordinary hours Monday to Friday and who commences work on such days at or after 6.00am and before 10.00am, otherwise than as part of a shift system.

"Department" means Ageing, Disability and Home Care of the Department of Human Services NSW.

"Department Head" means the Director-General of the Department of Human Services NSW and for the purposes of this Award also means the Chief Executive of Ageing, Disability and Home Care.

"Disability Support Worker" means a person appointed to the position of Disability Support Worker who is employed to assist and support clients in group homes, centre-based respite units and in-home support services.

"Employee" means an officer, staff member or casual employee unless otherwise specified.

"Part-time staff member" means a staff member whose contract hours are less than the full-time hours specified in this Award.

"Public Holiday" means a day proclaimed under the *Banks and Bank Holiday Act 1912*, as a bank or public holiday. This definition does not include a Saturday which is such a holiday by virtue of section 15A of that Act, and 1 August or such other day that is a bank holiday instead of 1 August.

"Shift worker" means a staff member who is not a day worker.

"Team Leader" means a person appointed to the position of Team Leader.

"Staff member" means an officer or temporary employee as defined in the Act and, unless otherwise specified in this Award, includes both full-time and part-time staff.

"Unit" means a group home, respite centre or in-home support service.

3. Salaries

(1) Rates of Pay

- (i) Rates of pay and allowances payable to staff members covered under this Award shall be those specified in Part B Schedule 1 Monetary Rates.

(2) Disability Support Workers (DSWs)

- (i) The salary range for employees is that contained in Part B Schedule 1 Monetary Rates.

- (ii) From the date of effect of this Award new appointments of staff members to DSW will be to an appropriate year in the scale based on years of equivalent full time service providing direct care services within an accommodation setting to clients with a disability.
 - (iii) Casual DSW employees will be paid at an appropriate year in the scale based on hours and years of equivalent full time service providing direct care services within an accommodation setting to clients with a disability. Each year of service requires the completion of 12 months calendar service and 1982 hours.
 - (iv) Employees who possess a Certificate III Disability, or higher qualification acceptable to ADHC, will be paid at not less than the rate applicable to the 4th year of service.
 - (v) Confirmation of permanent appointment to a DSW position is subject to completion of a workplace induction program.
 - (vi) Other than accelerated progression arising from sub-clause (iv) above, staff members progress through the DSW salary range by way of annual increments subject to satisfactory performance and conduct of services in accordance with the Public Sector Employment and Management (General) Regulation.
 - (vii) The transitional arrangements for employees at the effective date of the Award in the classifications of Residential Support Worker Level 1/2 to the Disability Support Worker salary range, are contained at Part B Schedule 2 of this Award.
- (3) Team Leader
- (i) The salary rates for Team Leaders are contained at Part B Schedule 1 Monetary Rates of this Award.
 - (ii) The rates of pay in Part B have been set in recognition of the expectation that Team Leaders will work an average of three afternoon, two night and one weekend penalty shift every 28 day roster period.
 - (iii) Appointment as a Team Leader will be subject to a competitive merit selection process to a vacant Team Leader position designated as such.
 - (iv) An appointee to a position of Team Leader requires possession of Certificate IV Disability, or equivalent qualification, and Certificate IV Frontline Management, or equivalent qualification.
 - (v) A staff member may be appointed as a Team Leader where they do not possess the Team Leader qualifications, but they must obtain the qualifications within 12 months of date of appointment.
 - (vi) Where other than an existing permanent officer is appointed to a Team Leader position and that appointee does not possess the Team Leader qualifications prior to appointment, confirmation of appointment may only occur after the person has obtained the Team Leader qualifications.
 - (vii) ADHC will determine the location and number of Team Leader positions on the usual basis of 1 Team Leader per unit. However ADHC will consult with the PSA for proposals of jointly managed units as they arise.
- (4) Community Support Worker, Community Worker and Community Consultant
- (i) ADHC will consult with the PSA if proposed to establish any new positions in community based services.
 - (ii) A Community Support Worker implements client plans which encourage independent living, social and vocational skills training, community access support, and leisure, recreation and adult education in consultation with other professional staff and Community Workers. There are no qualification requirements for appointment to this position.

- (iii) A Community Worker provides client services and develops client programs to encourage independent living and social, vocational, leisure and recreation skills training and community access support in a team setting.
- (iv) A Community Worker is required to possess, a minimum of an Associate Diploma acceptable to ADHC requiring a minimum of two years full-time study or equivalent part-time study thereof from a recognised University or College of TAFE. They shall be appointed on the 1st year of the salary range for Community Worker and shall progress to the 8th year by annual increments subject to satisfactory conduct and services.
- (v) A Community Worker who possesses a Degree qualification acceptable to ADHC requiring a minimum of three years full-time study or equivalent part-time study thereof, shall be appointed on the 3rd year of the salary range for Community Worker and shall progress to the 8th year by annual increments subject to satisfactory conduct and services.
- (vi) A Community Consultant provides direction intervention and case management for clients with complex needs including the development, co-ordination and supervision of client programs that include behaviour intervention, independent social and vocational skills training and provides clients with community access support in a multi-disciplinary team setting.
- (vii) A Community Consultant must possess a Degree qualification or higher acceptable to ADHC requiring a minimum of four years full-time study or equivalent part-time study thereof. They shall be appointed on the 1st year of the salary range for Community Consultant and progress to the 5th year by way of annual increments subject to satisfactory conduct and services.

4. Hours

- (i) The ordinary hours of work for day workers, exclusive of meal times, shall be 152 hours per 28 calendar days, to be worked Monday to Friday, inclusive, and to commence at or after 6 am and before 10.00am.
- (ii) The ordinary hours of work for shift workers, exclusive of meal times, shall not exceed 152 hours per 28 calendar days or an average of 38 hours per week in each roster cycle.
- (iii) Each day worker shall be free from duty for not less than two full days in each week. Each shift worker shall be free from duty for not less than two full days in each week or four full days in each fortnight. Where practicable, such rostered days off duty shall be consecutive.
- (iv) The hours of work prescribed in subclauses (i) - (iii), shall be arranged to allow variable working hours in each roster cycle of 28 days to ensure that each staff member shall work their ordinary hours of work on not more than 19 days in each cycle.
- (v) The hours worked on each day shall be arranged to include a proportion of one hour which shall accumulate towards the staff members allocated day off (ADO) duty on pay. Such proportion shall be on the basis of 0.4 of one hour for each eight-hour shift worked, and 0.5 of one hour for each ten hour shift worked.
- (vi) Each full-time staff member shall be entitled to 12 ADOs per annum.
- (vii) The staff member's ADO prescribed in sub-clause (v) shall be determined having regard to the needs of ADHC. Where practicable, the ADO is to be consecutive with the rostered days off duty prescribed by sub-clause (iii).
- (viii) Once set, the ADO may not be changed in a current cycle unless there are genuine unforeseen circumstances prevailing. Where such circumstances exist, and the ADO is changed, another day shall be substituted in the current cycle. Should this not be practicable, the day must be given and taken in the next cycle immediately following.
- (ix) There shall be no accrual of credit towards a ADO for ordinary annual leave taken in accordance with clause 14 Recreation Leave. However, where a staff member has accumulated sufficient time to take

their ADO prior to entering on recreation leave, and that day would have been taken if the staff member had not gone on recreation leave, it shall be allowed to the staff member on the first working day immediately following the period of leave.

- (x) Where a staff member has not accumulated sufficient time for an ADO prior to entering on recreation leave, time in credit shall count towards the next ADO falling in sequence after the staff member has returned to duty.
- (xi) A staff member shall continue to accumulate credit toward their ADO whilst on sick leave. Where a staff member's ADO falls during a period of sick leave, the staff member's available sick leave shall not be debited for that day.
- (xii) Where a staff member's ADO falls during a period of workers' compensation, the staff member, on returning to duty, shall be given the next ADO in sequence.
- (xiii) Where a staff member's ADO falls on a public holiday as prescribed by Clause 15 Public Holidays, the next working day shall be taken in lieu thereof.
- (xiv) All time between the rostered starting and ceasing times each day shall be paid for as working time, except for one unpaid meal break of no less than 30 minutes and no more than one hour.
- (xv) A period of 20 minutes shall be allowed to staff members for a morning or afternoon tea break and such period shall be included in the ordinary hours of work. Time taken for such breaks shall be without interruption of service.
- (xvi) There shall be a minimum break of eight hours between ordinary rostered shifts or a break equal in length to the shift previously worked, whichever is greater.

5. Roster of Hours

- (i) The ordinary hours of work for each staff member shall be displayed on a roster in a place conveniently accessible.
- (ii) The roster shall be displayed at least two weeks prior to the commencing date of the first working day in the roster. Provided that this provision shall not make it obligatory for ADHC to display any roster of ordinary hours of work of a member of the relieving staff.
- (iii) A roster may be altered at any time to enable the operation of the service to be carried on where another staff member is absent from duty on account of illness or in an emergency, but where any such alteration involves a full-time staff member working on a day which would have been their ADO such time worked shall be paid at overtime rates.
- (iv) Where a change in roster occurs with less than 24 hours notice to the staff member affected, all time worked outside that shown on the staff member's roster (prior to the alteration) shall be paid for at overtime rates.
- (v) Rosters providing for shift work at a location that is normally a day-work operation shall not be introduced into any service or section thereof, until such time as the proposals relating thereto are conveyed to ADHC for its approval and the opportunity has been given to the Association to discuss the matter with ADHC and the service concerned.
- (vi) The ADOs in accordance with clause 4, Hours, are to be shown on the roster of hours for each staff member.
- (vii) Any change in the displayed roster must be notified verbally or in writing to the staff member concerned and shown on the operational roster.
- (viii) The working of more than seven consecutive shifts by staff members is prohibited, except where a staff member makes a special request, which is agreed by ADHC.

6. Part-Time Staff Members

(1) Types of Part-time Engagement

- (i) A staff member may work on a part-time basis by way of;
 - (a) Part-time Employment Contract: Contract of employment for less than full-time hours; or
 - (b) Part-time Leave Without Pay: Approved application to work less than full-time hours by way of a grant of leave without pay each week or fortnight; or
 - (c) Part-time Loading: Grandparented salary arrangement.
- (ii) The specified number of hours for a part-time staff member may be balanced over a week or fortnight, provided that the part-time contract hours shall be deemed to be the specified number of hours for the purposes of accrual of leave provided for in this Award.
- (iii) There shall be no interruption to the continuity of employment of a part-time staff member merely by reason of a staff member working on a 'week on, week off' basis in accordance with this sub-clause.

(2) Part-time Employment Contract

- (i) A part-time staff member is one who is contracted to work a specified number of hours per week which are less than full-time hours.
- (ii) Part-time staff members shall be paid an hourly rate calculated on the basis of one thirty-eighth of the appropriate rate prescribed in this Award with a minimum three hours for each start.
- (iii) Unless otherwise specified in this Award, part-time staff members receive full time entitlements on a pro rata basis calculated according to the number of hours a staff member is contracted to work.
- (iv) Incremental progression for part-time staff members is the same as for full-time staff members, that is, part-time staff members receive an increment annually.
- (v) ADHC may request, but not require, a part-time staff member to work additional hours.
- (vi) Except where payment of overtime is provided for under Clause 9, for any time worked in excess of the staff member's ordinary contracted hours and up to 76 hours in a fortnight, a part-time staff member is be paid at their hourly rate plus a loading of 4/48ths in lieu of recreation leave.

(3) Part-time Leave Without Pay

- (i) A staff member engaged on a full-time basis may apply to take leave without pay on a part-time basis in accordance with Clause 72 of the Crown Employees (Public Service Conditions of Employment) Award 2009.
- (ii) A staff member working part-time by way of leave without pay is entitled to a minimum three hours for each start.
- (iii) The conditions of employment for a staff member engaged on a part-time basis by way of part-time leave without pay are those provided for in the Crown Employees (Public Service Conditions of Employment) Award 2009, the Public Service of NSW Personnel Handbook, *Public Sector Employment and Management Act 2002* and Regulations.

- (4) Part-time Loading (Grandparented Salary Arrangement)
- (i) Subclauses (1), (2) and (3) above do not apply to part-time employees in receipt of a 15% part-time loading under a grandparented salary arrangement. The following applies to these employees;
- (a) Persons employed on a part-time basis may be employed for not less than eight or more than 32 hours in any full week of seven days, such week to be coincidental with the pay period, and shall be paid for the actual number of hours worked each week an hourly rate calculated on the basis of one thirty-eighth of the appropriate rate prescribed, plus 15 per cent thereof. Employees shall not be engaged for less than three hours for each start.
- (b) In an emergency, part-time workers may be allowed to work more than 32 hours in one week and in such case will be paid for the hours actually worked at a rate calculated in accordance with paragraph (a) of this sub-clause.
- (c) A part-time worker called up to work in an emergency on their rostered day(s) off shall be entitled to a minimum payment of three hours at the appropriate rate calculated in accordance with paragraph (a) of this sub-clause whether required for the full three hours or not.
- (d) With respect to employees employed on a part-time basis under this subclause, the provisions of subclauses (v) - (xiii) of clause 4 Hours, clause 9 Overtime, clause 13 (ii) Recreation Leave and subclauses (i) - (ii) of clause 14 Public Holidays, shall not apply.

7. Casual Employees

- (1) Engagement of Casual Employees
- (i) A casual employee may be employed subject to the usual basis of employment of staff in a Department being that of an officer.
- (ii) A casual employee may only be engaged in the following circumstances
- On a relief basis to fill irregular or intermittent vacancies; or
- To carry out work on a short-term basis; or
- To carry out urgent work or in an emergency.
- (iii) Casual employees can be included in operational rosters but employment for fixed or regular hours for a single period in excess of 4 weeks would in most instances be as a temporary employee.
- (iv) A casual employees' contract of employment may be terminated for any reason by giving of three hours' notice by either the employee or ADHC.
- (2) Hours of Work
- (i) A casual employee is engaged and paid on an hourly basis.
- (ii) A casual employee will be paid for a minimum of 3 consecutive hours for each engagement.
- (3) Rate of Pay
- (i) A casual employee shall be paid on an hourly basis of one thirty-eighth of the appropriate salary rate prescribed in this Award, plus 15% casual loading thereof.

- (ii) A casual employee shall be entitled to the shift allowances prescribed in clause 11 Penalty Rates for Shift Work and Weekend Work and Special Working Conditions. Such employees shall only be entitled to the additional rates where their shifts commence prior to 6.00am or finish subsequent to 6.00pm Monday to Friday inclusive.
 - (iii) Casual employees in receipt of penalty rates for working midnight Friday to midnight Sunday and Public Holidays, shall receive those penalty rates in lieu of the 15% casual loading.
 - (iv) On termination, a casual employee shall also receive 4/48ths of ordinary earnings in lieu of recreation leave.
 - (v) A casual employee shall be paid overtime in accordance with the provisions of Clause 9 of this Award.
- (4) Conditions of Employment
- (i) The following clauses of this Award do not apply to casual employees
 - Subclauses (v) to (xi) of clause 4 Hours
 - clause 5 Roster of Hours
 - Clause 13 Annual Leave / Recreation Leave
 - Clause 14 Public Holidays
 - Clause 15 Paid Union Leave
 - (ii) Casual employees shall be entitled to all other benefits of this Award in the same proportion as their ordinary hours of work bear to full-time hours.
 - (iii) Casual employees are entitled to Long Service Leave in accordance with the provisions of the *Long Service Leave Act 1955*.
- (iv) A casual employee shall also receive the following entitlements in accordance with Clause 12 of the Crown Employees (Public Service Conditions of Employment) Award 2009:
- (a) Clause 12.5
 - (b) Clause 12.6 Personal Carers Entitlement for Casual Employees
 - (c) Clause 12.7 Bereavement Entitlements for Casual Employees
 - (d) Clause 12.8 Application of other clauses of this Award to Casual Employees
- (v) Other than as provided for in sub-clause (iv) above of this Award, Clause 12 of the Crown Employees (Public Service Conditions of Employment) Award 2009 shall not apply.

8. Temporary Employees

- (i) Temporary employees are those engaged in accordance with Section 27 of the Act.
- (ii) Temporary employees are defined as staff members and receive all of the benefits of this Award in the same manner as permanent officers, unless otherwise specified.

9. Overtime

(1) Rates Payable - All Employees

- (i) The following rates are payable for overtime worked and shall be in substitution of and not cumulative upon the rates payable for shift work performed on Monday to Friday, Saturday, Sunday or Public Holiday -
 - (a) Monday - Saturday inclusive: Time and one half for the first two hours and double time thereafter.
 - (b) Sunday: Double time.
 - (c) Public Holidays: Double time and one half.
- (ii) The rate of payment for overtime is to be determined according to the day of the week on which the time is actually worked in accordance with sub-clause (i) above.
- (iii) Subject to subclauses (v) below, an employee may be directed by the Department Head to work overtime.
- (iv) An employee may refuse to work overtime where the working of overtime would result in the employee working hours which are unreasonable.
- (v) For the purposes of subclause (iv) above, 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, community obligations or study arrangements;
 - (c) the urgency of the work required to be performed, the impact on operational commitments and the effect on client services;
 - (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.
- (vi) Where an employee works overtime as an extension of shift and ceases work at a time when reasonable means of transport home are not available, they shall be paid at ordinary rates for the time reasonably spent travelling from the place of work to the officer's home.

(2) Break Between Work - All Employees

- (i) When overtime is necessary it shall be arranged so that employees have at least eight (8) consecutive hours off duty between work on successive days or shifts.
- (ii) An employee who has not had at least eight (8) consecutive hours off duty in accordance with subclause (i) above, shall be released from duty after completion of the overtime until they have had eight (8) consecutive hours off duty without loss of pay for ordinary working time occurring during their absence.
- (iii) If ADHC directs an employee to resume or continue to work without having had at least eight (8) consecutive hours off duty in accordance with subclause (i) above, shall be paid at double rates until they are released from duty for such period and then shall be entitled to be absent until they have had eight (8) consecutive hours off duty without loss of payment for ordinary working time occurring during such absence.

- (iv) At cessation of eight (8) hour break prescribed by sub-clauses (i) - (iii) above, the employee is required to return to duty for remainder of a rostered shift or, if available, apply for leave to cover the remainder of any rostered hours.
 - (v) Overtime may be worked prior to the commencement of a rostered shift, in which case the break provision prescribed by sub-clauses (i) - (iii) shall apply from the cessation of all work continuous with the overtime.
- (3) Recall to Duty - Staff Members
- (i) A staff member recalled to work overtime after leaving the employer's premises shall be paid for a minimum of four (4) hours' work at the appropriate overtime rate for each time they are so recalled.
 - (ii) A staff member shall not be required to work the full minimum number of hours prescribed under sub-clause (i) above, if the job they were recalled to perform is completed within a shorter period.
 - (iii) A staff member recalled to duty shall be paid all fares and expenses reasonably incurred as in travelling to and from their place of work.
 - (iv) Provided that where a staff member elects to use their own mode of transport, they shall be paid an allowance equivalent to the travelling rate as prescribed in the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2006.
- (4) Planned Overtime - All Employees
- (i) Where overtime worked is not continuous with ordinary hours, and/or additional hours in the case of a part-time staff member, and the employee has elected to accept an offer of overtime work with at least 24 hours notice, then the recall to duty provisions in subclause (3) above will not apply.
- (5) Payment of Overtime - Full-time Staff Members
- (i) A full-time staff member is to be paid at overtime rates for all time worked;
 - (a) outside the ordinary hours permitted under Clause 4 Hours, and/or
 - (b) outside that shown on the staff member's roster (prior to the alteration) where a change in roster occurs with less than 24 hours notice to the affected staff member.
- (6) Payment of Overtime - Part-time Staff Members
- (i) A part-time staff member is to be paid at overtime rates for all time worked;
 - (a) longer than the normal rostered shift length for a full-time employee for that shift, and/or
 - (b) in excess of 152 hours in a 28 day roster period, and/or
 - (c) in excess of the hours prescribed for a full-time staff member in Clause 4 Hours, and or
 - (d) outside that shown on the staff member's roster (prior to the alteration) where a change in roster occurs with less than 24 hours notice to the affected staff member.
 - (ii) In the case of subclause (i)(a) above, where there is no normal rostered shift length for a full-time staff member for that shift, then overtime is to be paid for all time worked in excess of eight (8) hours in a continuous period.

- (iii) In the case of sub-clause (i)(b) above, the part-time staff member must be rostered to work a number of ordinary hours and have actually worked additional hours totalling to 152 hours prior to becoming eligible to a payment of overtime under this sub-clause.
- (7) Payment for Overtime or Leave in Lieu
- (i) The Department Head shall grant compensation for directed overtime worked either by payment at the appropriate rate or, if the staff member so elects, by the grant of leave in lieu in accordance with this clause.
- (ii) The following provisions shall apply to the leave in lieu:-
- a. The staff member shall advise the supervisor before the overtime is worked or as soon as practicable on completion of overtime, that the staff member intends to take leave in lieu of payment.
 - b. The leave shall be calculated at the same rate as would have applied to the payment of overtime in terms of this clause.
 - c. The leave must be taken at the convenience of the Department, except when leave in lieu is being taken to look after a sick family member. In such cases, the conditions set out in clause 81, Sick Leave to Care for a Sick Family Member of the Crown Employees (Public Service Conditions of Employment) Award 2009, shall apply.
 - d. The leave shall be taken in multiples of a quarter day, unless debiting of leave in hours or in fractions of an hour has been approved.
 - e. Leave in lieu accrued in respect of overtime shall be given by the Department and taken by the staff member within three months of accrual unless alternate local arrangements have been negotiated between the Department Head and the Association.
 - f. A staff member shall be paid for the balance of any overtime entitlement not taken as leave in lieu.
- (8) Payment of Overtime - Casual Employees
- (i) A casual employee is to be paid overtime rates for all time worked;
- a. longer than the normal rostered shift length for a full-time employee for that shift; and / or
 - b. in excess of 152 hours in a 28 day roster period.
- (ii) In the case of subclause (i)(a) above, where there is no normal rostered shift length for a full-time staff member for that shift, then overtime is to be paid for all time worked in excess of eight (8) hours in a continuous period.
- (iii) In the case of subclause (i)(b) above, the casual employee must work the 152 hours prior to becoming eligible to a payment of overtime under this sub-clause.
- (iv) Overtime payments for casual employees are based on the ordinary hourly rate plus the 15% loading set out in Clause 7 Casual Employees.

10. Sleepovers

- (i) "Sleepover" means a continuous period during which an employee is required to sleepover at a unit and be available to deal with any urgent situation, which may arise during the sleepover period.
- (ii) It is expected that an employee performing sleepover work will ordinarily be able to have a reasonable night's sleep. Accordingly such work will not be performed where:

- (a) The facilities in the home, or
 - (b) The activities or behaviour of the clients residing there are such that an officer could not ordinarily be expected to have a reasonable night's sleep or would be put at risk if sleeping or woken from sleep during a sleepover.
- (iii) ADHC shall take all reasonable steps to enable the employee to have a reasonable night's sleep on the premises. These include:
- (a) Providing a vacant room, able to be locked by the employee.
 - (b) Ensuring that the room is provided with:
 - a telephone and/or other emergency communication facilities so that assistance may be summoned if required;
 - a bed and other suitable sleeping requirements such as a light and clean linen;
 - an ability to view outside the room when locked without opening the door, including external lighting.
 - (c) Giving the employee access to the facilities within the Unit for the purposes of personal hygiene and the taking of meals, which shall be provided free of charge.
- (iv) An employee shall only perform sleepover work under the following conditions:
- (a) there is an agreement between the employee and ADHC in regard to the sleepover and the sleepover periods required and except in the case of an emergency, the agreement is made at least one (1) week in advance;
 - (b) a sleepover period shall consist of not more than eight (8) continuous hours;
 - (c) a staff member may be required to undertake sleepover work for no more than eight (8) nights in any period of twenty eight (28) days;
 - (d) the sleepover shall not commence earlier than 10pm and shall not finish later than 7am;
 - (e) no work other than that of an essential nature involving direct care of the residents shall be required to be performed during the sleepover;
 - (f) each period of sleepover work should follow on from an afternoon shift and should be followed by a day shift the next day.
- (v) An employee performing sleepover work shall be paid:
- (a) A sleepover allowance equivalent to five (5) hours payment at ordinary rates.
 - (b) In the event that the employee has not received a reasonable night's sleep, the employee shall be paid:
 - (1) If disturbed to perform any necessary work, the work shall be paid at overtime rates in addition to the sleepover allowance.
 - (2) If disturbed by residents on two or more occasions, but not in order to perform any necessary work, the employee shall be paid as for an active night shift, in lieu of the sleepover allowance.

- (3) If disturbed by residents on two or more occasions to perform any necessary work, the work shall be paid for at overtime rates, with a minimum payment of an amount equal to the rate for an active night shift, in addition to the sleepover allowance.
- (vi) An employee who is required by ADHC to accompany residents on excursions, etc. which necessitate overnight stays shall be paid a minimum allowance equivalent to eight (8) hours pay at ordinary rates for each overnight stay. If an employee is required to perform any necessary work during the night, the work shall be paid for at overtime rates.
- (vii) Employees shall comply with ADHC's reasonable requirements in relation to the recording of resident's behaviour during sleepover periods. Claims for the additional payments provided under paragraph (v)(b) of this clause may be declined if such records have not been maintained for the particular night.
- (viii) Before sleepover work is introduced at a Unit, ADHC shall assess the suitability of the home and residents for such arrangements. Such arrangement shall be monitored and shall be reviewed, if new residents move into the home or in the event that a resident's health or behaviour alters in such a way that concerns arise as to the continuing suitability of sleepover arrangements, or if officers as a result are unable to achieve a reasonable night's sleep during sleepover work. A timely review shall also be conducted if a written request identifying the reason the review is sought is made by staff members performing such work at a unit or by the union. Whilst such reviews are conducted, sleepover work shall not be performed at the Unit.
- (ix) In the event that a dispute arises as to the suitability of a Unit, group of clients, or employee for sleepover work, the dispute shall be discussed by the parties on an urgent basis, in accordance with the award dispute resolution procedures.

11. Penalty Rates for Shift Work and Weekend Work and Special Working Conditions

- (i) Shift workers working afternoon or night shift shall be paid the following percentages in addition to the ordinary rate for such shift; provided however, that part-time employees engaged under Clause 6(1)(i)(a) and (c), shall only be entitled to the additional rates where their shifts commence prior to 6.00am or finish subsequent to 6.00pm.

Afternoon shift commencing at 10.00am and before 1.00pm - 10 per cent

Afternoon shift commencing at 1.00pm and before 4.00pm - 12.5 per cent

Night shift commencing at 4.00pm and before 4.00am - 15 per cent

Night shift commencing at 4.00am and before 6.00am - 10 per cent

- (ii) 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 6.00am and before 10.00am.

"Afternoon shift" means a shift which commences at or after 10.00am and before 4.00pm.

"Night shift" means a shift which commences at or after 4.00pm and before 6.00am on the day following.

- (iii) Staff members whose ordinary working hours include work on a Saturday and/or Sunday shall be paid for ordinary working 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.
- (iv) Subclause (iii) shall apply to part-time workers engaged under Clause 6(1)(i)(c), but such workers shall be paid the shift allowances under subclause (iii) in lieu of the 15% part-time loading.

- (v) This clause does not apply to staff members employed in the classification of Team Leader. The rate of pay for Team Leader is an all-inclusive rate.
- (vi) In all cases where a shift worker works during the period of changeover to and from daylight saving time, the shift worker shall be paid the normal rate for the shift.

12. Meals

- (i) Time not exceeding one hour and not less than 30 minutes shall be allowed for each meal.
- (ii) In any cases where the employer determines that the needs of the residents are such that employees cannot be permitted to leave the employer's premises during any meal break, unpaid meal breaks will not be provided and any time allowed for the partaking of a meal on the employer's premises shall be regarded as part of the ordinary hours for the shift.
- (iii) Where an employee in the course of their employment partakes of a meal or light refreshment other than routine meals, in company with clients, as part of individual lifestyle plan requirements, the cost of the meal or light refreshment shall be borne by the employer upon the provision of receipts from the staff member.
- (iv) Where an employee is called upon to work any portion of an unpaid meal break, such time shall be paid for at overtime rates.
- (v) An employee required to work overtime following on the completion of their 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.
- (vi) The meals referred to in sub-clauses (ii), (iii) and (v) of this clause shall be allowed to the employee free of charge. Where the employer is unable to provide such meals, a meal allowance under the Crown Employees (Public Service Conditions of Employment) Award 2009 shall apply.
- (vii) Where practicable, employees shall not be required to work more than five hours without a meal break.

13. Recreation Leave

- (1) General
 - (i) Except where stated otherwise in this Award, all staff members accrue paid recreation leave at the rate of 20 working days per year.
 - (ii) Part-time staff members shall accrue paid recreation leave on a pro-rata basis in the following manner;
 - (a) Part-time staff members engaged under Clause 6(1)(i)(a) and (c) will accrue pro-rata recreation leave based on the contracted hours contained in the employment contract.
 - (b) Part-time staff members engaged under Clause 6(1)(i)(b) will accrue pro-rata recreation leave based on the ordinary hours worked.
 - (iii) Additional recreation leave, at the rate of 5 days per year, accrues to a staff member who is stationed indefinitely in a remote area of the State, being the Western and Central Division of the State described as such in the Second Schedule to the *Crown Lands Consolidation Act 1913* before its repeal.
 - (iv) Staff members who prior to 30.4.99 were employed in the classification of Senior/Chief/Principal Youth Worker and in receipt of six weeks recreation leave in accordance with the Crown Employees (Public Service Conditions of Employment) Award 2009, may continue to accrue recreation leave at the rate of six weeks per year.

- (v) Staff members covered by sub-clause (iv) above, may elect to revert to four weeks recreation leave per annum, and therefore receive the provisions of clause 14 Public Holidays. This election may only be made once and such option is not reversible.
 - (vi) Staff members covered by sub-clause (iv) above, may elect at any time, to cash out any recreation leave accrued in addition to the entitlement under sub-clause (i) above.
 - (vii) The provisions of sub-clauses (2), (3) and (4) of this Award are taken from the Crown Employees (Public Service Conditions of Employment) Award 2009. Any variations to that Award in regards to these provisions are to apply and be incorporated into this Award.
- (2) Limits on Accumulation and Direction to take Leave
- (i) At least two (2) weeks consecutive weeks of recreation leave shall be taken by a staff member every 12 months, except by agreement with the Department Head in special circumstances.
 - (ii) Where the operational requirements permit, the application for leave shall be dealt with by the Department Head according to the wishes of the staff member.
 - (iii) The Department Head shall notify the staff member in writing when accrued recreation leave reaches 6 weeks or its hourly equivalent and at the same time may direct a staff member to take at least 2 weeks recreation leave within 3 months of the notification at a time convenient to ADHC.
 - (iv) The Department Head shall notify the staff member in writing when accrued recreation leave reaches 8 weeks or its hourly equivalent and direct the staff member to take at least 2 weeks recreation leave within 6 weeks of the notification. Such leave is to be taken at time convenient to ADHC.
 - (v) A staff member must take their recreation leave to reduce all balance below 8 weeks, and ADHC must cooperate in this process. ADHC may direct a staff member with more than 8 weeks to take their recreation leave so that it is reduced to below 8 weeks by school term one 2010.
- (3) Conservation of Leave
- (i) If ADHC is satisfied that a staff member is prevented by operational or personal reasons from taking sufficient recreation leave to reduce the accrued leave below an acceptable level of between 4 and 6 weeks or its hourly equivalent, the Department Head shall:-
 - (1) Specify in writing the period of time during which the excess shall be conserved; and
 - (2) On the expiration of the period during which conservation of leave applies, grant sufficient leave to the staff member at a mutually convenient time to enable the accrued leave to be reduced to an acceptable level below the 8 weeks' limit.
 - (3) A Department Head will inform a staff member in writing on a regular basis of the staff member's recreation leave accrual.
 - (4) Miscellaneous
 - (i) Recreation leave is to be granted in multiples of 1 hour.
 - (ii) Recreation leave for which a staff member is eligible on cessation of employment is to be calculated to a quarter day (fractions less than a quarter being rounded up).
 - (iii) Recreation leave does not accrue to a staff member in respect of any period of absence from duty without leave or without pay, except as specified in sub-clause (iv) below.

- (iv) Recreation leave accrues during any period of leave without pay granted on account of incapacity for which compensation has been authorised to be paid under the *Workers Compensation Act 1987*; or any period of sick leave without pay or any other approved leave without pay, not exceeding 5 full time working days, or their part time equivalent, in any period of 12 months.
 - (v) The proportionate deduction to be made in respect of the accrual of recreation leave on account of any period of absence referred in sub-clause (iv) above, shall be calculated to an exact quarter-day (fractions less than a quarter being rounded down).
 - (vi) Recreation leave accrues at half its normal accrual rate during periods of extended leave on half pay or recreation leave taken on half pay.
 - (vii) Recreation leave may be taken on half pay in conjunction with and subject to the provisions applying to adoption, maternity or parental leave under the Crown Employees (Public Service Conditions of Employment) Award 2009.
 - (viii) On cessation of employment, a staff member is entitled to be paid, the money value of accrued recreation leave which remains untaken.
 - (ix) A staff member to whom sub-clause (viii) above applies, may elect to take all or part of accrued recreation leave which remains untaken at cessation of active duty as leave or as a lump sum payment; or as a combination of leave and lump sum payment.
- (5) Additional Recreation Leave - Shiftworkers
- (i) Staff members who are rostered to work their ordinary hours on Sundays and/or Public Holidays during a qualifying period of employment for recreation leave purposes shall be entitled to receive additional recreation leave as follows:

Number of ordinary shifts worked on Sundays and/or Public Holidays during qualifying period of employment for Annual Leave purposes	Additional Recreation Leave
4 to 10	1 day
11 to 17	2 days
18 to 24	3 days
25 to 31	4 days
32 or more	5 days

- (ii) For part-time staff members, the "days" referred to in the above table will be equivalent to pro-rata contracted hours.
- (iii) A staff member may elect to be paid an amount equivalent to the value of their additional recreation leave entitlement accrued under subclause (i). Such election must be in writing and may be made at any time subject to sub-clause (iv) below.
- (iv) Additional recreation leave accrued under Clause 14(5) is accrued over at least a 12 month qualifying period and will be credited to the leave balance or paid out, according to the election of the staff member, on anniversary of employment.
- (v) Provided further that on termination of employment, staff members shall be entitled to payment for any untaken recreation leave due under Clause 14(5), together with payment for any untaken leave in respect of an incomplete year of employment, calculated in accordance with Clause 14(5).

- (6) Annual Leave Loading
- (i) A shift worker, shall be paid whilst on recreation leave their ordinary pay plus shift allowances and weekend penalties relating to an average of shift penalties received by a staff member in a 12 month period prior to commencing on leave. Where a staff member has not worked shift work for a period of 12 months prior to commencement on leave, then an average of shift penalties paid in the lesser period since date of appointment as a staff member is to apply.
 - (ii) Provided that, in relation to subclause (i) above, shift allowances and weekend penalties shall not be payable for public holidays which occur during a period of recreation leave or for days which have been added to recreation leave in accordance with the provisions of Clause 14 Public Holidays.
 - (iii) Staff members shall be entitled to an annual leave loading of 17.5%, or shift penalties as set out in subclauses (i) and (ii) above, whichever is the greater, on up to four weeks recreation leave for non-shift workers and up to five weeks recreation leave for shift workers.
 - (iv) Where staff members receive additional recreation leave under Clause 14(1)(iv), the annual leave loading shall continue to be paid on a maximum of 4 weeks leave.
 - (v) For the calculation of annual leave loading, the leave year shall commence on 1 December each year and shall end on 30 November of the following year.
 - (vi) Payment of the annual leave loading shall be made on the recreation leave accrued during the previous leave year and shall be subject to the following conditions:
 - (1) Annual leave loading shall be paid on the first occasion in a leave year, other than the first leave year of employment, when a staff member takes at least two (2) consecutive weeks recreation leave. Such leave may be a combination of recreation leave, public holidays, extended leave (long service leave), leave without pay, time off in lieu and rostered day off with pay.
 - (2) If at least two weeks' leave, as set out in paragraph (1) of this subclause, is not taken in a leave year, then the payment of the annual leave loading entitlement for the previous leave year shall be made to the staff member as at 30 November of the current year.
 - (3) While annual leave loading shall not be paid in the first leave year of employment, it shall be paid on the first occasion in the second leave year of employment when at least two weeks leave as specified in paragraph (1) of this subclause, is taken.
 - (4) A staff member who has not been paid the annual leave loading for the previous leave year, shall be paid such annual leave loading on resignation, retirement or termination by the employer for any reason other than the staff member's serious and intentional misconduct.
 - (5) Except in cases of voluntary redundancy, proportionate leave loading is not payable on cessation of employment.

14. Public Holidays

- (1) General
- (i) Staff members shall be allowed to have public holidays off on full pay.
 - (ii) For the purposes of this clause the following shall be deemed public holidays, viz: New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Christmas Day, Boxing Day,

Anzac Day, Queen's Birthday, Local Labour Day and any other day duly proclaimed and observed as a public holiday throughout the State of New South Wales.

- (iii) Except as otherwise provided in this subclause, where a staff member is required to and does work on any day of the holidays set out in subclause (ii) above, whether for a full shift or not, the staff member shall be paid at time and a half extra to the weekly rate for the ordinary rostered hours of duty. Such payment is to be in lieu of weekend or shift allowances which would otherwise be payable had the day not been a public holiday.
 - (iv) Staff members may elect to be paid at half time extra to the weekly rate for the ordinary rostered hours and have the equivalent of the rostered hours added to their period of recreation leave for each public holidays worked in lieu of the payment provided in subclause (iii) above.
 - (v) Staff members who are rostered off duty on a public holiday shall:
 - (1) be paid one day's pay in addition to the weekly rate or, if the officer so elects,
 - (2) have one day added to their period of recreation leave.
 - (vi) Where a staff member is rostered for a shift that crosses midnight on a public holiday, and the total rostered hours on the public holiday are less than the equivalent of a full shift, for the purposes of subclause (v) above, the shift will be deemed to have been worked on the day on which the majority of time was actually worked.
 - (vii) Where because of the majority of hours falling on a non-public holiday the shift is regarded as a non-public holiday shift, the staff member shall be deemed to have been rostered off duty on the public holiday and shall be paid in accordance with subclause (v).
 - (viii) The elections referred to in sub-clauses (iv) and (v) above, and in this sub-clause are to be made in writing. Provided that a staff member may at any time change their election and may also elect to cash out any additional recreation leave balance accrued from these elections.
 - (ix) In addition to those public holidays specified in subclause (ii) above, staff members shall be entitled to an extra public holiday each year. Such public holiday will occur on a day between Boxing Day and New Year's Day determined by the appropriate Department head as a public service holiday.
 - (x) Staff members receive the public holiday in sub-clause (ix) above in lieu of any local holiday.
 - (xi) For the purposes of this clause "full pay" shall mean the appropriate rate prescribed for the hours which the staff member would have worked had the day not been a public holiday.
 - (xii) Team Leaders will ordinarily be rostered off duty on public holidays and receive the benefits under sub-clause (v) above.
- (2) Six Weeks Base Recreation Leave Staff Members
- (i) Sub-clauses in section (2) apply to staff members in receipt of six weeks leave.
 - (ii) The provisions of sub-clause (1) (i) - (v) do not apply. However, staff members may receive the additional public holiday in sub-clause (1) (ix) and may exercise the elections specified in subclause (1) (vi) and (vii) above.
 - (iii) Where a staff member is required and does work on any public holiday, whether for a full shift or not, they shall be paid at half time extra for the ordinary rostered hours of duty.

- (3) Part-time Staff Members
- (i) The provisions of this sub-clause (1) apply to part-time staff members engaged under Clause 6(2) and
 - (ii) The provisions of sub-clause (1) do not apply to part-time staff members engaged under Clause 6(4) of this Award and who are in receipt of the 15% part-time loading. However, each staff member engaged under Clause 6(4) who is required to and does work on a public holiday as defined under sub-clause (ii) above, shall be paid at the rate of double time and one-half in lieu of the 15% part-time loading.

15. Paid Union Leave

- (i) The provisions for paid Union Leave will be in accordance with Section 5 Clauses 53 to 66 of the Crown Employees (Public Service Conditions of Employment) Award 2009.
- (ii) In addition to the provisions under sub-clause (i) above, members of the Association, who are accredited by the Association as Association delegates, shall be entitled to apply for paid special leave for attendance at Association delegates' meetings.

16. Payment and Particulars of Salary

- (i) Wages shall be paid fortnightly; provided that, for the purpose of adjustments of wages related to alterations in the basic wage, from time to time affective, the pay period shall be deemed to be weekly. On each payday the pay shall be made up to a date not more than three days prior to the day of payment and shall include all payments due to the staff member for that particular pay period.
- (ii) Staff members shall have their salary paid into a bank or other financial institution in New South Wales, as nominated by the staff member. Salaries shall be deposited by ADHC in sufficient time to ensure that salaries are available for withdrawal by staff members by no later than pay day.
- (iii) Staff members proceeding on long service leave, extended leave and recreation leave, shall on request, be paid in advance prior to commencing such leave. However, where a staff member wishes to receive their pay on their usual pay day, this shall be done.
- (iv) Notwithstanding the provisions of subclause (ii) above, a staff member should be paid all monies due to them by ADHC within 48 hours of ceasing duty on the last day of employment.
- (v) On each pay day a staff member, in respect of the payment then due, shall be furnished with a statement, in writing, containing the following particulars, namely: name, the amount of ordinary salary, the total number of ordinary hours, the total number of hours of overtime worked, if any, the amount of any overtime payment, the amount of any other monies paid, and the purpose for which they are paid and the amount of the deductions made from total earnings and the nature thereof.
- (vi) Where retrospective adjustments of wages are paid to staff members, such payments, where practicable, shall be paid as a separate payment to ordinary wages. Such payment shall be accompanied by a statement containing particulars as set out in subclause (v) above.

17. Accommodation and Amenities

- (i) Suitable dining areas, lavatory and washing facilities and lockable facilities for staff members personal belongings shall be made available in all Departmental facilities.
- (ii) In all units, hot and cold showers and conveniences shall also be available for staff members.
- (iii) Where major additions to presently occupied buildings or new buildings are erected, the amenities to be available in such additions or new buildings shall be the subject of negotiations between the parties.

18. Uniforms and Protective Clothing

- (i) Staff members shall not be required to wear a uniform or any part thereof. Therefore, no allowance in lieu of the supply of uniforms shall be payable.
- (ii) Where the nature of the duties to be performed so warrants, suitable protective outer garments shall be available for the use of staff members.

19. Dispute Resolution Procedures

- (i) All grievances and disputes relating to the provisions of the 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 ADHC, if required.
- (ii) 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.
- (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 staff member to advise their immediate manager the notification may occur to the next appropriate level of management, including where required, to the Department Head or delegate.
- (iv) The immediate manager shall convene a meeting in order to resolve to grievance, dispute or difficulty within two 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 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 working days, or as soon as practicable. The staff member may pursue this sequence of reference to successive levels of management until the matter is referred to the Regional Manager or Branch Head.
- (vi) The Regional Manager or Branch Head may refer the matter to ADHC's Strategic Human Resources or Employment Relations Branch for consideration.
- (vii) If the matter remains unresolved, ADHC 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.
- (viii) A staff member, at any stage, may request to be represented by their union.
- (ix) The staff member or the union on their behalf, or the Department Head, may refer the matter to the Industrial Relations Commission of New South Wales if the matter is unresolved following the use of these procedures.
- (x) The staff member, union and ADHC shall agree to be bound by any order or determination by the Industrial Relations Commission in relation to the dispute.
- (xi) Whilst the procedures outlined in subclauses (i) to (x) above are being followed, normal work undertaken prior to notification of the dispute or difficulty shall continue unless otherwise agreed between the parties, or, in a 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.

20. 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."

21. Association Representative

- (i) An officer appointed Association representative shall, upon notification thereof in writing to ADHC, be recognised as the accredited representative of the Association and shall be allowed the necessary time, during working hours, to interview ADHC and staff members on matters affecting staff members.

22. Notice Board

- (i) ADHC shall provide and erect a notice board of reasonable dimensions in each unit, to be erected in a prominent position and upon which the Association representative shall be able to post Association notices.

23. Medical Examinations

- (i) Staff members required to work in areas where they are subject to a higher than normal risk of infection shall be given appropriate check-ups upon making application therefore to ADHC.

24. Deduction of Union Membership Fees

- (i) The union shall provide ADHC 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 ADHC 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, ADHC shall deduct union fortnightly membership fees from the pay of any staff member who is a member of the union in accordance with the union's rules, provided that the staff member has authorised ADHC to make such deductions.
- (iv) Monies so deducted from staff member's pay shall be forwarded regularly to the union together with all necessary information to enable the union to reconcile the credit subscriptions to staff member's union membership accounts.
- (v) Unless other arrangements are agreed to by ADHC and the union, all union membership fees shall be deducted on a fortnightly basis.
- (vi) Where a staff member has already authorised the deduction of union membership fees from his or her pay prior to this clause taking effect, nothing in this clause shall be read as requiring the staff member to make a fresh authorisation in order for such deductions to continue.

25. Mobility of Staff

- (i) All staff members are recruited to a Region, not a unit. The movement of staff members within the Region will occur in a reasonable manner.
- (ii) Staff may be rotated through shifts at various units for the following purposes where practicable:
 - For staff and workforce development, including unit induction;
 - To meet client support needs;
 - To address OH&S issues or injury management obligations;
 - When a staff member has identified a desire to work in another unit; or
 - To support workforce requirements including the filling of long term vacancies.
- (iii) Staff will not be asked to work a shift in another unit:
 - Without reasonable notice; or
 - If the distance the staff member is required to travel is unreasonable having regard to the individual's circumstances
- (iv) Where possible, all transfers will be undertaken on a voluntary basis.
- (v) Where an involuntary transfer is necessary, consultation with the PSA will be undertaken prior to the transfer being affected.
- (vi) For the purposes of this clause, no transfer will be used as a punitive measure.

26. General Conditions of Employment

- (i) It is the intention of the parties to this Award that all other conditions not specified in this Award will be in accordance with the Crown Employees (Public Service Conditions of Employment) Award 2009, the Public Service of NSW Personnel Handbook, Public Sector Employment and Management Act 2002 and the Public Sector Employment and Management (General) Regulation 1996.
- (ii) The salary rates in Part B of the Award are set in accordance with movements in salary from the Crown Employees (Public Sector - Salaries 2007) Award and any variation or replacement Award.

27. Extra Claims

- (i) The parties to this Award agree that no extra claims will be made in relation to this Award, except those allowed under Part 1 Section 17 of the *Industrial Relations Act 1996*.

28. Area, Incidence and Duration

This Award applies to staff members and casual employees who are employed by ADHC in a classification listed in Part B of this Award, and defined in Clause 2 of Part A of this Award, who come within the constitutional coverage of the Association.

This award rescinds and replaces the Crown Employees (New South Wales Department of Ageing, Disability and Home Care) Community Living and Residential Award published 26 October 2007 (364 I.G. 131). The award shall take effect from 11 October 2010, and remains in force for a period of 12 months.

PART B**Schedule 1 - Monetary Rates**

Level	Year	Effective from 11.10.10 Per Annum \$
Disability Support Worker	1	44,214
	2	44,991
	3	46,170
	4	47,067
	5	47,956
	6	49,276
	7	50,132
	8	51,016
	9	52,723
	10	54,437
Team Leader* One Unit	1	78,142
	2	79,710
Team Leader* Two Units	1	80,479
	2	82,077
Community Support Worker	1	44,214
	2	44,991
	3	46,170
	4	47,067
	5	47,956
Community Worker	1	47,956
	2	49,276
	3	51,016
	4	53,971
	5	56,481
	6	59,306
	7	62,441
	8	65,444
Community Consultant	1	63,137
	2	66,283
	3	68,761
	4	71,496
	5	75,084

Schedule 2 - Transitional Arrangements

- (i) Residential Support Worker Level 1 Year 1 and Year 2 will transition on their existing salary to the Disability Support Worker salary range, retain their existing incremental date and progress to the maximum rate of pay for Disability Support Worker subject to satisfactory conduct and services.
- (ii) Residential Support Workers Level 1 Year 3 with less than 12 months service at this rate of pay will transition on their existing salary to the Disability Support Worker salary range, retain their existing incremental date and progress to the maximum rate of pay for Disability Support Worker subject to satisfactory conduct and services.
- (iii) Residential Support Workers Level 1 Year 3 with 12 months or more service at this rate of pay will transition to Year 4 of the Disability Support Worker salary range effective from the date of this Award. Their incremental date will be changed to the effective date of this Award and they shall progress to the maximum rate of pay for Disability Support Worker subject to satisfactory conduct and services.
- (iv) Residential Support Workers Level 2 with less than 12 months service at their current rate of pay will transition on their existing salary to the Disability Support Worker salary range, retain their existing incremental date and shall progress to the maximum rate of pay for Disability Support Worker subject to satisfactory conduct and services.
- (v) Residential Support Workers Level 2 Year 1 - Year 6 with 12 months or more service at their current of pay will transition to the Disability Support Worker salary range in accordance with Table 1 below. Their incremental date will be changed to the effective date of this Award and they shall progress to the maximum rate of pay for Disability Support Worker subject to satisfactory conduct and services.

Table 1 - Transitional Salary Arrangements for Residential Support Workers Level 2 with 12 months or more service at their current rate of pay who were prevented from further annual increments due to qualification requirements under previous Award provisions

RSW	Salary Rate FFPP	Disability	Salary Rate FFPP
LEVEL 2	on or after 1.7.10	Support Worker	on or after 1.7.10
Year 1	47,067	Year 5	47,956
Year 2	47,956	Year 6	49,276
Year 3	49,276	Year 7	50,132
Year 4	50,132	Year 8	51,016
Year 5	51,016	Year 9	52,723
Year 6	52,723	Year 10	54,437

C.G. STAFF J

(1107)

SERIAL C7489

HIGHER SCHOOL CERTIFICATE AND SCHOOL CERTIFICATE MARKING AND RELATED CASUAL EMPLOYEES RATES OF PAY AND CONDITIONS AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Office of Board of Studies.

(No. IRC 522 of 2010)

Before The Honourable Justice Boland, President

9 July 2010

AWARD

This award is arranged as follows.

Section 1 - The Award

Clause No.	Subject Matter
1.	Award Title
2.	Intention
3.	Definitions

Section 2 - Conditions of Marking and Related Matters

4.	HSC Marking Procedures
5.	Marking of Written Papers
6.	Privacy

Section 3 - Conditions of Employment

7.	Duties of Marking, Advice Line and Inquiry Centre Staff
8.	Hours of Work
9.	Provision of Facilities
10.	Recruitment and Appointment of Marking Staff
11.	Termination of Services
12.	Qualifications
13.	Reporting of Performance
14.	Family Leave Provisions

Section 4 - Rates of Pay and Allowances

15.	Rates of Pay and Allowances
16.	Deduction of Unions' Membership Fees
17.	Superannuation
18.	Salary Sacrifice to Superannuation

Section 5 - Award Compliance and Related Matters

19.	Nomination of Unions' Representatives
20.	Dispute Resolution Procedures
21.	No Further Claims
22.	Anti-Discrimination

- 23. Occupational Health and Safety
- 24. Area Incidence and Duration

Schedule 1

- Table 1 - Weekday, Weekday Supplementary,
Weeknight/Saturday and Sunday Rates
- Table 2 - External and Corporate Per Unit Marking Rates
- Table 3 - Languages Other Than English (LOTE) Examiners
Hourly Rates
- Table 4 - Other Rates and Allowances
- Table 5 - Hourly Rates to Apply to Corporate On-screen
Marking

SECTION 1 - THE AWARD

1. Title

This award shall be known as the (Higher School Certificate and School Certificate Marking and Related Casual Employees) Rates of Pay and Conditions Award.

2. Intention

- 2.1 This award provides for employee related savings reforms to fund increases in rates of pay and allowances above the 2.5% per annum government funded increases provided by the NSW Public Sector Wages Policy 2007 as follows:
- (a) implementation of On-screen Marking for up to 30% in 2010 and up to 50% in 2011 of all Corporate and External marking of School Certificate and HSC papers and questions as measured by the total mark value of responses;
 - (b) determination by the Director which School Certificate and HSC papers and questions for which On-Screen marking will be subject to External Marking;
 - (c) per unit rates of pay method to apply to all on-screen marking of HSC papers/questions; with an hourly rate floor to apply to Corporate On-Screen Marking;
 - (d) provision for Senior Markers to be engaged outside fixed hours as On-Screen Markers.

3. Definitions

- 3.1 "the Act" means the *Public Sector Employment and Management Act 2002*.
- 3.2 "Assistant Officer in Charge HSC Inquiry Centre" means a person employed as such to assist the Director, or delegate, in the supervision of the HSC Inquiry Centre.
- 3.3 "Assistant Supervisor of Marking" means a person employed as such to assist the Supervisor of Marking.
- 3.4 "Board" means the Board of Studies, a statutory body corporate established by Section 99 of the *Education Act 1990*.
- 3.5 "Chief Executive" means the person holding or acting in the position of Department Head of the Office of the Board of Studies.
- 3.6 "Corporate marking" means the marking, pilot marking, briefing, standards setting and other activities associated with HSC examination and SC test responses, whether written or other, carried out at centres designated by the Chief Executive during the day and night.

- 3.7 "Director " means the person holding or acting in the Senior Executive position appointed with responsibility for the School Certificate and Higher School Certificate programs pursuant to Section 17 of the *Public Sector Employment and Management Act 2002*.
- 3.8 "Discrepant" means a difference in the marks allocated to a student's examination response which has been double marked which exceeds the parameters set out in clause 4.2 of this award. For questions where a single mark is awarded by each examiner, two marks are discrepant if their difference is equal to or greater than a fixed proportion of the maximum mark value of the question.
- 3.9 "External Marker" means a person employed as such to undertake a program of marking of the HSC/SC and paid by the number of questions, papers or parts of papers marked, with additional payment on an hourly basis for briefing and pilot marking.
- 3.10 "External Marking" means the marking, pilot marking, briefing, standards setting and other activities associated with HSC examination and SC test responses, whether written or other, where the responses are collected by or delivered to the markers to mark in their own time, and at individual locations including domestic locations.
- 3.11 "Double Marking" means a process where two markers make independent judgements concerning the relative merit of a student's examination response and each allocates a mark in accordance with the approved marking scheme and with each marker being unaware of the mark allocated by the other marker.
- 3.12 "Employees" means Markers, External Markers, Senior Markers, Assistant Supervisors of Marking, Supervisors of Marking, HSC Advice Line Subject Coordinators, HSC Advice Line Advisers, Assistant Officer-in-Charge Inquiry Centre, Inquiry Officers, LOTE Examiners, LOTE Casuals and HSC Advice Line Operational Managers.
- 3.13 "HSC" means the Higher School Certificate examination.
- 3.14 "HSC Advice Line Adviser" means a person employed as such to provide advice to students at the HSC Advice Line.
- 3.15 "HSC Advice Line" means the telephone advisory service operating in the weeks immediately prior to and during the HSC examination period to offer HSC students advice and information from highly qualified teachers casually employed by the Office of the Board of Studies for that purpose.
- 3.16 "HSC Advice Line Staff" means persons employed in the classifications of HSC Advice Line Adviser, HSC Advice Line Subject Coordinator and HSC Advice Line Operations Manager.
- 3.17 "HSC Advice Line Subject Coordinator" means a person employed as such to coordinate the work of HSC Advice Line Advisers in specific HSC subjects, courses or parts of courses at the HSC Advice Line.
- 3.18 "HSC Advice Line Operational Manager" means a person employed as such to manage the HSC Advice Line.
- 3.19 "HSC Inquiry Centre" means the HSC telephone inquiry service which operates following the release of HSC results and is staffed by Inquiry Officers and the Assistant Officer-in-Charge HSC Inquiry Centre.
- 3.20 "HSC Inquiry Centre Staff" means persons employed in the classifications of Inquiry Officer and the Assistant Officer in Charge HSC Inquiry Centre.
- 3.21 "Inquiry Officer" means a person employed as such to answer inquiries from students at the HSC Inquiry Centre.
- 3.22 "Itinerant marking" means the marking, pilot marking, briefing, standards setting and other activities associated with HSC examination and SC test responses, whether written or other, which occurs at

various successive locations and where the markers travel between these decentralised locations at which the responses are produced or held.

- 3.23 "Languages other than English (LOTE) Examiner" means a person employed as such released from their normal teaching duties while on full pay during the normal working day, to conduct speaking and listening skills examinations in languages other than English at schools, colleges or special examination centres designated by the Chief Executive for students other than those being taught as part of the Examiner's normal teaching duties. LOTE Examiners do not assign marks.
- 3.24 "Languages other than English (LOTE) Casual" means a person employed as such (who is not normally employed in a teaching position for which paid relief is provided) to conduct speaking and listening skills examinations in languages other than English at schools, colleges or special examination centres designated by the Chief Executive. LOTE Casuals do not assign marks.
- 3.25 "Marker" means a person employed as such for the purpose of Corporate marking, External marking or Itinerant marking.
- 3.26 "Marking Staff" means all persons employed in the classifications of Markers, Senior Markers, Assistant Supervisors of Marking and Supervisors of Marking.
- 3.27 "On-screen Marking" means the marking of examination responses provided to Marking Staff or External Markers via the internet or a computer network.
- 3.28 "Paid Relief" means the reimbursement made to a school, college or school system to cover the employment of a replacement teacher to replace the teacher involved in marking or the Languages other than English (LOTE) Examiner conducting languages other than English examinations (as per definition), with the intention that the reimbursement made is to enable a replacement teacher to perform the normal duties of the teacher involved in marking or the teacher conducting languages other than English examinations.
- 3.29 "Parties" means the Chief Executive and the unions.
- 3.30 "SC" means the School Certificate tests.
- 3.31 "Senior Marker" means a person employed as such to undertake marking as required and to supervise a team of markers under the direction of the Supervisor of Marking and the Assistant Supervisor of Marking.
- 3.32 "Supervisor of Marking" means a person employed as such to manage the marking operation in particular subjects, courses or parts of courses as determined by the Chief Executive.
- 3.33 "Unions" means the New South Wales Teachers Federation, the National Tertiary Education Industry Union of New South Wales and the New South Wales Independent Education Union.

SECTION 2 - CONDITIONS OF MARKING AND RELATED MATTERS

4. HSC Marking Procedures

- 4.1 Double Marking shall be used for questions which require an extended response such as essays, creative writing and responses to literature and will be used in all subjects where double marking was applied in the 1998 HSC.
- 4.2 The identification of discrepant marks will be made in accordance with the following parameters:
- (a) For questions where a single mark is awarded by each examiner - where the difference between the two examiners' marks is equal to or greater than one-third of the range of marks allocated to the question.

- (b) Where the mark awarded for the question comprises marks awarded to a number of part questions - where the difference between the total mark awarded for the question by each examiner is equal to or greater than one-quarter of the range of marks.
- 4.3 Where marks for a student's examination response are found to be discrepant pursuant to clause 4.2, the student's examination response will undergo a third independent marking.
- 4.4 The parties to the award agree to consult in relation to the application of double marking and discrepant marking prior to each marking period.

5. Marking of Written Papers

- 5.1 The majority of marking of written papers is undertaken by marking staff travelling to a centre to mark between 4.00 p.m. and 9.00 p.m. Monday to Friday and 9.00 a.m. and 5.00 p.m. on Saturdays.
- 5.2 A proportion of marking of written papers may occur between 9 am and 5.30 pm Monday to Friday in the case only of:
 - (a) briefing, pilot marking, standards setting and other related duties performed during the day prior to the commencement of evening marking at a centre or at the conclusion of the marking program for a course; and
 - (b) corporate marking performed in accordance with sub-clauses 5.3 to 5.5, referred to as day marking.
- 5.3 The particular subjects, courses or parts of courses to be marked by corporate marking between 9 am and 5.30 pm Monday to Friday:
 - (a) in the Sydney metropolitan area will be rotated from year to year and will not include subjects, courses or parts of courses in which there is itinerant marking;
 - (b) in areas outside the Sydney metropolitan area may be rotated from year to year and will not include subjects, courses or parts of courses in which there is itinerant marking.
- 5.4 No more than 12 per cent of the total hours of written marking shall be marked by corporate marking between 9 am and 5.30 pm Monday to Friday.
- 5.5 On-screen Marking will occur for up to 30% in 2010 and up to 50% in 2011 of all Corporate and External marking of School Certificate and HSC papers and questions as measured by the total mark value of responses;
- 5.6 At the beginning of each year the parties agree to consult over the operation of corporate marking between 9 am and 5.30 pm Monday to Friday in the preceding marking period. Such consultation shall include, without being limited to, discussion of the following issues - the mix of metropolitan and non-metropolitan corporate marking between 9 am and 5.30 pm Monday to Friday and the subjects in which corporate marking between 9 am and 5.30 pm Monday to Friday is utilised.

6. Privacy

The parties note the regulations to the *Education Act* 1990. In respect of the HSC Advice Line and HSC Inquiry Centre, information regarding individual students, individual Advice Line staff, individual Inquiry Centre staff and individual schools will not be publicly disclosed.

SECTION 3 - CONDITIONS OF EMPLOYMENT

7. Duties of Marking, Advice Line and Inquiry Centre Staff

- 7.1 Marking Staff

Without limiting the generality of clause 7.4, the duties of marking staff involve attendance at designated venues or external settings for External Markers according to a program determined by the Chief Executive comprising pilot marking, marking, briefing, standards setting and other activities associated with examination scripts, projects and performances for School Certificate and Higher School Certificate assessment purposes. These activities can take place in a range of school, marking centre and external settings.

7.2 HSC Advice Line Staff

Without limiting the generality of clause 7.4, the duties of HSC Advice Line staff engaged for the HSC Advice Line service are to provide guidance and reassurance to individual candidates up to the commencement of nominated subject examinations about aspects of their studies. The Advice Line is a telephone service set up and supported by the Office and staffed by suitably qualified teaching service personnel.

7.3 Inquiry Centre Staff

Without limiting the generality of clause 7.4, the duties of Inquiry Centre staff are to respond to student and teacher questions regarding aspects of their Higher School Certificate results and assessment marks.

7.4 Duties as Directed

- (a) The Chief Executive, or his/her delegate, nominee or representative, may direct an employee to carry out such duties as are within the limits of the employee's skill, competence and training, consistent with the classifications covered by this award and provided that such duties are not designed to promote deskilling.
- (b) Any directions issued by the Chief Executive pursuant to paragraph (a) of this clause shall be consistent with the Chief Executive's responsibility to provide a safe and healthy working environment.

8. Hours of Work

8.1 The ordinary hours of work for Employees shall be:

- (a) Monday to Friday Corporate Marking SC and HSC:
 - (i) 9 am to 5.30 pm; or
 - (ii) 4 pm to 9 pm.
- (b) Monday to Friday HSC Advice Line - 4 pm to 10 pm in two shifts of 4 pm to 7 pm and 7 pm to 10 pm.
- (c) Saturday Corporate Marking SC and HSC and the conducting of languages other than English speaking and listening skills examinations on Saturdays 9 am to 5 pm.
- (d) Saturday HSC Advice Line - 10 am to 6 pm in two shifts of 10 am to 2 pm and 2 pm to 6 pm.
- (e) Sunday HSC Advice Line - 10 am to 10 pm in three shifts of 10 am to 2 pm, 2 pm to 6 pm, and 6 pm to 10 pm. In exceptional circumstances, by agreement between the parties, work may be performed in two shifts of 10 am to 4 pm and 4 pm to 10 pm, with a paid meal break of 40 minutes at a time that is convenient to both the HSC Advice Line staff person and the Chief Executive.
- (f) Monday to Friday HSC Inquiry Centre - no more than eight hours employment in the period 8.30 am to 6 pm.
- (g) Itinerant Marking - 9 am to 3.30 pm Monday to Friday, 9 am to 5 pm Saturday.

- (h) External Marking - outside the hours midnight to 6 am. At the request of Markers, Supervisors of Marking may request the Director to vary the hours of work for particular subjects to outside the hours midnight to 5 am.
- 8.2 Provided that, with the exception of the HSC Advice Line staff and External Markers, all other Employees will be entitled to a one-hour meal break between the hours, as applicable, of :
- (a) 12.30 pm to 2 pm, Monday to Friday;
- (b) 6 pm to 7.30 pm, Monday to Friday;
- (c) 12.30 pm to 2 pm, Saturday.
- 8.3 With the exception of HSC Advice Line staff and External Markers, employees will be entitled to a morning and afternoon tea break of ten minutes each on each work day which will count as time worked or, in the case of HSC Advice Line staff, reasonable breaks each hour will be provided.
- 8.4 Hours of work for Languages other than English (LOTE) Examiners shall be pursuant to the minimum shift engagement of three hours between 9 am to 3.30 pm on weekdays.
- 8.5 With the exception of HSC Advice Line staff, HSC Inquiry Centre staff and External Markers, and at the request of the markers of a particular subject, Supervisors of Marking may ask the Director to vary the hours of work for that subject as follows :
- (a) Commencing work at 8.30 am and finishing at 4.30 pm on Saturdays.
- (b) Commencing work at 4 pm and finishing at 9.15 pm and 8.45 pm respectively on Monday to Friday.
- 8.6 Subject to the progress of marking in particular subjects, courses or parts of courses, Supervisors of Marking may request the Director to allow an unpaid lay night where no marking is undertaken in a particular subject, courses or parts of courses on that night.
- 8.7 Itinerant examiners shall have up to one hour of unpaid travelling time, with one hour for lunch for the remuneration as applicable according to whether they are released from full-time teaching or not as set out in clauses 15.2.2 and 15.2.3 respectively. All other marking shall be remunerated at the applicable rates as set out in clauses 15.2.1 and 15.2.4. Additional travelling time shall be paid at the weekday rate as set out in clause 15.2.3.
- 8.8 Employees engaged in Corporate Marking may, subject to the agreement of the majority of employees affected, reach agreement with the relevant Supervisor of Marking to work beyond the scheduled finishing times described in clause 8.1. In the event this involves Employees working beyond their regular shift of 9 am to 5.30 pm weekdays and 9 am to 5 pm Saturday until 6.30 pm then a further meal allowance is payable notwithstanding the provisions of clause 15.5.

9. Provision of Facilities

9.1 Parking

Free secure car parking spaces and free transport to rail will be provided for HSC Advice Line staff who work past 6.30 p.m.

9.2 Tea/Coffee

9.2.1 Adequate tea, coffee, milk, sugar and refrigerator facilities will be provided at each marking centre.

9.2.2 Access of employees to tea and coffee facilities will, at all times, be subject to the directions of the Supervisors of Marking to ensure minimal interruption to the marking process.

9.2.3 Employees will supply their own cups for tea and coffee during the employment.

9.3 Occupational Health and Safety

9.3.1 Marking centres will be clean and tidy prior to the commencement of marking each day in accordance with occupational health and safety legislation standards.

9.3.2 Personal headsets will be provided for HSC Advice Line and HSC Inquiry Centre staff.

9.3.3 The parties to the award will monitor and address any occupational health and safety issues arising from the implementation of on-screen marking.

9.4 Proof of Identity

Employees will supply their own photograph, of a standard passport size, for attachment to an identification card. Unless marking in an External marking setting employees will carry identification cards at all times during the marking, the HSC Advice Line and the HSC Inquiry Centre processes. Employees will replace photographs in the event of the loss of a card.

9.5 Other Facilities

Marking centres will be provided with adequate toilets, first-aid facilities and eating areas.

10. Recruitment and Appointment of Marking Staff

10.1 Supervisors of Marking

Supervisor of Marking applications will be considered by a Selection Committee chaired by the Director's nominee. The following factors will be used in selecting the most eligible applicant.

10.1.1 Previous marking experience as a Senior Marker, Coordinating Senior Marker or Assistant Supervisor of Marking.

10.1.2 Substantial and recent teaching experience at a senior level.

10.1.3 Demonstrated high level organisational, management and leadership skills. eg. position on staff.

10.1.4 Demonstrated ability to manage a complex operation such as a marking centre.

10.1.5 Qualifications in the subject - university degree or recognised equivalent.

10.1.6 Membership of professional bodies associated with the subject, eg. curriculum committees, professional associations, etc.

10.2 Advice Line Subject Coordinators

Subject Coordinators will be considered by a Selection Committee chaired by the Director's nominee. The following factors will be used in selecting the most eligible applicant.

10.2.1 Previous experience as an Adviser or Assistant Subject Coordinator.

10.2.2 Previous marking experience as a Senior Marker, Coordinating Senior Marker, Assistant Supervisor of Marking or Supervisor of Marking.

10.2.3 Substantial and recent teaching experience at a senior level.

10.2.4 Demonstrated high level organisational, management and leadership skills. eg. position on staff.

10.2.5 Qualifications in the subject - university degree or recognised equivalent.

10.2.6 Membership of professional bodies associated with the subject, eg. curriculum committees, professional associations, etc.

10.3 Criteria for Marker and Adviser Selection

10.3.1 The Office of the Board of Studies will ensure that subject specific criteria used by the Supervisor of Marking (SOM)/Advice Line Subject Co-ordinator (SC) when making his/her selection/non-selection conforms with the general selection criteria and has been applied consistently across the subject/course.

The following general criteria will be used in selecting markers and advisers.

- 10.3.1.1 Total number of years teaching the subject/course - As a general guide, three years' experience teaching the subject/course at a senior level will be regarded as a minimum requirement for appointment as a marker/adviser.
- 10.3.1.2 Recent teaching of the subject/course - As a general guide, an applicant who has not taught the course/subject in the last 3 years is regarded as not having recent teaching experience.
- 10.3.1.3 Retired applicants - The requirement for adequate recency of teaching will mean that, in most cases, retired applicants will not be eligible for appointment.
- 10.3.1.4 Qualifications - Normally a degree with a major in the subject or a program of study deemed to be equivalent is required for appointment as a marker/adviser.
- 10.3.1.5 Current position within the school - School Principals are not eligible for appointment as a marker/adviser. Preference is given to teachers directly involved in the organisation and teaching of the subject.
- 10.3.1.6 Part-time and casual teachers - In most cases, applicants who are casual teachers will not have sufficient teaching experience. However, there may be instances where the applicant is a casual teacher but has had experience teaching blocks of senior classes which may amount to the minimum required years teaching experience for appointment.
- 10.3.1.7 Turnover of markers/advisers - A minimum of 10 per cent of markers/advisers appointed each year will not have marked/advised previously. This is a policy aimed at increasing the pool of teachers with marking/advising experience in each subject.

In subjects where the number of applicants exceeds the number of available positions, a limit on the number of years for appointment to marking/advising may be applied.

- 10.3.1.8 Topic expertise - Where necessary, an applicant may be appointed on the basis of the expertise they have in a particular area of the subject/course.
- 10.3.1.9 Previous satisfactory marking/advising - Although previous marking/advising experience should be considered in determining an applicant's qualifications for appointment, the Office of the Board of Studies will not automatically reappoint a marker/adviser from the previous year. Markers deemed to have an unsatisfactory performance level may not be appointed in subsequent years.
- 10.3.1.10 Other relevant experience in promoting the subject - An applicant who has not had any recent experience teaching the course or the subject may be appointed if the Office of the Board of Studies deems their experience relevant to the marking program.

- 10.3.1.11 Distance - Appointment of markers/advisers will be restricted to teachers who can ensure that they will be able to commence marking as scheduled each day. Any applicant who is outside reasonable distance from the marking centre must show ability to get there on time. Applicants who live a long distance from the Advice Line/marketing centres but have indicated that they intend to take leave if appointed will be considered eligible in terms of this criterion.
- 10.3.1.12 Declaration and approval - The application must include a declaration by the Principal or Dean of Studies at TAFE or relevant supervisor that
- (i) the information provided by the applicant is, to the best of their knowledge, correct;
 - (ii) the application is approved.
- 10.3.1.13 Selection of markers/advisers is based on the information provided on the application. The Office of the Board of Studies will not contact an applicant who has not provided information that is crucial in determining that person's eligibility. Applicants are responsible for providing complete and accurate information.
- 10.3.1.14 If a marker's/adviser's application is submitted after the closing date, the applicant will only be appointed if there is a shortage of qualified applicants.
- 10.3.1.15 In selecting markers, consideration will be given to a balanced representation of markers/advisers from Government Schools, Catholic Schools, Independent Schools, Institutes of TAFE and universities.
- 10.3.2 Criteria Specific to Marker Selection -
- 10.3.2.1 Appointment to more than one marking session - In order to give as many suitably qualified applicants the opportunity to participate in marking, applicants will generally be appointed to only one course and to one session where there is both a practical and written component.
- 10.3.2.2 Examination Committee members - Members of the Examination Committee will not be given automatic appointment as markers.
- 10.3.2.3 Appointed markers will need to be available for all marking sessions, including briefing and pilot marking, and will have agreed to this and all other conditions of employment when submitting their application. Applicants who do not agree to the conditions of employment will not be appointed.
- 10.3.3 Criteria Specific to Adviser Selection -
- 10.3.3.1 Successful applicants may be required to attend a briefing session. While availability at all Advice Line sessions is not essential, it is expected that successful applicants will be available for the majority of sessions. Applicants who do not agree to this or to the other conditions of employment will not be appointed.
- 10.3.3.2 Applicants not eligible for appointment - Members of the Examination Committee, Examination Assessors and any other person who has viewed the examination papers for the current year in the particular subject/course are not eligible for appointment.
- 10.3.3.3 Recent teaching of the subject/course - Suitably qualified applicants who have taught the course to HSC level in the current year will be given preference in selection.

10.4 Criteria Specific to Selection of Marking Staff for On-screen Marking

Markers applying for on-screen marking where the marking is not to occur in a Corporate Marking Centre must ensure that they can provide access to a fast and reliable internet service for the purposes of marking.

10.5 Provision of Information

- (a) The unions party to the award shall have access to information concerning the application of criteria for particular applicants.
- (b) The unions shall have access to information on the distribution of applicants appointed from various schools and different education systems.
- (c) An applicant who is not appointed shall be advised of the reason for non-appointment.

11. Termination of Services

An employee is entitled to 48 hours' notice of termination of services, or the equivalent of two days' ordinary pay in the relevant employment classification, except where termination of services is on account of misconduct of any kind or any unsatisfactory standard of work or voluntary withdrawal by the employee.

12. Qualifications

The minimum qualifications and experience for employment under this award shall be determined by the Chief Executive.

13. Reporting of Performance

A system of appraisal of performance of Employees will be undertaken during the HSC/SC marking with the exception of HSC Advice Line and HSC Inquiry Centre staff. This will involve provision of an individual report at the conclusion of marking to Employees showing:

- (i) an overall grading of his/her performance;
- (ii) supporting information relating to accuracy and rate of marking;
- (iii) an indication of his/her attendance record throughout the marking; and
- (iv) a written comment describing his/her performance throughout the marking.

14. Family Leave Provisions

14.1 The Chief Executive must not fail to re-engage an Employee because:

14.1.1 The Employee or Employee's spouse is pregnant; or

14.1.2 The Employee is or has been immediately absent on parental leave

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

14.2 Personal Carers entitlement for Employees

14.2.1 Employees are entitled to not be available to attend work, or to leave work if they need to care for a family member who is sick and requires care and support, or who requires care due to an unexpected emergency, or the birth of a child. This entitlement is subject to evidentiary requirements set out below in (14.3), and the notice requirements set out in (14.4).

14.2.1.1 A family member for the purposes of above is:

a spouse or family member; or

a de facto spouse being a member of the opposite sex to the Employee who lives with the Employee as her husband or as his wife on a bona fide domestic basis although not legally married to that Employee; or

a child or an adult child (including an adopted child, a step child, a foster child or an ex-nuptial child), parent (including a foster parent or legal guardian), a grandparent, grandchild or sibling of the Employee or of the spouse or de facto spouse of the Employee; or

a same sex partner who lives with the Employee as the de facto partner of that Employee on a bona fide domestic basis; or a relative of the Employee who is a member of the same household, where for the purposes of this definition:

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

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

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

14.2.2 The Chief Executive and the Employee shall agree on the period 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 Employee is not entitled to any payment for the period of non-attendance.

14.2.3 The Chief Executive must not fail to re-engage an Employee because the Employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage an Employee are otherwise not affected.

14.3 The Employee, shall if required,

14.3.1 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

14.3.2 Establish by production of documentation acceptable to the employer or a statutory declaration, the nature of the emergency and that such an 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.

14.4 The Employee must, as soon as reasonably practical 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 (drawn from AIRC order (PR964989)).

14.5 Bereavement entitlements for Employees

14.5.1 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).

- 14.5.2 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 agreement, the Employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The Employee is not entitled to any payment for the period of non-attendance.
- 14.5.3 The Chief Executive must not fail to re-engage the Employee because the Employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not engage an Employee are otherwise not affected.
- 14.5.4 The 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 (Drawn from AIRC order (PR964989)).

SECTION 4 - RATES OF PAY AND ALLOWANCES

15. Rates of Pay and Allowances

- 15.1 The monetary rates covered by this award are set out in tables 1-5 of Schedule 1 of this award:

Table 1 - Weekday, Weekday Supplementary, Weeknight/Saturday and Sunday Rates

Table 2 - External and Corporate Per Unit marking rates

Table 3 - Languages other than English (LOTE) Examiner Hourly Rates

Table 4 - Other Rates and Allowances

Table 5 - Hourly Rates floor to apply to Corporate On-screen Marking

- 15.2 Rates of Pay

Subject to the provisions of clause 15.2.7 :

- 15.2.1 Weeknight/Saturday rates are hourly rates paid to Employees from 3.30 pm on any weekday and for all time worked on a Saturday. These rates include a loading of 11.4% on the Weekday rates to compensate for all disabilities.
- 15.2.2 The Weekday Supplementary rates apply to Employees from 9 am on a weekday until 3.30 pm for Corporate Marking and Itinerant Marking where a teacher is released on pay from another employer.
- 15.2.3 The Weekday rates apply to Employees from 9 am on a weekday until 3.30 pm for Corporate Marking and Itinerant Marking where the Employee is not normally employed in a teaching position for which paid relief is provided during marking. This provision does not apply to those Employees to which clause 15.2.2 applies.
- 15.2.4 Sunday rates are hourly rates paid to employees for all times worked on Sundays and attract a loading of 50% above the Weekday rate.
- 15.2.5 Languages other than English (LOTE) examiners and casuals shall be paid at the rates specified at table 1 for markers, except in the case of LOTE Examiners who work less than a full day on weekdays who are to be paid at the hourly rates specified at Table 3, calculated by dividing the Weekday Supplementary rates at clause 15.2.2 by $5\frac{1}{2}$ being the number of paid hours compensated by the Weekday Supplementary rates.
- 15.2.6 During the summer school vacation HSC Inquiry Centre Staff are paid the Weeknight/Saturday rates at clause 15.2.1 for all hours worked, except for Sunday when the Sunday rates at clause

15.2.4 apply. At other times the rates at clauses 15.2.1, 15.2.2 or 15.2.3 will be paid, as applicable.

15.2.7 External and Corporate Per Unit Marking Rates:

- (a) Where marking is conducted in an External marking mode the rates for such External marking are as set out in Table 2 provided that where the paper is less than three hours in length the rate is determined as a fraction of the three hour rate e.g. for a two hour paper the payment is two thirds of the three hour rate.
- (b) Where the marking is undertaken on a question basis the payment will be calculated by dividing the relevant rate for such paper by the number of questions unless otherwise specified in clause 15.2.7(c) or in Table 3.
- (c) For On-screen HSC marking, other than mathematics, where the marking is undertaken on a question basis the Per Unit Rate of Pay method of payment will be calculated by multiplying the relevant rate for each paper by the percentage of the total mark value of the paper represented by the question concerned.
- (d) Corporate On-screen HSC markers remuneration will be based on the greater of:
 - (i) the total number of papers or questions marked on-screen multiplied by the applicable Per Unit Rate of Pay; and,
 - (ii) the total hours of overall On-screen Marking undertaken, multiplied by the applicable hourly rate of pay as specified in Table 5 of Schedule 1. For this purpose, the total hours of On-screen Marking undertaken by individual markers will be the elapsed time of On-screen Marking as recorded by the Office's on-screen marking software for each marker.

15.2.8 Marking staff engaged in External On-screen Marking will receive an allowance for compensation for the use of private Information and Communications Technologies (ICT) facilities (including broadband) as set out in Table 4 item 6 of Schedule 1.

15.2.9 Senior Markers may choose to engage in External On-Screen Marking as Markers outside the fixed hours provided at clause 8 and will be remunerated according to the per unit rate of pay as per Table 2 Schedule 1.

15.2.10 Senior Markers engaged in corporate or external on-screen marking except for HSC mathematics and working as Senior Markers according to fixed hours will be remunerated according to Table 1 Schedule 1.

15.3 As the Employees are engaged on a casual basis for a maximum of up to six weeks, the rates set out in clause 15.2 incorporate loadings for casual engagement, sick leave and pro rata holiday pay. The pro rata holiday pay incorporated in the rates in the said clause was calculated as 1/12 of the hourly rate.

15.4 Minimum Payments

15.4.1 No employee engaged in corporate marking shall be paid for less than 3 hours from the time of starting work except for markers subject to the provisions of clause 15.6.3(c) who will receive no less than for 4 hours from the time of starting work.

15.4.2 HSC Student Advice Line staff required to attend on any day shall be paid no less than for the shift engagement time.

15.4.3 HSC Inquiry Centre staff required to attend on any day shall be paid no less than for 6 hours.

15.4.4 Languages other than English (LOTE) Examiners shall be paid a minimum of 3 hours for each weekday at the rates per hour as set out in Table 3 of Schedule 1.

15.4.5 Languages other than English (LOTE) Casuals shall be paid a minimum of 3 hours at the Weekday rate for Markers as set out in Table 1 of Schedule 1.

15.4.6 Corporate Markers engaged :

- (a) from 9 am and who work beyond 3.30 pm shall be paid a minimum of 2 hours at the Weeknight/Saturday rate for those hours; and,
- (b) on a Saturday shall be paid a minimum of 3 hours from the time of starting work on Saturdays.

15.4.7 Itinerant Markers engaged :

- (a) from 9 am and who work beyond 3.30 pm shall be paid successive extensions of one half hour at the Weeknight/Saturday rate for those hours; and,
- (b) on a Saturday shall be paid a minimum of 3 hours calculated from the time of starting work on Saturdays.

15.4.8 This clause does not entitle any Employee to minimum payments who arrives late or who exceeds meal break times or leaves the marking centre/advice line/inquiry centre early and works less than the minimum payment hours.

15.5 Meal Allowance

A meal allowance, as set out in Item 2 of Table 4, is payable to an employee on each day of corporate marking (including briefing and pilot marking sessions) where the Employee works for at least an hour before and an hour after the meal break. The requirement for an Employee to work before and after a meal break to be paid a meal allowance is waived for HSC Advice Line Advisers and LOTE Examiners and LOTE Casuals.

15.6 Travel Allowances

15.6.1 Travelling allowances for all Employees engaged in corporate marking, the HSC Advice Line and the HSC Inquiry Centre, except for markers engaged in corporate marking outside the metropolitan areas of Sydney, Newcastle and Wollongong, will be limited to the rates set out in item 3 of table 4 irrespective of the distance travelled.

15.6.2 Marking Staff engaged in Itinerant Marking are entitled to the travel allowances shown in Item 4 (a) of Table 4, except for their attendance at pilot marking and briefing sessions. The travel allowance for itinerant marking is based on the use of a private motor vehicle paid on the basis of cents per kilometre up to 8,000 km per annum at the rate set out in Item 4 (a) of Table 4 and is payable to persons marking itinerantly in respect of each kilometre travelled in excess of the total distance between the person's usual place of residence and their usual place of work and in circumstances where a rental motor vehicle is not utilised. Marking Staff engaged in Itinerant Marking attending pilot marking and briefing sessions will be paid a Travel Allowance at the rate set out in Item 3 of Table 4.

Note: Itinerant Markers have up to one hour of unpaid travelling time. Additional travelling time is paid pursuant to clause 8.7.

15.6.3 Marking Staff engaged in corporate marking outside the metropolitan areas of Sydney, Newcastle and Wollongong shall be paid:

- (a) the Travel Allowance as set out in Item 3 of Table 4; and in addition (where applicable).
- (b) for travel in excess of 40 km per day from the person's daily place of residence during the marking period to the marking centre and return, up to a maximum of 160 km where the

person provides evidence of the additional travel involved. The amount shall be an amount per kilometre as set out in Item 4 (b) of Table 4 ; or

- (c) when the supplementary kilometre allowance at paragraph (b) above is not claimed on a daily basis and subject to the person's usual place of residence being outside the Sydney metropolitan area and more than 100 kilometres from the marking centre, the Travel Allowance as set out in item 5 of table 4 Schedule 1 once per engagement;

15.6.4 Marking Staff engaged in itinerant marking who normally reside outside the Sydney metropolitan area who attend briefing sessions inside the Sydney metropolitan area shall be paid the Travel Allowance at item 5 of table 4 Schedule 1 once per engagement subject to the person's usual place of residence being more than 100 kilometres from the briefing session venue.

15.7 Subsistence Allowances for Itinerant Marking

Marking Staff engaged in itinerant marking outside the metropolitan area of Sydney who are required to stay overnight at a place other than their usual place of residence during the marking period, shall be entitled to the payment of the daily allowance at item 1(a) of table 4 Schedule 1. The entitlement to this allowance will apply for periods of 24 hours and for any periods less than 24 hours will be compensated by the payment of the hourly allowance at item 1(b) of table 4 Schedule 1.

15.8 The Allowances at clauses 15.5, 15.6 and 15.7 will be adjusted in accordance with the rates as approved from time to time by the Director of Public Employment.

16. Deduction of Unions' Membership Fees

- (i) The unions shall provide the employer with a schedule setting out unions' fortnightly membership fees payable by members of the unions in accordance with the unions' rules.
- (ii) The unions shall advise the employer of any change to the amount of fortnightly membership fees made under its rules. Any variation to the schedule of unions' 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 unions' rules, provided that the employee has authorised the employer to make such deductions.
- (iv) Monies so deducted from employees' pay shall be forwarded regularly to the unions together with all necessary information to enable the unions to reconcile and credit subscriptions to employees unions' membership accounts.
- (v) Unless other arrangements are agreed to by the employer and the unions, all unions membership fees shall be deducted on a fortnightly basis.
- (vi) Where an employee has already authorised the deduction of union's membership fees from his or her pay prior to this clause taking effect, nothing in this clause shall read as requiring the employee to make a fresh authorisation in order for such deductions to continue.

17. Superannuation

All Employees shall be entitled to occupational superannuation at the appropriate Superannuation Guarantee Contribution (SGC) rate for all payments pursuant to clause 15.2 Rates of Pay.

18. Salary Sacrifice to Superannuation

18.1 Notwithstanding the salaries prescribed by Schedule 1, Monetary Rates, an employee may elect, subject to the agreement of the employee's department or agency, to sacrifice a portion of the wage/salary payable under clause 15, Rates of Pay and Allowances, to additional employer superannuation

contributions. Such election must be made prior to the commencement of the period of service to which the earnings relate. 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.

18.2 Where the employee has elected to sacrifice a portion of that payable salary to additional employer superannuation contributions:

- (a) subject to Australian Taxation law, the sacrificed portion of salary will reduce the salary subject to appropriate PAYG taxation deductions by the amount of that sacrificed portion; and
- (b) 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 an employee's salary, shall be calculated by reference to the salary which would have applied to the employee under the said clause 15 in the absence of any salary sacrifice to superannuation made under this award.

18.3 The employee may elect to have the portion 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 department or agency's agreement, paid into a private sector complying superannuation scheme as employer superannuation contributions.

18.4 Where an employee makes an election in terms of subclause 18.3 of this clause, the employer shall pay the portion of salary, the subject of election, to the relevant superannuation fund.

18.5 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 department or agency must ensure that the amount of any additional employer superannuation contributions specified in subclause 18.1 of this clause is included in the employee's superannuable salary which is notified to the New South Wales public sector superannuation trustee corporations.

18.6 Where, prior to electing to sacrifice a portion of his/her salary to superannuation, an employee had entered into an agreement with his/her department or agency to have superannuation contributions made to a superannuation fund other than a fund established under legislation listed in subclause 18.5 of this clause, the department or agency will continue to base contributions to that fund on the salary payable under clause 15 to the same extent as applied before the employee sacrificed portion of that salary to superannuation. 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 sacrifice is implemented.

Section 5 - Award Compliance and Related Matters

19. Nomination of Unions' Representatives

In each marking section union members will be permitted, at the commencement of marking, the necessary time to meet for the purpose only of nominating a union representative. Such meeting may be announced using a public address system (if possible) provided that there is no undue disruption to other nearby markers.

20. Dispute Resolution Procedures

20.1 Subject to the provisions of the *Industrial Relations Act* 1996:

20.1.1 Should any dispute, question or difficulty arise concerning industrial matters occurring in a particular workplace, then the employee or the union's workplace representative will raise the matter with relevant Supervisor of Marking as soon as practicable.

20.1.2 The Supervisor of Marking will discuss the matter with the employee or the union's workplace representative with a view to resolving the matter or by negotiating an agreed method and time frame for proceeding.

20.1.3 Should the above procedure be unsuccessful in producing a resolution of the dispute, question or difficulty or should the matter be of a nature which involves multiple workplaces, then the employee or the union may raise the matter with the Director, Examinations with a view to resolving the dispute, question or difficulty or by negotiating an agreed method and time frame for proceeding.

20.1.4 Where the procedures in the preceding paragraph do not lead to resolution of the dispute, question or difficulty, the matter will be referred to the General Manager and the General Secretary of the respective unions. They or their nominees will discuss the dispute, question or difficulty with a view to resolving the matter or by negotiating an agreed method and time frame for proceeding.

20.1.5 Should the above procedures not lead to a resolution, then either party may apply to the Industrial Relations Commission of New South Wales.

20.2 Whilst the procedures outlined in clause 20.1 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.

21. No Further Claims

21.1 Except as provided by the *Industrial Relations Act* 1996, there shall be no further rates of pay or conditions claims by the parties prior to 31 December 2011 in relation to matters expressly contained in this award.

22. Anti-Discrimination

22.1 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 and age and responsibilities as a carer.

22.2 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.

- 22.3 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.
- 22.4 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.
- 22.5 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.

23. Occupational Health and Safety

- 23.1 For the purposes of this clause, 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, corporation and/or person) which has at its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
 - (b) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust, 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 employer which might otherwise have been carried out by the other employer's own employees.
- 23.2 If the employer engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises, the employer 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 the appropriate health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
 - (c) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
 - (d) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- 23.3 Nothing in this clause is intended to affect or detract from any obligation or responsibility upon a labour hire business under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- 23.4 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.

This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Training 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.

23.5 This clause operates from 1 March 2006.

24. Area Incidence and Duration

24.1 This award:

24.1.1 This award rescinds and replaces the Higher School Certificate and School Certificate Marking and Related Casual Employees Rates of Pay and Conditions Award published 25 September 2009 (369 I.G. 40).

24.1.2 This award shall take effect on and from 1 January 2010 with a nominal term until and including 31 December 2011.

24.2 Covers all casual employees employed by the Office of the Board of Studies pursuant to the Act engaged to mark the Higher School Certificate examinations and the School Certificate Tests and to provide advice to students through the Higher School Certificate Advice Line and Higher School Certificate Inquiry Centre at various locations determined by the Chief Executive, Office of the Board of Studies, New South Wales.

SCHEDULE 1**Table 1 - Weekday, Weekday Supplementary, Weeknight/Saturday and Sunday Rates**

Classification	Weekday Rates per hour on and from			Weekday Supplementary Rates per day on and from			Weeknights and Saturday Rates per hour on and from			Sunday Rates per hour on and from		
	1/1/09 4.4% \$	1/1/10 3.8% \$	1/1/11 3.8% \$	1/1/09 4.4% \$	1/1/10 3.8% \$	1/1/11 3.8% \$	1/1/09 4.4% \$	1/1/10 3.8% \$	1/1/11 3.8% \$	1/1/09 4.4% \$	1/1/10 3.8% \$	1/1/11 3.8% \$
Marker	62.87	65.26	67.74	60.93	63.25	65.65	70.03	72.69	75.45	94.26	97.84	101.56
LOTE Examiner				60.93	63.25	65.65	70.03	72.69	75.45	94.26	97.84	101.56
LOTE Casual	62.87	65.26	67.74				70.03	72.69	75.45	94.26	97.84	101.56
1. Senior marker	78.02	80.98	84.06	71.88	74.61	77.45	86.88	90.18	93.61	117.03	121.48	126.10
2. HSC Advice Line Adviser												
3. HSC Inquiry Centre Inquiry Officer (Note 1)												
1. Assistant Supervisor of Marking	90.22	93.65	97.21	83.13	86.29	89.57	100.49	104.31	108.27	135.28	140.42	145.76
2. Subject Co-ordinator HSC Advice Line												
3. Assistant Officer in Charge HSC Inquiry Centre (Note 1)												

1. Supervisor of Marking	99.93	103.73	107.67	92.09	95.59	99.22	111.31	115.54	119.93	149.94	155.64	161.55
2. HSC Advice Line Operations Manager												

Note (1) Refer to provisions that apply to HSC Inquiry Centre Staff at clause 15.2.6.

Table 2 - External and Corporate Per Unit Marking Rates On and from:

HSC	1/1/09 4.4% \$	1/1/10 3.8% \$	1/1/11 3.8% \$
(a) Mathematics - Payments will be on a per question basis:			
Base Rate (Mathematics in Practice/Mathematics in Society/General Mathematics Paper from 2001)	2.161	2.243	2.328
2-3 Unit Paper - Mathematics Paper from 2001	2.373	2.463	2.557
3 Unit Additional Paper - Mathematics Extension 1 Paper from 2001	2.573	2.671	2.772
4 Unit Additional Paper - Mathematics Extension 2 Paper from 2001	3.512	3.645	3.784
(b) Other Subjects - Payments will be on a per three hour paper basis:			
Base Rate	22.56 (1)	23.42	24.31
3 Unit Additional Paper -	28.20 (1)	29.27	30.38

Note: (1) Based on 2008 Business Studies per paper cost escalated by 4.4%.

**Table 3 - Languages Other Than English (LOTE) Examiners Hourly Rates
On and from:**

A. Weekday Examining	1/1/09 Rates per hour \$	1/1/10 Rates per hour 3.8% \$	1/1/11 Rates per hour 3.8% \$
1. Languages other than English (LOTE) Examiners	11.09	11.51	11.95

Table 4 - Other Rates and Allowances

Item No.	Clause No.	Brief Description	Amount \$	
			(a) Daily Rate \$	(b) Hourly Rate \$
1	15.7	Travelling Allowance -		
		Capital City Rate	289.80	12.08
		Newcastle	234.30	9.76
		Wagga Wagga	224.30	9.35
		Port Macquarie	221.80	9.24
		Maitland	214.80	8.95
		Wollongong	205.55	8.56
		Orange	205.55	8.56
		Broken Hill	205.55	8.56
		Dubbo	205.55	8.56
		Bathurst	205.55	8.56
		Other Country Centres	190.55	7.94
		2	15.5	Meal Allowance

3		Travel Allowance (based on 40 km multiplied by the Transport Allowance per kilometre rate determined by the Director of Public Employment pursuant to clause 15.8) :	11.84 per day		
	15.6.1	Employees engaged in Corporate marking in metropolitan areas of Sydney, Newcastle and Wollongong, HSC Advice Line and HSC Inquiry Centre			
	15.6.3(a)	Markers engaged in Corporate marking outside the metropolitan areas of Sydney, Newcastle and Wollongong			
4		Motor Vehicle Allowance - distances exceeding travel to and from usual place of residence and usual place of work:			
(a)	15.6.2	Itinerant Markers	0.740 per km		
(b)	15.6.3(b)	Markers engaged in Corporate marking outside the metropolitan areas of Sydney, Newcastle and Wollongong in excess of 40 km up to a maximum 160 km per day	0.296 per km		
5	15.6.3(c)	Travel Allowance fixed payment for :			
		Markers engaged in Corporate marking outside the metropolitan areas of Sydney, Newcastle and Wollongong not claiming the allowance at 15.6.3(a) on a daily basis whose usual place of residence is outside the Sydney metropolitan area and in excess of 100 km from the marking centre	1/1/09 4.4% \$117.44	1/1/10 3.8% 121.90	1/1/11 3.8% 126.53
	15.6.4	Itinerant markers who reside outside Sydney metropolitan area attending briefing sessions inside the Sydney metropolitan area where the person's usual place of residence is in excess of 100 km from the briefing session venue.	\$200 once per engagement		
6	15.2.8	External On-screen Marking ICT Allowance for use of ICT facilities including broadband	\$11 once per engagement		

Table 5 - Hourly Rates floor to apply to Corporate On-screen Marking

Classification	Weekday Rates per hour on and from			Weekday Supplementary Rates per day on and from			Weeknights and Saturday Rates per hour on and from			Sunday Rates per hour on and from		
	1/1/09	1/1/10	1/1/11	1/1/09	1/1/10	1/1/11	1/1/09	1/1/10	1/1/11	1/1/09	1/1/10	1/1/11
	4.0%	3.5%	3.5%	4.0%	3.5%	3.5%	4.0%	3.5%	3.5%	4.0%	3.5%	3.5%
	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Marker	62.63	64.82	67.09	60.69	62.81	65.01	69.76	72.20	74.73	93.90	97.19	100.59

R. P. BOLAND J , *President*

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LANDCOM AWARD 2010

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Landcom.

(No. IRC 719 of 2010)

Before The Honourable Mr Justice Staff

16 August 2010

AWARD**1. Arrangement**

Clause No.	Subject Matter
1.	Arrangement
2.	Title
3.	Area, Incidence and Duration
4.	Parties and Coverage
5.	Definitions
6.	Local Arrangements
7.	Dispute resolution
8.	Consultation
9.	Salaries
10.	Classifications
11.	Salary Increases
12.	Hours of work
13.	Agreed Absences
14.	Standard Hours
15.	Part Time Staff Members
16.	Filling Positions
17.	Casual Employment
18.	Recruitment and selection
19.	Job evaluation
20.	Salary Sacrifice and Packaging
21.	Payment of Expenses
22.	Higher Duties Allowance
23.	Allowances - General
24.	Excess Travelling Time
25.	Meal Allowances
26.	Use of Private Motor Vehicles
27.	Overseas travel
28.	First Aid Allowance
29.	Weekend And Public Holiday Allowance
30.	Uniforms, Protective Clothing and their Maintenance
31.	Compensation for Damage to or Loss of Private Property
32.	Overtime
33.	Rates for payment of Overtime
34.	Rest Periods
35.	Meal Breaks
36.	Compensation for directed overtime
37.	Provision of Transport
38.	Leave
39.	Annual Leave
40.	Sick Leave

41. Sick Leave - Workers' Compensation
42. Sick Leave - Other Than Workers' Compensation
43. Sick Leave - Requirements for Medical Certificate
44. Sick leave to Care for a Family Member
45. Maternity Leave
46. Parental Leave
47. Adoption Leave
48. Family and Community Service Leave
49. Observance of Essential Religious or Cultural Obligations
50. Long service Leave
51. Leave Without Pay
52. Military Leave
53. Special Leave
54. Staff Development, Training Activities and Study Assistance
55. Exchanges
56. Relocation Package
57. Termination of Employment
58. Working from Home
59. Private Employment
60. Management of Displaced Staff Members
61. Child Care Arrangements
62. Performance management
63. Unsatisfactory Performance or Misconduct
64. Anti-Discrimination
65. Association Activities
66. Access to Facilities
67. Right of Entry
68. Industrial Action
69. Technological Change
70. Association Deductions
71. Public Holidays
72. Community Language Allowance
73. No Extra Claims
74. Flexible Work Practices
75. Secure Employment
76. Occupational Health and Safety
77. Lactation Breaks
78. Monetary Rates Table

APPENDIX A

APPENDIX B - SALARY SCHEDULE

2. Title

This award shall be known as the Landcom Award 2010.

3. Area, Incidence and Duration

- (1) This award shall apply to all staff members employed by Landcom in accordance with the Act and replaces in full the following:
 - (a) Crown Employees (Public Service Conditions of Employment 2009) Award,
 - (b) Crown Employees (Public Sector Salaries 2008) Award
 - (c) Crown Employees (Planning Officers) Award 2008

- (d) Crown Employees (Senior Officers Salaries Award 2007) Award
 - (e) Landcom (Conditions of Employment 2004) Award
 - (f) Landcom (Salaries 2004) Award
 - (g) Landcom Award 2008
 - (h) Any other award, agreement or determination that affected Landcom as a Division of the Department Planning within the NSW Public Service.
- (2) Where there may be inconsistencies between this award and conditions of employment affecting staff of Landcom in previous, or other otherwise applicable, awards or agreements, the arrangements in this award shall prevail.
 - (3) This award rescinds and replaces the Landcom Award 2008 published 26 February 2010 (369 I.G. 1421) and shall take effect from 16 August 2010 and shall remain in force until 30 June 2012.
 - (4) This award complies with Section 19 of the *Industrial Relations Act 1996*.

4. Parties and Coverage

- (1) The parties to this award are Landcom and the Public Service Association and Professional Officer's Association Amalgamated Union of New South Wales.
- (2) The provisions of this award shall apply to staff members employed by Landcom.
- (3) The provisions of this award shall not apply to senior managers above Level 8 salary point 23, employed on written contracts of employment, other than clauses 38 to 53 inclusive, which deal with various leave entitlements.

5. Definitions

"Act" means the *Landcom Corporation Act 2001*.

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

"Approved Course" means a course that is relevant to the employment of the staff member and one that has been approved by the Chief Executive Officer.

"Association" means the Public Service Association and the Professional Officer's Association Amalgamated Union of New South Wales (PSA).

"Association Delegate" means an accredited Association delegate responsible for their workplace membership; and/or a person who is elected by the Association as its representative, an executive member or a member of the Association's Council.

"Association Official" means a person who is employed by the Association to carry out duties of an official in a permanent or temporary capacity, including elected full-time officials and/or staff members placed on loan to the union for an agreed period of time.

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

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

"Birth" means the birth of a child and includes stillbirth.

"Corporation" means Landcom as established by the Act.

"Chief Executive Officer" means the Managing Director of Landcom or a person authorised by the Managing Director.

"Daily Spread of Hours" means a 12 hour daily spread of hours for working the 35 hour week, which will normally fall between 7.00 am and 7.00 pm.

"Exchange" means an arrangement agreed to by the Chief Executive Officer, the staff member and a public service department, a public sector organisation or a private sector organisation which enables the staff member to work in such other organisation for an agreed period of time and under conditions agreed to prior to the commencement of the period of exchange.

"Expected date of birth" in relation to a staff member who is pregnant, means a date specified by her medical practitioner to be the date on which the medical practitioner expects the staff member to give birth as a result of the pregnancy.

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

"Full-time position" means a position that is occupied, or if not for being vacant, would be occupied, by a full-time staff member.

"Headquarters" means the centre to which a staff member is attached or from which a staff member is required to operate on a long-term basis.

"Industrial action" means industrial action as defined in the *Industrial Relations Act 1996*.

"Local holiday" means a holiday which applies to a particular township or district of the State and which is not a public holiday throughout the State.

"Long service leave" means long service (previously "extended") leave to which a staff member is entitled under the provisions of this award.

"Normal work", for the purposes of clause 7 Dispute Resolution of this award, means the work carried out in accordance with the staff member's position or job description at the location where the staff member was employed, at the time the grievance or dispute was notified by the staff member.

"Official overseas travel" means authorised travel out of Australia by a staff member where the staff member proceeds overseas on official business.

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

"Overtime" means all time worked outside the Daily Spread of Hours applicable to a staff member working pursuant to the provisions of clause 12 Hours of Work, whether before or after the commencing and finishing times of the Daily Spread of Hours, at the direction of the Chief Executive Officer. "Overtime" also means all time worked outside the set hours of work applicable to a staff member working pursuant to the provisions of clause 14 Standard Hours, whether before or after the commencing and finishing times of the set hours, at the direction of the Chief Executive Officer.

"Part-time entitlement", unless specified otherwise in this award, means pro rata of the full-time entitlements calculated according to the number of hours a staff member works in a part-time position or under a part-time work arrangement.

"Part-time hours" means the hours that are less than the 35 hours per week that constitute full-time work under this award.

"Part-time position" means a designated part-time position and, unless otherwise specified, includes any position that is filled on a part-time basis.

"Part-time staff member" means a staff member whose ordinary hours of duty are specified as part-time and whose weekly hours of work are less than the 35 hours per week required of full-time staff members.

"Public holiday" means a bank or public holiday under the Banks and *Bank Holidays Act* 1912, but does not include a Saturday which is such a holiday by virtue of section 15A of that Act, and 1 August or such other day that is a bank holiday instead of 1 August.

"Recall to duty" means those occasions when a staff member is directed to return to duty outside the staff member's Daily Spread of Hours in the case of a staff member working pursuant to the provisions of clause 12 Hours of Work, or outside the staff member's set hours in the case of a staff member working pursuant to the provisions of clause 14 Standard Hours.

"Residence", in relation to a staff member, means the ordinary and permanent place of abode of the staff member.

"Short leave" means the leave which was available to be granted to staff members in the case of pressing necessity that was replaced by the family and community service leave from 20 September 1994.

"Staff member" means an employee, including a casual, temporary or term employee, of Landcom and, unless otherwise specified in this award, includes both full-time and part-time staff members.

"Standby" means an instruction given by the Chief Executive Officer to a staff member to be available for immediate contact in case of a recall to duty.

"Study leave" means the justification for courses at any level or for study tours during which financial assistance may be approved by the Chief Executive Officer.

"Study time" means the time allowed off from normal duties on full pay to a staff member who is studying in a part-time course, generally to a maximum of four hours per week during semester or term period.

"Supervisor" means the immediate supervisor or manager of the area in which a staff member is employed or any other staff member authorised by the Chief Executive Officer to fulfil the role of a supervisor or manager, other than a person engaged as a consultant or contractor.

"Temporary work location" means the place at or from which a staff member temporarily performs Landcom work if required to work away from headquarters.

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

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

"Workplace" means the whole of Landcom or, as the case may be, a branch or section of the Corporation in which the staff member is employed.

"Workplace management" means the Chief Executive Officer or any other person authorised by the Chief Executive Officer to assume responsibility for the conduct and effective, efficient and economical management of the functions and activities of Landcom or part of the Corporation.

6. Local Arrangements

- (1) Local arrangements may be negotiated between the Chief Executive Officer and the Association in respect of the whole, or part(s), of Landcom.

- (2) All local arrangements negotiated between the Chief Executive Officer and the Association shall be contained in a formal document such as, but not limited to, a co-lateral agreement, exchange of letters, or a memorandum of understanding.

7. Dispute Resolution

- (1) Subject to the provisions of the *Industrial Relations Act 1996*, 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 Landcom, if required.
- (2) A staff member is required to notify, preferably in writing, their immediate supervisor or 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.
- (3) Where the grievance or dispute involves confidential or other sensitive material (including issues of harassment or discrimination under the *Anti Discrimination Act 1977*) that makes it impractical for the staff member to advise their immediate manager the notification may occur to the next appropriate level of management, including where required, the Chief Executive Officer or delegate.
- (4) The immediate supervisor or other appropriate manager shall convene a meeting in order to resolve the grievance, dispute or difficulty within two working days, or as soon as practicable, of the matter being brought to attention.
- (5) If the matter remains unresolved with the immediate supervisor or manager, the staff member may request to meet the appropriate person at the next level of management in order to resolve the matter. This supervisor or manager shall respond within two 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 appropriate General Manager or their nominated representative.
- (6) If the matter remains unresolved, the General Manager or their nominated representative 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.
- (7) A staff member may, at any stage of these procedures, request to be represented by the Association and Landcom will agree to such request.
- (8) Should the matter not be resolved within a reasonable time, any of the parties may refer it to the New South Wales Industrial Relations Commission for settlement. The staff member, Association and Landcom shall agree to be bound by any order or determination by the New South Wales Industrial Relations Commission in relation to the dispute.

Whilst the procedures outlined in subclauses (1) to (8) 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 a 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 Landcom staff member or member of the public.

For the purposes of this clause, a "General Manager" is a Landcom manager reporting directly to the Chief Executive Officer.

8. Consultation

- (1) There shall be effective means of consultation on matters of mutual interest and concern, both formal and informal, between Landcom management and the Association.
- (2) The parties to this Award will establish a Consultative Working Party. This Working Party shall generally act to oversee and assist implementation of this Award. The Consultative Working Party shall consist of both Landcom and Association representatives, to be nominated by the respective parties, to the following maximum numbers:

Landcom representatives	3
Association representatives	3

Either party may have additional representatives attend on their behalf following reasonable notice being given to the other party of such a requirement.

- (3) The Consultative Working Party shall meet within one month of the making of this Award and thereafter every three months, or as otherwise agreed between the parties.
- (4) The Consultative Working Party may form Working Groups to examine specific issues for report back to the Working Party.

9. Salaries

- (a) All staff members will be paid in accordance with the salary structures and rates set out in this award.
- (b) The Corporation shall pay salaries and other moneys to staff members on a fortnightly basis into a nominated account.
- (c) Salaries shall include annual leave loading.

10. Classifications

- (1) The Salaries Schedule at Appendix B of this award contains a single Landcom Officer classification, divided into the three categories of Officer, Management and Senior Management.
- (2) All staff member shall have titles reflect their functional responsibility as determined from time to time by the Corporation.
- (3) Senior Management Category
 - (a) The inclusion of positions in the Senior Management Category shall be at the discretion of the Chief Executive Officer of the Corporation.
 - (b) Staff members appointed by the Chief Executive Officer to positions in the Senior Management Category shall require either one or more of the following:
 - (i) a degree qualification;
 - (ii) a qualification deemed to be equivalent,
 - (iii) an accredited property related qualification as well as demonstrated expertise and experience developed from a range of property disciplines and backgrounds such as, but not limited to, engineering, surveying, valuing, real estate, land economics, and architecture;
 - (iv) equivalent demonstrated successful work experience;
 - (c) Positions identified by the Corporation as having special requirements may not require the staff member appointed to have a degree qualification.
 - (d) The Corporation shall from time to time undertake a formal review of positions included in the Senior Management classification to ensure the Corporation's needs are met.

11. Salary Increases

Salaries will be increased in accordance with the following table:

Date	Amount
16 August 2010	3.75%
1 July 2011	3.75%

12. Hours of Work

- (1) Notionally, staff members will work a 35 hour week, to be worked over a minimum of 5 days on any of the 7 days of the week.
- (2) The normal working week shall be Monday to Friday, with standard office hours from 9.00 am to 5.00 pm.
- (3) The 12 hour daily spread of hours for working the 35 hour week will normally fall between 7.00 am and 7.00 pm (Daily Spread of Hours), unless otherwise agreed. Where staff members are directed to work outside the Daily Spread of Hours applicable to them, overtime provisions shall apply.
- (4) Staff members must reach agreement with their supervisor regarding hours of work, with such agreement able to include provisions to move the Daily Spread of Hours applicable to each staff member to start or finish outside the usual times of 7.00 am and 7.00 pm respectively.
- (5) Agreements between staff members and supervisors will be aimed at achieving the key results for each position in compliance with the overall Landcom Strategic Plan, Business Plans and the performance criteria agreed upon for each staff member within the Landcom Performance Management System.
- (6) Staff members shall record their times of attendance when working in, or from, a Landcom Office. Landcom Offices include, but are not limited to, Regional, Project, Joint Venture and Sales Offices.
- (7) Staff members shall record the time spent on Landcom work when working under a Working from Home agreement.
- (8) The manner of attendance and/or work recording shall be as decided by Landcom.
- (9) Staff members may take a break of 10 minutes in the morning and afternoon, provided that dealings with the public are not affected, and a meal break of no less than 30 minutes must be taken no later than 5 hours after commencing continuous work.
- (10) A staff member may be required to perform duty beyond the hours determined under this clause but only if it is reasonable for the staff member to be required to do so. A staff member may refuse to work additional hours in circumstances where the working of such hours would result in the staff member working unreasonable hours. In determining what is unreasonable the following factors shall be taken into account:
 - (a) the staff member's prior commitments outside the workplace, particularly the staff member's family and carer responsibilities, community obligations or study arrangements,
 - (b) any risk to staff member health and safety,
 - (c) the urgency of the work required to be performed during additional hours, the impact on the operational commitments of Landcom and the effect on client services,
 - (d) the notice (if any) given by Landcom regarding the working of the additional hours, and by the staff member of their intention to refuse the working of additional hours, or
 - (e) any other relevant matter.

13. Agreed Absences

- (1) All staff members covered by this Award shall be entitled to one paid day off per calendar month (except those staff members working standard hours).
- (2) Each staff member and their supervisor shall agree on the day the staff member is to be absent from work pursuant to this clause.
- (3) To meet Landcom business requirements, a paid day off may be postponed for one or more months. The taking of postponed paid days off is a matter for local arrangement between the staff member and their supervisor.
- (4) Subject to agreement between the staff member and their supervisor, up to five paid days off may be conserved by a staff member each calendar year, subject to the following conditions:
 - (a) the conserved paid days off may be taken during the calendar year, subject to arrangement with the supervisor; or
 - (b) up to five paid days off may be "cashed in" during the calendar year at the staff member's option at the staff member's ordinary salary rate; or
 - (c) any balance of conserved paid days off as at 31 December in each year shall be "cashed in".
- (5) Conserved paid days off in excess of five will be forfeit.
- (6) A staff member may accrue their entitlement to Agreed Absences while they are on leave for a continuous period of up to two calendar months (excluding sick leave). If the period of leave exceeds two calendar months (excluding sick leave), the staff member will cease to accrue their entitlement to Agreed Absences until such time as they return to duty.

14. Standard Hours

- (1) Standard hours are set hours of work commencing at 9.00 am and concluding at 5.00 pm inclusive of one hour set aside for a meal break.
- (2) The Chief Executive Officer may direct that standard hours, or restrictions to the work arrangements set out in clause 12 Hours of Work, be worked in particular circumstances. These circumstances may include, but are not limited to:
 - (a) where the operational requirements of Landcom, or a particular part of the Corporation, cannot accommodate the flexibilities of clause 12 Hours of Work, or
 - (b) remedial action in respect of a staff member is being taken where the staff member has been found to have deliberately and persistently failed to meet the requirement to work 35 hours per week or otherwise abused the work arrangements set out in clause 12 Hours of Work.

15. Part Time Staff Members

- (1) Where appropriate, the provisions of clauses 12 Hours of Work, 13 Agreed Absences and 14 Standard Hours of this award shall apply to part-time staff members on a pro-rata basis.
- (2) Part-time work is permanent, temporary or term employment and part-time employees work less hours than full-time employees and receive all the entitlements of full time employees on a proportional basis.
- (3) Staff members may request to have applications considered to work part-time under this award.
- (4) Staff members working part time must complete a part time work agreement (PTWA) with their supervisor.

- (5) The PTWA must be in writing signed by the staff member and the supervisor and must include:
 - (a) the hours and days to be worked;
 - (b) the starting and finishing times of each work day, if a Standard Hours arrangement is to be worked;
 - (c) the classification of the staff member; and
 - (d) the right (if any) for the staff member to return to full time work.
- (6) The maximum number of weekly hours under the PTWA must be less than the full-time requirement of 35 hours per week in this award.
- (7) The part-time staff member must be paid the same ordinary hourly rate as similarly classified full-time staff member under this award.
- (8) Hours worked that fall outside the ordinary daily hours agreed to, shall be paid at the ordinary time rate, unless such hours would attract payment at overtime rates for a full-time staff member.
- (9) A PTWA can be changed by making a new written agreement between the staff member and supervisor.

16. Filling Positions

- (1) The Chief Executive Officer shall determine the most appropriate method of filling vacant or temporarily created positions in Landcom that best meets the requirements of the Corporation. Positions may be created and filled as:
 - (a) Permanent: a position created on the Landcom staff establishment on a full time or part time basis.
 - (b) Temporary or Term: a position created on the Landcom staff establishment on a full time or part time basis as a temporary position to meet an identified need for a specified period.
 - (i) Temporary positions will be the same as permanent positions in terms of the operation and entitlements of this award. A temporary position may be identical to a permanent position but only required for a specified period of time to meet a Corporation business need or it may be created for the term of a specific project. At the expiration of the period, unless extended beforehand, the period of temporary employment will come to a conclusion.
 - (ii) Term positions will be the same as permanent positions in terms of the operation and entitlements of this award, however they do not need to be the same as a permanent position in terms of work requirements. The positions may specify certain conditions unique to the position such as the requirement to work standard hours, weekend work, complete a specific project, work in a joint venture arrangement, receive special remuneration or any other particular Corporation need. Such positions will normally be created for a specific period of time and at the expiration of the period, unless extended beforehand, the period of term employment arrangement will come to a conclusion.
 - (c) Casual: a position created on the Landcom staff establishment on a full time or part time basis according to the provisions of Clause 17 Casual Employment of this Award. A casual position shall be filled by a staff member employed to undertake work on an hourly basis to carry out work that is irregular, intermittent, short term, urgent or arising from an emergency.
- (2) Landcom may also fill positions by any other arrangement that meets the operational business and commercial needs of Landcom.

17. Casual Employment

- (1) Hours of Work
 - (a) A casual employee is engaged and paid on an hourly basis.
 - (b) A casual employee will be engaged or paid for a minimum of 3 consecutive hours for each day worked.
 - (c) A casual employee shall not work more than 8 (eight) consecutive hours per day (exclusive of meal breaks) without the payment of overtime for such time in excess of 8 hours.
- (2) Rate of Pay
 - (a) Casual employees shall be paid the ordinary hourly rate of pay calculated by the following formula for the hours worked per day:

Annual salary divided by 26.08929 divided by ordinary fortnightly hours for the classification
 - (b) Casual employees shall be paid a loading on the appropriate ordinary hourly rate of pay, of:

15 percent for work performed on Mondays to Fridays (inclusive),

50 percent for work performed on Saturdays,

75 percent for work performed on Sundays,

150 percent for work performed on public holidays.
 - (c) Casual employees shall also receive a 1/12th of the ordinary hourly rate of pay additional payment in lieu of annual leave and annual leave loading.
 - (d) The loadings specified in subclause (2)(b) of this clause are in recognition of the casual nature of the employment and compensate the employee for all leave, other than annual leave, and all incidences of employment, except overtime.
- (3) Overtime
 - (a) Casual employees shall be paid overtime for work performed in excess of 8 (eight) consecutive hours (excluding meal breaks).
 - (b) Overtime will be paid in accordance with the rates set in Clause 33, Rates of Payment of Overtime of this Award.
 - (c) Overtime payments for casual employees are based on the ordinary hourly rate plus the 15 percent loading set out in subclause (2)(b) of this Clause.
 - (d) The additional payment in lieu of annual leave as set out in subclause (2)(c) of this clause is not included in the hourly rate for the calculation of overtime payments for casual employees.
- (4) Leave
 - (a) Except as provided under this clause, Casual employees are not entitled to any other paid or unpaid leave.
 - (b) As set out in subclause (2)(c) of this clause, casual employees will be paid a 1/12th of the ordinary hourly rate of pay additional payment in lieu of annual leave.

- (c) Casual employees will be entitled to Long Service Leave in accordance with the provisions of the *Long Service Leave Act 1955*.
- (d) Casual employees are entitled to unpaid parental leave in accordance with Appendix A .
- (e) 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 sub clause 44(4) of this Award who is sick and requires care and support, or who requires care due to an unexpected emergency, or the birth of a child. This entitlement is subject to the evidentiary requirements set out below in (f)(i) or (f)(ii), and the notice requirements set out in (f)(iii).
 - (ii) The Department Head and the casual employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (ie two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
 - (iii) A Department Head must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of Landcom to engage or not to engage a casual employee are otherwise not affected.
- (f) The casual 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 Landcom or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee.

In normal circumstances, a casual employee must not take carer's leave under this subclause where another person had taken leave to care for the same person.
 - (iii) The casual employee must, as soon as reasonably practicable and during the ordinary hours of the first day or shift of such absence, inform Landcom of their inability to attend for duty. If it is not reasonably practicable to inform Landcom during the ordinary hours of the first day or shift of such absence, the employee will inform Landcom within 24 hours of the absence.
- (g) Bereavement entitlements for casual employees
 - (i) Casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of a family member on production of satisfactory evidence (if required by Landcom).
 - (ii) The Department Head and the casual employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (ie two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
 - (iii) A Department Head must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of Landcom to engage or not engage a casual employee are otherwise not affected.
 - (iv) The casual employee must, as soon as reasonably practicable and during the ordinary hours of the first day of shift of such absence, inform Landcom of their inability to attend

for duty. If it is not reasonably practicable to inform Landcom during the ordinary hours of the first day or shift of such absence, the employee will inform Landcom within 24 hours of the absence.

(5) Application of other Clauses of this Award to Casual Employees

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

- 12. Hours of Work
- 13. Agreed Absences
- 14. Standard Hours
- 20. Salary Sacrifice and Packaging for other than superannuation contributions
- 24. Excess Travelling Time
- 27. Overseas Travel
- 32. Overtime
- 34. (3) and (4) Rest Periods concerning Recall to Duty and On call (Standby)
- 36. Compensation for Directed Overtime
- 40 to 44 (inclusively) relating to various leave provisions
- 55. Exchanges
- 56. Relocation Package
- 57. Termination of Employment
- 58. Working from Home
- 60. Management of Displaced Staff Members
- 62. Performance Management
- 63. Unsatisfactory Performance or Misconduct
- 65. Association Activities
- 66. Access to Facilities
- 71. Public Holidays

18. Recruitment and Selection

(1) Filling Vacancies

- (a) Where a position becomes vacant, Landcom will advertise and fill the position through a process of merit selection.
- (b) The Chief Executive Officer may dispense with the requirement to advertise a vacancy if an appointment can be made from eligible staff within the Corporation.
- (c) Unless otherwise determined by the Chief Executive Officer, a selection committee shall be established to assess the merit of applicants for appointment to a vacant position and to make recommendations to the Chief Executive Officer on the most meritorious applicant.
- (d) Nothing in paragraph (c) requires the Chief Executive Officer to adopt any recommendation made by the selection committee in relation to the filling of a vacancy.
- (e) Prior to a staff member commencing duty with Landcom, written certification concerning the state of health of the staff member must be completed, by the staff member, to the satisfaction of the Chief Executive Officer.

(2) Eligibility Lists

- (a) Where interviews have been held for a vacant position, the selection committee will establish an eligibility list of candidates ranked in order of merit, who if it were not for the selected candidate, would be recommended for the position.
- (b) The eligibility list is effective for up to six months from the date of approval in respect of the advertised vacancy and may be used to fill identical or similar vacant positions not mentioned in the original advertisement.

- (c) The Chief Executive Officer may elect to use an eligibility list to fill a position, require a new selection process to be undertaken, or take any other administrative action in relation to a vacancy.
- (3) Appointment and Rates Of Pay
- (a) The Chief Executive Officer may appoint a successful applicant to any salary within a salary Level in Appendix B to this award.
 - (b) In determining commencing salary regard shall be had to:
 - (i) the person's skills, experience and qualifications;
 - (ii) the rate required to attract the person; and
 - (iii) the remuneration of existing staff members performing similar work.
 - (c) A successful applicant shall receive a letter of offer of employment that will form part of the employment contract with Landcom.
 - (d) The letter of offer of employment shall cover such matters as commencing salary rate, any salary increments and, if applicable, probationary period, the term of employment and requirement to work standard hours for specified positions.
- (4) Probation
- (a) All new appointments shall serve a minimum probationary period of six months.
 - (b) The Chief Executive Officer may dispense with the requirement for a probationary period; extend the probation up to a maximum of two years; or annul the appointment of a person during a period of probation.

19. Job Evaluation

The Chief Executive Officer shall classify and grade positions using government accredited job evaluation methodology.

20. Salary Sacrifice and Packaging

(1) Salary Sacrifice - General

The Chief Executive Officer may enter into agreements with staff members for salary sacrifice for superannuation and/or other agreed benefits, including a novated leased motor vehicle, to a maximum of one hundred (100) percent of the salary payable or one hundred (100) percent of the current applicable superannuable salary within NSW Government policy and the Landcom Salary Sacrificing and Motor Vehicle Policy (as amended from time to time) and powers of the State Owned Corporations Act and the *Landcom Corporation Act*.

(2) Salary Sacrifice - Superannuation

- (a) A staff member may elect, subject to the agreement of the Corporation, to sacrifice a portion of the salary payable to additional superannuation contributions in excess of contributions made by Landcom under relevant legislation. Such election must be made prior to the commencement of the period of service to which the salary payments relate. The amount of salary sacrificed for all purposes must not exceed one hundred (100) percent of the salary payable or one hundred (100) percent of the current applicable superannuable salary, whichever is the lesser. In this clause "superannuable salary" means the staff member's salary as notified from time to time, to the NSW public sector superannuation trustee corporations.

- (b) Where the staff member has elected to sacrifice a portion of salary to additional superannuation contributions:
- (i) subject to Australian Taxation law, the sacrificed portion of salary will reduce the salary subject to appropriate PAYG taxation deductions by the amount of that sacrificed portion, and
 - (ii) any allowance, penalty rate, payment for unused entitlements, weekly worker's compensation or other payment, other than any payments for leave taken in service, to which a staff member is entitled under this award or any applicable award, Act or statute which is expressed to be determined by reference to a staff member's salary, shall be calculated by reference to the salary which would have applied to the staff member in the absence of any salary sacrifice to superannuation made under this award.
- (c) The staff member may elect to have the portion of salary which is sacrificed to additional superannuation contributions:
- (i) Paid into the superannuation scheme established under the *First State Superannuation Act 1992* as optional employee contributions, or
 - (ii) Subject to Landcom's agreement, paid into a private sector complying superannuation scheme as employee superannuation contributions.
- (d) Where a staff member elects to salary sacrifice in terms of subclause (c) above, Landcom will pay the sacrificed amount into the relevant superannuation fund.
- (e) Where the staff member is a member of a superannuation scheme established under:
- The *Police Regulation (Superannuation) Act 1906*;
 - The *Superannuation Act 1916*;
 - The *State Authorities (Superannuation) Act 1987*;
 - The *State Authorities Non-contributory Superannuation Act 1987*; or
 - The *First State Superannuation Act 1992*.
- Landcom must ensure that the amount of any additional employee superannuation contributions specified in subclause (a) above is included in the staff member's superannuable salary which is notified to the NSW public sector superannuation trustee corporations.
- (f) Where, prior to electing to sacrifice a portion of their salary to superannuation, a staff member had entered into an agreement with Landcom to have superannuation contributions made to a superannuation fund other than a fund established under legislation listed in sub-clause (e) above, Landcom will continue to base contributions to that fund on the salary payable to the same extent as applied before the staff member sacrificed portion of that salary to superannuation. This subclause applies even though the superannuation contributions made by Landcom may be in excess of superannuation guarantee requirements after the salary sacrifice is implemented.

21. Payment of Expenses

- (1) Landcom shall meet any expenses, including those relating to official travel and associated expenses, actually and necessarily incurred by a staff member within the guidelines set by management when undertaking approved official business (either in advance or as a reimbursement).
- (2) Payment of any actual expenses shall be subject to the production of receipts, unless the Chief Executive Officer is prepared to accept other evidence from the staff member. As applicable, receipts shall be produced in accordance with Australian Tax Office requirements

22. Higher Duties Allowance

Staff members directed to perform the duties of a higher position shall be paid an allowance as determined by the Chief Executive Officer in accordance with the Landcom Higher Duties Allowance Policy.

23. Allowances - General

The allowances payable under this award shall be reviewed as follows:

- (1) Allowances listed in this paragraph will be determined at a level consistent with the reasonable allowances amounts for the appropriate income year as published by the Australian Taxation Office (ATO):
 - (a) Clause 35(4) Overtime meal allowances; and
 - (b) Clause 26(3) Use of private motor vehicles during work related duties.
- (2) Allowances payable in terms of clauses listed in this paragraph shall be subject to a percentage increase pursuant to clause 11 Salary Increases:
 - (a) Clause 28(1) First Aid Allowance
 - (b) Clause 34(4) Rest Periods (On call (Standby) Allowance);
 - (c) Clause 72 Community Language Allowance; and
 - (d) Clause 29(1) & 29(2) Weekend and Public Holiday Allowance.

24. Excess Travelling Time

- (1) A staff member directed by the Chief Executive Officer to travel on official business outside the usual hours of duty is entitled to be compensated for such time either by:
 - (a) payment calculated in accordance with the provisions contained in this clause; or
 - (b) if it is operationally convenient, by taking equivalent time off in lieu to be granted for excess time spent in travelling on official business.
- (2) Compensation under paragraphs (a) or (b) of subclause (1) of this clause, shall be made, subject to the following conditions:
 - (a) excess travelling time on a non-working day shall be all time spent travelling on official business;
 - (b) excess travelling time on a working day shall be, subject to the provisions of subclause (5) of this subclause, all additional time spent travelling before or after the staff member's usual hours of duty.
 - (c) the period for which compensation is being sought is more than a half an hour on any one day.
- (3) No compensation for travelling time shall be given in respect of travel between 11.00 pm on any one day and 7.30 am on the following day, where the staff member has travelled overnight and sleeping facilities have been provided for the staff member.
- (4) Compensation for travelling time shall be granted only in respect of the time that might reasonably have been taken by the use of the most practical and economic means of transport.

- (5) Travelling time shall not include the time:
- (a) normally taken for the periodic journey from home to headquarters and return;
 - (b) on permanent transfer, if special leave has been granted for the day or days on which travel is to be undertaken;
 - (c) on board a ship or aircraft.
 - (d) spent travelling overseas on official business.

(6) Waiting Time

When a staff member is required to wait for transport in order to commence a journey to another location or to return to headquarters and such time is outside the usual hours of duty, such waiting time shall be treated and compensated in the same manner as excess travelling time.

(7) Payment

- (a) Payment for travelling time calculated in terms of this clause shall be at the staff member's ordinary rate of pay on an hourly basis calculated as follows:

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

- (b) The rate of payment for travel or waiting time on a non-working day shall be the same as that applying to a working day.
- (c) Staff members whose salary, pursuant to Appendix B to this award, is in excess of the rate for Landcom Officer, Level 4 Salary Point 12 shall be paid travelling time or waiting time calculated at the rate for Landcom Officer, Level 4 Salary Point 12 plus \$1.00 per annum, as adjusted from time to time.
- (d) Time off in lieu or payment for excess travelling time or waiting time will not be granted or made for more than eight hours in any period of 24 consecutive hours.

25. Meal Allowances

- (1) A staff member who is required to travel to perform duty at a location other than their normal headquarters shall be paid for actual expenses properly and reasonably incurred in accordance with Landcom guidelines for:

breakfast when required to commence travel at or before 6.00 am; and/or

an evening meal when required to travel until or beyond 6.30 pm.

In such instances, the staff member shall be paid the amount equivalent to the expense incurred or the allowance specified for breakfast or an evening meal at Item 1 of the Monetary Rates Table of this award, whichever is the lesser.

- (2) A staff member who is required to travel to perform duty at a location other than their normal headquarters shall be paid for actual additional expenses properly and reasonably incurred in accordance with Landcom guidelines for:

lunch, when unable to take lunch at the place at which, or the manner in which, the staff member ordinarily takes lunch and, as a result, incurs additional expense for lunch.

In such instances, the staff member shall be paid the amount equivalent to the additional expense incurred or the allowance specified for lunch at Item 1 of the Monetary Rates Table of this award, whichever is the lesser.

26. Use of Private Motor Vehicles

- (1) The Chief Executive Officer may authorise a staff member to use a private motor vehicle for work where:
 - (a) such use will result in greater efficiency or involve the Corporation in less expense than if travel were undertaken by other means; or
 - (b) where the staff member is unable to use other means of transport due to a disability.

As defined in clause 5 Definitions of this award, there shall be two classes of allowance payable for the use of a private motor vehicle for work. The appropriate rate of allowance shall be paid depending on the circumstances and the purpose for which the vehicle is used.

- (2) The staff member must have in force in respect of a motor vehicle used for work, in addition to any policy required to be effected or maintained under the *Motor Vehicles (Third Party Insurance) Act, 1942*, a comprehensive motor vehicle insurance policy to an amount and in a form approved by the Chief Executive Officer.
- (3) A staff member who, with the approval of the Chief Executive Officer, uses a private motor vehicle for work shall be paid an appropriate rate of allowance specified at Item 2 of the Monetary Rates Table of this award for the use of such private motor vehicle.
- (4) Where a private vehicle is damaged while being used for work any normal excess insurance charges prescribed by the insurer shall be reimbursed by the Corporation, provided:
 - (a) the damage is not due to gross negligence by the staff member; and
 - (b) the charges claimed by the staff member are not the charges prescribed by the insurer as punitive excess charges.
- (5) Provided the damage is not the fault of the staff member, the Corporation shall reimburse to a staff member the costs of repairs to a broken windscreen, if the staff member can demonstrate that:
 - (a) the damage was sustained on approved work activities; and
 - (b) the costs cannot be met under the insurance policy due to excess clauses.
- (6) Except as otherwise specified in this award, a staff member shall bear the cost of ordinary daily travel by private motor vehicle between the staff member's residence and headquarters.

27. Overseas Travel

Unless the Chief Executive Officer determines that a staff member shall be paid travelling rates especially determined for the occasion, a staff member who is required by the Corporation to travel overseas on official business, shall be paid the travelling rates determined by the Australian Public Service and published by the Australian Government Publishing Service from time to time.

28. First Aid Allowance

- (1) A staff member appointed as a First Aid Officer shall be paid a first aid allowance at the rate appropriate to the qualifications held by such staff member as specified at Item 3 of the Monetary Rates Table of this award.
- (2) The First Aid Allowance shall not be paid during long service leave or any other continuous period of leave that exceeds four weeks.

- (3) When the First Aid Officer is absent on leave for one week or more and another qualified staff member is selected to relieve in the First Aid Officer's position, such staff member shall be paid a first aid allowance for assuming the duties of a First Aid Officer.

29. Weekend and Public Holiday Allowance

- (1) The Sales Representatives working three out of four weekends, on average, shall be entitled to an allowance as specified at Item 7 of the Monetary Rates Table of this award as compensation for weekend work, public holidays, out of hours duty, being on call, and duty undertaken after being "called" for duty.
- (2) The Sales Information Officers working two out of four weekends, on average, shall be entitled to an allowance as specified at Item 7 of the Monetary Rates Table of this award as compensation for weekend work, public holidays, out of hours duty, being on call, and duty undertaken after being "called" for duty.
- (3) The annual allowance is an all inclusive addition to salary which represents compensation for all incidences of employment.
- (4) Notwithstanding provisions contained elsewhere in this Award, the Sales Representatives shall be paid at the appropriate "casual rate" when using private motor vehicles for work.

30. Uniforms, Protective Clothing and Their Maintenance

- (1) A staff member who is required and authorised by the Chief Executive Officer to wear a uniform, protective clothing or other specialised clothing in connection with the performance of official duties shall be provided by the Corporation with such clothing.
- (2) Where the approved uniform, protective clothing or other specialised clothing is provided by the staff member, such staff member shall be reimbursed the cost of the uniform, protective clothing or other specialised clothing in accordance with Landcom guidelines.
 - (a) Staff members shall be paid for actual expenses properly and reasonably incurred in accordance with Landcom guidelines for laundering and maintaining uniforms or protective clothing.

31. Compensation for Damage to Or Loss of Private Property

- (1) Where damage to, or loss of, a staff member's private property occurs in the course of employment, a claim may be lodged under the *Workers Compensation Act, 1987* and/or under any insurance policy of the Corporation covering the damage to or loss of the personal property of the staff member.
- (2) If a claim under subclause (1) of this clause is rejected by the insurer, the Chief Executive Officer may compensate a staff member for the damage to, or loss of, private property, if such damage or loss:
 - (a) is due to the negligence of the Corporation, another staff member, or both, in the performance of their duties; or
 - (b) is caused by a defect in a staff member's material or equipment; or
 - (c) results from a staff member's protection of or attempt to protect the Corporation's property from loss or damage.
- (3) Compensation in terms of subclause (2) of this clause shall be limited to the amount necessary to repair the damaged item.
- (4) Where the item cannot be repaired or is lost, the Chief Executive Officer may pay the cost of a replacement item, provided the item is identical to, or only marginally different from, the damaged or lost item and the claim is supported by satisfactory evidence as to the price of the replacement item.

- (5) For the purpose of this clause, personal property means a staff member's clothes, spectacles, hearing aid, tools of trade or similar items that are ordinarily required for the performance of the staff member's duties.
- (6) Compensation for the damage sustained shall be made by the Corporation where, in the course of work, clothing or items such as spectacles and hearing aids are damaged or destroyed by natural disasters or by theft or vandalism.

32. Overtime

(1) General

- (a) A staff member may be directed to work overtime, provided it is reasonable for the staff member to be required to do so. A staff member may refuse to work overtime in circumstances where the working of such overtime would result in the staff member working unreasonable hours. In determining what is unreasonable, the following factors shall be taken into account:
 - (i) the staff member's prior commitments outside the workplace, particularly the staff member's family and carer responsibilities, community obligations or study arrangements,
 - (ii) any risk to staff member health and safety,
 - (iii) the urgency of the work required to be performed during overtime, the impact on the operational commitments of Landcom and the effect on client services,
 - (iv) the notice (if any) given by Landcom regarding the working of the overtime, and by the staff member of their intention to refuse overtime, or
 - (v) any other relevant matter.
- (b) Payment for overtime shall be made only where the staff member works directed overtime.
- (c) Directed overtime is all time worked, at the direction of the Chief Executive Officer:
 - (i) Outside the Daily Spread of Hours applicable to a staff member working pursuant to the provisions of clause 12 Hours of Work, whether before or after the commencing and finishing times of the Daily Spread of Hours; and/or
 - (ii) Outside the set hours of work applicable to a staff member working pursuant to the provisions of clause 14 Standard Hours, whether before or after the commencing and finishing times of the set hours; and/or

on a Saturday, Sunday or Public Holiday.

(2) Application

The provisions of this clause shall not apply to:

- (a) staff members covered by formal local arrangements in respect of overtime negotiated between the Chief Executive Officer and the Association; or
- (b) staff members whose salary includes compensation for overtime; or
- (c) staff members who receive an allowance in lieu of overtime.

33. Rates for Payment of Overtime

- (1) On weekdays (Monday to Friday inclusive) directed overtime is paid at the rate of time and one-half for the first two hours and at the rate of double time thereafter, unless local arrangements negotiated in terms of clause 6 the Local Arrangements apply.
- (2) On Saturdays directed overtime is paid at the rate of time and one-half for the first two hours and at the rate of double time thereafter.
- (3) On Sundays directed overtime is paid at the rate of double time.
- (4) On Public holidays directed overtime is paid at the rate of double time and one half.
- (5) If a staff member is absent from duty on any working day during any week in which overtime has been worked the time so lost may be deducted from the total amount of overtime worked during the week unless the staff member has been granted leave of absence or the absence has been caused by circumstances beyond the staff member's control.
- (6) A staff member who works directed overtime on a Saturday, Sunday or public holiday, shall be paid a minimum payment as for three (3) hours work at the appropriate rate.
- (7) Limit on amount of overtime paid to staff members

A staff member whose salary, pursuant to Appendix B to this award, or salary and allowance in the nature of salary, exceeds the annual salary for a Landcom Officer Level 5, Salary Point 15, as varied from time to time, plus \$1.00, shall be paid for working directed overtime at the rate for Landcom Officer Level 5, Salary Point 15, as varied from time to time, plus \$1.00.

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

$$\frac{\text{Annual salary}}{1} \times \frac{5}{260.89} \times \frac{1}{\text{No of ordinary hours of work per week}}$$
 - (c) To determine time and one half, double time or double time and one half, the hourly rate at ordinary time shall be multiplied by 1.5, 2 or 2.5, respectively, calculated to the nearest cent.
 - (d) Overtime is not payable for time spent travelling.

34. Rest Periods

- (1) A staff member who works overtime shall be entitled to be absent until eight (8) consecutive hours have elapsed.
- (2) Where a staff member, at the direction of Landcom, resumes or continues work without having had eight (8) consecutive hours off duty then such staff member shall be paid at the appropriate overtime rate until released from duty. The staff member shall then be entitled to eight (8) consecutive hours off duty and shall be paid for the ordinary working time occurring during the absence.
- (3) Recall to Duty
 - (a) A staff member recalled to work overtime after leaving the premises of Landcom shall be paid for a minimum of three (3) hours work at the appropriate overtime rates.

- (b) The staff member shall not be required to work the full three (3) hours if the job can be completed within a shorter period.
 - (c) When a staff member returns to the place of work on a number of occasions in the same day and the first or subsequent minimum pay period overlap into the next call out period, payment shall be calculated from the commencement of the first recall until either the end of duty or three (3) hours from the commencement of the last recall, whichever is the greater. Such time shall be calculated as one continuous period.
 - (d) When a staff member returns to the place of work on a second or subsequent occasion and a period of three (3) hours has elapsed since the staff member was last recalled, overtime shall only be paid for the actual time worked in the first and subsequent periods with the minimum payment provision only being applied to the last recall on the day.
 - (e) A recall to duty commences when the staff member starts work and terminates when the work is completed. A recall to duty does not include time spent travelling to and from the place at which work is to be undertaken.
 - (f) A staff member recalled to duty within three (3) hours of the commencement of usual hours of duty shall be paid at the appropriate overtime rate from the time of recall to the time of commencement of such normal work.
 - (g) This subclause shall not apply in cases where it is customary for a staff member to return to the Corporation's premises to perform a specific job outside the staff member's ordinary hours of duty, or where overtime is continuous with the completion or commencement of ordinary hours of duty. Overtime worked in these circumstances shall not attract the minimum payment of three (3) hours unless the actual time worked is three (3) or more hours.
- (4) On call (Standby)

A staff member shall be paid the on call allowance as specified at Item 4 of the Monetary Rates Table of this award when directed by the Corporation to be on call outside the staff member's working hours pursuant to the provisions of clauses 12 Hours of Work and 14 Standard Hours of this award.

35. Meal Breaks

- (1) Staff members working pursuant to the provisions of clause 14 Standard Hours of this award and who are required to work overtime on weekdays for an hour and a half or more after the staff member's standard hours of duty, shall be allowed 30 minutes for a meal and thereafter, 30 minutes for a meal after every further five hours of overtime worked.
- (2) Staff members working pursuant to the provisions of clause 12 Hours of Work of this award and who are required to work overtime on weekdays beyond the conclusion of the daily bandwidth applicable to them, shall be allowed 30 minutes for a meal and thereafter, 30 minutes for a meal after every further five hours of overtime worked.
- (3) Any staff member required to work overtime on a Saturday, Sunday or Public Holiday, shall be allowed 30 minutes for a meal after every five hours of overtime worked. A staff member who is unable to take a meal break and who works for more than five hours shall be given a meal break at the earliest opportunity.
- (4) Meal Allowances
 - (a) If an adequate meal was not provided by the Corporation, a meal allowance shall be paid by the Corporation for meals taken during the meal breaks available pursuant to this award, provided the Chief Executive Officer is satisfied that:
 - (i) the time worked is directed overtime;

- (ii) the staff member properly and reasonably incurred expenditure in obtaining the meal in respect of which the allowance is sought;
 - (iii) where the staff member was able to cease duty for at least 30 minutes before or during the working of overtime to take the meal, the staff member did so; and
 - (iv) overtime is not being paid in respect of the time taken for a meal break.
- (b) The amount of the meal allowance shall be at the rate specified at Item 5 of the Monetary Rates Table of this award.
 - (c) Where a meal was not purchased, payment of a meal allowance shall not be made.
 - (d) Where a meal allowance payable under this clause is insufficient to reimburse the staff member the cost of a meal, properly and reasonably incurred, the Chief Executive Officer shall approve payment of the actual expenses incurred.
 - (e) Receipts shall be provided to the Chief Executive Officer in support of any claims for additional expenses or when the staff member is required to substantiate the claim.
 - (f) Notwithstanding the above provisions, nothing in this clause shall prevent the Chief Executive Officer and the Association from negotiating different meal provisions under a local arrangement.

36. Compensation for Directed Overtime

- (1) The Chief Executive Officer shall grant compensation for directed overtime worked either by payment at the appropriate rate or, if the staff member so elects, by the grant of leave in lieu in accordance this clause.
- (2) Leave in Lieu of Payment
 - (a) A staff member who works directed overtime may elect to take leave in lieu of payment for all or part of the entitlement in respect of directed overtime worked.
 - (b) The following conditions shall apply to the leave in lieu:
 - (i) the staff member shall advise the supervisor before the overtime is worked, or as soon as practicable on completion of overtime, that the staff member intends to take leave in lieu of payment;
 - (ii) the leave in lieu shall be calculated at the same rate as would have applied to the payment of overtime in terms of clause 30 Rates of Pay of Overtime of this award.
 - (iii) the leave in lieu must be taken at the convenience of the Corporation, except when leave in lieu is being taken to look after a sick family member;
 - (iv) the leave in lieu shall be taken in hours;
 - (v) leave in lieu accrued in respect of overtime worked on days other than public holidays, shall be given by the Corporation and taken by the staff member within three months of accrual unless alternate local arrangements have been negotiated between the Chief Executive Officer and the Association;
 - (vi) at the staff member's election, leave in lieu accrued in respect of overtime worked on a public holiday may be added to the staff member's annual leave credits and may be taken in conjunction with annual leave; and

- (vii) a staff member shall be paid for the balance of any overtime entitlement not taken as leave in lieu.
- (3) Landcom has the right to determine the form of compensation granted where a staff member has accrued an annual leave balance of more than 30 days at the time of the staff member's claim for compensation for directed overtime.

37. Provision of Transport

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

For the purpose of this clause, departure or arrival after 8.00 pm will determine whether the provisions of this clause apply.

Departure or arrival after 8.00 pm of a staff member on overtime or a regular or rotating shift roster, does not in itself warrant the provision of transport. It needs to be demonstrated that the normal means of transport, public or otherwise, is not reasonably available and/or that travel by such means of transport places the safety of the staff member at risk. Where it is so demonstrated, arrangements may be made for transport home of the staff member to be provided by way of a taxi.

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

38. Leave

(1) General

- (a) The provisions contained in this clause apply to all staff members other than those to whom a local arrangement negotiated between the Chief Executive Officer and the Association in terms of the Local Arrangements provisions of this award.
- (b) Unless otherwise specified, part-time staff members will receive the conditions of this clause on a pro rata basis, calculated according to the number of hours worked per week.
- (c) A temporary or term staff member employed by the Corporation is eligible to take a period of approved leave during the current period of employment and may continue such leave during a subsequent period or periods of employment with the Corporation, if such period or periods of employment commence immediately on termination of a previous period or periods of employment.
- (d) Where paid and unpaid leave available to be granted under this award are combined, paid leave shall be taken before unpaid leave.

(2) Absence from Work

- (a) A staff member must not be absent from work unless reasonable cause is shown.
- (b) If a staff member is to be absent from duty because of illness or other emergency, the staff member shall notify, or arrange for another person to notify, the supervisor as soon as possible of the staff member's absence and the reason for the absence.
- (c) If a satisfactory explanation for the absence is not provided, the staff member will be regarded as absent from duty without authorised leave and the Chief Executive Officer shall cause to be deducted from the pay of the staff member the amount equivalent to the period of the absence.
- (d) The minimum period of leave available to be granted shall be one hour in a 24 hour period, and it will be calculated based on actual period of leave hours taken.

- (e) Nothing in this clause affects any proceedings for a breach of discipline against a staff member who is absent from duty without authorised leave.
- (3) Application for Leave
- (a) An application by a staff member for leave under this award shall be made to, and dealt with by, the Chief Executive Officer.
 - (b) Where the operational requirements of the Corporation permit, an application for leave shall be dealt with by the Chief Executive Officer according to the wishes of the staff member.

39. Annual Leave

- (1) Paid annual leave for full time staff members accrues at the rate of 20 working days per year and accrues from day to day.
- (2) Staff members working part time shall accrue paid annual leave on a pro rata basis, which will be determined on the average weekly hours worked per leave year.
- (3) The Chief Executive Officer will inform a staff member in writing on a regular basis of the staff member's annual leave accrual.
- (4) Limits on Accumulation and Direction to Take Leave
 - (a) At least two (2) consecutive weeks of annual leave (or a combination of annual leave and public holidays, agreed absences, long service leave or, if the staff member elects, leave without pay) shall be taken by a staff member every 12 months for recreation purposes, except by agreement with the Chief Executive Officer in special circumstances.
 - (b) After taking into account the wishes of the staff member, the Chief Executive Officer may direct such staff member to take accrued annual leave at a time convenient to the Corporation.
 - (c) The Chief Executive Officer shall notify the staff member in writing when accrued annual leave reaches 6 weeks, or its hourly equivalent, and at the same time, may direct a staff member to take at least 2 weeks annual leave within 3 months of the notification. Such leave is to be taken at a time convenient to the Corporation.
 - (d) The Chief Executive Officer shall notify the staff member in writing when accrued annual leave reaches 8 weeks, or its hourly equivalent, and direct the staff member to take at least 2 weeks annual leave within 6 weeks of the notification. Such leave is to be taken at a time convenient to the Corporation.
- (5) Conservation of Leave

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

 - (a) specify in writing the period of time during which the annual leave in excess of 6 weeks shall be conserved; and
 - (b) on the expiration of the period during which conservation of leave applies, grant sufficient leave to the staff member at a mutually convenient time to enable the accrued leave to be reduced to an acceptable level below the 6 weeks limit.
- (6) Miscellaneous
 - (a) Annual leave for which a staff member is eligible on cessation of employment is to be calculated to quarter day (fractions less than a quarter being rounded up).

- (b) Annual leave does not accrue to a staff member in respect of any period of absence from duty without leave or without pay, except as specified in paragraph (c) of this subclause.
- (c) Annual leave accrues during any period of leave without pay granted on account of incapacity for which compensation has been authorised to be paid under the Workers' Compensation Act 1987; or any period of sick leave without pay or any other approved leave without pay, not exceeding 5 full time working days, or their part time equivalent, in any period of 12 months.
- (d) The proportionate deduction to be made in respect of the accrual of annual leave on account of any period of absence referred to in paragraph (c) of this subclause shall be calculated to the hour.
- (e) Annual leave accrues at half the normal accrual rate during periods of long service leave on half pay.
- (f) On cessation of employment, a staff member is entitled to be paid the money value of accrued annual leave which remains untaken.
- (g) A staff member to whom paragraph (f) of this subclause applies may elect to take all or part of accrued annual leave which remains untaken at cessation of active duty as leave or as a lump sum payment; or as a combination of leave and lump sum payment.

(7) Death

Where a staff member dies, the monetary value of annual leave accrued and remaining untaken as at the date of death, shall be paid to the staff member's nominated beneficiary. Where no beneficiary has been nominated, the monetary value of annual leave is to be paid as follows:

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

40. Sick Leave

(1) General

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

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

(2) Entitlements

- (a) Sick leave on full pay accrues to a staff member at the rate of 15 days each year. Any leave accrued and not utilised accumulates.

- (b) From 1 January 2011, paid sick leave entitlement will accrue progressively from day to day. Prior to 1 January 2011, sick leave on full pay accrues at the beginning of the calendar year. Staff members appointed after 1 January 2011 will be granted an accrual of 5 days sick leave upon commencement. After the first four months of employment sick will accrue progressively at the rate of 10 days per year for the balance of the first year of service. After the first year of service, sick leave will accrue at the rate of 15 days per year of service.
 - (c) All continuous service as a staff member in the NSW public service shall be taken into account for the purpose of calculating sick leave due. Where the service in the NSW public service is not continuous, previous periods of public service shall be taken into account for the purpose of calculating sick leave due if the previous sick leave records are available.
 - (d) Notwithstanding the provisions of paragraph (c) of this subclause, sick leave accrued and not taken in the service of a public sector employer may be accessed in terms of the Public Sector Staff Mobility Policy.
 - (e) Sick leave without pay shall count as service for the accrual of recreation leave and paid sick leave. In all other respects sick leave without pay shall be treated in the same manner as leave without pay.
 - (f) When determining the amount of sick leave accrued, sick leave granted on less than full pay, shall be converted to its full pay equivalent.
 - (g) Paid sick leave shall not be granted during a period of unpaid leave.
- (3) Payment During the Initial 3 Months of Service

Paid sick leave which may be granted to a staff member, other than a relief staff member, in the first 3 months of service shall be limited to 5 days' paid sick leave, unless the Chief Executive Officer approves otherwise. Paid sick leave in excess of 5 days granted in the first 3 months of service shall be supported by a satisfactory medical certificate.

From 1 January 2011, this clause 40(3) ceases to operate.

- (4) Seasonal or Relief Staff

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

41. Sick Leave - Workers' Compensation

- (1) The Chief Executive Officer shall advise each staff member of the rights under the *Workers' Compensation Act 1987*, as amended from time to time, and shall give such assistance and advice, as necessary, in the lodging of any claim.
- (2) A staff member who is or becomes unable to attend for duty or to continue on duty in circumstances which may give the staff member a right to claim compensation under the *Workers' Compensation Act 1987*, shall be required to lodge a claim for any such compensation.
- (3) Where, due to the illness or injury, the staff member is unable to lodge such a claim in person, the Chief Executive Officer shall assist the staff member or the representative of the staff member, as required, to lodge a claim for any such compensation.
- (4) The Chief Executive Officer will ensure that, once received by the Corporation, a staff member's worker's compensation claim is lodged by the Corporation with the workers' compensation insurer within the statutory period prescribed in the *Workers' Compensation Act 1987*.
- (5) Pending the determination of that claim, and on production of an acceptable medical certificate, the Chief Executive Officer shall grant sick leave on full pay for which the staff member is eligible

followed, if necessary, by sick leave without pay or, at the staff member's election, by accrued recreation leave or extended leave.

- (6) If liability for the workers compensation claim is accepted, then an equivalent period of any sick leave taken by the staff member pending acceptance of the claim shall be restored to the credit of the staff member.
- (7) A staff member who continues to receive compensation after the completion of the period of 26 weeks referred to in section 36 of the *Workers Compensation Act 1987* may use any accrued and untaken sick leave to make up the difference between the amount of compensation payable under that Act and the staff member's ordinary rate of pay. Sick leave utilised in this way shall be debited against the staff member.
- (8) If a staff member notifies the Chief Executive Officer that he or she does not intend to make a claim for any such compensation, the Chief Executive Officer shall consider the reasons for the staff member's decision and shall determine whether, in the circumstances, it is appropriate to grant sick leave in respect of any such absence.
- (9) A staff member may be required to submit to a medical examination under the *Workers Compensation Act 1987* in relation to a claim for compensation under that Act. If a staff member refuses to submit to a medical examination without an acceptable reason, the staff member shall not be granted available sick leave on full pay until the examination has occurred and a medical certificate is issued indicating that the staff member is not fit to resume employment.
- (10) If the Chief Executive Officer provides the staff member with employment which meets the terms and conditions specified in the medical certificate issued under the *Workers Compensation Act 1987* and the *Workplace Injury Management and Workers Compensation Act 1998* and, without good reason, the staff member fails to resume or perform such duties, the staff member shall be ineligible for all payments in accordance with this clause from the date of the refusal or failure.
- (11) No further sick leave shall be granted on full pay if there is a commutation of weekly payments of compensation by the payment of a lump sum pursuant to section 51 of the *Workers Compensation Act 1987*.
- (12) Nothing in this clause prevents a staff member from appealing a decision or taking action under other legislation made in respect of:
 - (a) the staff member's claim for workers' compensation;
 - (b) the conduct of a medical examination by a Government or other Medical Officer;
 - (c) a medical certificate issued by the examining Government or other Medical Officer; or
 - (d) action taken by the Chief Executive Officer either under the *Workers' Compensation Act 1987* or any other relevant legislation in relation to a claim for workers' compensation, medical examination or medical certificate.

42. Sick Leave - Other Than Workers' Compensation

- (1) If the circumstances of any injury to or illness of a staff member give rise to a claim for damages or to compensation, other than compensation under the *Workers Compensation Act 1987*, sick leave on full pay may, subject to and in accordance with this clause, be granted to the staff member on completion of an acceptable undertaking that:
 - (a) any such claim, if made, will include a claim for the value of any period of paid sick leave granted by the Corporation to the staff member; and

- (b) in the event that the staff member receives or recovers damages or compensation pursuant to that claim for loss of salary or wages during any such period of sick leave, the staff member will repay to the Corporation the monetary value of any such period of sick leave.
- (2) Sick leave on full pay shall not be granted to a staff member who refuses or fails to complete an undertaking, except in cases where the Chief Executive Officer is satisfied that the refusal or failure is unavoidable.
- (3) On repayment to the Corporation of the monetary value of sick leave granted to the staff member, sick leave equivalent to that repayment and calculated at the staff member's ordinary rate of pay, shall be restored to the credit of the staff member.

43. Sick Leave - Requirements for Medical Certificate

- (1) A staff member absent from duty for more than 3 consecutive working days because of illness must furnish a medical certificate to the Chief Executive Officer in respect of the absence.
- (2) A staff member shall be put on notice in advance if required by the Chief Executive Officer to furnish a medical certificate in respect of an absence from duty for 3 consecutive working days or less because of illness.
- (3) If there is any concern about the reason shown on the medical certificate, the Chief Executive Officer, after discussion with the staff member, may refer the medical certificate and the staff member's application for leave to an independent medical practitioner for advice.
- (4) The nature of the leave to be granted to a staff member shall be determined by the Chief Executive Officer on the advice of the independent medical practitioner.
- (5) If sick leave applied for is not granted, the Chief Executive Officer must, as far as practicable, take into account the wishes of the staff member when determining the nature of the leave to be granted.
- (6) If a staff member who is absent on annual leave or long service leave, furnishes to the Chief Executive Officer a satisfactory medical certificate in respect of an illness which occurred during the leave, the Chief Executive Officer may, subject to the provisions of this clause, grant sick leave to the staff member as follows:
 - (a) in respect of annual leave, the period set out in the medical certificate;
 - (b) in respect of long service leave, the period set out in the medical certificate if such period is 5 working days or more.
- (7) Subclause (6) above applies to all staff members other than those on leave prior to resignation or termination of services, unless the resignation or termination of services amounts to a retirement.
- (8) The reference in this clause to a medical certificate shall apply, as appropriate, to the certificates for the absence of up to one week provided by a registered dentist, optometrist, chiropractor, osteopath, physiotherapist, oral and maxillo facial surgeon or, at the Chief Executive Officer's discretion, another registered health services provider. Where the absence exceeds one week, and unless the health provider listed above is also a registered medical practitioner, applications for any further sick leave must be supported by a medical certificate from a registered medical practitioner.

44. Sick Leave to Care for a Family Member

- (1) When family and community service leave provided for in clause 48 of this award is exhausted, a staff member with responsibilities in relation to a category of person set out in subclause (4) of this clause who needs the staff member's care and support, may elect to use available paid sick leave, subject to the conditions specified in this clause, to provide such care and support when a family member is ill.

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

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

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

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

45. Maternity Leave

- (1) A staff member who is pregnant shall, subject to this clause, be entitled to be granted maternity leave as follows:
 - (a) for a period up to 14 weeks prior to the expected date of birth; and
 - (b) for a further period of up to 12 months after the actual date of birth.
- (2) A staff member who has been granted maternity leave may, with the permission of the Chief Executive Officer, take leave after the actual date of birth:
 - (a) full-time for a period of up to 12 months; or
 - (b) part-time for a period of up to 2 years; or
 - (c) as a combination of full-time and part-time over a proportionate period of up to 2 years.
- (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.

- (4) A staff member who resumes duty from maternity leave as approved by the Chief Executive Officer shall be entitled to resume duty in the position occupied by her immediately before the commencement of maternity leave, if the position still exists.
- (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.
- (6) A staff member who:
- (a) applied for maternity leave within the time and in the manner determined by the Chief Executive Officer; and
 - (b) 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 at full pay or 28 weeks at half pay.
- (7) A staff member who:
- (a) becomes pregnant and wishes to take maternity leave; and
 - (b) within the past 24 months has taken maternity leave for an earlier pregnancy; and
 - (c) applies for maternity leave within the time and in the manner determined by the Chief Executive Officer; and
 - (d) prior to the expected date of birth, has completed not less than 40 weeks' continuous service,
- shall be paid at her ordinary rate of pay for a period not exceeding 14 weeks at full pay or 28 weeks at half pay.
- Under this clause, payment of maternity leave shall be calculated on the hours worked by the staff member prior to the earlier period of maternity leave taken, even if the staff member has reduced her hours of work upon returning to work after the earlier pregnancy.
- (8) Except as provided in this clause, maternity leave shall be granted without pay.
- (9) Employees entitled to maternity leave shall also have an additional entitlement as set out in Appendix A.

46. Parental Leave

- (1) Parental leave is available to a staff member who applies for leave to look after their child or children. Parental leave applies as follows:
- (a) short parental leave is an unbroken period of up to one week on full pay or two weeks on half pay at the time of the birth of the child or other termination of the spouse's or partner's pregnancy, or in the case of adoption, from the date of taking custody of the child or children;
 - (b) extended parental leave is for a period not exceeding 12 months, less any short parental leave already taken by the staff member as provided for in this subclause.
- (2) Extended parental leave may commence at any time up to 2 years from the date of birth of the child or the taking of custody of the child.
- (3) A staff member who has been granted parental leave may, with the permission of the Chief Executive Officer, take such leave:

- (a) full-time for a period not exceeding 12 months; or
 - (b) part-time over a period not exceeding 2 years; or
 - (c) partly full-time and partly part-time over a proportionate period of up to 2 years.
- (4) A staff member who resumes duty immediately on the expiration of parental leave shall:
- (a) 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
 - (b) 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.
- (5) Parental leave shall be granted without pay other than in the circumstances set out at subclauses (1)(a) and (6) of this clause, unless the staff member elects to take accrued recreation or extended leave in respect of some or all of the period of parental leave.
- (6) A staff member who:
- (a) applied for parental leave within the time and in the manner determined by the Chief Executive Officer; and
 - (b) prior to the expected date of birth or taking of custody, completed not less than 40 weeks' continuous service, shall be paid the ordinary rate of pay for a period not exceeding 1 week at full pay or 2 weeks at half pay or the period of parental leave taken, whichever is the lesser period.
- (7) Employees entitled to parental leave shall also have an additional entitlement as set out in Appendix A .

47. Adoption Leave

- (1) A staff member adopting a child and who will be the primary care giver shall be entitled to be granted adoption leave:
- (a) for a period of up to 12 months if the child has not commenced school at the date of the taking of custody; or
 - (b) for such period, not exceeding 12 months on a full-time basis, as the Chief Executive Officer may determine, if the child has commenced school at the date of the taking of custody.
- (2) A staff member who has been granted adoption leave may, with the permission of the Chief Executive Officer, take leave:
- (a) full-time for a period not exceeding 12 months; or
 - (b) part-time over a period not exceeding 2 years; or
 - (c) partly full-time and partly part-time over a proportionate period of up to 2 years.
- (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.
- (4) A staff member who resumes duty immediately on the expiration of adoption leave shall:
- (a) 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

- (b) 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.
- (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 full pay for a period of 14 weeks of adoption leave or at half pay for 28 weeks of adoption leave or the period of adoption leave taken, whichever is the lesser period if the staff member:
- (a) applied for adoption leave within the time and in the manner determined by the Chief Executive Officer; and
 - (b) prior to the commencement of adoption leave, completed not less than 40 weeks' continuous service.
- (6) Except as provided in subclause (5) of this clause, adoption leave shall be granted without pay.
- (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 annual leave, long service leave, agreed absences or family and community service leave.
- (8) Employees entitled to adoption leave shall also have an additional entitlement as set out in Appendix A .

48. Family and Community Service Leave

- (1) The Chief Executive Officer shall, in the case of emergencies or in unexpected personal or domestic circumstances, grant to a staff member some or all of the available family and community service leave on full pay.
- (2) Such cases or circumstances may include but not be limited to the following:
- (a) compassionate grounds such as the death or illness of a close member of the family or a member of the staff member's household;
 - (b) 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;
 - (c) emergency or weather conditions such as when flood, fire or snow threaten property and/or prevent a staff member from reporting for duty; and
 - (d) other personal circumstances such as citizenship ceremonies or parent/teacher interviews.
- (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.
- 2.5 working days in the staff member's first and second years of service and 1 working day for each subsequent year of service.
- (4) If available family and community service leave is exhausted, the Chief Executive Officer shall consider applications for additional family and community service leave, if some other emergency arises. On the death of a person defined in subclause (4) of clause 44 Sick Leave to Care for a Family Member, additional paid family and community service leave of up to 2 days may be granted on a discrete, per occasion basis to a staff member.

- (5) In cases of illness of a family member for whose care and support the staff member is responsible, paid sick leave in accordance with subclause (2) of clause 44 Sick Leave to Care for a Family Member shall be granted when paid family and community service leave has been exhausted.

49. Observance of Essential Religious Or Cultural Obligations

- (1) A staff member of:
- (a) any religious faith who seeks leave for the purpose of observing essential religious obligations of that faith; or
 - (b) any ethnic or cultural background who seeks leave for the purpose of observing any essential cultural obligations,
- may be granted recreation/extended leave to credit, agreed absences or leave without pay to do so.
- (2) Provided adequate notice as to the need for leave is given by the staff member to Landcom and it is operationally convenient to release the staff member from duty, the Chief Executive Officer must grant the leave applied for by the staff member in terms of this clause.
- (3) A staff member of any religious faith who seeks time off during daily working hours to attend to essential religious obligations of that faith, shall be granted such time off by the Chief Executive Officer, subject to:
- (a) adequate notice being given by the staff member; and
 - (b) prior approval being obtained by the staff member; and
 - (c) the time off being made up in the manner approved by the Chief Executive Officer.
- (4) Notwithstanding the provisions of subclauses (1), (2) and (3) of this clause, arrangements may be negotiated between Landcom and the Association in terms the Local Arrangements clause of this award to provide greater flexibility for staff members for the observance of essential religious or cultural obligations.

50. Long Service Leave

- (1) Entitlement to Long Service Leave
- (a) A staff member shall be entitled to long service leave after a certain period of service. Subject to this clause, a staff member is entitled:
 - (i) after service for 10 years, to leave for 2 months on full pay or 4 months on half pay or 1 month on double pay, and
 - (ii) after service in excess of 10 years, to:
 - 1. leave as provided by subparagraph (i), and
 - 2. in addition, an amount of leave proportionate to the staff member's length of service after 10 years, calculated on the basis of 5 months on full pay or 10 months on half pay or 2 and one half months on double pay, for 10 years served after service for 10 years.
 - (b) A staff member shall be entitled to pro rata long service leave at the accrual rates set out in subclause (1)(a)(i) of this clause after service for 7 years.
 - (c) From 1 January 2005, a period of long service leave shall be exclusive of public holidays that fall during the period and such holidays shall be paid pursuant to the provisions of Clause 71, Public

Holidays of this award and shall not be debited from a staff member's long service leave entitlement.

- (d) Long service leave taken at double pay shall be paid at full pay plus an equivalent taxable allowance, with the allowance not counting for the purposes of superannuation payments, and with 2 days of long service leave debited from a staff member's long service leave entitlement for each day of double pay leave taken.
- (e) Should a public holiday fall during a period of double pay long service leave, a day of long service leave shall be debited from a staff member's long service leave entitlement for each such public holiday.
- (f) All leave entitlements that accrue whilst a staff member takes long service leave shall accrue at the full time rate whilst a staff member takes long service leave at double pay.
- (g) For the purpose of calculating the entitlement of a person to long service leave under this clause at any time:
 - (i) service referred to in this clause includes service before the commencement of this award, and
 - (ii) there must be deducted from the amount of long service leave to which, but for this subparagraph, that person would be entitled:
 - 1. any long service leave, or leave in the nature of long service leave, and
 - 2. the equivalent, in long service leave, of any benefit instead of long service leave or leave in the nature of long service leave, taken or received by that person before that time, including any such leave taken, or benefit received, by that person in accordance with the *Public Service (Amendment) Act 1919* as in force at any time, and
 - (iii) the provisions of the *Transferred Officers Extended Leave Act 1961* have effect.
- (h) Nothing in paragraph (g) shall be regarded as authorising, in respect of the same period of leave taken or the same benefit received, a deduction under both paragraph (g)(ii) and section 3(7) of the *Transferred Officers Extended Leave Act 1961*.
- (i) If the services of a staff member with at least 5 years' service as an adult and less than 10 years' service are terminated:
 - (i) by the Chief Executive Officer for any reason other than the staff member's serious and intentional misconduct, or
 - (ii) by the staff member on account of illness, incapacity or domestic or other pressing necessity,the staff member is entitled:
 - (iii) for 5 years' service, to 1 month's leave on full pay, and
 - (iv) 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 (that service to include service as an adult and otherwise than as an adult).
- (j) For the purposes of paragraph (i), "service as an adult", in the case of a staff member employed to do any work for which the remuneration:
 - (i) has been fixed by an award of the Commonwealth:

1. made under the *Conciliation and Arbitration Act* 1904 of the Commonwealth, or
 2. made under the *Industrial Relations Act* 1996, or
- (ii) has been fixed by an industrial agreement or enterprise agreement made in accordance with or registered under either of those Acts or an agreement or determination made in accordance with the *Public Sector Employment and Management Act* 2002,

means the period of service during which the remuneration applicable to the staff member was at a rate not lower than the lowest rate fixed under the award, industrial agreement, agreement or determination for an adult male or adult female in the same trade, classification, calling, group or grade as the staff member.

- (k) For the purposes of paragraph (a), service includes:
- (i) service under the *Teaching Services Act* 1980, and
 - (ii) service as an administrative officer under the *Police Service Act* 1990, and
 - (iii) any period of leave without pay taken before the commencement of the *Public Service and Other Statutory Bodies (Extended Leave) Amendment Act* 1963, and
 - (iv) in the case of a staff member who has completed at least 10 years' service - any period of leave without pay, not exceeding 6 months, taken after that commencement.
- (l) For the purpose of determining whether or not a staff member has completed at least 10 years' service, the staff member's period of service shall be taken:
- (i) to include any period of leave without pay taken before the commencement of the *Public Service and Other Statutory Bodies (Extended Leave) Amendment Act* 1963, and
 - (ii) to exclude any period of leave without pay taken after that commencement.
- (m) For the purposes of paragraph (i), "service" does not include any period of leave without pay whether taken before or after the commencement of the *Public Service and Other Statutory Bodies (Extended Leave) Amendment Act* 1963.

(2) **Gratuity Payment**

- (a) A staff member who has acquired a right to long service leave with pay under this award is entitled, immediately on the termination of the staff members' services, to be paid instead of that leave the money value of the long service leave as a gratuity in addition to any gratuity to which the staff member may be otherwise entitled.
- (b) Any pension to which any such staff member is entitled under the *Superannuation Act* 1916 commences from and including the date on which the staff members' long service leave, if taken, would have commenced.
- (c) Any staff member may elect, on termination of the staff members' services, to be paid the money value of long service leave under this clause or may elect to have the *Transferred Officers Extended Leave Act* 1961 apply to the periods of service for which the leave has accrued.

(3) **Payment Where Eligible Staff Members have Died**

- (a) If an staff member has acquired a right under this award to long service leave with pay and dies before starting it, or after starting it dies before completing it:
 - (i) the widow or widower of the staff member, or

- (ii) if there is no such widow or widower, the children of the staff member, or
- (iii) if there is no such widow, widower or children, the person who, in the opinion of the Chief Executive Officer, was, at the time of the staff member's death, a dependent relative of the staff member,

is entitled to receive the money value of the leave not taken, or not completed, computed at the rate of salary that the staff member received at the time of his or her death, less any amount paid to the staff member in respect of the leave not taken, or not completed.

- (b) If a staff member with at least 5 years' service as an adult and less than 10 years' service as referred to in this clause dies:
 - (i) the widow or widower of the staff member, or
 - (ii) if there is no such widow or widower, the children of the staff member, or
 - (iii) if there is no such widow, widower or children, the person who, in the opinion of the Chief Executive Officer, was, at the time of the death of the staff member, a dependent relative of the staff member,

is entitled to receive the money value of the leave which would have accrued to the staff member had his or her services terminated as referred to in this clause, computed at the rate of salary that the staff member was receiving at the time of his or her death.

- (c) If there is a guardian of any children entitled under this clause, the payment to which those children are entitled may be made to that guardian for their maintenance, education and advancement.
- (d) If there is no person entitled under this clause to receive the money value of any leave not taken or not completed by a staff member or which would have accrued to a staff member, payment in respect of that leave must be made to the staff member's personal representatives.
- (e) Any payment under this clause is in addition to any payment due under any Act under which superannuation benefits are paid.
- (f) If payment of the money value of leave has been made under this award, the Landcom ceases to be liable for payment of any amount in respect of that leave.

(4) Long Service Leave for Temporary Employees

- (a) In this clause, a reference to a staff member includes a reference to a temporary staff member.
- (b) If the period of leave to which a temporary staff member is entitled under this clause exceeds the period for which the temporary staff member is employed under this award, the balance of that period of leave may be granted during subsequent periods of employment with Landcom if each subsequent period of employment commences on the termination of a previous period of employment with Landcom.

51. Leave Without Pay

- (1) The Chief Executive Officer may grant leave without pay to a staff member if good and sufficient reason is shown.
- (2) Leave without pay may be granted on a full-time or a part-time basis.
- (3) Where a staff member is granted leave without pay for a period not exceeding 10 consecutive working days, the staff member shall be paid for any proclaimed public holidays falling during such leave without pay .

- (4) Where a staff member is granted leave without pay which, when aggregated, does not exceed 5 working days in a period of twelve (12) months, such leave shall count as service for incremental progression and accrual of recreation leave.
- (5) A staff member who has been granted leave without pay, shall not engage in private employment of any kind during the period of leave without pay, unless prior approval has been obtained from the Chief Executive Officer.
- (6) A staff member shall not be required to exhaust accrued paid leave before proceeding on leave without pay but, if the staff member elects to combine all or part of accrued paid leave with leave without pay, the paid leave shall be taken before leave without pay.
- (7) No paid leave shall be granted during a period of leave without pay.

52. Military Leave

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

53. Special Leave

The Chief Executive Officer shall consider applications for special leave, and where appropriate, shall approve such leave as determined on a case by case basis.

- (1) Special Leave for Jury Service
 - (a) A staff member shall, as soon as possible, notify the Chief Executive Officer of the details of any jury summons served on the staff member.
 - (b) A staff member who, during any period when required to be on duty, attends a from jury service, furnish to the Chief Executive Officer a certificate of attendance issued by the Sheriff or by the Registrar of the court giving particulars of attendances by the staff member during any such period and the details of any payment or payments made to the staff member under section 72 of the *Jury Act* 1977 in respect of any such period.
 - (c) When a certificate of attendance on jury service is received in respect of any period during which a staff member was required to be on duty, the Chief Executive Officer shall grant, in respect of any such period for which the staff member has been paid out-of-pocket expenses only, special leave on full pay. In any other case, the Chief Executive Officer shall grant, at the sole election of the staff member, available recreation leave on full pay, agreed absences or leave without pay.
- (2) Witness at Court in an Official Capacity
 - (a) When a staff member is subpoenaed or called as a witness in an official capacity, the staff member shall be regarded as being on duty.
 - (b) Salary and any expenses properly and reasonably incurred by the staff member in connection with the staff member's appearance at Court as a witness in an official capacity shall be paid by the Corporation.

(3) Witness at Court in Other than an Official Capacity as a Crown Witness

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

- (a) be granted, for the whole of the period necessary to attend as such a witness, special leave on full pay; and
- (b) pay to Landcom all money paid to the staff member under or in respect of any such subpoena or call other than any such money so paid in respect of reimbursement of necessary expenses properly incurred in answer to that subpoena or call.

(4) Called as a Witness in a Private Capacity

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

(5) Examinations

- (a) Special leave on full pay up to a maximum of 5 days in any one year shall be granted to staff members for the purpose of attending at any examination approved by the Chief Executive Officer.
- (b) Special leave granted to attend examinations shall include leave for any necessary travel to or from the place at which the examination is held.

(6) Return Home When Temporarily Living Away from Home

- (a) Sufficient special leave shall be granted to a staff member who is temporarily living away from home as a result of work requirements. Such staff member shall be granted sufficient special leave once a month, before or after a weekend or a long weekend, to return home to spend two days and two nights with the family.
- (b) If the staff member wishes to return home more often, such staff member may be granted recreation leave, extended leave or agreed absence to credit or leave without pay, if the operational requirements allow.

(7) Return Home When Transferred to New Location

Special leave shall be granted to a staff member who has moved to the new location ahead of dependants, to visit such dependants, subject to the conditions specified in the Crown Employees (Transferred Officers Compensation) Award.

(8) National Aborigines and Islander Day of Commemoration Celebrations

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

(9) Other Purposes

Special leave on full pay for other purposes may be granted to staff members at the discretion of the Chief Executive Officer.

54. Staff Development, Training Activities and Study Assistance

The Chief Executive Officer shall grant or refuse applications for staff development and training and/or study time and/or any reimbursement of fees in accordance with arrangements and criteria established in the Landcom Training and Development Policy.

55. Exchanges

- (1) The Chief Executive Officer may arrange staff member exchanges with other organisations both public and private, if the Corporation or the staff member will benefit from additional training and development which is intended to be used in the carrying out of the Corporation's business.
- (2) The conditions applicable to staff members who participate in exchanges will be determined by the Chief Executive Officer according to the individual circumstances in each case.

56. Relocation Package

Negotiated benefits for staff members required by Landcom to relocate will be agreed with individual staff members prior to relocation. The benefits will be equal to, or better than, the current provisions of the Crown Employees (Transferred Officers' Compensation) Award.

The package of variable individually negotiated benefits will be established to compensate for the expenses and associated dislocation experienced by staff members as a result of relocating from one residential location to another residential location as a necessary consequence of promotion, transfer (for other than disciplinary reasons) or staff exchange to a new work location.

The scope of the package must be defined in broad terms at the time of acceptance of the new position.

57. Termination of Employment

A full time staff member shall give Landcom 10 working days notice prior to resigning from employment. A period of notice is inclusive of Public Holidays.

Notwithstanding the provisions of this clause, the Chief Executive Officer may accept a shorter period of notice or waive the requirement for a period of notice or pay out a period of notice. The provisions of this clause apply to part time staff members on a pro-rata basis.

58. Working from Home

The Chief Executive Officer may approve applications by staff members to work from home on a temporary, fixed term, or regular basis in accordance with arrangements and criteria as established in the Landcom Working from Home Policy.

59. Private Employment

The Chief Executive Officer may approve applications by staff members to undertake private employment on a temporary, fixed term, or regular basis in accordance with arrangements and criteria as established in Landcom's Private Employment policy.

60. Management of Displaced Staff Members

- (1) Where changes in the workplace result in staff members becoming displaced, Landcom will endeavour to find a permanent placement for such staff members at Landcom.
- (2) Staff members who are declared to be displaced as a result of workplace change shall be entitled, as a minimum, to the entitlements set out in the relevant NSW Government Policy as amended from time to time.

- (3) The Chief Executive Officer may approve applications by staff members for assistance under the Landcom Job Assist Scheme in accordance with arrangements and criteria as established in Landcom's Job Assist Scheme policy.

61. Child Care Arrangements

Landcom shall consult with the Association during the life of the award on the development of child care arrangements based on the Family Day Care Scheme.

62. Performance Management

(1) Performance Management System

- (a) The Landcom Performance Management System and associated policy shall be used to identify, develop and evaluate each staff member's work performance and development needs in relation to achieving the key results for each position in compliance with the overall Landcom Strategic Plan, Business Plans and the performance criteria agreed upon for each staff member.
- (b) Formal appraisals under the Performance Management System shall also be used to assess incremental progression to the next salary point within each salary level.
- (c) Incremental progression is not an automatic annual entitlement. It is subject to satisfactory performance as recommended and documented by the supervisor in accordance with the Landcom Performance Management System.
- (d) The salary and performance of each staff member shall normally be reviewed annually.
- (e) Supervisors may complete additional formal appraisals within this annual cycle.
- (f) Where the result of the annual review shows the result of "unsatisfactory" performance, the supervisor shall take the necessary steps to address the performance problems in consultation with the staff member.
- (g) If performance problems cannot be satisfactorily resolved through undertaking reasonable measures then, as a last resort, commencement of disciplinary action shall begin in accordance with clause 63, Unsatisfactory Performance or Misconduct of this award.

(2) Accelerated Progression

The Chief Executive Officer may decide on accelerated progression through the salary points within the relevant Level shown in the salaries schedule at Appendix B of this award for staff members who are formally assessed to perform at the highest of the five levels available under the Landcom Performance Management System.

63. Unsatisfactory Performance Or Misconduct

- (1) The Chief Executive Officer shall deal with cases of unsatisfactory performance or misconduct in accordance with arrangements and procedures as established in the Landcom Unsatisfactory Performance or Misconduct policy.
- (2) If criminal charges have been laid or a complaint made to a body such as the Independent Commission Against Corruption or the Anti-Discrimination Board, the Chief Executive Officer shall consider whether the matter should be pursued through other means.
- (3) Remedies available to the Chief Executive Officer include summary dismissal for proven serious and wilful misconduct.

64. 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 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."

65. Association Activities

- (1) "On duty" Activities

An Association delegate will be released from the performance of normal Landcom duty in respect of activities specified below and will not be required to apply for leave:

- (a) Attendance at meetings of the workplace's Occupational Health and Safety Committee and participation in all official activities relating to the functions and responsibilities of elected Occupational Health and Safety Committee members at a place of work as provided for in the *Occupational Health and Safety Act 2000* and the Regulations;
- (b) Attendance at meetings with workplace management or workplace management representatives;
- (c) A reasonable period of preparation time, before-
 - (i) meetings with management;
 - (ii) disciplinary or grievance meetings when a Association member requires the presence of an Association delegate; and

(iii) any other meeting with management.

by agreement with management, where operational requirements allow the taking of such time;

- (d) Giving evidence in court on behalf of the employer;
- (e) Appearing as a witness before the Government and Related Employees Appeal Tribunal; and
- (f) Representing the Association at the Government and Related Employees Appeal Tribunal as an advocate or as a Tribunal Member.

(2) Special Leave Activities

The granting of special leave with pay will apply to the following activities undertaken by an Association delegate, as specified below:

- (a) annual or biennial conferences of the Association;
- (b) meetings of the Association's Executive, Committee of Management or Councils;
- (c) annual conference of the Labor Council of NSW and the biennial Congress of the Australian Council of Trade Unions;
- (d) attendance at meetings called by the Labor Council of NSW involving the Association, which require attendance of a delegate;
- (e) giving evidence before an Industrial Tribunal as a witness for the Association;
- (f) reasonable travelling time to and from conferences or meetings to which the provisions of subclauses (a), (b) and (c) of this clause apply.

(3) Training Courses

- (a) Accredited Occupational Health and Safety (OH&S) courses and any other accredited OH&S training for OH&S Committee members will attract the grant of special leave. The provider(s) of accredited OH&S training courses, and the conditions on which special leave for such courses will be granted, shall be negotiated between the Chief Executive Officer and the Association under a local arrangement pursuant to clause 6 Local Arrangements.
- (b) Special leave will be granted Association members for attendance at courses organised and conducted by the Association or a training provider nominated by the Association. A maximum of 12 working days in any period of 2 years applies to this training and is subject to:
- (c) the operating requirements of Landcom permitting the grant of leave and the absence not requiring employment of relief staff members;
 - (i) payment being at the ordinary time rate, ie excluding extraneous payments such as shift allowances, penalty rates or overtime;
 - (ii) all travelling and associated expenses being met by the staff member or the Association;
 - (iii) attendance at the relevant training course being confirmed, in writing, by the Association or a nominated training provider.

(4) Period of Notice

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

66. Access to Facilities

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

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

67. Right of Entry

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

68. Industrial Action

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

69. Technological Change

Landcom shall consult with the Association prior to the introduction of significant technological change(s).

70. Association Deductions

- (1) At the election of the staff member, the Chief Executive Officer shall provide for the staff member's Association membership fees to be deducted from the staff member's pay and ensure that such fees are transmitted to the Association at fortnightly intervals by Electronic Funds Transfer (EFT).
- (2) The Association shall advise Landcom of any change to the amount of fortnightly membership fees made under its rules at least one month before such changes are to take effect.

71. Public Holidays

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

72. Community Language Allowance

Staff members who possess a basic level of competence in a community language and who work in locations where their community language is utilised at work to assist clients and such staff members are not employed as interpreters and translators or employed in positions where particular language skills are an integral part of the essential requirements of the position shall be paid an allowance as specified at Item 6 of the Monetary Rates Table of this award.

73. No Extra Claims

This award is made on the basis that there will be no further claims in relation to salaries or conditions of employment during the nominal term of this award.

74. Flexible Work Practices

Staff members and Landcom may make use of the flexible work practices outlined in the Public Employment Office document "Flexible Work Practices - Policy and Guidelines".

The flexible work practices include:

Title	Brief Description
1. Part time work	Part time work is work that involves less than the weekly hours for the job.
2. Job sharing	Job sharing is an arrangement whereby one job is shared between part-time staff members.
3. Part time leave without pay	Part-time leave without pay allows staff members currently working full-time to work part-time, with leave without pay for the balance of full-time hours.
4. Career break scheme	This scheme is available for purposes such as extending parental leave, study, travel, personal and professional development, alternative employment and voluntary work.
5. Part year employment	This option allows staff members to take a number of weeks unpaid leave in addition to their annual entitlement to recreation leave. Salary is paid for weeks worked, and for recreation leave accrued, and the remaining weeks are unpaid.
6. Variable year employment	This option allows staff members to take a period of unpaid leave after working for a pre-arranged period of time. Salary is paid for the time worked, and for recreation leave accrued, and the remaining time is unpaid.
7. Working from home	This option allows staff members to work at home for any or all of their usual hours of work, subject to the signing of an individual agreement to do so.

The use of these options will be in accordance with the relevant provisions outlined in the Public Employment Office document, "Flexible Work Practices - Policy and Guidelines". However, the use of these options requires agreement between the staff member, or potential staff member, and the relevant General Manager or their delegate.

For the purposes of this Clause the provisions of Clause 12, Hours of Work of this Award will apply, subject to the following exception:

By agreement between staff member(s) and their manager, the ordinary hours of work may extend beyond the span of 7.30 am to 6.00 pm, Monday to Friday.

The provisions of Clause 7, Dispute Resolution are available to resolve any disputes arising under the terms of this Clause.

75. Secure Employment

(1) Objective of this Clause

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

(2) Casual Conversion

- (a) A casual employee engaged by Landcom 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.
- (b) Landcom shall give a casual employee notice in writing of the provision 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 Landcom fails to comply with this notice requirement.
- (c) Any casual employee who has a right to elect under paragraph (2)(a), upon receiving notice under paragraph (2)(b) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to Landcom 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, Landcom shall consent to or refuse the election, but shall not unreasonably so refuse. Where Landcom 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.
- (d) Any casual employee who does not, within four weeks of receiving written notice from Landcom, 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.
- (e) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with Landcom.
- (f) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (2)(c), Landcom and the employee shall, in accordance with this paragraph, and subject to paragraph (2)(c), discuss and agree upon:
 - (i) Whether the employee will convert to full-time or part-time employment; and
 - (ii) If it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the

same number of hours and times of work as previously worked, unless other arrangements are agreed between Landcom and the employee.

- (g) Following an agreement being reached pursuant to paragraph (f), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangement 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.
- (h) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.

76. Occupational Health and Safety

- (a) For the purpose of this subclause, the following definitions shall apply:
 - (i) 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.
 - (ii) A "contact 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 specific service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
- (b) Landcom when engaging a labour hire business and/or a contract business to perform work wholly or partially on Landcom's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
 - (i) Consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
 - (ii) 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;
 - (iii) 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
 - (iv) Ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (c) Nothing in this subclause 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.

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.

77. Lactation Breaks

- (a) This clause applies to staff members 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.
- (b) A full time staff member or a part time staff member working more than 4 hours per day is entitled to a maximum of two paid lactation breaks of up to 30 minutes each per day.
- (c) A part time staff member working 4 hours or less on any one day is entitled to only one paid lactation break of up to 30 minutes on any day so worked.
- (d) A flexible approach to lactation breaks can be taken by mutual agreement between a staff member 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 operation requirements of the organisation with the lactating needs of the staff member.
- (e) Landcom shall provide access at the head office to a suitable, private space with comfortable seating for the purpose of breastfeeding or expressing milk.
- (f) 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 staff member will take place to attempt to identify reasonable alternative arrangements for the staff member's lactation needs.
- (g) Staff members 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.
- (h) Staff members needing to leave the workplace during time normally required for duty to seek support or treatment in relation to breastfeeding and the transition to the workplace may utilise sick leave in accordance with clause 40, Sick Leave of this award, or access to the flexible working hours scheme provided in clause 74 Flexible Work Practices of this award, where applicable.

78. Monetary Rates Table

Item No.	Clause No.	Summary Description of Allowances	16 August 2010	1 July 2011
1	21	Capital cities and high cost country centres (see list below)		
		Breakfast Allowance	\$23.10	(ATO rates for 2011-2012)
		Evening Meal Allowance	\$44.50	
		Lunch Allowance	\$25.90	
		Capital Cities		
		Adelaide		
		Brisbane		
		Canberra		
		Darwin		
		Hobart		
		Melbourne		
		Perth		
		Sydney		

		<p>High Cost country centres</p> <p>Alice Springs (NT) Ballarat (Vic) Broken Hill (NSW) Broome (WA) Burnie (Tas) Cairns (Qld) Christmas Island Cocos (Keeling) Islands Dampier (WA) Derby (WA) Devonport (Tas) Exmouth (WA) Gold Coast (Qld) Geelong (Vic) Halls Creek (WA) Horn Island Jabiru (NT) Kalgoorlie (WA) Karratha (WA) Katherine (NT) Kununurra (WA) Launceston (Tas) Maria (SA) Newcastle (NSW) Newman (WA) Nhulunbuy (SA) Norfolk Island Paraburdoo (WA) Pt Hedland (WA) Roebourne (WA) Thursday Island Tom Price (WA) Wagga Wagga (NSW) Weipa (Qld) Wilpena (SA) Wollongong (NSW) Wyndham (WA) Yulara (NT)</p> <p>Other country centres</p> <p>Breakfast Allowance Evening Meal Allowance Lunch Allowance</p>	<p>\$20.65 \$40.65 \$23.60</p>	<p>(ATO rates for 2011-2012)</p>
2	26	<p>Use of private motor vehicle during work related duties</p> <p>Official business rate: Engine Capacity</p> <p>over 2600cc 1600-2600cc under 1600cc</p> <p>Casual rate: Engine Capacity</p>	<p>75 cents 74 cents 63 cents</p>	<p>(ATO rates for 2011-2012)</p>

		over 2600cc 1600-2600cc under 1600cc	30 cents 29.6 cents 25.2 cents	
3	28	First Aid allowance: (a) Holder of a current First Aid Certificate and designated First Aid Officer (b) Holder of a Current Occupational First Aid Certificate and designated First Aid Officer	Per Annum \$ 748.00 1,125.00	Per Annum \$ 776.00 1,167.00
4	34(4)	On call allowance	82 cents per hour	85 cents per hour
5	35(4)	Overtime meal allowance: Breakfast Allowance Lunch Allowance Dinner Allowance	\$25.80 \$25.80 \$25.80	(ATO rates for 2011-2012)
6	72	Community Language Allowance	\$1,162.00 per annum	\$1,206.00 per annum
7	29	Weekend and Public Holiday Allowance Work on 3 of 4 weekends Work on 2 of 4 weekends	\$ per annum 11,372.00 7,581.00	\$ per annum 11,798.00 7,865.00

APPENDIX A

(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) Landcom 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 Landcom 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 Landcom 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) Landcom 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 Landcom'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 Landcom's decision to be in writing.

The employee's request and Landcom's decision made under 3(a)(ii) and 3(a)(iii) must be recorded in writing.

- (d) Request 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, Landcom 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 Landcom 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 Landcom of changes of address or other contact details which might affect Landcom's capacity to comply with paragraph (a).

APPENDIX B

SALARY SCHEDULE

Landcom Officer classification Officer	16 August 2010 \$ per annum	1 July 2011 \$ per annum
Level 1 Salary point 1	42,947	44,558
Level 1 Salary point 2	45,657	47,369
Level 1 Salary point 3	47,666	49,453
Level 1 Salary point 4	49,929	51,801
Level 2 Salary point 5	53,678	55,691
Level 2 Salary point 6	55,739	57,829
Level 2 Salary point 7	58,319	60,506
Level 3 Salary point 8	61,241	63,538
Level 3 Salary point 9	63,834	66,228
Level 3 Salary point 10	67,017	69,530
Level 4 Salary point 11	70,889	73,547
Level 4 Salary point 12	73,727	76,492

Landcom Officer classification Officer	16 August 2010 \$ per annum	1 July 2011 \$ per annum
Level 1 Salary point 1	42,947	44,558
Level 1 Salary point 2	45,657	47,369
Level 1 Salary point 3	47,666	49,453
Level 1 Salary point 4	49,929	51,801
Level 4 Salary point 13	78,228	81,162
Management		
Level 5 Salary point 14	84,761	87,940
Level 5 Salary point 15	89,199	92,544
Level 5 Salary point 16	93,537	97,045
Level 6 Salary point 17	99,246	102,968
Level 6 Salary point 18	103,154	107,022
Level 6 Salary point 19	107,413	111,441
Level 7 Salary point 20	112,900	117,134
Level 7 Salary point 21	117,815	122,333
Level 7 Salary point 22	124,208	128,866
Senior Management		
Level 8 Salary point 23	134,792	139,847
Level 8 Salary point 24	140,729	146,006
Level 8 Salary point 25	147,403	152,931
Level 9 Salary point 26	147,700	153,239
Level 9 Salary point 27	158,113	164,042
Level 10 Salary point 28	163,405	169,533
Level 10 Salary point 29	179,372	186,098

C.G. STAFF J

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LOCAL GOVERNMENT (STATE) AWARD 2007

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by New South Wales Local Government, Clerical, Administrative, Energy, Airlines & Utilities Union, Industrial Organisation of Employees.

(No. IRC 507 of 2010)

Before The Honourable Mr Deputy President Harrison

12 July 2010

VARIATION

1. Delete subclause (i) of clause 40, Area, Incidence and Duration of the award published 30 November 2007 (364 I.G. 491) and insert in lieu thereof the following:
 - (i) This award shall apply to all employees in Local Government within New South Wales, including employees of City of Penrith Regional Indoor Aquatic and Recreation Centre Limited (Ripples) and employees of committees of council established under the *Local Government Act* 1993. The award does not cover those employees employed by the Sydney City Council, Wollongong City Council and County of Yancowinna, and excepting those employees covered by the Local Government (Electricians) State Award, Butchers' Wholesale (Country) Award and Butchers' Wholesale (Newcastle and Northern) Award and Section 332 of the *Local Government Act* 1993 and Newcastle City Council employees covered by the Entertainment and Broadcasting Industry Award - Live Theatre and Concert Award 1998.
2. This variation shall take effect on and from 12 July 2010.

R. W. HARRISON *D.P.*

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(103)

SERIAL C7488

TAXI INDUSTRY (CONTRACT DRIVERS) CONTRACT DETERMINATION, 1984

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by NSW Taxi Industry Association.

(No. IRC 509 of 2010)

Before Commissioner Macdonald

8 July 2010

AWARD

1. Delete Table 1 - Wages, Rates Summary and Table 2 - Other Rates and Allowances, of Part B, Monetary Rates, of the contract determination published 2 August 1991 (264 I.G. 456), and insert in lieu thereof the following:

Table 1 - Wages

Rates Summary

Shift	Maximum Pay-in Including GST \$	Km	Excess per Km
Day Shifts - all days	167.07	260	0.69 cents
Night shifts - Monday	181.27	300	0.69 cents
Night shifts - Tuesday	184.41	320	0.69 cents
Night shifts - Wednesday	198.85	320	0.69 cents
Night shifts - Thursday	224.36	350	0.69 cents
Night shifts - Friday	254.46	400	0.69 cents
Night shifts - Saturday	254.46	400	0.69 cents
Night shifts - Sunday	197.26	320	0.69 cents

Table 2 - Other Rates & Allowances (exclusive of GST)

Clause No.	Brief Description	Amount \$
2(j)	Excess fee amount	0.69 cents
19(b)(i)	Annual leave pay - (bailee - 12 months)	776.38
19(b)(ii)	Annual leave pay - (bailee- 3 to 12 months)	$776.38 \times 4/48 \times \text{no. of weeks}$
20	Sick Leave	155.81
21	Bond	133.45
23(ii)	Incomplete shift	19.48

2. This variation shall take effect from the first shift on Monday 12 July 2010.

A. MACDONALD, Commissioner

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(687)

SERIAL C7499

**TRANSPORT INDUSTRY - QUARRIED MATERIALS, &c., CARRIERS
CONTRACT DETERMINATION**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Transport Workers' Union of New South Wales, Industrial Organisation of Employees.

(No. IRC 525 of 2010)

Before Commissioner Tabbaa

30 July 2010

AWARD

1. Delete subclauses (vi), (vii) and (viii) of clause 2, Cartage Rates of the determination, published 14 August 1992 (271 I.G. 78), and insert in lieu thereof the following:

(vi) Where:

- (a) a carrier performs a contract of carriage within the area, incidence and duration of this determination; and
- (b) the carrier is eligible to claim a rebate pursuant to the Commonwealth Government's fuel tax credit subsidy (the Scheme) for that contract of carriage; and
- (c) the carrier has been requested to apply for the rebate pursuant to the scheme by the principal contractor;

the principal contractor may reduce the cartage rates payable in Annexure "A" of this determination up to a maximum reduction of 2.25% of the rate otherwise payable to the carrier for the performance of that contract of carriage.

(vii) Should a carrier become ineligible to claim a rebate pursuant to the scheme or the scheme is abolished then the principal contractor shall not be permitted to reduce the cartage rates pursuant to subclause 2(vi).

(viii) Should the scheme be abolished or altered or modified leave is reserved to the parties to make application in relation to subclauses 2(vi) and (vii).

(ix) The maximum reduction contained in subclause 2 (vi) shall be calculated according to the following formula:

- (a) $((\text{fuel per litre, less GST} - \text{fuel tax credit per litre}) / \text{fuel per litre, less GST}) \times 100 = (a)$
- (b) new weighting for fuel $\times (a) = (b)$
- (c) reweighting for fuel $- (b) = \text{maximum reduction in the subclause 2 (vi)}$

2. Delete Schedule 1: Quantity/Distance and Hourly Hire Rates, of Annexure "A", Cartage Rates, and insert in lieu thereof the following:

SCHEDULE 1**QUANTITY/DISTANCE AND HOURLY HIRE RATES**

Symbol	Item	Rate \$	Unit
F.F	Flag Fall	3.820	Per Tonne
A		0.225	Per Tonne
B		0.205	Per Tonne
C		0.194	Per Tonne
D		0.173	Per Tonne
E		0.164	Per Tonne
F		0.154	Per Tonne
G		0.146	Per Tonne
H	Large Material	1.150	Per Tonne
I	Large Material 600+ material	1.944	Per Tonne
Hourly Rates - non permitted in external dumping			
J	2 Axle Vehicle	52.65	Per Hour
K	3 Axle Vehicle	63.34	Per Hour
L	4 Axle Vehicle	73.46	Per Hour
M	5 Axle Vehicle	94.65	Per Hour
N	6 Axle Vehicle	100.11	Per Hour
Hourly rates for vehicles involved in internal dumping			
O	2 Axle Vehicle	69.63	Per Hour
P	3 Axle Vehicle	72.86	Per Hour
Q	4 Axle Vehicle	84.48	Per Hour
R	5 Axle Vehicle	108.88	Per Hour
S	6 Axle Vehicle	113.58	Per Hour

3. Delete Schedule 1: Procedures, Schedule 2: Cost Component Formula, and Schedule 3, Benchmarks, of Annexure "B", Rise and Fall Formula, and insert in lieu thereof the following:

SCHEDULE 1**PROCEDURES**

1. Variations to the rates detailed in Annexure "A" shall be made by the Industrial Relations Commission of New South Wales upon application.
2. Variations shall be established by ascertaining the percentage change in the various cost components contained at Schedule 3, Benchmarks from the time the last variation of the rates was calculated to the specified Review Date:
 - 2.1 The Review Date shall be:
 - 1 July
 - 2.2 If for any reason a relevant figure is not available or obtained at the Review Date the latest available figure is to be taken. Adjustment will be made when figures are next determined for the difference between figure at the Review Date and the figure used as calculated above.
 - 2.3 The latest available figures for each component will then be expressed as a percentage increase of the figure last used for that component in the previous rise and fall calculation.
 - 2.4 The Percentage Increase/Decrease calculated for each component is then to be applied to the percentage of total cost of that component to drive the new percentage of Total Cost figure.

- 2.5 The sum of the new percentage of Total Cost figures minus 100% shall be the Percentage Increase to apply. All costs are to be the latest available from the source reference as at 1 June. All rates for symbols F.F. and A through to I are to be expressed to 3 decimal points. When preparing schedules of rates payable per unit quantity for various distances, the rates for flag fall and the distance are to be calculated each using 3 decimal points and the final figure from the addition of the flag fall and the "distance" amount then rounded to two decimal points. When calculating rates per cubic metre, the final figure per tonne to 3 decimal points from the addition of the flag fall and the distance is to be multiplied by the relevant conversion factor, and the resultant figure then rounded to two decimal points to obtain the rate per cubic metre.
- 2.6 Following each application of the formula, the cost components shall be re-weighted to indicate the new percentage.
- 2.7 If the non-labour cost components, excluding fuel, increase between adjustments to the extent that it causes an increase to the total rate of 3 percent or more, then an interim adjustment to the rates may be applied for and made.
3. The resulting percentage change shall be applied to all rates in Schedule 1 of Annexure "A" hereto.
4. A variation to the rates shall not be retrospective in operation.
5. The variation to the rates shall be effective from the date determined by the Industrial Relations Commission (such date should not be before one month after the Review Date), provided that principal contractors have sufficient time to give appropriate notice to their customers.
6. The parties shall confer with a view to reaching agreement on any application for adjustment to the rates.
7. Cost Recovery for variations in the Price of fuel:
 - (1) The parties to this determination recognise that, due to the changed nature of the pricing of fuel, including recent significant fluctuations in the price of fuel, it is necessary that variations to rates of remuneration to take into account changes in the price of fuel occur in a timely and efficient manner.
 - (2) Notwithstanding any other provisions of this determination, the parties to this determination agree that any party to this determination may make an application to the Industrial Relations Commission of New South Wales to vary rates of remuneration to account for changes in the price of fuel on the following basis:
 - (a) an application to vary rates of remuneration for changes in the price of fuel may be made at any time, provided that the date upon which any rate adjustment is sought to occur is at least one calendar month after the last occasion upon which a rate adjustment became operative;
 - (b) subject to paragraphs (c) and (d) below, the rates of remuneration shall vary using the existing rise and fall formula for the price of fuel in this determination;
 - (c) it is not a requirement of any such application that the rate adjustment sought for fuel only be one which is below or above any minimum threshold amount; and
 - (d) the agreed benchmark for the price of fuel shall be the Australian Institute of Petroleum NSW weekly average for the retail price of diesel for the week ending immediately prior to the date of filing the application, excluding GST. Should the agreed benchmark become unavailable the parties shall determine an alternative appropriate benchmark.
 - (3) The parties to this determination shall take all necessary steps to enable an application made pursuant to subclause (2) hereof to be heard and determined at the earliest possible time, including but not limited to, consenting to have the Industrial Relations Commission of New

South Wales hear and determine any such application within 48 hours from the initial listing of the application.

- (4) The fuel index, reflecting current rates is 120.91 cents. This is exclusive of GST.

SCHEDULE 2

COST COMPONENT FORMULA

Component	New weighting
Wages inc Maintenance Labour	34.72004
Fuel and Oil	20.55150
Repair Parts	12.45798
Tyres	4.22334
Depreciation	9.50648
Registration	3.21251
Other Fixed Costs	15.32816
TOTAL	100

SCHEDULE 3

BENCHMARKS

Applications for adjustment shall be made by reference to movements in the following benchmarks for each of the following cost components:

Component	Benchmark	Confirmed base	Source of figures to be used
Labour	Transport Industry - Quarried Materials State Award - Grade 2, Vehicle Class 3, Certified	\$664.80	NSW Industrial Gazette, or if latest rate not gazetted the latest Order of the Industrial Relations Commission of New South Wales
Fuel	Australian Institute of Petroleum, per litre of Diesel NSW State average, excluding GST	120.91 cents per litre (133 cents per litre less 1/11th GST)	http://www.aip.com.au/pricing/retail/diesel/.index.htm
Repair parts	ABS Consumer Price Index (CPI), Transportation Group, Private Motoring Motor Vehicle repair and servicing	166.8	Australian Bureau of Statistics Consumer Price Index Series 6401.0 March Quarter 2010

Tyres	ABS Consumer Price Index (CPI), Transportation Group, Private Motoring Motor vehicle parts and accessories	142.6	Australian Bureau of Statistics Consumer Price Index Series 6401.0 March Quarter 2010
Depreciation	ABS Consumer Price Index (CPI), Transportation Group, Private Motoring Motor vehicles	97	Australian Bureau of Statistics Consumer Price Index Series 6401.0 March Quarter 2010
Registration	Registration and Green Slip (no excess cost) of a 3 axle truck, without trailer, working and garaged in the Sydney Metropolitan Area with a tare weight of 10 tonne and a registered GVM of greater than 16 tonnes	Registration = \$1126.00 made up of: \$55 Rego \$886 Road Usage Charge (No GST) \$185 Heavy Vehicle Inspections (including GST) Green Slip = \$3958.75 Total = \$5084.75	Roads and Traffic Authority (Registration) and GIO Insurance (Green Slip)
Other Fixed Costs	ABS Consumer Price Index (CPI), Sydney All Groups	170.5	Australian Bureau of Statistics Consumer Price Index Series 6401.0 March Quarter 2010

4. This variation shall take effect from the first pay period to commence on or after 16 August 2010.

I. TABBAA, Commissioner

SERIAL C7495

**ENTERPRISE AGREEMENTS APPROVED
BY THE INDUSTRIAL RELATIONS COMMISSION**(Published pursuant to s.45(2) of the *Industrial Relations Act 1996*)**EA10/23 - Macquarie Generation Enterprise Agreement 2009**

Made Between: Macquarie Generation -&- the Australian Institute of Marine and Power Engineers New South Wales District, Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union, New South Wales Branch, Construction, Forestry, Mining and Energy Union (New South Wales Branch), Electrical Trades Union of Australia, New South Wales Branch, New South Wales Local Government, Clerical, Administrative, Energy, Airlines & Utilities Union, Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales, The Association of Professional Engineers, Scientists and Managers, Australia (NSW Branch), The Australian Workers' Union, New South Wales, Unions NSW.

New/Variation: Replaces EA08/17.

Approval and Commencement Date: Approved 18 December 2009 and commenced 1 July 2009.

Description of Employees: The agreement applies to all employees employed by Macquarie Generation located at 34 Griffith Road, Lambton NSW 2299, who are engaged in the classifications prescribed in this agreement and who fall within the Macquarie Generation Employees (State) Award 2005.

Nominal Term: 36 Months.

EA10/24 - City of Newcastle Enterprise Agreement 2010

Made Between: Newcastle City Council -&- the New South Wales Local Government, Clerical, Administrative, Energy, Airlines & Utilities Union, The Development and Environmental Professionals' Association, The Local Government Engineers' Association of New South Wales.

New/Variation: New.

Approval and Commencement Date: Approved 20 July 2010 and commenced 1 July 2010.

Description of Employees: The agreement applies to employees employed by Newcastle City Council located at 282, King Street, Newcastle, NSW 2300, and except for those employees covered by the Entertainment and Broadcasting Industry - Live Theatre and Concert Award 1998 and Senior Staff as defined in the Local Government Act 1993, who fall within the coverage of the Newcastle City Council Award 2006, and the Local Government (State) Award 2007.

Nominal Term: 36 Months.

EA10/25 - Clarence Valley Council Enterprise Agreement July 2010 - July 2013

Made Between: Clarence Valley Council -&- the New South Wales Local Government, Clerical, Administrative, Energy, Airlines & Utilities Union, The Development and Environmental Professionals' Association, The Local Government Engineers' Association of New South Wales.

New/Variation: Replaces EA06/209.

Approval and Commencement Date: Approved and commenced 9 August 2010.

Description of Employees: The agreement applies to all employees employed by the Clarence Valley Council, located at 2 Prince Street, Grafton NSW 2460, except for staff designated as Senior Staff, Executive Managers and employees engaged under the Miscellaneous Workers Home Care Industry (State) Award, who fall under the coverage of the Local Government (State) Award 2007.

Nominal Term: 36 Months.

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SERIAL C7501

**CONTRACT AGREEMENTS APPROVED
BY THE INDUSTRIAL RELATIONS COMMISSION**(Published pursuant to s.331(2) of the *Industrial Relations Act 1996*)**CA10/3 - Wollongong City Council Contract Carrier's Agreement****Made Between:** Wollongong City Council -&- the Transport Workers' Union of New South Wales.**New/Variation:** CA09/5**Approval and Commencement Date:** Approved 22 July 2010 and commenced 1 September 2009.**Description of Employees:** The agreement applies to all contract carriers employed by Wollongong City Council, located at 41 Burelli Street, Wollongong, who fall within the coverage of the Transport Industries - Excavated Materials, Contract Determination.**Nominal Term:** 24 Months.

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