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NEW SOUTH WALES  
**INDUSTRIAL GAZETTE**

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NEW SOUTH WALES

**INDUSTRIAL GAZETTE**

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## **INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES**

### **PRESIDENT**

The Honourable Justice Roger P. BOLAND\*

### **VICE-PRESIDENT**

The Honourable Justice Michael J. WALTON\*

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The Honourable Justice Tricia M. KAVANAGH\*  
The Honourable Deputy President Peter J. SAMS AM #^  
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The Honourable Justice Conrad G. STAFF \*  
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Commissioner John D. STANTON #  
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Acting Commissioner Mark F. OAKMAN

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### **INDUSTRIAL REGISTRAR**

Mr M. GRIMSON

### **ACTING DEPUTY INDUSTRIAL REGISTRAR**

Ms L. Hourigan

\*These Presidential members are also Judicial members of the Industrial Court of New South Wales, established as a superior court of record pursuant to section 152 of the *Industrial Act* 1996.

# These members are dual appointees of Fair Work Australia.

#^ These dual appointees work full-time from Fair Work Australia premises at 80 William Street Sydney.



## **STATE WAGE CASE 2010**

### INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES FULL BENCH

Summons to Show Cause - Commission on its own Initiative pursuant to Part 3 of Chapter 2 of the *Industrial Relations Act 1996*

(No. IRC 471 of 2010)

Before The Honourable Justice Boland, President  
The Honourable Justice Walton, Vice-President  
The Honourable Mr Deputy President Harrison  
Mr Deputy President Grayson  
Commissioner Tabbaa

16 December 2010

### **ORDERS**

The Full Bench makes the following orders:

- (1) Pursuant to s 51(1) of the IR Act, the Commission orders that the Commission's Wage Fixing Principles shall be as set out in Appendix A to this decision.
- (2) Pursuant to s 52 of the IR Act and consistent with Principle 8 of the Commission's Wage Fixing Principles, the Commission orders that all awards are hereby varied by increasing the following monetary sums by a State Wage Case adjustment of 4.25 per cent other than those awards which contain wage increases awarded since 29 May 1991 which were not safety net, State Wage Case or minimum rates adjustments:
  - (i) Existing adult wage rates;
  - (ii) Existing monetary allowances, including shift allowances expressed as monetary amounts and service increments; and
  - (iii) Junior rates expressed as monetary amounts.
- (3) The following clause is inserted in each relevant award:

'The rates of pay in this award include the adjustments payable under the State Wage Case 2010. These adjustments may be offset against:

- (i) any equivalent overaward payments, and/or
- (ii) award wage increases since 29 May 1991 other than safety net, State Wage Case, and minimum rates adjustments.'

The above clause replaces the offsetting clause inserted into awards pursuant to the Principles determined in the State Wage Case 2009 decision.

- (4) Pursuant to s 52 of the IR Act, the Award Review Classification Rate is increased by \$24.10 to \$592.30.

- (5) Pursuant to s 52 of the IR Act, the Commission orders that:
- (i) The minimum weekly rate of pay payable to an adult employee (as defined in s 5 of the IR Act) engaged on a full-time basis whose employment is not subject to the terms of an industrial instrument (as defined in s 8 of the IR Act) shall be an amount of \$569.90 as varied from time to time by the Commission;
  - (ii) The minimum hourly rate of pay payable to an adult employee (as defined in s 5 of the IR Act) engaged on a part-time basis whose employment is not subject to the terms of an industrial instrument (as defined in s 8 of the IR Act) shall be an amount of \$569.90, as varied from time to time by the Commission divided by 38;
  - (iii) The Order in paragraph (4) will not apply to those employees who are trainees, apprentices or employees on a supported wage or those employees employed on annual remuneration which is greater than the amount specified in reg 12.3 of Chapter 2 of the Workplace Relations Regulations 2006 of the Commonwealth from time to time or that amount as indexed from time to time in accordance with reg 12.6 of Chapter 2 of those Regulations;
- (6) Orders (1), (2), (3), (4) and (5) shall operate on and from the date of this decision and shall be in force until further order of the Commission.

## **APPENDIX A**

### **INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES**

#### **STATE WAGE CASE 2010**

#### **WAGE FIXING PRINCIPLES**

##### **1. Preamble**

These principles have been developed with the aim of providing, for their period of operation, a framework under which all concerned - employers, workers and their unions, governments and tribunals - can co-operate to ensure that measures to meet the competitive requirements of enterprises and industry are positively examined and implemented in the interests of management, workers and, ultimately, Australian and New South Wales society.

In exercising its powers and obligations under the Industrial Relations Act 1996 ('the Act'), the Commission will continue to apply structural efficiency considerations including minimum rates adjustment provisions.

Movements in wages and conditions must fall within the following principles.

##### **2. When an Award may be Varied or Another Award Made Without the Claim Requiring Consideration as a Special Case**

In the following circumstances an award is varied (by the General Order made in the State Wage Case 2010) or may be varied as the case may be, or another award made without the application requiring consideration as a special case:

- (a) to include previous State Wage Case increases in accordance with Principle 3;
- (b) to incorporate test case standards in accordance with Principle 4;
- (c) to adjust allowances and service increments in accordance with Principle 5;
- (d) to adjust wages pursuant to work value changes in accordance with Principle 6;



- (e) where the application is consented to by the parties it will be dealt with in terms of the Act;
- (f) to adjust wages for the State Wage Case 2010 in accordance with Principle 8;
- (g) to approve of an enterprise arrangement reached in accordance with Principle 11; and
- (h) to adjust wages pursuant to an application claiming that work has been undervalued on a gender basis in accordance with Principle 14.

### **3. Previous State Wage Case Increases**

Applications for increases available under previous State Wage Case decisions will be determined in accordance with the relevant principles contained in those decisions.

### **4. Test Case Standards**

Test case standards established and/or revised by a Full Bench of the Commission may be incorporated into an award in accordance with the Act. Where disagreement exists as to whether a claim involves a test case standard, those asserting that it does must make an application for a special case.

### **5. Adjustment of Allowances and Service Increments**

- (a) Existing allowances which constitute a reimbursement of expenses incurred may be adjusted from time to time where appropriate to reflect relevant changes in the level of such expenses.
- (b) Existing allowances which relate to work or conditions which have not changed, including shift allowances expressed as monetary amounts and service increments, are increased by 4.25 per cent for the State Wage Case 2010 adjustment.
- (c) Existing allowances for which an increase is claimed because of changes in the work or conditions will be determined in accordance with the relevant provisions of the Work Value Changes principle of these principles.
- (d) New allowances to compensate for the reimbursement of expenses incurred may be awarded where appropriate having regard to such expenses.
- (e) Where changes in the work have occurred or new work and conditions have arisen, the question of a new allowance, if any, will be determined in accordance with the relevant principles of these principles. The relevant principles in this context may be Work Value Changes or First Award and Extension to an Existing Award.
- (f) New service increments may only be awarded to compensate for changes in the work and/or conditions and will be determined in accordance with the relevant provisions of the Work Value Changes principle of these principles.

### **6. Work Value Changes**

- (a) Changes in work value may arise from changes in the nature of the work, skill and responsibility required or the conditions under which work is performed. Changes in work by themselves may not lead to a change in wage rates. The strict test for an alteration in wage rates is that the change in the nature of the work should constitute such a significant net addition to work requirements as to warrant the creation of a new classification or upgrading to a higher classification.

In addition to meeting this test a party making a work value application will need to justify any change to wage relativities that might result not only within the relevant internal award structure but also against external classification to which that structure is related. There must be no likelihood of wage leapfrogging arising out of changes in relative position.

These are the only circumstances in which rates may be altered on the ground of work value and the altered rates may be applied only to employees whose work has changed in accordance with this principle.

- (b) In applying the Work Value Changes principle, the Commission will have regard to the need for any alterations to wage relativities between awards to be based on skill, responsibility and the conditions under which work is performed.
- (c) Where new or changed work justifying a higher rate is performed only from time to time by persons covered by a particular classification, or where it is performed only by some of the persons covered by the classification, such new or changed work should be compensated by a special allowance which is payable only when the new or changed work is performed by a particular employee and not by increasing the rate for the classification as a whole.
- (d) The time from which work value changes in an award should be measured is the date of operation of the second structural efficiency adjustment allowable under the State Wage Case 1989 (1989) 30 IR 107.
- (e) Care should be exercised to ensure that changes which were, or should have been, taken into account in any previous work value adjustments or in a structural efficiency exercise are not included in any work evaluation under this Principle.
- (f) Where the tests specified in (a) are met, an assessment will have to be made as to how that alteration should be measured in money terms. Such assessment will normally be based on the previous work requirements, the wage previously fixed for the work and the nature and extent of the change in work.
- (g) The expression 'the conditions under which the work is performed' relates to the environment in which the work is done.
- (h) The Commission will guard against contrived classifications and over-classification of jobs.
- (i) Any changes in the nature of the work, skill and responsibility required or the conditions under which the work is performed, taken into account in assessing an increase under any other principle of these principles, will not be taken into account under this principle.
- (j) In arbitrating an application made under this Principle, the Commission is required to determine whether or not future State Wage Case general increases will apply to the award.

## **7. Standard Hours**

In approving any application to reduce the standard hours to 38 per week, the Commission will satisfy itself that the cost impact is minimised. Claims for reduction in standard weekly hours below 38 will not be allowed.

## **8. State Wage Case Adjustments**

In accordance with the State Wage Case 2010 decision, all relevant NSW awards are varied to include a State Wage Case adjustment of 4.25 per cent (or a proportionate amount in the cases of part-time and casual employees, juniors, trainees, apprentices, employees on a probationary rate, employees on a supported wage or with permits under s 125 of the Act), subject to the following:

- (a) The following clause is inserted in each relevant award:

The rates of pay in this award include the adjustments payable under the State Wage Case 2010. These adjustments may be offset against:

- (i) any equivalent overaward payments, and/or

- (ii) award wage increases since 29 May 1991 other than safety net, State Wage Case, and minimum rates adjustments.'

The above clause replaces the offsetting clause inserted into awards pursuant to the Principles determined in the State Wage Case 2009 decision.

- (b) By consent of all parties to an award, where the minimum rates adjustment has been completed, award rates may be expressed as hourly rates as well as weekly rates. In the absence of consent, a claim that award rates be so expressed may be determined by arbitration.
- (c) The State Wage Case adjustment is only available where the rates in the award have not been increased, other than by safety net or State Wage Case adjustments, or as a result of the Minimum Rates Adjustment principle, since 29 May 1991.
- (d) The State Wage Case adjustment may apply where the rates in an award have increased under the Work Value and/or Equal Remuneration Principles in accordance with the Commission's decision as set out in Principles 6(j) and 14(p) respectively.

## **9. Award Review Classification Rate**

The Award Review Classification Rate of \$592.30 shall be the rate below which no full-time adult employee (excluding trainees, apprentices and employees on a supported wage or on a probationary rate) should be paid under the relevant award.

Where a classification in an award is below \$592.30 the following process will apply on application:

- (a) The award will be listed for a mention at which the parties will report as to:
  - (i) how the Award Review Classification Rate will be achieved, or
  - (ii) whether the award is obsolete.

The Commission may direct the parties to confer in order to set a program for an updating of the award to reflect the Award Review Classification Rate.
- (b) If the parties to the award do not appear at this mention, the Commission shall request the parties to the award to show cause why the award should not be considered obsolete and rescinded under s 17(3) of the Act.
- (c) Where no agreement is reached with respect to (a) above, the Commission shall re-list the matter in order to conciliate the issues in dispute.
- (d) If the attempt at conciliation is unsuccessful the Commission shall arbitrate any outstanding issue(s).

## **9A. Minimum Wage**

- (a) The Minimum Wage shall apply to those adult employees who are employed in the jurisdiction of the Commission and whose employment is not subject to the terms of an industrial instrument.
- (b) The minimum weekly rate of pay payable to an adult employee (as defined in s 5 of the Act) engaged on a full time basis whose employment is not subject to the terms of an industrial instrument (as defined in s 8 of the Act) is \$569.90, as varied from time to time by the Commission.
- (c) The minimum hourly rate of pay payable to an adult employee (as defined in s 5 of the Act) engaged on a part-time basis whose employment is not subject to the terms of an industrial

instrument (as defined in s 8 of the Act) is \$569.90, as varied from time to time by the Commission divided by 38.

- (d) The Minimum Wage will not apply to those employees who are trainees, apprentices and employees on a supported wage or those employees employed on an annual remuneration which is greater than the amount specified in regulation 12.3 of Chapter 2 of the Workplace Relations Regulations 2006 of the Commonwealth from time to time or that amount as indexed from time to time in accordance with regulation 12.6 of Chapter 2 of those Regulations.

#### **10. Special Case**

Except for the flow on of test case provisions, any claim for increases in wages and salaries, or changes in conditions in awards, other than those allowed elsewhere in the principles, will be processed as a special case before a Full Bench of the Commission, unless otherwise allocated by the President.

This principle does not apply to applications for awards consented to by the parties, which will be dealt with in the terms of the Act, or to enterprise arrangements, which will be dealt with in accordance with the Enterprise Arrangements principle.

#### **11. Enterprise Arrangements**

- (a) The Commission may approve of enterprise arrangements reached in accordance with this principle and the provisions of the Act.
- (b) Industrial unions of employees and industrial unions of employers, or industrial unions of employees and employers, or employees and employers may negotiate enterprise arrangements which, subject to the following provisions, shall prevail over the provisions of any award or order of the Commission that deals with the same matters insofar as they purport to apply to parties bound by the arrangements, provided that, where the arrangement is between employees and an employer, a majority of employees affected by the arrangement genuinely agree.
- (c) An enterprise arrangement shall be an agreed arrangement for an enterprise, or discrete section of an enterprise, being a business, undertaking or project, involving parties set out in paragraph (b).
- (d) Enterprise arrangements shall be for a fixed term and there shall be no further adjustments of wages or other conditions of employment during this term other than where contained in the arrangement itself. Subject to the terms of the arrangement, however, such arrangement shall continue in force until varied or rescinded in accordance with the Act.
- (e) For the purposes of seeking the approval of the Commission, and in accordance with the provisions of the Act, a party shall file with the Industrial Registrar an application to the Commission to either:
  - (i) vary an award in accordance with the Act; or
  - (ii) make a new award in accordance with the Act.
- (f) On a hearing for the approval of an enterprise arrangement, the Commission will consider, in addition to the industrial merits of the case under the State Wage Case principles:
  - (i) ensuring the arrangement does not involve a reduction in ordinary time earnings and does not depart from Commission standards of hours of work, annual leave with pay or long service leave with pay; and
  - (ii) whether the proposed award or variation is consistent with the continuing implementation at enterprise level of structural efficiency considerations.
- (g) The Commission is available to assist the parties to negotiations for an enterprise arrangement by means of conciliation and, in accordance with these principles and the Act, by means of

arbitration. If any party to such negotiations seeks arbitration of a matter relating to an enterprise arrangement, such arbitration shall be as a last resort.

- (h) Enterprise arrangements entered into directly between employees and employers shall be processed as follows, subject to the Commission being satisfied in a particular case that departure from these requirements is justified:
- (i) All employees will be provided with the current prescriptions (e.g. award, industrial agreement or enterprise agreement) that apply at the place of work.
  - (ii) The arrangement shall be committed to writing and signed by the employer, or the employer's duly authorised representative, with whom agreement was reached.
  - (iii) Before any arrangement is signed and processed in accordance with this principle, details of such arrangement shall be forwarded in writing to the union or unions with members in that enterprise affected by the changes and the employer association, if any, of which the employer is a member.
  - (iv) A union or employer association may, within 14 days thereof, notify the employer in writing of any objection to the proposed arrangements, including the reasons for such objection and in such circumstances the parties are to confer in an effort to resolve the issue.
  - (v) Where an arrangement is objected to by a union or employer association and the objection is not resolved, an employer may make application to the Commission to vary an award or create a new award to give effect to the arrangement.
  - (vi) A union and/or employer association shall not unreasonably withhold consent to the arrangements agreed upon by the parties.
  - (vii) If no party objects to the arrangement, then a consent application shall be made to the Commission to have the matter approved in accordance with paragraph (e) of this principle.
  - (viii) Such arrangement once approved shall be displayed on a notice board at each enterprise affected.

## 12. Superannuation

- (a) An application to make or to vary a minimum rates or paid rates award which:
- (i) seeks a greater quantum of employer contributions than required by the Superannuation Guarantee (Administration) Act 1992 (Cth) ('the SGA Act'); or
  - (ii) seeks employer contributions to be paid in respect of a category of employee in respect of which the SGA Act does not require contributions to be paid;

shall be referred to a Full Bench for consideration as a special case, unless otherwise allocated by the President. Exceptions to this process are applications which fall within the Enterprise Arrangements and First Awards and Extensions to Existing Awards principles.

- (b) If an application is made that does not fall within paragraph (a), the Commission will, subject to paragraph (c):
- (i) make or vary an award by inserting a clause stating:

'Superannuation Legislation - The subject of superannuation is dealt with extensively by federal legislation including the Superannuation Guarantee (Administration) Act 1992 (Cth), the Superannuation Industry (Supervision) Act 1993 (Cth); the Superannuation

(Resolution of Complaints) Act 1993 (Cth) and s 124 of the Industrial Relations Act 1996. This legislation, as varied from time to time, governs the superannuation rights and obligations of the parties.'

- (ii) if appropriate, ensure that the award contains specification of an employee's earnings (e.g. 'ordinary time earnings') which, for the purposes of the SGA Act, will operate to provide a 'notional earnings base', and
  - (iii) if the award is to continue to prescribe a 'flat dollar' amount of employer contribution, ensure that appropriate amounts are inserted so as to give effect to the levels of contribution required from time to time under the SGA Act.
- (c) The Commission may award provisions which differ from those in paragraph (b):
- (i) by consent; or
  - (ii) in the absence of consent, by arbitration, provided the Commission is satisfied that there are particular factors warranting the awarding of different provisions. Such factors may include:
    - (A) the wishes of the parties;
    - (B) the nature of the particular industry or enterprise;
    - (C) the history of the existing award provisions;
    - (D) relevant decisions of the Commission establishing superannuation principles; and
    - (E) relevant statutory provisions.
- (d) Before any different provisions are awarded under paragraph (c), either by consent or arbitration, the Commission must be satisfied, on expert evidence, that the award to be made will not contain requirements that would result in an employer not meeting the requirements imposed by the SGA Act.
- (e) Subject to s 124 of the Act, any specification of a fund will carry with it the obligation for an employer to pay contributions at such intervals as are required by the fund.
- (f) In determining applications as to specification of fund, the Commission will, as appropriate:
- (i) ensure that any fund specified by it is one into which payment will meet the employer's obligations under the SGA Act;
  - (ii) have regard to the Superannuation Industry (Supervision) Act 1993 (Cth) ('the Supervision Act') which provides for the prudent management of certain superannuation funds and for their supervision by the Insurance and Superannuation Commissioner. In particular, the requirement with respect to equal representation of employers and members on what are called 'standard employer-sponsored funds' (Pt 9 of the Supervision Act) should be noted;
  - (iii) have regard to previous decisions of the Commission with respect to the specification of a fund or funds; and
  - (iv) have regard to relevant statutory provisions.
- (g) Due to the variety of existing award superannuation provisions and the impact and complexity of the SGA Act, all applications to the Commission may not be capable of being dealt with in accordance with the approach set out above. In any such case it may be appropriate for the application to be dealt with as a special case.

**13. First Award and Extension to an Existing Award**

Any first award or an extension to an existing award must be consistent with the Commission's obligations under Part 1 Chapter 2 of the Act.

In determining the content of a first award the Commission will have particular regard to:

- (a) relevant wage rates in other awards, provided the rates have been adjusted for previous State Wage Case decisions and are consistent with the decision of the State Wage Case 1989;
- (b) the need for any alterations to wage relativities between awards to be based on skill, responsibility and the conditions under which the work is performed;
- (c) for conditions of employment, other than wage rates, prima facie the existing conditions of employment;
- (d) that the award would comply with the requirements of s 19 of the Act.

**14. Equal Remuneration and Other Conditions**

- (a) Claims may be made in accordance with the requirements of this principle for an alteration in wage rates or other conditions of employment on the basis that the work, skill and responsibility required, or the conditions under which the work is performed, have been undervalued on a gender basis.
- (b) The assessment of the work, skill and responsibility required under this principle is to be approached on a gender neutral basis and in the absence of assumptions based on gender.
- (c) Where the under-valuation is sought to be demonstrated by reference to any comparator awards or classifications, the assessment is not to have regard to factors incorporated in the rates of such other awards which do not reflect the value of work, such as labour market attraction or retention rates or productivity factors.
- (d) The application of any formula, which is inconsistent with proper consideration of the value of the work performed, is inappropriate to the implementation of this principle.
- (e) The assessment of wage rates and other conditions of employment under this principle is to have regard to the history of the award concerned.
- (f) Any change in wage relativities which may result from any adjustments under this principle, not only within the award in question but also against external classifications to which the award structure is related, must occur in such a way as to ensure there is no likelihood of wage leapfrogging arising out of changes in relative positions.
- (g) In applying this principle, the Commission will ensure that any alternative to wage relativities is based upon the work, skill and responsibility required, including the conditions under which the work is performed.
- (h) Where the requirements of this principle have been satisfied, an assessment shall be made as to how the undervaluation should be addressed in money terms or by other changes in conditions of employment, such as reclassification of the work, establishment of new career paths or changes in incremental scales. Such assessments will reflect the wages and conditions of employment previously fixed for the work and the nature and extent of the undervaluation established.
- (i) Any changes made to the award as a result of this assessment may be phased in and any increase in wages may be absorbed in individual employees' overaward payments.

- (j) Care should be taken to ensure that work, skill and responsibility which have been taken into account in any previous work value adjustments or structural efficiency exercises are not again considered under this principle, except to the extent of any undervaluation established.
- (k) Where undervaluation is established only in respect of some persons covered by a particular classification, the undervaluation may be addressed by the creation of a new classification and not by increasing the rates for the classification as a whole.
- (l) The expression 'the conditions under which the work is performed' has the same meaning as in Principle 6, Work Value Change.
- (m) The Commission will guard against contrived classification and over-classification of jobs. It will also consider:
  - (i) the state of the economy of New South Wales and the likely effect of its decision on the economy;
  - (ii) the likely effect of its decision on the industry and/or the employers affected by the decision; and
  - (iii) the likely effect of its decision on employment.
- (n) Claims under this principle will be processed before a Full Bench of the Commission, unless otherwise allocated by the President.
- (o) Equal remuneration shall not be achieved by reducing any current wage rates or other conditions of employment.
- (p) In arbitrating an application made under this Principle, the Commission is required to determine whether or not future State Wage Case general increases will apply to the award.

#### **15. Economic Incapacity**

Any employer or group of employers bound by an award may apply to, temporarily or otherwise, reduce, postpone and/or phase in the application of any increase in labour costs determined under the principles on the ground of very serious or extreme economic adversity. The merit of such application shall be determined in the light of the particular circumstances of each case and any material relating thereto shall be vigorously tested. Significant unemployment or other serious consequences for the employees and employers concerned are significant factors to be taken into account in assessing the merit of any application.

Such an application shall be processed according to the Special Case principle.

Any decision to temporarily reduce or postpone an increase will be subject to a further review, the date of which will be determined by the Commission at the time it decides any application under this principle.



**16. Duration**

These principles will operate until further order of the Commission.

R. P. BOLAND *J, President.*  
M. J. WALTON *J, Vice-President.*  
R. W. HARRISON, *D.P.*  
J. P. GRAYSON, *D.P.*  
I. TABBAA, Commissioner.

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**CROWN EMPLOYEES (NSW DEPARTMENT OF SERVICES,  
TECHNOLOGY AND ADMINISTRATION, GOVERNMENT CHIEF  
INFORMATION OFFICE) AWARD 2009**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by NSW Department of Commerce.

(No. IRC 805 of 2009)

Before The Honourable Mr Justice Staff

13 December 2010

**VARIATION**

1. Delete the title of the award Crown Employees (NSW Department of Commerce, Government Chief Information Office) Award 2009 of the award published 31 July 2009 (368 I.G. 784) and insert in lieu thereof the following:  
  
"Crown Employees (NSW Department of Services, Technology and Administration, Government Chief Information Office) Award 2009.
2. Delete the word "Commerce" appearing in the second sentence of clause 1, Parties and insert in lieu thereof the following:  
  
"Services, Technology and Administration"
3. Delete the word "Commerce" appearing in the definition of "Department" of clause 3, Definitions, and insert in lieu thereof the following:  
  
"Services, Technology and Administration"
4. Delete the word "Commerce" appearing in the definition of "GCIO Officer" of clause 3, and insert in lieu thereof the following:  
  
"Services, Technology and Administration"
5. Delete the word "Commerce" appearing in the definition of "Director General" of clause 3, and insert in lieu thereof the following:  
  
"Services, Technology and Administration"
6. Delete clause 6, Working Hours and Arrangements, and renumber subsequent clauses accordingly.
7. For the words "Public Sector Employment and Management Regulation 1996" appearing in the newly renumbered clause 6, Conditions of Employment, delete "1996" and insert in lieu thereof the following:  
  
"2009"
8. For the words "Crown Employees (Public Service Conditions of Employment) Reviewed Award 2006" appearing in clause 6, delete "2006" and insert in lieu thereof the following:  
  
"2009"

9. Delete the word "Commerce" appearing in subclause (1) of the newly renumbered clause 13, Area, Incidence and Duration, and insert in lieu thereof the following:

"Services, Technology and Administration"

10. This variation shall take effect on and from 31 January 2011.

C.G. STAFF *J*

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Printed by the authority of the Industrial Registrar.

# **CROWN EMPLOYEES (PARLIAMENT HOUSE CONDITIONS OF EMPLOYMENT) AWARD 2010**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by The Presiding Officers Parliament of New South Wales.

(No. IRC 1403 of 2010)

Before The Honourable Mr Justice Staff

9 December 2010

## **AWARD**

### **PART A**

#### **1. Arrangement**

##### **PART A**

Clause No.	Subject Matter
1.	Arrangement
2.	Definitions
3.	Area Incidence and Duration
4.	Terms of Employment
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56. Shift Work
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59. Anti Discrimination
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62. Secure Employment

## PART B

### MONETARY RATES

Table 1 - Allowances.

## 2. Definitions

"Act" means *Public Sector Employment and Management Act 2002*

"Accumulation" means the accrual of leave or time. In respect of weekly study time "accumulation" means the aggregation of short periods of weekly study time that is granted for private study purposes.

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

"Approved Course" means a course which is relevant to the employment of the staff member in the department or the public service and one which has been approved by the Department Head.

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

"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.

"Capital City rate" means the travelling allowance rate applicable within the Sydney Telephone District Directory Coded N00 in the Sydney White Pages or within a corresponding area in the Capital City of another State and Territory.

"Casual Employee" means any employee engaged on a casual basis in terms of Clause 7 "Casual Employment" of this Award.

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

"Daily rate" or "Rate per day" means the rate payable for 24 hours, unless otherwise specified.

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

"Day worker" means a staff member, other than a shift worker, who works the ordinary hours from Monday to Friday inclusive between the hours of 7.30 am and 6.00 pm or as negotiated under a local arrangement.

"Department" refers to the Department of the Legislative Assembly, the Department of the Legislative Council or the Department of Parliamentary Services.

"Department Head" means the Clerk of the Legislative Assembly or the Clerk of the Legislative Council or the Executive Manager Parliamentary Services, or a person authorised by the Department Head.

"DPE" means the position of Director of Public Employment established under Chapter 6 of the *Public Sector Employment and Management Act 2002*.

"Electorate Officers" means the employees of the Speaker of the Legislative Assembly employed in the Electorate Offices of Members of the Legislative Assembly.

"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.

"Extended leave" means extended (long service) leave to which a staff member is entitled equivalent to Schedule 3 to the *Public Sector Employment and Management Act 2002*, as amended from time to time.

"Flexible working hours credit" means the time exceeding the contract hours for a settlement period and is able to be banked under a local arrangement negotiated pursuant to clause 5, Local Arrangements of this award or carried over into the next settlement period.

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

"Flexible working hours scheme" means the scheme outlined in clause 16, Flexible Working Hours Scheme of this award which enables staff members, subject to operational requirements, to select their starting and finishing times.

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

"Flex leave" means a period of leave available to be taken by a staff member as specified in subclause (xv) of clause 16, Flexible Working Hours Scheme of this award.

"Full day" means the standard full time contract hours for the day, i.e., 7 or 8 hours depending on the classification of the staff member.

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

"Full-time contract hours" means the standard weekly hours, i.e., 35 or 38 hours per week, depending on the classification, required to be worked as at the date of this award.

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

"Full-time staff member" means a staff member whose ordinary hours of duty are specified as such in a formal industrial instrument or whose contract hours are equivalent to the full-time contract hours for the job classification.

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

"Headquarters" means the centre(s) 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 Arrangement" means an agreement reached at the organisational level between the Department Head(s) and the relevant trade union in terms of clause 5, Local Arrangements of this award.

"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.

"Members' staff" means staff employed by the President of the Legislative Council employed as personal staff to a Member of the Legislative Council and staff employed by the Speaker of the Legislative Assembly as electorate office staff to a Member of the Legislative Assembly.

"Normal hours of duty" means:

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

for a staff member working under a flexible working hours scheme or local arrangement hours of duty the Department Head requires a staff member to work within the bandwidth specified under the flexible working hours scheme or local arrangement.

"Normal work", for the purposes of clause 58, Grievance and Dispute Settling Procedures 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 department. In terms of clause 55, Trade Union Activities of this award, trade union activities regarded as "on duty" means the time off with pay given by the department to the accredited union delegate to enable the union delegate to carry out legitimate trade union activities during ordinary work hours without being required to lodge an application for leave.

"On loan" means an arrangement between the department and the trade union where a staff member is given leave of absence from the workplace to take up employment with the staff member's trade union for a specified period of time during which the trade union is required to reimburse the department for the staff member's salary and associated on-costs.

"On special leave" means the staff member is required to apply for special leave in order to engage in an activity which attracts the grant of special leave in the terms of this award.

"Ordinary hourly rate of pay" means the hourly equivalent of the annual rate of pay of the classification as set out in the Crown Employees (Public Sector- Salaries 2008) Award calculated using the formula set out in Clause 7 'Casual Employment', of this Award.

"Overtime" means all time worked, whether before or after the ordinary daily hours of duty, at the direction of the Department Head, which, due to its character or special circumstances, cannot be performed during the staff member's ordinary hours of duty. Where a flexible working hours scheme is in operation, overtime shall be deemed as the hours directed to be worked before or after bandwidth or before or after the time specified in a local arrangement made pursuant to the provisions of clause 5, Local Arrangements of this award provided that, on the day when overtime is required to be performed, the staff member shall not be required by the Department Head to work more than 7 hours after finishing overtime or before commencing overtime.

"Parliamentary Catering Staff" means all staff members employed within the catering services area, and includes kitchen, wait and office staff.

"Parliamentary Reporting Staff" are employees classified as Reporters, Subeditors, Senior Subeditor and Deputy Editor of the Parliamentary Reporting Services Department.

"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 arrangement.

"Part time hours" means the hours which are less than the hours that constitute full-time work under the relevant industrial instrument.

"Part time position" means a designated part time position and, unless otherwise specified, includes any position which 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 in a formal industrial instrument or whose contract hours are less than the full-time hours.

"Prescribed ceasing time" means, for a staff member working standard hours, the conclusion of daily standard hours for that staff member. For a staff member working under a flexible working hours scheme, "prescribed ceasing time" means the conclusion of bandwidth of the scheme applying to that staff member.

"Prescribed starting time" means, for a staff member not working under a flexible working hours scheme, the commencement of standard daily hours of that staff member. For a staff member working under a flexible working hours scheme, "prescribed starting time" means the commencement of bandwidth of the scheme applying to that staff member.

"Presiding Officers" means the Speaker of the Legislative Assembly or the President of the Legislative Council or both.

"Public holiday" means a day proclaimed under the *Banks and Bank Holidays 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.

"Recall to duty" means those occasions when a staff member is directed to return to duty outside the staff member's ordinary hours or outside the bandwidth in the case of a staff member working under a flexible working hours scheme.



"Relief staff" means staff employed on a temporary basis to provide relief in a position until the return from authorised leave of the substantive occupant or in a vacant position until it is filled substantively.

"Remote area" means for the purpose of clause 38, Recreation Leave, the Western and Central Division of the State described as such in the Second Schedule to the *Crown Lands Consolidation Act 1913* before the Acts repeal.

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

"Seasonal staff" means staff employed on a temporary basis for less than three months to meet seasonal demands which cannot be met by staff already employed in the department and which, because of their seasonal nature, do not justify employment of staff on a long-term basis.

"Secondment" means an arrangement agreed to by the Department Head, 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 secondment.

"Section" means a small unit under the administrative control of the relevant Department Head.

"Sessional Staff" means an officer as defined from time to time by the Clerk of the Parliaments in respect of the Legislative Council and the Clerk of the Legislative Assembly in respect of the Legislative Assembly, or the Executive Manager in respect of the Department of Parliamentary Services. Staff members shall be designated as Sessional Staff by 1 December each leave year and shall as part of the duties of their position be regularly required to work at least two sitting nights in every sitting period.

"Shift worker - Continuous Shifts" means a staff member engaged in work carried out in continuous shifts throughout the 24 hours of each of at least six consecutive days without interruption except during breakdown or meal breaks or due to unavoidable causes beyond the control of the Department Head.

"Shift worker - Non-continuous Shifts" means a staff member who is not a "day worker" or a "shift worker - continuous shifts", as defined above.

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

"Sitting Day" is a period of time representing any day, being a 24-hour period, or days where:

- (a) in respect of Officers of the Legislative Council, the Legislative Council sits or is scheduled to sit;
- (b) in respect of officers of the Legislative Assembly, the Legislative Assembly sits or is scheduled to sit;
- (c) in respect of officers of the Department of Parliamentary Services who are required to work to support either or both Houses that are sitting or are scheduled to sit.

"Sitting Period" is a period of time representing a full working week, Monday to Friday, inclusive:

- (a) for officers of the Legislative Council during which that House is scheduled to sit;
- (b) for officers of the Legislative Assembly during which that House is scheduled to sit;
- (c) for officers of the Department of Parliamentary Services during which either or both Houses are scheduled to sit.

"Staff member" means an officer or a temporary employee and, unless otherwise specified in this award, includes both full-time and part time staff. For the purposes of maternity leave, as set out in clause 46, Parental Leave of this award, "staff member" means a female staff member.

"Standard hours" are set and regular hours of operation as determined by the Presiding Officer(s), or by the Department Head in accordance with any direction of the Presiding Officer(s). Standard hours are generally the hours that were in operation prior to the introduction of flexible working hours or have been determined as standard hours for the organisation since the introduction of flexible working hours.

"Standby" means an instruction given by the Department Head to a staff member to be available for immediate contact in case of an authorised call-out requiring the performance of duties.

"Study leave" means leave without pay granted for courses at any level or for study tours during which financial assistance may be approved by the Department Head, if the activities to be undertaken are considered to be of relevance or value to the department and/or the public service.

"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 which is of relevance to the department.

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

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

"Trade Union" or "Union" means a registered trade union, as defined in the *Industrial Relations Act 1996*.

"Trade Union Delegate" means an accredited union delegate responsible for his/her workplace; and/or a person who is elected by the trade union as its representative, an executive member or a member of the union's Council.

"Trade Union Official" means a person who is employed by the union 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.

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

"Workplace Management" means the Department Head or any other person authorised by the Department Head to assume responsibility for the conduct and effective, efficient and economical management of the functions and activities of the organisation or part of the organisation.

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

- (i) This Award shall apply to permanent, temporary and casual employees of the Parliament of New South Wales with the exception of those employees whose conditions of employment are prescribed under another industrial instrument.
- (ii) This award rescinds and replaces the Crown Employees (Parliament House Conditions of Employment 2007) Award published 9 May 2008 (365 I.G. 1337) and all variations thereof.
- (iii) The Award reflects changes to conditions of employment agreed to by the NSW Government and Public Service Association of NSW and included in the Memorandum of Understanding of 2 October 2008 made in settlement of IRC Matter No. 445 of 2008.
- (iv) This Award will be operative on and from 9 December 2010 and will remain in force for a period of twelve months.

### **4. Terms of Employment**

- (i) Staff members shall be paid fortnightly.

- (ii) Notwithstanding anything contained in this award employment may be terminated by two weeks' notice given at any time by the Presiding Officer(s) in writing or such longer period as the Presiding Officer(s) may have contracted with any individual staff member. A staff member desiring to terminate their employment with the Presiding Officer(s) shall give two weeks' notice in writing to the Presiding Officer(s) or such longer period as the Presiding Officer(s) may have contracted with any individual staff member.
- (iii) Provided that nothing contained in this clause shall prevent a staff member's employment being terminated without notice on the grounds of the staff member's serious wilful misconduct.

#### **5. Local Arrangements**

- (i) Local arrangements, as specified in this award, may be negotiated between the Department Head and the relevant trade union in respect of the whole department or section.
- (ii) All local arrangements negotiated between the Department Head and the Association must be:
  - (a) approved in writing by the General Secretary of the Association; and
  - (b) contained in a formal document, such as a co-lateral agreement, a memorandum of understanding, an enterprise agreement or other industrial instrument.
- (iii) Subject to the provisions of subclause (ii) of this clause, nothing in this clause shall prevent the negotiation of local arrangements between the Department Head and the Association in respect of the provisions contained in clause 16, Flexible Working Hours Scheme of this award, where the conditions of employment of any group are such that the application of the standard flextime provisions would not be practicable.
- (iv) Attendance and the accrual of flexible working hours credit - A staff member may only work outside the hours of a standard day but within the bandwidth and accrue hours toward a flexible working hours credit if the work is available to be performed.
- (v) Where a staff member has accrued 8 weeks recreation leave, unless otherwise authorized by their manager, flex leave can only be taken where recreation leave has been applied for and approved. If, however, recreation leave has been applied for and declined or not actioned by the manager, flex leave is still available.

#### **6. Hours of Duty and Attendance**

- (i) Hours of attendance on duty
  - (a) The hours of attendance on duty by members of staff and the manner of recording the attendance, shall be as determined from time to time by the Department Head.
  - (b) The staff member in charge of a department or section will be responsible to the Department Head for the proper observance of the hours of work and the proper recording of such attendance.
  - (c) The Department Head may require a staff member to perform duty beyond the hours determined under paragraph (a) of subclause (i) of this clause but only if it is reasonable for the staff member to be required to do so. A staff member may refuse to work additional hours in circumstances where the working of such hours would result in the staff member working unreasonable hours. In determining what is unreasonable, the following factors shall be taken into account:

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

any risk to the staff member's health and safety,

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,

the notice (if any) given by the Department Head regarding the working of the additional hours, and by the staff member of their intention to refuse the working of additional hours, or

any other relevant matter.

(d) The application of hours of work is subject to the provisions of this clause.

(ii) Working Hours

(a) The ordinary hours may be standard or flexible and may be worked on a full time or part time basis.

(b) The Department Head shall ensure that all staff members employed in the department are informed of the hours of duty required to be worked and of their rights and responsibilities in respect of such hours of duty.

### 7. Casual Employment

(i) This clause will only apply to the employees whose conditions of employment are not otherwise included in another industrial instrument.

(ii) An employee defined as casual must be

(a) paid on an hourly basis.

(b) Engaged for a minimum of 3 hours consecutive hours for each day worked.

(c) Engaged for a maximum period of 9 consecutive hours per day (exclusive of meal breaks), with the payment of overtime required for such time in excess of 9 hours, except where longer periods are permitted under another award or local agreement under Clause 5 of this Award.

(iii) Rate of pay - casual employees shall be paid the ordinary hourly rate of pay calculated by the following formula for the hours worked per day:

Annual Salary divided by 52.17857 divided by the ordinary weekly hours of the classification.

(a) Casual employees shall be paid a loading on the appropriate ordinary hourly rate of pay of:

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

50% for work performed on Saturdays

75% for work performed on Sundays

150% for work performed on public holidays.

(b) All casual employees shall receive 1/12 loading in lieu of annual leave.

(c) The loadings specified in sub clause (iii)(a) 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 long service leave, and all incidence of employment, except overtime.

(iv) Overtime -

(a) casual employees shall be paid overtime for work performed:

(1) In excess of 9 consecutive hours (excluding meal breaks) except where longer periods are permitted under another award or local agreement under Clause 5 of this Award, cover the particular class of work or are required by the usual work pattern of the position; or

- (2) Outside the bandwidth application to the particular class of work; or
  - (3) In excess of the daily roster pattern applicable for the particular class of work; or
  - (4) In excess of the standard weekly roster of hours for the particular class of work; or
  - (5) In accordance with a local arrangement negotiated under Clause 5 of this Award
- (b) Overtime rates will be paid in accordance with the rates set out in Clause 57 Overtime of this Award.
  - (c) Overtime payments for casual employees are based on the ordinary hourly rate plus the 15% loading set out in sub-clause (iii)(a) of this Clause.
  - (d) The loading in lieu of annual leave as set out in subclause (iii)(b) of this Clause is not included in the hourly rate for the calculation of overtime payments for casual employees.
- (v) Application of other clauses of this Award to Casual employees:
    - (a) The following clauses of this Award do not apply to casual employees:
      - 6. Hours of Duty and Attendance
      - 11. Variation of Hours
      - 12. Natural Emergencies and Major Transport Disruptions
      - 14. Public Holidays
      - 15. Standard Hours
      - 16. Flexible Working Hours Scheme
      - 20. Excess Travelling Time
      - 30. Semi-Official Telephone Reimbursement
      - 36(i). Leave - General
      - 36(iii) Leave -Application for Leave
      - 38-52 Leave types and conditions
      - 55. Trade Union Activities subclauses (i)-(vii)
      - 56. Shiftwork
      - 57. Overtime (with the exception of the conditions specified in sub-clause 57 (ii)(b) Rates, 57(vi) Rest periods, 57(ix) Meal Breaks on Overtime, 57(x) Meal Allowances for Overtime
      - 60. Existing Entitlements

### **8. Part Time Employment**

- (i) This clause shall only apply to part time staff members whose conditions of employment are not otherwise provided for in another industrial instrument
- (ii) Part time work may be undertaken with the agreement of the relevant Department Head. Part time work may be undertaken in a part time position or under a part time arrangement.
- (iii) A part time staff member is to work contract hours less than full-time hours.
- (iv) 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 works in a part time position or under a part time arrangement. Entitlements to paid leave will accrue on the equivalent hourly basis.
- (v) Before commencing part time work, the Department Head and the staff member must agree upon:
  - a. The hours to be worked by the staff member, the days upon which they will be worked, commencing and ceasing times for the work, and whether hours may be rostered flexibly;
  - b. Whether flexible working hours provisions or standard hours provisions will apply to the part time staff member; and

- c. The classification applying to work to be performed.
- (vi) The terms of the agreement must be in writing and may only be varied with the consent of both parties.
- (vii) Incremental progression for part time staff members is the same as for permanent staff members, that is, part time staff members who are eligible are given an increment on an annual basis.
- (viii) An employee may request, but not require, a part time staff member to work additional hours. For the time worked in excess of the staff member's usual hour and up to the normal full-time hours for the classification, part time staff members may elect to:
  - a. be paid for additional hours at their hourly rate plus a loading of 1/12ths in lieu of recreation leave
  - b. If working under a flexible working hours scheme under Clause 16 of the Award, or a local agreement made in accordance with clause 5 of the Award, have the time worked credited as flex time.
- (ix) For time worked in excess of the full-time hours of the classification, or outside the bandwidth payment shall be made at the appropriate overtime rate in accordance with Clause 57 Overtime.

### **9. Morning and Afternoon Breaks**

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

### **10. Meal Breaks**

- (i) Meal breaks must be given to and taken by staff members. No staff member shall be required to work continuously for more than 5 hours without a meal break, provided that:
  - (a) where the prescribed break is more than 30 minutes, the break may be reduced to not less than 30 minutes if the staff member agrees. If the staff member requests to reduce the break to not less than 30 minutes, the reduction must be operationally convenient; and
  - (b) where the nature of the work of a staff member or a group of staff members is such that it is not possible for a meal break to be taken after not more than 5 hours, local arrangements may be negotiated between the Department Head and the Association to provide for payment of a penalty.

### **10A. Lactation Breaks**

- (i) 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.
- (ii) 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.
- (iii) 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.
- (iv) 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 operational requirements of the organisation with the lactating needs of the staff member.

- (v) The Department Head shall provide access to a suitable, private space with comfortable seating for the purpose of breastfeeding or expressing milk.
- (vi) 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.
- (vii) 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.
- (viii) 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 16, Flexible Working Hours of this award, where applicable.

### **11. Variation of Hours**

- (i) If the Department Head is satisfied that a staff member is unable to comply with the general hours operating in the department because of limited transport facilities, urgent personal reasons, community or family reasons, the Department Head may vary the staff member's hours of attendance on a one off, short or long term basis, subject to the following:
  - (a) the variation does not adversely affect the operational requirements;
  - (b) there is no reduction in the total number of daily hours to be worked;
  - (c) variation is not more than an hour from the commencement or finish of the span of usual commencing and finishing time;
  - (d) a lunch break of one hour is available to the staff member, unless the staff member elects to reduce the break to not less than 30 minutes;
  - (e) no overtime or meal allowance payments are made to the staff member, as a result of an agreement to vary the hours;
  - (f) ongoing arrangements are documented; and
  - (g) the relevant trade union is consulted, as appropriate, on any implications of the proposed variation of hours for the work area.

### **12. Natural Emergencies and Major Transport Disruptions**

- (i) A staff member prevented from attending work at a normal work location by a natural emergency or by a major transport disruption may:
  - (a) apply to vary the working hours as provided in Clause 11 of this Award and/or
  - (b) negotiate an alternative work location with the Department and/or
  - (c) take available family and community service leave and/or flex leave, recreation or extended leave or leave without pay according to the provisions of this award to cover the period concerned.

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

- (i) If a staff member is to be absent from duty, other than on authorised leave, the staff member must notify the supervisor, or must arrange for the supervisor to be notified, as soon as possible, of the reason for the absence.

- (ii) If a staff member is absent from duty without authorised leave and does not provide an explanation of the absence to the satisfaction of the appropriate Department Head, the amount representing the period of absence shall be deducted from the staff member's pay.

#### **14. Public Holidays**

- (i) Unless directed to attend for duty by the Department Head, 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) day between Boxing Day and New Year's Day determined by the appropriate Department Head as a public service holiday.
- (ii) A staff member, who is required by the Department Head 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.
- (iii) If a local holiday falls during a staff member's absence on leave, the staff member is not to be credited with the holiday.

#### **15. Standard Hours**

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

#### **16. Flexible Working Hours Scheme**

- (i) Unless local arrangements have been negotiated as provided in clause 5, Local Arrangements of this award, a flexible working hours scheme in terms of this clause may operate in a department or a section of a department, subject to operational requirements, as determined by the Department Head.
- (ii) Where the operational requirements allow, the working of flexible hours under a flexible working hours scheme operating in a department shall be extended to a staff member working under a part time work arrangement. Except for provisions contained in subclauses (xiii), (xvii) and xviii of this clause, all other provisions under this clause shall be applied pro rata to a staff member working under a part time work arrangement.
- (iii) Exclusions - Flexible working hours shall not apply to staff members who:
  - (a) work permanent standard hours; or
  - (b) work according to a shift roster; or



- (c) have coverage under another award, Enterprise Agreement or other agreement that prescribes the hours of attendance.
  - (d) are Members' staff as defined in clause 2, Definitions of this award.
  - (e) are sessional staff (sessional staff will not work under the flexible hours scheme on any sitting day and shall revert to standard hours for sitting days)
  - (f) are Parliamentary Reporting Staff as defined in clause 2, Definitions of this award.
- (iv) Attendance - A staff member's attendance outside the hours of a standard day but within the bandwidth, and the accrual of time towards flexible working hours credit, shall be subject to the availability of work.
- (v) Bandwidth - The bandwidth is the period during the day when staff may record time worked. Time shall not be credited to an officer for attendance outside the bandwidth. The bandwidth for staff (excluding those specified in sub-clause (vi)) shall be between the hours of 7.30 am. and 6.00 pm, unless a different time span has been negotiated under a local arrangement in terms of clause 5, Local Arrangements of this award.
- (vi) The bandwidth for staff defined in Clause 2, Definitions of this Award as Parliamentary Catering Staff shall be between the hours of 6.30 am and 5:00pm, unless a different time span has been negotiated under a local arrangement covering Parliamentary Catering Staff in terms of clause 5, Local Arrangements of this Award.
- (vii) Coretime - Coretime is the period during the day when staff are required to be on duty, unless on authorised leave. The coretime for staff, excluding those specified in sub-clause viii, shall be between the hours of 10.00a.m. and 4.00p.m, unless other arrangements have been negotiated under a local arrangement in terms of clause 5, Local Arrangements of this award. Coretime does not include the lunch break.
- (viii) Coretime for staff defined in Clause 2, Definitions of this Award as Parliamentary Catering Staff shall be between the hours of:
- 9.00 am - 10.30 am
  - 12.00 noon - 3.00pm
- unless a different time span has been negotiated under a local arrangement covering Parliamentary Catering Staff in terms of clause 5, Local Arrangements of this Award.
- (ix) Lunch break - The standard lunch period shall be 1 hour. With the approval of the supervisor, the lunch period may be extended by staff members (excluding those specified in sub clause x) for up to 2 hours or reduced to not less than 30 minutes within the span of hours 12.00 noon and 2.30 pm or as other span of hours determined by the Department Head. Where a local arrangement has been negotiated in terms of clause 5, Local Arrangements of this award, the lunch break shall be taken in accordance with such local arrangement.
- (x) The maximum permissible lunch break for staff defined in Clause 2, Definitions of this Award as Parliamentary Catering Staff shall be 1 hour and 30 minutes taken between the period 10.30 am to 12.00 noon, unless a different time span has been negotiated under a local arrangement in terms of clause 5, Local Arrangements of this Award to cover Parliamentary Catering Staff.
- (xi) Settlement period -Unless a local arrangement has been negotiated in terms of clause 5, Local Arrangements of this award, the settlement period shall be four weeks.
- (a) For time recording purposes the settlement period and flex leave must coincide.

- (b) Where exceptional circumstances apply, e.g. prolonged transport strikes, adverse weather conditions and the like, the Department Head may extend the affected settlement period by a further 4 weeks.
- (xii) Contract hours - The contract hours for a settlement period shall be calculated by multiplying the staff member's weekly contract hours by the number of weeks in a settlement period.
- (xiii) Flexible working hours credit - a staff member may carry a maximum of 10 hours credit into the next settlement period. Local arrangements in terms of clause 5, Local Arrangements of this award may be negotiated in respect of the carry over of additional flexible hours credit than permitted in this clause, the length of the settlement period and the banking of any accumulated credit hours for time worked.
- (xiv) Weekly hours worked during the settlement period are to be monitored by the staff member and their supervisor. If it appears that the staff member may exceed an accumulated work time of 150 hours in a settlement period; or if the total hours of work in a settlement period with the credit hour carry over from the previous settlement period may exceed 150 hours, the supervisor and staff member shall develop a strategy to ensure that the staff member does not forfeit any of the credit hours accumulated, or likely to be accumulated.
- (xv) Cessation of duty - Except as provided in subclause (xiii) of this clause, a staff member may receive payment for a flex day accrued and remaining untaken or not forfeited on the last day of service:
  - (a) where the staff member's services terminate without a period of notice for reasons other than misconduct; or
  - (b) where an application for flex leave which would have eliminated the accumulated day or days was made during the period of notice of retirement or resignation and was refused; or
  - (c) in such other circumstances as have been negotiated between the Department Head and the relevant trade union(s) under a local arrangement in terms of clause 5, Local Arrangements of this award.
- (xvi) Subject to any local arrangements, where a staff member ceases duty in the department in order to take up employment in another public service or public sector organisation, the same provisions as apply to recreation leave under the Public Sector Staff Mobility policy shall apply to the accrued but untaken or not forfeited flex leave.
- (xvii) Flexible Working Hours Debit - The following provisions shall apply to the carry over of flexible working hours debits, unless a local arrangement has been negotiated in terms of clause 5, Local Arrangements of this award:
  - (a) A debit of up to 10 hours at the end of a settlement period may be carried over into the next period.
  - (b) Where the debit exceeds 10 hours, the excess will be debited as leave without pay, unless the staff member elects to be granted available recreation or extended leave to offset the excess.
  - (c) Any debit of hours outstanding on a staff member's last day of duty is to be deducted from any unpaid salary or the monetary value of accrued recreation/extended leave. If applicable, the debit of hours may be transferred to the next NSW public sector organisation under the Public Sector Staff Mobility policy.
- (xviii) Flex leave - Subject to operational requirements, a staff member may take off one full day or two half days in a settlement period of 4 weeks. Flex leave may be taken on consecutive working days. Half day absences may be combined with other periods of authorised leave. As specified in sub-clause 5(v) Local Arrangements, Flex leave may not be approved where an employee has accrued more than 8 weeks recreation leave.

- (xix) Local arrangements in respect of the taking of flex leave may be negotiated in terms of clause 5, Local Arrangements of this award.
- (xx) Absence during coretime - Where a staff member needs to take a short period of authorised leave within coretime, including late attendances, other than flex leave, the quantum of leave to be granted shall be determined according to the provisions contained in paragraph (d) subclause (ii) of clause 36, Leave General of this award.
- (xxi) Standard hours - Notwithstanding the provisions of this clause, the Department Head may direct the staff member to work standard hours and not flexible hours:
  - (a) where the Department Head decides that the working of flexible hours by a staff member or members does not suit the operational requirements of the department or section of the department, the relevant union shall be consulted, where appropriate; or
  - (b) as remedial action in respect of a staff member who has been found to have deliberately and persistently breached the flexible working hours scheme.
- (xxii) Easter concession - Staff members who work under a flexible working hours scheme may be granted, subject to the convenience of the department, an additional half day's flex leave on the Thursday preceding the Good Friday public holiday drawn from staff members accrued flex balance.
- (xxiii) Flexible Work Practices
  - (a) Nothing in this award shall affect the hours of duty of a staff member who is covered by a written flexible working hours agreement negotiated under Flexible Work Practices, Policy and Guidelines.
  - (b) Flexible working hours agreements negotiated in terms of the Flexible Work Practices, Policy and Guidelines after the effective date of this award shall be subject to the conditions specified in this award and in consultation with the relevant trade union.

### **17. Non-Compliance With Hours of Duty and Attendance**

In the event of any persistent failure by a staff member to comply with the hours of duty required to be worked, the Department Head, shall investigate such non-compliance as soon as it comes to notice and shall take appropriate remedial action according to management of unsatisfactory performance guidelines.

### **18. Existing Determinations and Agreements - Hours of Duty**

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

### **19. Travel Allowances**

- (i) Travel Allowance General
  - (a) Any authorised official travel and associated expenses, properly and reasonably incurred by a staff member required to perform duty at a location other than their normal headquarters shall be met by the department.
  - (b) The Department Head shall require staff members to obtain an authorisation for all official travel prior to incurring any travel expense.
  - (c) Where available at a particular centre or location, the overnight accommodation to be occupied by staff members who travel on official business shall be the middle of the range standard, referred to generally as three star or three diamond standard of accommodation.

- (d) Where payment of a proportionate amount of an allowance applies in terms of this clause, the amount payable shall be the appropriate proportion of the daily rate. Any fraction of an hour shall be rounded off to the nearest half-hour.
  - (e) The Department will elect whether to pay the accommodation directly, or whether a staff member should pay the accommodation and be compensated in accordance with this clause. Where practicable, staff members shall obtain prior approval when making their own arrangements for overnight accommodation.
  - (f) Production of Receipts - As and when required by the Department Head, payment of travelling expenses shall be subject to the production of receipts or other acceptable evidence of expenditure.
  - (g) The need to obtain overnight accommodation shall be determined by the Department Head having regard to the safety of the staff member or members travelling on official business and local conditions applicable in the area. Where staff members are required to attend conferences or seminars which involve evening sessions or staff members are required to make an early start at work in a location away from their normal workplace, overnight accommodation shall be appropriately granted by the Department Head.
- (ii) Accommodation and allowances
- (a) Subject to sub-clause (h), a staff member who is required by the Department Head to work from a temporary work location shall be compensated for accommodation, meal and incidental expenses properly and reasonably incurred during the time actually spent away from the staff member's residences in order to perform the work.
  - (b) If meals are provided by the Government at the temporary work location the staff member shall not be entitled to claim the meal allowance.
  - (c) For the first 35 days, the payment shall be either
    - (1) where the Department elects to pay the accommodation provider the staff member shall receive
      - A. the appropriate meal allowance in accordance with Item 1 of Table 1, and
      - B. incidentals as set out in Item 3 of Table 1, and
      - C. actual meal expenses properly and reasonably incurred (excluding morning and afternoon tea) for any residual part day travel
    - (2) Where the Department elects not to pay the accommodation provider the staff member shall elect to receive either:
      - A. the appropriate rate of allowance specified in Item 2 of Table 1 - Allowances of Part B Monetary Rates for every 24 hours absence by the staff member from their residence, and actual meal expenses properly and reasonable incurred (excluding morning and afternoon tea) for any residual part day travel; OR
      - B. In lieu of sub-paragraph A of this paragraph, payment of the actual expenses properly and reasonably incurred for the whole trip on official business (excluding morning and afternoon teas) together with an incidental expenses allowance set out in Item 3 of Table 1 - Allowances of Part B Monetary Rates.
  - (d) Payment of the appropriate allowance for an absence of less than 24 hours may be made only where the staff member satisfies the Department Head that, despite the period being of less than 24 hours duration, expenditure for accommodation and three meals has been incurred. Where a staff member is unable to so satisfy the Department Head or where part day travel at the end of

the trip is involved, the allowance payable for part days of travel shall be limited to the actual expenses incurred during such part day travel.

- (e) A claim under this subclause shall not be made at the set rate for part of the absence (see paragraph (b) of this subclause) and then on the basis of actual expenses for the other part of the absence, except as provided for in paragraph (c) of this subclause.
- (f) After the first 35 days -If a staff member is required by the Department Head to work in the same temporary work location for more than 35 days, such staff member shall be paid the appropriate rate of allowance as specified in item 4 of Table 1 allowances of part B Monetary Rates.
- (g) Long term arrangements - as an alternative to the provisions after the first 35 days set out in paragraph (f) above the Department Head could make alternative arrangements for meeting the additional living expenses, properly and reasonably incurred by a staff member working from a temporary work location.
- (h) The return of a staff member to their home at weekends, on rostered days off or during short periods of leave while working from a temporary work location will not constitute a break in temporary work arrangements.
- (i) This clause does not apply to staff members who are on an employee initiated secondment.

#### **20. Excess Travelling Time**

- (i) A staff member directed by the Department Head to travel on official business outside the usual hours of duty to perform duty at a location other than normal headquarters will, at the Department Head's discretion, be compensated for such time either by:
  - (a) payment calculated in accordance with the provisions contained in this subclause; 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. Such time in lieu must be taken within 1 month of accrual unless otherwise authorized by the staff member's manager.
- (ii) Compensation under subparagraphs (a) or (b) of this Clause, shall be subject to the following conditions:
  - (a) on a non-working day, subject to the provisions of sub-clauses (v)(d), (e), (f) and (g) - all time spent travelling on official business;
  - (b) on a working day - subject to the provisions of subclause (v), all additional time spent travelling before or after the staff member's normal hours of duty.
  - (c) the period for which compensation is being sought is more than a half an hour on any one day.
- (iii) No compensation for travelling time shall be given in respect of travel between 11.00p.m. on any one day and 7.30a.m. on the following day where the staff member has travelled overnight and sleeping facilities have been provided for the staff member.
- (iv) 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.
- (v) Compensation for excess travelling time shall exclude the following:
  - (a) time normally taken for the periodic journey from home to headquarters and return;
  - (b) any periods of excess travel of less than 30 minutes on anyone day;
  - (c) travel to new headquarters on permanent transfer, if special leave has been granted for the day or days on which travel is to undertaken;

- (d) time from 11.00p.m. on one day to 7.30a.m. on the following day if sleeping facilities have been provided.
  - (e) travel not undertaken by the most practical available route;
  - (f) working on board a ship where meals and accommodation are provided;
  - (g) any travel undertaken by a member of staff whose salary includes an "all incidents of employment" component;
  - (h) travel overseas
  - (i) Time within the flex time bandwidth
- (vi) **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 normal hours of duty, such waiting time shall be treated and compensated in the same manner as travelling time.
- (vii) **Payment** - Payment for travelling time calculated in terms of this subclause shall be at the staff member's ordinary rate of pay on an hourly basis calculated as follows:

<u>Annual Salary</u>	<u>x</u>	5	x	1
1		260.89	Normal Hours of Work	

- (viii) 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.
- (ix) Staff members whose salary is in excess of the maximum rate for Clerk, Grade 5 shall be paid travelling time or waiting time calculated at the maximum rate for Clerk, Grade 5 plus \$1.00 per annum, as adjusted from time to time.
- (x) 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.

### 21. Meal Expenses on One-Day Journeys

- (i) A staff member who is authorised by the Department Head to undertake a one day journey on official business which does not require the staff member to obtain overnight accommodation, shall be paid the following allowances as set out in Item 1 of Table 1 of Part B Rates for: -
- (a) breakfast when required to commence travel at or before 6.00a.m. and at least 1 hour before the prescribed starting time;
  - (b) an evening meal when required to travel until or beyond 6.30p.m.; and
  - (c) lunch when required to travel a total distance on the day of at least 100 kilometres and, as a result, is located at a distance of at least 50 kilometres from the staff member's normal headquarters at the time of taking the normal lunch break.

### 22. Restrictions on Payment of Travelling Allowances

- (i) An allowance under Clause 19 Travel Allowance is not payable in respect of:
- (a) any period during which the staff member returns to their residence at weekends or public holidays, commencing with the time of arrival at that residence and ending at the time of departure from the residence;
  - (b) any period of leave, except with the approval of the Department Head or as otherwise provided by this subclause; or

- (c) any other period during which the staff member is absent from the staff member's temporary work location otherwise than on official duty.
- (ii) A staff member who is in receipt of an allowance under Clause 19 Travel allowance shall be entitled to the allowance in the following circumstances:
  - (a) When granted special leave to return to their residence at a weekend, for the necessary period of travel for the journey from the temporary work location to the staff member's residence; and for the return journey from the staff member's residence to the temporary work location;
  - (b) When leaving a temporary work location on ceasing to perform duty at or from a temporary work location, for the necessary period of travel to return to the staff member's residence or to take up duty at another temporary work location;

but is not entitled to any other allowance in respect of the same period.

### **23. Increase Or Reduction in Payment of Travelling Allowances**

- (i) Where the Department Head is satisfied that an allowance under Clause 19: Travel Allowances is:
  - (a) Insufficient to adequately reimburse the staff member for expenses properly and reasonably incurred, a further amount may be paid to reimburse the staff member for the additional expenses incurred; or
  - (b) In excess of the amount that would adequately reimburse the staff member for expenses properly and reasonably incurred, the Department Head may reduce the allowance to an amount that would reimburse the staff member for expenses incurred properly and reasonably.

### **24. Allowance Payable for the Use of Private Motor Vehicles**

- (i) The Department Head 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 department 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.
- (ii) Different levels of allowance are payable for the use of a private motor vehicle for work depending on the circumstances and the purpose for which the vehicle is used.
  - (a) the casual rate is payable if a staff member elects, with the approval of the Department Head, to use their vehicle for occasional travel for work. This is subject to the allowance paid for the travel not exceeding the cost of travel by public or other available transport.
  - (b) the official business rate is payable if a staff member is directed, and agrees, to use the vehicle for official business and there is no other transport available. It is also payable where the staff member is unable to use other transport due to a disability. The official business rate includes a component to compensate a staff member for owning and maintaining the vehicle.
- (iii) A staff member who, with the approval of the Department Head, uses a private motor vehicle for work shall be paid an appropriate rate of allowance specified in Item 6 of Table 1 of Part B Rates for the use of such private motor vehicle. A deduction from the allowance payable is to be made for travel as described in subclause (x) of this clause.
- (iv) 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 Department Head.

- (v) 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 department, provided:
  - (a) the damage is not due to 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.
- (vi) Provided the damage is not the fault of the staff member, the department 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.
- (vii) Expenses such as tolls etc. shall be refunded to staff members where the charge was incurred during approved work related travel.
- (viii) Where a staff member tows a trailer or horse-float during travel resulting from approved work activities while using a private vehicle, the staff member shall be entitled to an additional allowance as prescribed in Item 6 of Table 1 of Part B Rates.
- (ix) 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. Headquarters means the administrative headquarters to which the staff member is attached or from which the employee is required to operate on a long-term basis or the designated headquarters per (a) below:
  - (a) Where the administrative headquarters of the staff member to which they are attached is not within the typical work area in which the staff member in which the staff member is required to use the private vehicle on official business, the distance to and from a point designated within the typical work area is to be adopted as the distance to and from the headquarters for the purpose of calculating the daily deduction.
  - (b) A staff member's residence may be designated as their headquarters provided that such recognition does not result in a further amount of allowance being incurred than would otherwise be the case.
- (x) On days when a staff member uses a private vehicle for official business and travels to and from home, whether or not the staff member during that day visits headquarters, a deduction is to be made from the total distance travelled on the day. The deduction is to equal the distance from the staff member's residence to their headquarters and return or 20 kilometres (whichever is the lesser) and any distance that is travelled in a private capacity.
- (xi) Where headquarters has been designated per (ix)(a) above and the staff member is required to attend the administrative headquarters, the distance for calculating the daily deduction is to be the actual distance to and from the administrative headquarters, or, to and from the designated headquarters, whichever is the lesser.
- (xii) Deductions are not to be applied in respect of days characterised as follows:
  - (a) When staying away from home overnight, including the day of return from any itinerary
  - (b) When the employee uses the vehicle on official business and returns it home prior to travelling to the headquarters by other means of transport at their own expense
  - (c) When the employee uses the vehicle for official business after normal working hours



- (d) When the monthly claim voucher shows official use of the vehicle has occurred on one day only in any week. Exemption from the deduction under this sub-paragraph is exclusive of, and not in addition to, days referred to in (a), (b) and (c) above.
- (e) When the employee buys a weekly or other periodical rail or bus ticket, provided the Department Head is satisfied that:
  - at the time of purchasing the periodical ticket the employee did not envisage the use of their private motor vehicle on approved official business;
  - the periodical ticket was in fact purchased; and
  - in regard to train travellers, no allowance is to be paid in respect of the distance between the staff member's home and the railway station or other immediate transport stopping place.

### **25. Overseas Travel Allowance**

Unless the Department Head determines that a staff member shall be paid travelling rates especially determined for the occasion, a staff member who is required by the department to travel overseas on official business, shall be paid the appropriate travelling rates as specified in the relevant Premier's Department Circular as issued from time to time.

### **26. Staff Exchanges**

- (i) The Department Head may arrange two way or one way exchanges with other organisations both public and private, if the department or the staff member will benefit from additional training and development which is intended to be used in the carrying out of the department's business.
- (ii) The conditions applicable to those staff members who participate in exchanges will be determined by the Department Head according to the individual circumstances in each case.
- (iii) The provisions of this subclause do not apply to the loan of services of staff members to trade unions. The provisions of subclause (iv) of clause 55, Trade Union Activities of this award apply to staff members who are loaned to their trade union.

### **27. Community Language Allowance Scheme (CIAS)**

- (i) 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:
  - (a) employed as interpreters and translators; and
  - (b) employed in those positions where particular language skills are an integral part of essential requirements of the position,
 shall be paid an allowance as specified in Item 7 of Table 1 of Part B Rates.
- (ii) The base level of the CLAS is paid to staff members who
  - (a) are required to meet occasional demands for language assistance (there is no regular pattern of demand for their skill); and
  - (b) have passed an examination administered by the Community Relations Commission, or who have passed a National Accreditation Authority for Translators and Interpreters (NAATI) language recognition award.
- (iii) The higher level of CLAS is paid to staff members who meet the requirements for the base level of payment and:

- (a) are regularly required to meet high levels of customer demand involving a regular pattern of usage of the staff member's language skills, as determined by the Department Head; or
- (b) have achieved qualifications of NAATI interpreter level or above. This recognizes that staff with higher levels of language skill will communicate with an enhanced degree of efficiency and effectiveness.

### **28. Flying Allowance**

- (i) Staff members, other than those employed to fly aircraft, shall be paid an allowance as specified in Item 13 of Table 1 Allowances of Part B Monetary Rates when required to work from an in flight situation. The flying allowance payable under this clause shall be paid in addition to any other entitlement for the time actually spent working in the aircraft.

### **29. First Aid Allowance**

- (i) A staff member appointed as a First Aid Officer shall be paid a first aid allowance at the rate appropriate to the qualifications held by such staff member as specified in Item 8 of Table 1 of Part B Monetary Rates.
- (ii) The First Aid Allowance - Basic Qualifications rate will apply to a staff member appointed as a First Aid officer who holds a St John's Ambulance Certificate or equivalent qualifications (such as the Defence or Red Cross Society's First Aid Certificates) issued within the previous three years.
- (iii) The Holders of current Occupational First Aid Certificate Allowance Rate will apply to a staff member appointed as a First Aid Officer who:
  - (a) is appointed to be in charge of a First-Aid room in a workplace of 200 or more staff members (100 for construction sites), and
  - (b) holds an Occupational First Aid Certificate issued within the previous three years.
- (iv) The First Aid Allowance shall not be paid during leave of one week or more.
- (v) When the First Aid Officer is absent on leave for one week or more and another qualified staff member is selected to relieve in the First Aid Officer's position, such staff member shall be paid a pro rata first aid allowance for assuming the duties of a First Aid Officer.
- (vi) First Aid Officers may be permitted to attend training and retraining courses conducted during normal hours of duty. The cost of training staff members who do not already possess qualifications and need to be trained to meet Departmental needs, and the cost of retraining First Aid Officers, are to be met by the Department.

### **30. Semi-Official Telephone Reimbursement**

- (i) Reimbursement of expenses associated with a private telephone service installed at the residence of a staff member shall be made as specified in this subclause if the staff member is required to be contacted or is required to contact others in connection with the duties of his/her position in the department, as and when required.
- (ii) The service must be located in the staff member's principal place of residence and its telephone number communicated to all persons entitled to have out of hours contact with the staff member.
- (iii) The semi-official telephone allowance applies to staff who are required, as part of their duties to:
  - (a) give decisions, supply information or provide emergency services; and/or
  - (b) be available for reasons of safety or security for contact by the public outside of normal office hours.

- (iv) Unless better provisions already apply to a staff member or a staff member has been provided with an official telephone, reimbursement of expenses under this clause shall be limited to the following:
  - (a) the connection fee for a telephone service, if the service is not already available at the staff member's principal place of residence;
  - (b) the full annual base rental charged for the telephone service regardless of whether any official calls have been made during the period; and
  - (c) the full cost of official local, STD and ISD calls.
- (v) To be eligible for reimbursement, staff must submit their telephone account and a statement showing details of all official calls, including:
  - (a) date, time, length of call and estimated cost;
  - (b) name and phone number of the person to whom call was made; and
  - (c) reason for the call.

### **31. On-Call Allowance**

Unless already eligible for an on-call allowance under another industrial instrument, a staff member shall be:

- (i) entitled to be paid the on call allowance set out in Item 9 of Table 1 of Part B Rates when directed by the department to be on call outside the staff member's working hours;
- (ii) if a staff member who is on call, is called out by the department, the overtime provisions as set out in Clause 57, Overtime of this award shall apply to the time worked;
- (iii) where work problems are resolved without travel to the place of work whether on a weekday, weekend or public holiday, work performed shall be compensated at ordinary time for the time actually worked, calculated to the next 15 minutes.

### **32. Service Increments Allowance**

- (i) Staff members previously employed as Security Officers who received a long Service Increment Allowance will continue to receive this allowance on a personal basis during their employment with the NSW Parliament. The allowance will be paid at the rate specified in Item 14 of Table 1 of Part B Rates.
- (ii) Service increments allowances are not payable to any other staff members other than those under subclause (i) above.

### **33. Uniforms, Protective Clothing and Their Maintenance**

- (i) Uniform and protective clothing provided by the department - A staff member who is required or authorised by the appropriate Department Head to wear a uniform, protective clothing or other specialised clothing in connection with the performance of official duties shall be provided by the department with such clothing and, except as specified in subclause (iii) of this clause, shall be paid an allowance at the rate specified in Item 10 of Table 1 of Part B Rates for laundering the uniform or protective clothing.
- (ii) Uniform and protective clothing provided by the staff member - Where the uniform, protective clothing or other specialised clothing is provided by the staff member, such staff member shall be reimbursed the cost of the uniform, protective clothing or other specialised clothing.
- (iii) Payment of laundry allowance - Unless the staff member is entitled to receive a laundry allowance under another industrial instrument, or the Parliament provides the cleaning and laundry service, the staff

member to whom subclause (i) or (ii) of this clause apply, shall be paid an allowance at the rate specified in Item 10 of Table 1 of Part B Rates for laundering the uniform or protective clothing.

- (iv) Where payment of the laundry allowance is not appropriate because of the specialised nature of the clothing, the cost of maintaining such clothing shall be met by the department.
- (v) Uniforms and protective clothing provided by the Department will be replaced upon certification by the Manager that they are no longer serviceable.

#### **34. Compensation for Damage to Or Loss of Staff Members' Personal Property**

- (i) Where damage to or loss of the staff member's personal property occurs in the course of employment, a claim may be lodged under the Workers Compensation Act 1987 and/or under any insurance policy of the department covering the damage to or loss of the personal property of the staff member.
- (ii) If a claim under subclause (i) of this clause is rejected by the insurer, the Department Head may compensate a staff member for the damage to or loss of personal property, if such damage or loss:
  - (a) is due to the negligence of the department, 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 departmental property from loss or damage.
- (iii) Compensation in terms of subclause (ii) of this clause shall be limited to the amount necessary to repair the damaged item. Where the item cannot be repaired or is lost, the Department Head 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.
- (iv) For the purpose of this clause, personal property means a staff member's clothes, spectacles, hearing-aid, tools of trade or similar items which are ordinarily required for the performance of the staff member's duties.
- (v) Compensation for the damage sustained shall be made by the department where, in the course of work, clothing or items such as spectacles, hearing aids, etc, are damaged or destroyed by natural disasters or by theft or vandalism.

#### **35. Adjustment of Allowances**

- (i) The allowance specified in paragraph (x (xi)(b) of clause 57, Overtime, will be adjusted in line with the Crown Employees (Public Sector - Salaries 2008) Award or any variation or replacement award.
- (ii) Allowances listed in this paragraph will be determined at a level consistent with the reasonable allowance amounts for the appropriate income year as published by the Australian Taxation Office (ATO):
  - (a) Clause 19 Travel Allowances
  - (b) Clause 21 Meal expenses on one day journeys;
  - (c) Subclause 57(x) Overtime meal allowances
- (iii) Allowances listed in this paragraph will be determined and become effective from 1 July each year at a level consistent with the reasonable allowances amounts as published at or before that time by the ATO:
  - (a) Clause 24 Allowance payable for the use of private motor vehicle

- (iv) Allowances payable in terms of clauses listed in this paragraph shall be adjusted on 1 July each year in line with the increases in the Consumer Price Index for Sydney during the preceding year (March Quarter figures)
  - (a) Clause 33 Uniforms, protective clothing and their maintenance
- (v) Allowances payable in terms of clauses listed in this paragraph shall be adjusted in line with any increases to the same allowances payable under the Crown Employees (Public Service Conditions of Employment) Award 2009, or any replacement award and shall be adjusted on and from the date or pay period the percentage increase takes effect:
  - (a) Clause 27 Community Language Allowance Scheme
  - (b) Clause 28 Flying Allowance
  - (c) Clause 29 First Aid Allowance
  - (d) Clause 31 On-call allowance

### **36. Leave - General**

- (i) General
  - (a) The leave provisions contained in this award apply to all staff members other than those to whom arrangements apply under another industrial instrument or under a local arrangement negotiated between the Department Head and the relevant trade union in terms of clause 5, Local Arrangements 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) The leave provisions of this award do not apply to an apprentice, except in respect of recreation leave if the entitlement to recreation leave under the apprenticeship award is less favourable than the recreation leave provisions under this clause.
  - (d) A temporary employee is eligible to take a period of approved leave during the current period of employment and may continue such leave during a subsequent period or periods of employment in the Parliament, if such period or periods of employment commence immediately on termination of a previous period or periods of employment.
  - (e) Where paid and unpaid leave available to be granted under this clause are combined, paid leave shall be taken before unpaid leave.
- (ii) Absence from Duty
  - (a) A staff member must not be absent from work unless reasonable cause is shown.
  - (b) If a staff member is 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 Department Head shall deduct from the pay of the staff member the amount equivalent to the period of the absence.
  - (d) The minimum period of leave available to be granted shall be a quarter day, unless local arrangements negotiated in the workplace allow for a lesser period to be taken.

- (e) Nothing in this clause affects any proceedings for a breach of discipline against a staff member who is absent from duty without authorised leave.
- (iii) Application for Leave
  - (a) An application by a staff member for leave under this award shall be made to and dealt with by the Department Head.
  - (b) the Department Head shall deal with the application for leave according to the wishes of the staff member, if the operational requirements of the department permit this to be done.

### 37. Leave for Casual Employees

- (i) Other than as described under subclauses (iii), (iv), (v) and (vii) of this clause, casual employees are not entitled to any other paid or unpaid leave.
- (ii) Casual employees will be paid a loading of 1/12th in lieu of annual leave.
- (iii) Casual employees will be entitled to long service leave in accordance with the provisions of the *Long Service Leave Act 1955*.
- (iv) Casual employees are entitled to unpaid parental leave under Chapter 2, Part 4, Division 1, section 54, Entitlement to Unpaid Parental leave, in accordance with the *Industrial Relations Act 1996*. The following provisions shall also apply in addition to those set out in the *Industrial Relations Act 1996* (NSW).
  - (a) The Department Head must not fail to re-engage a regular casual employee because:
    1. the employee or employee's spouse is pregnant; or
    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 casual employees are not affected, other than in accordance with this clause.

- (v) Personal Carers Entitlement for casual employees
  - (a) Casual employees are entitled to not be available to attend work, or to leave work if they need to care for a family member described in subclause (vi) of this clause who is sick and requires care and support, or who requires care due to an unexpected emergency, or the birth of a child. This entitlement is subject to the evidentiary requirements set out below in paragraph (d), and the notice requirements set out in paragraph (e).
  - (b) The Department Head and the casual employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
  - (c) The Department Head must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.
  - (d) The casual employee shall, if required:
    - (1) establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person, or

- (2) establish by production of documentation acceptable to the employer or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee.

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

- (e) The casual employee must, as soon as reasonably practicable and during the ordinary hours of the first day or shift of such absence, inform the employer of their inability to attend for duty. If it is not reasonably practicable to inform the employer during the ordinary hours of the first day or shift of such absence, the employee will inform the employer within 24 hours of the absence.
- (vi) A family member for the purposes of paragraph (v)(a) of this clause is the same as defined under Sub-Clause 42(iv)(b) Sick Leave to care for a family member.
- (vii) Bereavement entitlements for casual employees
  - (a) Casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of a family member on production of satisfactory evidence (if required by the employer).
  - (b) The Department Head and the casual employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
  - (c) The Department Head must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not engage a casual employee are otherwise not affected.
  - (d) The casual employee must, as soon as reasonably practicable and during the ordinary hours of the first day or shift of such absence, inform the employer of their inability to attend for duty. If it is not reasonably practicable to inform the employer during the ordinary hours of the first day or shift of such absence, the employee will inform the employer within 24 hours of the absence.

### **38. Recreation Leave**

- (i) Accrual
  - (a) Except where stated otherwise in this award, paid recreation leave for full time staff members and recreation leave for staff members working part time, accrues at the rate of 20 working days per year.
  - (b) Staff members working part time shall accrue paid recreation leave on a pro rata basis, which will be determined on the average weekly hours worked per leave year.
  - (c) 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, as defined in clause 2, Definitions of this award.
  - (d) Additional recreation leave, at the rate of 10 days per year, accrues to a staff member, who is Sessional Staff as defined in clause 2, Definitions.
  - (e) A staff member who is not defined as Sessional Staff who at 12 March 1992 was in receipt of 6 weeks leave each year will continue to receive six (6) weeks leave each year maintained on a personal basis.
  - (f) Recreation leave accrues from day to day.

- (ii) Limits on Accumulation of recreation leave and direction to take leave
- (a) At least two (2) consecutive weeks of recreation leave shall be taken by a staff member every 12 months for recreation purposes, except by agreement with the Department Head in special circumstances.
  - (b) 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.
  - (c) 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 the Department or Section.
  - (d) The Department Head shall notify the staff member in writing when accrued recreation leave reaches 8 weeks or its hourly equivalent and may direct the staff member to take at least 2 weeks recreation leave within 6 weeks of the notification. Such leave is to be taken at a time convenient to the department or section.
  - (e) A staff member must take their recreation leave to reduce all balances below 8 weeks or its hourly equivalent, and the Department must cooperate in this process. The Department may direct a staff member with more than 8 weeks to take their recreation leave so that it is reduced to below 9 weeks by 30 June 2011.
  - (f) Staff defined as Sessional Staff, in paragraph (c) 8 weeks substitutes for 6 weeks and in paragraph (d) and (e) 10 weeks substitutes for 8 weeks.
- (iii) Conservation of recreation leave - If the Department Head 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 less than 8 weeks, or its hourly equivalent the Department Head shall:
- (a) specify in writing the period of time during which the excess 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 8 week level specified.
  - (c) The Department Head will inform a staff member in writing on a regular basis of the staff member's recreation leave accrual.
- (iv) Recreation Leave - Other provisions
- (a) Unless a local arrangement has been negotiated between the Department Head and the relevant trade union, recreation leave is not to be granted for a period less than a quarter-day or in other than multiples of a quarter day.
  - (b) Recreation leave for which a staff member is eligible on cessation of employment is to be calculated to a quarter day (fraction less than a quarter being rounded up).
  - (c) Recreation leave does not accrue to a staff member in respect of any period of absence from duty without leave or without pay, except as specified in paragraph (d) of this subclause.
  - (d) Recreation leave does not accrue during leave without pay other than:
    - (1) Military leave taken without pay when paid military leave entitlements are exhausted;
    - (2) Absences due to natural emergencies or major transport disruptions, when all other paid leave is exhausted;



- (3) Any continuous period of sick leave taken without pay when paid sick leave is exhausted
  - (4) Incapacity for which compensation has been authorized under the *Workplace Injury Management and Workers' Compensation Act 1988*; or
  - (5) Periods of sick leave without pay or any other approved leave without pay which when aggregated do not exceed 5 working days in any period of 12 months.
- (e) The proportionate deduction to be made in respect of the accrual of recreation leave on account of any period of absence referred to in paragraph (d) of this subclause above shall be calculated to an exact quarter day (fractions less than a quarter being rounded down).
  - (f) Recreation leave accrues at half its normal accrual rate during periods of extended leave on half pay.
  - (g) Recreation leave may be taken on half pay in conjunction with and subject to the provisions applying to adoption, maternity or parental leave - see Clause 45 Parental Leave.
  - (h) On cessation of employment, a staff member is entitled to be paid the money value of accrued recreation leave, which remains untaken.
  - (i) A staff member to whom paragraph (h) of this subclause applies may elect to take all or part of accrued recreation leave which remains untaken at cessation of active duty as leave or as a lump sum payment; or as a combination of leave and lump sum payment.
  - (j) Death -Where a staff member dies, the monetary value of recreation leave accrued and remaining untaken as at the date of death shall be paid to the staff member's nominated beneficiary.
  - (k) Where no beneficiary has been nominated, the monetary value of recreation leave is to be paid as follows:
    - (1) to the widow, widower or de facto partner of the staff member; or
    - (2) if there is no widow, widower or de facto partner, to the children of the staff member or, if there is a guardian of any children entitled under this subclause, to that guardian for the children's maintenance, education and advancement; or
    - (3) if there is no such widow, widower or de facto partner or children, to the person who, in the opinion of the Department Head was, at the time of the staff member's death, a dependent relative of the staff member; or
    - (4) if there is no person entitled under subparagraphs (1) or (2) or (3) of this paragraph 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.
  - (l) A staff member entitled to additional recreation leave under 38(i)(c) and (d) can elect at any time to cash out the additional recreation leave.

### **39. Annual Leave Loading**

- (i) 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 (ii) to (vi) 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.
- (ii) 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.
- (iii) 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.
- (iv) 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.
- (v) 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.
- (vi) 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 leave loading is not payable on cessation of employment.

#### **40. Sick Leave**

- (i) Illness in this clause and in clauses 41 and 42 means physical and psychological illness or injury, medical treatment and the period of recovery or rehabilitation from an illness or injury.
- (ii) Payment for sick leave is subject to the staff member:
  - (a) Informing their manager as soon as reasonably practicable that they are unable to perform duty because of illness. This must be done as close to the staff member's starting time as possible, and
  - (b) Providing evidence of illness as soon as practicable if required by clause 41.

- (iii) If the Department Head 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 Department Head:
  - (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 Award to sick leave on full pay.
- (iv) The Department Head may direct a staff member to take sick leave if they are satisfied that, due to the staff member's illness, the staff member:
  - (a) is unable to carry out their duties without distress; or
  - (b) risks further impairment of their health by reporting for duty; or
  - (c) is a risk to the health, wellbeing or safety of other staff members, Departmental clients or members of the public.
- (v) The Department Head may direct a staff member to participate in a return to work program if the staff member has been absent on a long period of sick leave.
- (vi) Entitlements
  - (a) At the commencement of employment with the Parliament, a full time staff member is granted an accrual of 5 days sick leave.
  - (b) After the first four months of employment, the staff member 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 staff member shall accrue sick leave day to day at the rate of 15 working days per year of service.
  - (d) All continuous service as a staff member with 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.
  - (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.
- (vii) Payment during the initial 3 months of service - Paid sick leave which may be granted to a staff member, other than a seasonal or relief staff member, in the first 3 months of service shall be limited to 5 days paid sick leave, unless the Department Head 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.
- (viii) Seasonal or relief staff - No paid sick leave shall be granted to temporary employees who are employed as seasonal or relief staff for a period of less than 3 months.

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

- (i) A staff member absent from duty for more than 2 consecutive working days because of illness must furnish evidence of illness to the Department Head in respect of the absence.

- (ii) In addition to the requirements under sub-clause 40(ii), Sick Leave of this award, a staff member may absent themselves for a total of 5 working days due to illness without the provision of evidence of illness to the Department Head. Staff members who absent themselves in excess of 5 working days in a calendar year may be required to furnish evidence of illness to the Department Head for each occasion absent for the balance of the calendar year.
- (iii) As a general practice backdated medical certificates will not be accepted. However, if a staff member 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 Department Head is satisfied that the reason for the absence is genuine.
- (iv) If a staff member is required to provide evidence of illness for an absence of 2 consecutive working days or less, the Department Head will advise them in advance.
- (v) If the Department Head is concerned about the diagnosis described in the evidence of illness produced by the staff member, after discussion with the staff member, the evidence provided and the staff member's application for leave can be referred to HealthQuest (or any replacement provider) for advice.
  - (a) The type of leave granted to the staff member will be determined by the Department Head based on HealthQuest's (or any replacement provider's) advice.
  - (b) If sick leave is not granted, the Department Head will, as far as practicable, take into account the wishes of the staff member when determining the type of leave granted.
- (vi) The granting of paid sick leave shall be subject to the staff member providing evidence which indicates the nature of illness or injury and the estimated duration of the absence. If a staff member is concerned about disclosing the nature of the illness to their manager they may elect to have the application for sick leave dealt with confidentiality by an alternate manager or the human resources section of the Department.
- (vii) The reference in this clause to evidence of illness shall apply as appropriate:
  - (a) up to one week may be provided by a registered dentist, optometrist, chiropractor, osteopath, physiotherapist, oral and maxillo facial surgeon or, at the Department Head's discretion, another registered health services provider, or
  - (b) where the absence exceeds one week, and unless the health provider listed in paragraph 41(vii)(a) of this subclause is also a registered medical practitioner, applications for any further sick leave must be supported by evidence of illness from a registered medical practitioner, or
  - (c) at the Department Head's discretion, other forms of evidence that satisfy that a staff member had a genuine illness.
- (viii) If a staff member who is absent on recreation leave or extended leave, furnishes to the Department Head a satisfactory medical certificate in respect of an illness which occurred during the leave, the Department Head may, subject to the provisions of this clause, grant sick leave to the staff member as follows:
  - (a) In respect of recreation leave, the period set out in the medical certificate;
  - (b) In respect of extended leave, the period set out in the medical certificate if such period is 5 working days or more
  - (c) The Department Head has the discretion to accept the other forms of evidence to satisfy that a staff member had a genuine illness.
- (ix) Sub-clause (viii) 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.

#### 42. Sick Leave to Care for a Family Member

- (i) Where family and community service leave provided for in clause 46, Family and Community Service Leave of this award is exhausted or unavailable, a staff member with responsibilities in relation to a category of person set out in subclause (iv) of this clause who needs the staff member's care and support, may elect to use available paid sick leave, subject to the conditions specified in this subclause, to provide such care and support when a family member is ill.
- (ii) The sick leave shall initially be taken from the sick leave accumulated over the previous 3 years. In special circumstances, the Department Head may grant additional sick leave from the sick leave accumulated during the staff member's eligible service.
- (iii) If required by the Department Head, the staff member must establish by production of a medical certificate or statutory declaration, the illness of the person concerned, consistent with subclause 41(vi).
- (iv) 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:
    - (1) a spouse of the staff member; or
    - (2) a de facto spouse being a person of the opposite sex to the staff member who lives with the staff member as her husband or his wife on a bona fide domestic basis although not legally married to that staff member; or
    - (3) a child or an adult child (including an adopted child, a step child, a foster child or an nuptial child), parent (including a foster parent or legal guardian), grandparent, grandchild or sibling of the staff member or of the spouse or de facto spouse of the staff member; or
    - (4) a same sex partner who lives with the staff member as the de facto partner of that staff member on a bona fide domestic basis; or a relative of the staff member who is a member of the same household, where for the purposes of this definition:-

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

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

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

#### 43. Sick Leave - Workers Compensation

- (i) The Department Head 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.
- (ii) 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.
- (iii) Where, due to the illness or injury, the staff member is unable to lodge such a claim in person, the Department Head shall assist the staff member or the representative of the staff member, as required, to lodge a claim for any such compensation.

- (iv) The Department Head will ensure that, once received by the department, a staff member's worker's compensation claim is lodged by the department with the workers compensation insurer within the statutory period prescribed in the *Workers Compensation Act 1987*.
- (v) Pending the determination of that claim and on production of an acceptable medical certificate, the Department Head 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.
- (vi) 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.
- (vii) 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.
- (viii) If a staff member notifies the Department Head that he or she does not intend to make a claim for any such compensation, the Department Head 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.
- (ix) 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.
- (x) If the Department Head 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 *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.
- (xi) 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*.
- (xii) 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 Department Head 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.

#### **44. Sick Leave - Other Than Workers Compensation**

- (i) 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 department 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 department the monetary value of any such period of sick leave.
- (ii) 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 Department Head is satisfied that the refusal or failure is unavoidable.
- (iii) On repayment to the department 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.

#### **45. Parental Leave**

- (i) Parental leave includes maternity, adoption leave and "other parent" leave.
- (ii) Maternity leave shall apply to a staff member who is pregnant and, subject to this clause the staff member shall be entitled to be granted maternity leave as follows:
- (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) 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.
- (iii) Adoption leave shall apply to a staff member adopting a child and who will be the primary care giver, the staff member shall be granted adoption leave as follows:
- (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 Department Head may determine, if the child has commenced school at the date of the taking of custody.
  - (c) Special Adoption Leave - A staff member shall be entitled to special adoption leave (without pay) for up to 2 days to attend interviews or examinations for the purposes of adoption. Special adoption leave may be taken as a charge against recreation leave, extended leave, flex leave or family and community service leave.
- (iv) 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 staff member as provided for in paragraph (a) 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.
- (v) A staff member taking maternity or adoption leave is entitled to payment at the ordinary rate of pay for a period of up to 14 weeks, a staff member entitled to short other parent leave is entitled to payment at the ordinary rate of pay for a period of up to 1 week, provided the staff member:

- (a) Applied for parental leave within the time and in the manner determined set out in subclause (ix) 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:
  - (1) in advance as a lump sum; or
  - (2) fortnightly as normal; or
  - (3) fortnightly at half pay; or
  - (4) a combination of full-pay and half pay.
- (vi) Payment for parental leave is at the rate applicable when the leave is taken. A member of staff holding a full time position who is on part time leave without pay when they start parental leave is paid:
  - (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.
- (vii) A staff member 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 they were paid (full-time or part-time) before commencing the initial leave if they have not returned to work;
  - (b) at a rate based on the hours worked before the initial leave was taken, where the staff member 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 staff member has not reduced their hours.
- (viii) Except as provided in subclauses (v), (vi) and (vii) of this clause parental leave shall be granted without pay.
- (ix) Right to request
  - (a) A staff member who has been granted parental leave in accordance with subclause (ii), (iii) or (iv) may make a request to the Department Head to:
    - (1) extend the period of unpaid parental leave for a further continuous period of leave not exceeding 12 months;
    - (2) 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 staff member in reconciling work and parental responsibilities.

- (b) The Department Head shall consider the request having regard to the staff member's circumstances and, provided the request is genuinely based on the staff member's parental



responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the Department Head' business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.

(x) Notification Requirements

- (a) When the Department Head is made aware that a staff member or their spouse is pregnant, or a staff member's spouse is pregnant or is adopting a child, the Department Head must inform the staff member of their entitlements and their obligations under the award.
- (b) A staff member who wishes to take parental leave must notify the Department Head in writing at least 8 weeks (or as soon as practicable) before the expected commencement of parental leave:
  - (1) that she/he intends to take parental leave, and
  - (2) the expected date of birth or the expected date of placement, and
  - (3) if she/he is likely to make a request under subclause (ix).
- (c) At least 4 weeks before a staff member's expected date of commencing parental leave they must advise:
  - (1) the date on which the maternity, adoption or other parent leave is intended to start, and
  - (2) the period of leave to be taken.
- (d) Staff member's request and the Department Head' decision to be in writing. The staff member's request under paragraph (ix)(a) and the Department Head' decision made under paragraph (ix)(b) must be recorded in writing.
- (e) A staff member 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 Department Head 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 Department Head agrees.
- (f) A staff member on maternity leave is to notify the Department Head of the date on which she gave birth as soon as she can conveniently do so.
- (g) A staff member must notify the Department Head as soon as practicable of any change in her intentions as a result of premature delivery or miscarriage.
- (h) A staff member on maternity or adoption leave may change the period of leave or arrangement, once without the consent of the Department Head and any number of times with the consent of the Department Head. In each case she/he must give the Department Head at least 14 days notice of the change unless the Department Head decides otherwise.
- (xi) A staff member has the right to her/his former position if she/he has taken approved leave or part time work in accordance with subclause (ix), and she/he resumes duty immediately after the approved leave or work on a part time basis.
- (xii) If the position occupied by the staff member immediately prior to the taking of parental 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.
- (xiii) A staff member does not have a right to her/his former position during a period of return to work on a part time basis. If the Department Head 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.

- (xiv) A staff member 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 Department Head) must be given.
- (xv) A staff member who is sick during her pregnancy may take available paid sick leave or accrued recreation or extended leave or sick leave without pay. A staff member may apply for accrued recreation leave, extended leave or leave without pay before taking maternity leave. Any leave taken before maternity leave, ceases at the end of the working day immediately preceding the day she starts her nominated period of maternity leave or on the working day immediately preceding the date of birth of the child, whichever is sooner.
- (xvi) A staff member 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.
- (xvii) A staff member may elect to take available recreation leave at half pay in conjunction with parental leave subject to:
  - (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.
- (xviii) If, for any reason, a pregnant staff member is having difficulty in performing her normal duties or there is a risk to her health or to that of her unborn child the Department Head, should, in consultation with the member of staff, take all reasonable measures to arrange for safer alternative duties. This may include, but is not limited to greater flexibility in when and where duties are carried out, a temporary change in duties, retraining, multi-skilling, teleworking and job redesign.
- (xix) If such adjustments cannot reasonably be made, the Department Head must grant the staff member maternity leave, or any available sick leave, for as long as it is necessary to avoid exposure to that risk as certified by a medical practitioner, or until the child is born which ever is the earlier.
- (xx) Communication during parental leave
  - (a) Where a staff member is on parental leave and a definite decision has been made to introduce significant change at the workplace, the Department Head shall take reasonable steps to:
    - (1) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the staff member held before commencing parental leave; and
    - (2) provide an opportunity for the staff member to discuss any significant effect the change will have on the status or responsibility level of the position the staff member held before commencing parental leave.
  - (b) The staff member shall take reasonable steps to inform the Department Head about any significant matter that will affect the staff member's decision regarding the duration of parental leave to be taken, whether the staff member intends to return to work and whether the staff member intends to request to return to work on a part time basis.
  - (c) The staff member shall also notify the Department Head of changes of address or other contact details which might affect the Department Head's capacity to comply with paragraph (a).

**46. Family and Community Service Leave**

- (i) The Department Head shall grant to a staff member some, or all, of their accrued family and community service leave on full pay, for reasons relating to unplanned and emergency family responsibilities or other emergencies in sub-clause (ii). The Department Head may also grant leave for the purposes in sub-clause (iii). Non-emergency appointments or duties shall be scheduled or performed outside of normal working hours or through approved use of flexible working arrangements or other appropriate leave.
- (ii) Such unplanned and emergency situations 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) 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 or snow etc. threaten property and/or prevent a staff member from reporting for duty;
  - (d) Attending to emergency or unplanned or unforeseen family responsibilities, such as attending a child's school for an emergency reason or emergency cancellations by child care providers;;
  - (e) attendance at court by a staff member to answer a charge for a criminal offence, if the Department Head considers the granting of family and community service leave to be appropriate in a particular case.
- (iii) 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 staff members holding offices in Local Government, and whose duties necessitate absence during normal working hours for these purposes, provided that the staff member does not hold a 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 major amateur sport (other than Olympic or Commonwealth Games) for staff members who are selected to represent Australia or the State.
- (iv) The definition of 'family' or 'relative' in this clause is the same as that provided in subclause 42(iv)(b).
- (v) Family and community service leave shall accrue as follows:
  - (a) 2.5 days in the staff member's first year of service;
  - (b) 2.5 days in the staff member's second year of service; and
  - (c) One day per year thereafter.
- (vi) If available family and community service leave is exhausted as a result of natural disasters, the Department Head shall consider applications for additional family and community service leave, if some other emergency arises.
- (vii) If available family and community service leave is exhausted on the death of a family member or relative, additional paid Family and Community Service leave of up to 2 days may be granted on a discrete, per occasion basis to a staff member.
- (viii) In cases of illness of a family member for whose care and support the staff member is responsible, paid sick leave in accordance with clause 42, Sick Leave to Care for a Family Member, shall be granted when paid family and community service leave has been exhausted or is unavailable.

- (ix) A Department Head may also grant staff members other forms of leave such as accrued recreation leave, time off in lieu, flex leave and so on for family and community service leave purposes.

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

- (i) 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, flex leave, RDO or leave without pay to do so.
- (ii) Provided adequate notice as to the need for leave is given by the staff member to the department and it is operationally convenient to release the staff member from duty, the Department Head must grant the leave applied for by the staff member in terms of this subclause.
- (iii) 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 Department Head, subject to:
- (a) adequate notice being given by the staff member;
  - (b) prior approval being obtained by the staff member; and
  - (c) the time off being made up in the manner approved by the Department Head.
- (iv) Notwithstanding the provisions of subclauses (i), (ii) and (iii) of this clause, arrangements may be negotiated between the department and the relevant trade union(s) in terms of clause 5, Local Arrangements of this award to provide greater flexibility for staff members for the observance of essential religious or cultural obligations.

#### **48. Extended Leave**

Extended leave shall accrue and shall be granted to staff members in accordance with the provisions of Schedule 3 of the *Public Sector Employment and Management Act 2002*.

#### **49. Leave Without Pay**

- (i) The Department Head may grant leave without pay to a staff member if good and sufficient reason is shown.
- (ii) Leave without pay may be granted on a full-time or a part time basis.
- (iii) 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.
- (iv) 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.
- (v) 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 Department Head.

- (vi) 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.
- (vii) No paid leave shall be granted during a period of leave without pay.
- (viii) A permanent appointment may be made to the staff member's position if:
  - (a) The leave without pay has continued or is likely to continue beyond the original period of approval and is for a total period of more than 12 months; and
  - (b) The staff member is advised of the Department's proposal to permanently backfill their position; and
  - (c) the staff member is given a reasonable opportunity to end the leave without pay and return to their position; and
  - (d) the Department advised the staff member at the time of the subsequent approval that the position will be filled on a permanent basis during the period of leave without pay.
- (ix) The position cannot be filled permanently unless the above criteria are satisfied.
- (x) The staff member does not cease to be employed by the Department if their position is permanently backfilled.
- (xi) Subclause (viii) above does not apply to full-time unpaid parental leave granted in accordance with paragraph 44(ix)(a) or to military leave.

#### 50. Military Leave

- (i) During the period of 12 months commencing on 1 July each year, the Department Head 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 or compulsory parades conducted by the staff member's unit.
- (ii) In accordance with the *Defence Reserve Service (Protection) Act 2001* (Cth), it is unlawful to prevent a staff member from rendering or volunteering to render, ordinary Defence Reserve Service.
- (iii) Up to 24 working days military leave per financial year may be granted by the Department Head to members of the Naval and Military Reserves and up to 28 working days per financial year to members of the Air Force Reserve for the activities specified in subclause (i) of this clause.
- (iv) A Department Head may grant a staff member special leave of up to 1 day to attend medical examinations and tests required for acceptance as volunteer part time members of the Australian Defence Forces.
- (v) A staff member who is requested by the Australian Defence Forces to provide additional military services requiring leave in excess of the entitlement specified in subclause (iii) may be granted Military Leave Top Up Pay by the Department Head.
- (vi) Military Leave Top up Pay is calculated as the difference between a staff member's ordinary pay as if they had been at work, and the Reservist's pay which they receive from the Commonwealth Department of Defence.
- (vii) During a period of Military Leave Top up Pay, a staff member will continue to accrue sick leave, recreation and extended leave entitlements, and Departments are to continue to make superannuation contributions at the normal rate.

- (viii) At the expiration of military leave granted in accordance with this Clause, the staff member shall furnish to the Department Head a certificate of attendance and details of the staff member's reservist pay signed by the commanding officer or other responsible officer.

### 51. Special Leave

- (i) Witness at Court - Official Capacity - When a staff member is subpoenaed or called as a witness in an official capacity, the staff member shall be regarded as being on duty.
- (a) 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 department.
- (ii) Witness at Court - Other than in Official Capacity - Crown Witness - A staff member who is subpoenaed or called as a witness by the Crown (whether in right of the Commonwealth or in right of any State or Territory of the Commonwealth) shall:
- (a) be granted, for the whole of the period necessary to attend as such a witness, special leave on full pay; and
- (b) pay into the Parliament of the State of New South Wales all money paid to the staff member under or in respect of any such subpoena or call other than any such money so paid in respect of reimbursement of necessary expenses properly incurred in answer to that subpoena or call.
- (c) Union Witness - a staff member called by their union to give evidence before an Industrial Tribunal or in another jurisdiction, shall be granted special leave by the department for the required period.
- (iii) 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 flex leave or recreation/extended leave on full pay, or leave without pay.
- (iv) Special Leave - Examinations - Special leave on full pay up to a maximum of 5 days in any one year shall be granted to staff members for the purpose of attending at any examination approved by the Department Head.
- (a) Special leave granted to attend examinations shall include leave for any necessary travel to or from the place at which the examination is held.
- (b) If an examination for a course of study is held during term or semester within the normal class timetable and study time has been granted to the staff member, no further leave is granted for any examination.
- (v) Special Leave - Union Activities - Special leave on full pay may be granted to staff members who are accredited trade union delegates to undertake trade union activities as provided for in Clause 55, Trade Union Activities of this award.
- (vi) A staff member who identifies as an Indigenous Australian 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 (NAIDOC). Leave can be taken at any time during NAIDOC week, or in the weeks leading up to and after NAIDOC week as negotiated between the supervisor and the staff member.
- (vii) Special Leave - Other Purposes - Special leave on full pay may be granted to staff members by the Department Head for such other purposes, during such periods and subject to the conditions specified in the New South Wales Public Service Personnel Handbook at the time the leave is taken.

**52. Purchased Leave**

- (i) A staff member may apply to enter in an agreement with the Department Head to purchase either 10 days (2 weeks) or 20 days (4 weeks) additional leave in a 12 month period.
- (ii) Each application will be considered subject to operational requirements and personal needs and will take into account departmental business needs and work demands.
- (iii) The leave must be taken in the 12 month period specified in the Purchased Leave Agreement and will not attract any leave loading
- (iv) The leave will count as service for all purposes.
- (v) The purchased leave will be funded through the reduction in the staff member's ordinary rate of pay.
- (vi) Purchased leave rate of pay means the rate of pay a staff member receives when their ordinary salary rate has been reduced to cover the cost of purchased leave.
- (vii) To calculate the purchase leave rate of pay, the staff member's ordinary salary rate will be reduced by the number of weeks or purchased leave and then annualised at a pro rata rate over the 12 month period.
- (viii) 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 staff member'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.
- (ix) Specific conditions governing purchased leave may be amended from time to time in consultation with the Association.

**53. Study Assistance**

- (i) Study Time - The Department Head shall have the power to grant or refuse study time.
- (ii) Where the Department Head approves the grant of study time, the grant shall be subject to:
  - (a) the course being a course relevant to the department and/or the Parliament; and
  - (b) the time being taken at the convenience of the department or section.
  - (c) Study time not exceeding a maximum of 4 hours per week
- (iii) Study time may be granted to both full and part time staff. Part time staff however shall be entitled to a pro-rata allocation of study time to that of a full-time staff.
- (iv) Study time may be used for:

- (a) attending compulsory lectures, tutorials, residential schools, field days etc., where these are held during working hours; and/or
  - (b) necessary travel during working hours to attend lectures, tutorials etc., held during or outside working hours; and/or
  - (c) private study; and/or
  - (d) Accumulation, subject to the conditions specified in subclauses (vi) to (x) of this clause.
- (v) Staff requiring study time must nominate the type(s) of study time preferred at the time of application and prior to the proposed commencement of the academic period. The types of study time are as follows:
- (a) Face-to-Face - Staff may elect to take weekly and/or accrued study time, subject to the provisions for its grant.
  - (b) Correspondence - Staff may elect to take weekly and/or accrued study time, or time off to attend compulsory residential schools.
  - (c) Accumulation - Staff may choose to accumulate part or all of their study time as provided in paragraphs (vi) to (x) of this clause.
- (vi) Accumulated study time may be taken in any manner or at any time, subject to operational requirements of the department.
- (vii) Staff on rotating shifts may accumulate study time so that they can take leave for a full shift, where this would be more convenient to both the staff and the department.
- (viii) Where at the commencement of an academic year/semester staff elects to accrue study time and that staff member has consequently foregone the opportunity of taking weekly study time, the accrued period of time off must be granted even if changed work circumstances mean absence from duty would be inconvenient.
- (ix) Staff attempting courses which provide for annual examinations, may vary the election as to accrual, made at the commencement of an academic year, effective from 1st July in that year.
- (x) Where a staff member is employed after the commencement of the academic year, weekly study time may be granted with the option of electing to accrue study time from 1st July in the year of entry on duty or from the next academic year, whichever is the sooner.
- (xi) Staff studying in semester based courses may vary their election as to accrual or otherwise from semester to semester.
- (xii) Correspondence Courses - Study time for staff studying by correspondence accrues on the basis of half an hour for each hour of lecture/tutorial attendance involved in the corresponding face-to-face course, up to a maximum grant of 4 hours per week. Where there is no corresponding face-to-face course, the training institution should be asked to indicate what the attendance requirements would be if such a course existed.
- (xiii) Correspondence students may elect to take weekly study time and/or may accrue study time and take such accrued time when required to attend compulsory residential schools.
- (xiv) Repeated subjects - Study time shall not be granted for repeated subjects.
- (xv) Expendable grant - Study time if not taken at the nominated time shall be forfeited. If the inability to take study time occurs as a result of a genuine emergency at work, study time for that week may be granted on another day during the same week.



- (xvi) Examination Leave - Examination leave shall be granted as special leave for all courses of study approved in accordance with this clause.
- (xvii) The period granted as examination leave shall include:
- (a) time actually involved in the examination;
  - (b) necessary travelling time, in addition to examination leave,
- but is limited to a maximum of 5 days in any one year. Examination leave is not available where an examination is conducted within the normal class timetable during the term/semester and study time has been granted to the staff member.
- (xviii) The examination leave shall be granted for deferred examinations and in respect of repeat studies.
- (xix) Study Leave - Study leave for full-time study is granted to assist those staff members who win scholarships/fellowships/awards or who wish to undertake full-time study and/or study tours. Study leave may be granted for studies at any level, including undergraduate study.
- (xx) All staff members are eligible to apply and no prior service requirements are necessary.
- (xxi) Study leave shall be granted without pay, except where the Department Head approves financial assistance. The extent of financial assistance to be provided shall be determined by the Department Head according to the relevance of the study to the workplace and may be granted up to the amount equal to full salary.
- (xxii) Where financial assistance is approved by the Department Head for all or part of the study leave period, the period shall count as service for all purposes in the same proportion as the quantum of financial assistance bears to full salary of the staff member.
- (xxiii) Scholarships for Part time Study - In addition to the study time/study leave provisions under this subclause, the department may choose to identify courses or educational programmes of particular relevance or value and establish a departmental scholarship to encourage participation in these courses or programmes. The conditions under which such scholarships are provided should be consistent with the provisions of this clause.

#### **54. Staff Development and Training Activities**

- (i) For the purpose of this subclause, the following shall be regarded as staff development and training activities:
- (a) all staff development courses conducted by a NSW Public Sector organisation;
  - (b) short educational and training courses conducted by generally recognised public or private educational bodies; and
  - (c) conferences, conventions, seminars, or similar activities conducted by professional, learned or other generally recognised societies, including Federal or State Government bodies.
- (ii) For the purposes of this subclause, the following shall not be regarded as staff development and training activities:
- (a) activities for which study assistance under clause 53 is appropriate, including university or TAFE courses;
  - (b) activities to which other provisions of this award apply (e.g. courses conducted by trade unions); and
  - (c) activities which are of no specific relevance to the NSW Parliament.

- (iii) Attendance of a staff member at activities considered by the Department Head to be:
- (a) essential for the efficient operation of the department; or
  - (b) developmental and of benefit to the NSW Parliament
- shall be regarded as on duty for the purpose of payment of salary if a staff member attends such an activity during normal working hours.
- (iv) The following provisions shall apply, as appropriate, to the activities considered to be essential for the efficient operation of the department:
- (a) recognition that the staff members are performing normal duties during the course;
  - (b) adjustment for the hours so worked under flexible working hours;
  - (c) payment of course fees;
  - (d) payment of all actual necessary expenses or payment of allowances in accordance with this award, provided that the expenses involved do not form part of the course and have not been included in the course fees; and
  - (e) payment of overtime where the activity could not be conducted during the staff member's normal hours and the Department Head is satisfied that the approval to attend constitutes a direction to work overtime under clause 57, Overtime of this award.
- (v) The following provisions shall apply, as appropriate, to the activities considered to be staff developmental and of benefit to the department or section
- (a) recognition of the staff member as being on duty during normal working hours whilst attending the activity;
  - (b) payment of course fees;
  - (c) reimbursement of any actual necessary expenses incurred by the staff member for travel costs, meals and accommodation, provided that the expenses have not been paid as part of the course fee; and
  - (d) such other conditions as may be considered appropriate by the Department Head given the circumstances of attending at the activity, such as compensatory leave for excess travel or payment of travelling expenses.
- (vi) Where the training activities are considered to be principally of benefit to the staff member and of indirect benefit to the department or section, special leave of up to 10 days per year shall be granted to a staff member. If additional leave is required and the Department Head is able to release the staff member, such leave shall be granted as a charge against available flex leave, recreation/extended leave or as leave without pay.
- (vii) Higher Duties Allowance - Payment of a higher duties allowance is to continue where the staff member attends a training or developmental activity whilst on duty in accordance with this subclause.

#### **55. Trade Union Activities**

- (i) A trade union delegate will be released from the performance of normal departmental duty in respect of activities specified below. While undertaking such activities the trade union delegate will be regarded as being on duty and will not be required to apply for leave:
- (a) Attendance at meetings of the workplace's Occupational Health and Safety Committee and participation in all official activities relating to the functions and responsibilities of elected

Occupational Health and Safety Committee members at a place of work as provided for in the Occupational Health and Safety Act 2000 and the Occupational Health and Safety Regulation 2001;

- (b) Attendance at meetings with workplace management or workplace management representatives;
  - (c) A reasonable period of preparation time, before
    - (1) meetings with management
    - (2) disciplinary or grievance meetings when a trade union member requires the presence of a trade union delegate; and
    - (3) any other meeting with management, by agreement with management, where operational requirements allow the taking of such time;
  - (d) Giving evidence in court on behalf of the employer;
  - (e) Appearing as a witness before the Industrial Relations Commission in respect of proceedings under Part 7, Public sector promotion and disciplinary appeals;
  - (f) Representing their trade union at the Industrial Relations Commission in respect of proceedings under Part 7, Public sector promotion and disciplinary appeals as an advocate or as a Tribunal Member;
  - (g) Presenting information on the trade union and trade union activities at induction sessions for new staff of the department; and
  - (h) Distributing official trade union publications or other authorised material at the workplace, provided that a minimum of 24 hours notice is given to workplace management, unless otherwise agreed between the parties. Distribution time is to be kept to a minimum and is to be undertaken at a time convenient to the workplace.
- (ii) Trade Union Activities regarded as Special Leave.

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

- (a) annual or biennial conferences of the delegate's union;
  - (b) meetings of the union's Executive, Committee of Management or Councils;
  - (c) annual conference of Unions NSW and the biennial Congress of the Australian Council of Trade Unions;
  - (d) attendance at meetings called by Unions NSW involving a public sector trade union which requires attendance of a delegate;
  - (e) attendance at meetings called by the Presiding Officer(s), as the employer for industrial purposes, as and when required;
  - (f) giving evidence before an Industrial Tribunal as a witness for the trade union;
  - (g) reasonable travelling time to and from conferences or meetings to which the provisions of subclauses (i), (ii) and (iii) of this clause apply.
- (iii) Trade Union Training Courses - The following training courses will attract the grant of special leave as specified below:

- (a) accredited Occupational Health and Safety (OH&S) courses and any other accredited OH&S training for OH&S Committee members.

The provider(s) of accredited OH&S training courses and the conditions on which special leave for such courses will be granted, shall be negotiated between the Department Head and the relevant trade union under a local arrangement pursuant to clause 5, Local Arrangements of this award.

- (b) courses organised and conducted by the Trade Union Education Foundation or by the member's trade union or a training provider nominated by the member's trade union. A maximum of 12 working days in any period of 2 years applies to this training and is subject to:
  - (1) the operating requirements of the workplace permitting the grant of leave and the absence not requiring employment of relief staff;
  - (2) payment being at the base rate, i.e. excluding extraneous payments such as shift allowances/penalty rates, overtime, etc;
  - (3) all travelling and associated expenses being met by the staff member or his/her union;
  - (4) attendance being confirmed in writing by the member's trade union or a nominated training provider.
- (iv) Trade Union On Loan Arrangements - Subject to the operational requirements of the workplace, on loan arrangements will apply to the following activities:
  - (a) meetings interstate or in NSW of a Federal nature to which a representative or member has been nominated or elected by the union:-
    - (1) as an Executive Member; or
    - (2) a member of a Federal Council; or
    - (3) vocational or industry committee.
  - (b) briefing counsel on behalf of the union;
  - (c) assisting union officials with preparation of cases or any other activity outside their normal workplace at which the delegate is required to represent the interests of their trade union;
  - (d) country tours undertaken by a member of the Executive or Council of the trade union;
  - (e) taking up of full time duties with the trade union if elected to the office of President, General Secretary or to another full time position with the trade union.
  - (f) Financial Arrangements - The following financial arrangements apply to the occasions when a staff member is placed "on loan" to his/her trade union:-
    - (1) the department will continue to pay the delegate or an authorised union representative whose services are on loan to their trade union;
    - (2) the department will seek reimbursement from the trade union at regular intervals of all salary and associated on costs, including superannuation, as specified by the NSW Treasury from time to time.
    - (3) Agreement with the trade union on the financial arrangements must be reached before the on loan arrangement commences and must be documented in a manner negotiated between the Department Head and the trade union.

- (g) Recognition of "on loan" arrangement as service - On loan arrangements negotiated in terms of this clause are to be regarded as service for the accrual of all leave and for incremental progression.
- (h) Limitation - On loan arrangements may apply to full-time or part time staff and are to be kept to the minimum time required. Where the trade union needs to extend an on loan arrangement, the trade union shall approach the Department Head in writing for an extension of time well in advance of the expiration of the current period of on loan arrangement.
- (i) Where the Department Head and the relevant trade union cannot agree on the on loan arrangement, the matter is to be referred to the Presiding Officer(s) for consultation with the Department Head and the trade union.
- (v) Period of Notice for Trade Union Activities - The Department Head must be notified in writing by the trade union or, where appropriate, by the accredited delegate as soon as the date and/or time of the meeting, conference or other accredited activity is known.
- (vi) Access to Facilities by Trade Union Delegates - The workplace shall provide accredited delegates with reasonable access to the following facilities for authorised union activities:
  - (a) telephone, facsimile and, where available, E-mail facilities;
  - (b) a notice board for material authorised by the union or access to staff notice boards for material authorised by the union;
  - (c) workplace conference or meeting facilities, where available, for meetings with member(s), as negotiated between local management and the relevant trade union.
- (vii) Responsibilities of the Trade Union Delegate - Responsibilities of the union delegate are to:
  - (a) establish accreditation as a delegate with the union and provide proof of accreditation to the workplace;
  - (b) participate in the workplace consultative processes, as appropriate;
  - (c) follow the dispute settling procedure applicable in the workplace;
  - (d) provide sufficient notice to the immediate supervisor of any proposed absence on authorised union business;
  - (e) account for all time spent on authorised union business;
  - (f) when special leave is required, to apply for special leave in advance;
  - (g) distribute union literature/membership forms, under local arrangements negotiated between the Department Head and the relevant trade union; and
  - (h) use any facilities provided by the workplace properly and reasonably as negotiated at organisational level.
- (viii) Responsibilities of the Trade Union - Responsibilities of the Trade Union are to:
  - (a) provide written advice to the Department Head about a Trade Union activity to be undertaken by an accredited delegate and, if requested, to provide written confirmation to the workplace management of the delegate's attendance/participation in the activity;
  - (b) meet all travelling, accommodation and any other costs incurred by the accredited delegate, except as provided in paragraph (b) of subclause (ix) of this clause;

- (c) pay promptly any monies owing to the workplace under a negotiated on loan arrangement;
  - (d) provide proof of identity when visiting a workplace in an official capacity, if requested to do so by management;
  - (e) apply to the Department Head well in advance of any proposed extension to the "on loan" arrangement; and
  - (f) assist the workplace management in ensuring that time taken by the union delegate is accounted for and any facilities provided by the employer are used reasonably and properly;
  - (g) advise the employer of any leave taken by the trade union delegate during the on loan arrangement.
- (ix) Responsibilities of Workplace Management - Where time is required for union activities in accordance with this clause the responsibilities of the workplace management are to:
- (a) release the accredited delegate from duty for the duration of the union activity, as appropriate, and, where necessary, to allow for sufficient travelling time during the ordinary working hours;
  - (b) meet the travel and/or accommodation costs properly and reasonably incurred in respect of meetings called by the workplace management;
  - (c) where possible, provide relief in the position occupied by the delegate in the workplace, while the delegate is undertaking union responsibilities to assist with the business of workplace management;
  - (d) recredit any other leave applied for on the day to which special leave or release from duty subsequently applies;
  - (e) where a union activity provided under this clause needs to be undertaken on the trade union delegate's rostered day off or during an approved period of flex leave, apply the provisions of paragraph (d) of this subclause;
  - (f) continue to pay salary during an "on loan" arrangement negotiated with the relevant union and to obtain reimbursement of salary and on-costs from the union at regular intervals, or as otherwise agreed between the parties if long term arrangements apply;
  - (g) verify with the union the time spent by a union delegate or delegates on union business, if required; and
  - (h) if the time and/or the facilities allowed for union activities are thought to be used unreasonably and/or improperly, consult with the trade union before taking any remedial action.
  - (i) Advise the accredited delegate of the date of the next induction session for new staff members in sufficient time to enable the trade union to arrange representation at the session
- (x) Right of Entry - The right of entry provisions shall be as prescribed under the *Occupational Health and Safety Act 2000* and the *Occupational Health and Safety Regulation 2001* and the *Industrial Relations Act 1996*.
- (xi) Travelling and Other Costs of Trade Union Delegates
- (a) Except as specified in paragraph (c) of subclause (ix) of this clause, all travel and other costs incurred by accredited union delegates in the course of trade union activities will be paid by their union.
  - (b) In respect of meetings called by the workplace management in terms of paragraph (b) of subclause (ix) of this clause, the payment of travel and/or accommodation costs, properly and

reasonably incurred, is to be paid, as appropriate, on the same conditions as apply under clause 19, Travel Allowances and clause 24, Allowance Payable for Use of Private Motor Vehicle of this award.

- (c) No overtime, leave in lieu, shift penalties or any other additional costs will be claimable by a staff member from the department, in respect of union activities covered by special leave or on duty activities provided for in this clause.
- (d) The on loan arrangements shall apply strictly as negotiated and no extra claims in respect of the period of on loan shall be made on the department by the union or the staff member.

(xii) Industrial Action

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

(xiii) Consultation and Technological Change

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

### 56. Shift Work

- (i) Shift Loadings - A shift worker employed on a shift shall be paid, for work performed during the ordinary hours of any such shift, ordinary rates plus the following additional shift loadings depending on the commencing times of shifts:

Day - at or after 6am and before 10am Nil

Afternoon - at or after 10am and before 1pm 10%

Afternoon - at or after 1pm and before 4pm 12½%

Night - at or after 4pm and before 4am 15%

Night - at or after 4am and before 6am 10%

- (ii) Weekends and Public Holidays - For the purpose of this clause any shift, the major portion of which is worked on a Saturday, Sunday or Public Holiday shall be deemed to have been worked on a Saturday, Sunday or Public Holiday and shall be paid as such.
- (iii) Saturday Shifts - Shift workers working on an ordinary rostered shift between midnight on Friday and midnight on Saturday which is not a public holiday, shall be paid for such shifts at ordinary time and one half.
- (iv) Sunday Shifts - Shift workers working on an ordinary rostered shift between midnight on Saturday and midnight on Sunday which is not a public holiday, shall be paid for such shifts at two times the rate for time worked.

- (v) Public Holidays -
- (a) where a shift worker is required to and does work on a Public Holiday, the shift worker shall be paid at two and a half times the rate for time worked. Such payment shall be in lieu of weekend or shift allowances which would have been payable if the day had not been a Public Holiday;
  - (b) a shift worker rostered off duty on a Public Holiday shall be paid one day's pay for that Public Holiday or have one day added to his/her annual holidays for each such day;
- (vi) Rosters - Rosters covering a minimum period of 28 days, where practicable, shall be prepared and issued at least 7 days prior to the commencement of the rosters. Each roster shall indicate the starting and finishing time of each shift. Where current or proposed shift arrangements are incompatible with the shift worker's family, religious or community responsibilities, every effort to negotiate individual alternative arrangements shall be made by the Department Head.
- (vii) Notice of Change of Shift - A shift worker who is required to change from one shift to another shift shall, where practicable, be given forty eight (48) hours notice of the proposed change.
- (viii) Breaks between Shifts - A minimum break of eight (8) consecutive hours between ordinary rostered shifts shall be given.
- (ix) If a shift worker resumes or continues to work without having had eight (8) consecutive hours off duty, the shift worker shall be paid overtime until released from duty for eight (8) consecutive hours. The shift worker will then be entitled to be off duty for at least eight (8) consecutive hours without loss of pay for ordinary working time which falls during such absence.
- (x) Time spent off duty may be calculated by determining the amount of time elapsed after:
- (a) the completion of an ordinary rostered shift; or
  - (b) the completion of authorised overtime; or
  - (c) the completion of additional travelling time, if travelling on duty, but shall not include time spent travelling to and from the workplace.
- (xi) Eight Consecutive Hours Break on Overtime -
- (a) When overtime is necessary, wherever reasonably practicable, it shall be arranged so that shift workers have at least eight (8) consecutive hours off duty.
- (xii) The rest period off duty shall be not less than eight (8) consecutive hours when the overtime is worked for the purpose of changing shift rosters except where an arrangement between shift workers alters the ordinary rostered shift and such alteration results in a rest period of less than eight (8) hours.
- (xiii) Daylight Saving - 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.

## 57. Overtime

- (i) General
- (a) A staff member may be directed by the Department Head or their delegate 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:
    - (1) the staff member's prior commitments outside the workplace, particularly their family and carer responsibilities, community obligations or study arrangements,



- (2) any risk to the staff member's health and safety,
  - (3) the urgency of the work required to be performed during overtime, the impact on the operational commitments of the organisation and the effect on client services,
  - (4) the notice (if any) given by the Department Head or their delegate regarding the working of the overtime, and by the staff member of their intention to refuse overtime, or
  - (5) any other relevant matter.
- (b) Payment for overtime shall be made only where the staff member works directed overtime.
- (c) Where a flexible working hours scheme is in operation, overtime shall be deemed as the hours directed to be worked before or after bandwidth or before or after the time specified in a local arrangement made pursuant to Clause 5 Local Arrangement of this Award provided that, on the day when overtime is required to be performed, the staff member shall not be required by the Department Head to work more than 7 hours after finishing overtime or before commencing overtime.
- (d) Payment for overtime worked and/or on-call (standby) allowance shall not be made under this clause if the staff member is eligible, under any other industrial instrument, to:
- (1) compensation specifically provided for overtime and/or on-call (standby) allowance; or
  - (2) be paid an allowance for overtime and/or on-call (standby) allowance; or
  - (3) a rate of salary which has been determined as inclusive of overtime and/or on-call (standby) allowance,
- (e) Payment of overtime will not be made to staff defined as Members' staff in clause 2, Definitions who receive an all incidence of employment allowance.
- (ii) Overtime
- (a) The provisions of this clause shall not apply to:
- (1) shift workers as defined in clause 2, Definitions of this award and to whom provisions of subclauses (iii) of this clause apply;
  - (2) staff members covered by formal local arrangements in respect of overtime negotiated between the Department Head and the relevant trade union;
  - (3) staff members to whom overtime provisions apply under another industrial instrument;
  - (4) staff members whose salary includes compensation for overtime; and
  - (5) staff members who receive an allowance in lieu of overtime.
- (b) Rates - Overtime shall be paid at the following rates:
- (1) Weekdays (Monday to Friday inclusive) - at the rate of time and one half for the first two hours and at the rate of double time thereafter for all directed overtime worked outside the staff member's ordinary hours of duty, if working standard hours, or outside the bandwidth, if working under a flexible working hours scheme, unless local arrangements negotiated in terms of clause 5, Local Arrangements of this award apply;
  - (2) Saturday - All overtime worked on a Saturday at the rate of time and one half for the first two hours and at the rate of double time thereafter;

- (3) Sundays - All overtime worked on a Sunday at the rate of double time;
  - (4) Public Holidays - All overtime worked on a public holiday at the rate of double time and one half.
- (iii) Overtime Worked by Shift Workers
- (a) The following rates are payable for any overtime worked by shift workers 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.
    - (1) Monday-Friday - All overtime worked by shift workers Monday to Friday inclusive, shall be paid for at the rate of time and one half for the first two hours and double time thereafter.
    - (2) Saturday - All overtime worked by shift workers on Saturday, shall be paid for at the rate of time and one half for the first two hours and double time thereafter.
    - (3) Sunday - All overtime worked by shift workers on a Sunday shall be paid for at the rate of double time.
    - (4) Public Holidays - All overtime worked on a public holiday shall be paid for at the rate of double time and one half.
  - (iv) 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.
  - (v) A staff member who works overtime on a Saturday, Sunday or public holiday, shall be paid a minimum payment as for three (3) hours work at the appropriate rate.
- (vi) Rest Periods
- (a) A staff member who works overtime shall be entitled to be absent until eight (8) consecutive hours have elapsed.
  - (b) Where a staff member, at the direction of the supervisor, resumes or continues work without having had eight (8) consecutive hours off duty then such staff member shall be paid at the appropriate overtime rate until released from duty. 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.
  - (c) The provision of this clause, Rest periods, will not apply to sessional staff where the overtime and attendance at work and rest period of less than 8 hours is the result of a sitting of the Legislative Assembly or the Legislative Council.
- (vii) Recall to Duty
- (a) A staff member recalled to work overtime after leaving the employer's premises 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 callout 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 department'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.

(viii) On call (Standby)

- (a) When a staff member is directed to be on call or on standby for a possible recall to duty, payment of an on call allowance shall be made. Where a rate of on call allowance has not already been determined for the staff member as at the date of the making of this award, the rate shown in item 9 of Table 1 -Allowances, of Part B Monetary Rates shall be made for the duration of on call (standby).
- (b) If a staff member who is on call and is called out by the Department, the applicable overtime provisions as set out in this Clause shall apply to the time worked.
- (c) Where work problems are resolved without travel to the place of work whether on a weekday, weekend or public holiday, work performed shall be compensated at ordinary time for the time actually worked, calculated to the next 15 minutes.

(ix) Meal Breaks on Overtime

- (a) Staff members not working flexible hours -A staff member required to work overtime on weekdays for an hour and a half or more after the staff member's ordinary hours of duty on weekdays, shall be allowed 30 minutes for a meal and thereafter, 30 minutes for a meal after every five hours of overtime worked.
- (b) Staff member working flexible hours - A staff member required to work overtime on weekdays beyond 6.00 p.m. and until or beyond eight and a half hours after commencing duty plus the time taken for lunch, shall be allowed 30 minutes for a meal and thereafter, 30 minutes for a meal after every five hours of overtime worked.
- (c) Staff Members Generally - A staff member required to work overtime on a Saturday, Sunday or Public Holiday, shall be allowed 30 minutes for a meal after every five hours of overtime worked. A staff member who is unable to take a meal break and who works for more than five hours shall be given a meal break at the earliest opportunity.

(x) Meal Allowances for Overtime

- (a) If an adequate meal is not provided by the department, a meal allowance shall be paid by the department for meal breaks taken pursuant to subclause (ix) Meal Breaks on Overtime of this clause, provided the Department Head is satisfied that:

- (1) the time worked is directed overtime;
  - (2) the staff member properly and reasonably incurred expenditure in obtaining the meal in respect of which the allowance is sought;
  - (3) where the staff member was able to cease duty for at least 30 minutes before or during the working of overtime to take the meal, the staff member did so; and
  - (4) overtime is not being paid in respect of the time taken for a meal break.
- (b) The amount of the allowance for the meal shall be at the rate specified in Item 11 of Table 1 - Allowances of Part B, Monetary Rates, as appropriate.
- (c) Notwithstanding the above provisions, nothing in this clause shall prevent the Department Head and the relevant trade union(s) from negotiating different meal provisions under a local arrangement.
- (xi) Senior Staff payments:
- (a) A staff member whose salary, or salary and allowance in the nature of salary, exceeds the maximum rate for Clerk Grade 8, as varied from time to time, shall be paid for working directed overtime at the maximum rate for Clerk, Grade 8 plus \$1.00, unless the Department Head approves payment for directed overtime at the staff member's salary or, where applicable, salary and allowance in the nature of salary.
  - (b) Sessional Staff as defined in clause 2, Definitions, whose salary, or salary and allowance in the nature of salary, exceeds an amount equivalent to the rate prescribed as the maximum for a clerk grade 8, as varied from time to time, shall be entitled to payment of an allowance as set in item 12 Part B, Table 1 Allowances in lieu of overtime on each occasion they are required to work beyond 8.00 pm in sitting periods.
- (xii) 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 subclause (xiii) of this clause.
- (xiii) Leave In Lieu of Payment for overtime
- (a) A staff member who, at the direction of the Department Head works overtime, may elect to take leave in lieu of payment for all or part of the entitlement in respect of time worked.
  - (b) The following provisions shall apply to the leave in lieu: -
    - (1) the staff member shall advise the supervisor before the overtime is worked or as soon as practicable on completion of overtime, that the staff member intends to take leave in lieu of payment;
    - (2) the leave shall be calculated at the same rate as would have applied to the payment of overtime in terms of this clause;
    - (3) the leave must be taken at the convenience of the 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 42, Sick Leave to Care for a Family Member of this award apply;
    - (4) the leave shall be taken in multiples of a quarter day, unless debiting of leave in hours or in fractions of an hour has been approved in the staff member's department or section;
    - (5) 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.

- (6) a staff member shall be paid for the balance of any overtime entitlement not taken as leave in lieu.

(xiv) Calculation of Overtime

- (a) Unless a minimum payment in terms of subclause (v) of this clause applies, 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:

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

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

$$\frac{\text{Annual salary}}{1} \times \frac{7}{365.25} \times \frac{1}{\text{Normal hours of work}}$$

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

(xv) Adjustment of Meal Allowances

- (a) The rates of overtime meal allowances shall be adjusted in accordance with the provisions contained in clause 34, Adjustment of Allowances of this award.
- (b) Where an allowance under paragraph (a) of this subclause is insufficient to reimburse the staff member the cost of a meal, properly and reasonably incurred, the Department Head shall approve payment of actual expenses.
- (c) Where the meal was not purchased, payment of a meal allowance shall not be made.
- (d) Receipts shall be provided to the Department Head or his/her delegate in support of any claims for additional expenses or when the staff member is required to substantiate the claim.

(xvi) Provision of Transport

- (a) For the purpose of this subclause, departure or arrival after 8.00 p.m. will determine whether the provisions of this subclause apply.

Departure or arrival after 8.00 p.m. 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.

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

- (b) Arrangement of Overtime

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

(c) Provision of Taxis

Where a staff member, other than a staff working rostered shifts, ceases overtime duty after 8.00 p.m. and public transport or other normal means of transport is not reasonably available, arrangements may be made for transport home or to be provided by way of taxi.

### 58. Grievance and Dispute Settling Procedures

- (i) All grievances and disputes relating to the provisions of this award shall initially be dealt with as close to the source as possible, with graduated steps for further attempts at resolution at higher levels of authority within the appropriate department, if required.
- (ii) 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) The immediate manager shall convene a meeting in order to resolve the grievance, dispute or difficulty within three (3) working days, or as soon as practicable, of the matter being brought to attention.
- (iv) 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 appointed deputy.
- (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 three (3) 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 Department Head.
- (vi) The Department Head may refer the matter to the Presiding Officer(s) for consideration.
- (vii) If the matter remains unresolved, the Department Head 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 New South Wales Industrial Relations Commission if the matter is unresolved following the use of these procedures.
- (x) The staff member, union, department and Presiding Officer(s) shall agree to be bound by any order or determination by the New South Wales Industrial Relations Commission in relation to the dispute.
- (xi) Whilst the procedures outlined in subclauses (i) to (ix) 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.

### 59. 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.
  - (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".

#### **60. Existing Entitlements**

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

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

- (i) The union shall provide the Presiding Officers with a schedule setting out union fortnightly membership fees payable by members of the union in accordance with the union's rules.
- (ii) The union shall advise the Presiding Officers 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 union at least one month in advance of the variation taking effect.
- (iii) Subject to (i) and (ii) above, the Presiding Officers shall deduct union fortnightly membership fees from the salary of any staff member who is a member of the union in accordance with the union's rules, provided that the staff member has authorized the Presiding Officers to make such deductions.
- (iv) Monies so deducted from staff members' salary shall be forwarded regularly to the union together with all necessary information to enable the union to reconcile and credit subscriptions to staff members' union membership accounts.
- (v) Unless other arrangements are agreed to by the Presiding Officers 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.

## 62. Secure Employment

- (i) 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.

- (ii) 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 (ii)(a), upon receiving notice under paragraph (ii)(b) 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 (ii)(c), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (ii)(c), discuss and agree upon:
- (1) whether the employee will convert to full-time or part time employment; and
  - (2) if it is agreed that the employee will become a part time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part time employment provisions of this award 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.

(iii) Occupational Health and Safety

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

(iv) 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.

- (v) 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.

**PART B****MONETARY RATES****Table 1 - Allowances****Effective 1 July 2010**

Item No	Clause No	Description	Amount
1	Clause 21	Meal Expenses on One Day Journeys Capital cities and high cost country centres (see list in item 2)	
		(a) Breakfast	\$23.10
		(b) Dinner	\$44.50
		(c) Lunch	\$25.90
		Tier 2 and other country centres (see list in item 2)	
		(a) Breakfast	\$20.65
		(b) Dinner	\$40.65
		(c) Lunch	\$23.60
		2	Clause 19 (ii)(c)(2)
Capital Cities	Per day		
Adelaide	\$267.35		
Brisbane	\$311.35		
Canberra	\$255.35		
Darwin	\$282.35		
Hobart	\$227.35		
Melbourne	\$283.55		
Perth	\$274.35		
Sydney	\$293.35		
High cost country centres Albany (WA)	Per day		
Alice Springs (NT)	\$228.55		
Ballarat (VIC)	\$223.35		
Bendigo (VIC)	\$232.85		
Bright (VIC)	\$232.35		
Broome (WA)	\$223.35		
Bunbury (WA)	\$324.35		
Burnie (TAS)	\$232.85		
Cairns (QLD)	\$235.35		
Carnarvon (WA)	\$233.35		
Christmas Island (WA)	\$256.65		
Cocos (Keeling) Island	\$260.35		
Dalby (QLD)	\$220.35		
Dampier (WA)	\$220.35		
Derby (WA)	\$284.75		
Devonport (TAS)	\$291.85		
Echuca (VIC)	\$238.85		
Emerald (QLD)	\$232.65		
Esperance (WA)	\$229.85		
Exmouth (WA)	\$228.35		
Geelong (VIC)	\$300.35		
Geraldton (WA)	\$231.35		
Gladstone (QLD)	\$243.85		

	Gold Coast (QLD)	\$228.85
	Halls Creek (WA)	\$245.35
	Hervey Bay (QLD)	\$257.85
	Horn Island (QLD)	\$229.35
	Horsham (VIC)	\$279.35
	Jabiru (NT)	\$223.35
	Kalgoorlie (WA)	\$308.35
	Karratha (WA)	\$248.85
	Katherine (NT)	\$395.35
	Kununurra (WA)	\$230.85
	Launceston (TAS)	\$292.35
	Mackay (QLD)	\$225.85
	Maitland (NSW)	\$242.85
	Mount Isa (QLD)	\$221.85
	Newcastle (NSW)	\$268.85
	Newman (WA)	\$242.85
	Norfolk Island	\$305.35
	Port Hedland (WA)	\$242.85
	Port Lincoln (SA)	\$380.35
	Port Macquarie (NSW)	\$222.35
	Queanbeyan (NSW)	\$225.35
	Tamworth (NSW)	\$223.85
	Thursday Island (QLD)	\$221.35
	Townsville (QLD)	\$290.35
	Wagga Wagga (NSW)	\$234.35
	Warrnambool (VIC)	\$227.85
	Weipa (QLD)	\$224.55
	Whyalla (SA)	\$248.35
	Wilpena-Pound (SA)	\$228.35
	Wonthaggi (VIC)	\$252.35
	Yulara (NT)	\$232.35
		\$441.35
	Tier 2 country centres	
	Ararat (VIC)	Per Day
	Armidale (NSW)	\$208.75
	Bairnsdale (VIC)	\$208.75
	Bathurst (NSW)	\$208.75
	Bordertown (SA)	\$208.75
	Broken Hill (NSW)	\$208.75
	Bundaberg (QLD)	\$208.75
	Castlemaine (VIC)	\$208.75
	Ceduna (SA)	\$208.75
	Coffs Harbour (NSW)	\$208.75
	Cooma (NSW)	\$208.75
	Dubbo (NSW)	\$208.75
	Gosford (NSW)	\$208.75
	Goulburn (NSW)	\$208.75
	Hamilton (VIC)	\$208.75
	Innisfail (QLD)	\$208.75
	Kadina (SA)	\$208.75
	Kingaroy (QLD)	\$208.75
	Mildura (VIC)	\$208.75
	Mount Gambier (SA)	\$208.75
	Mudgee (NSW)	\$208.75
	Muswellbrook (NSW)	\$208.75
	Naracoorte (SA)	\$208.75
	Orange (NSW)	\$208.75
	Port Augusta (SA)	\$208.75
	Portland (VIC)	\$208.75

		Renmark (SA) Rockhampton (QLD) Roma (QLD) Seymour (VIC) Swan Hill (VIC) Toowoomba (QLD) Wollongong (NSW)  Other country centres	\$208.75 \$208.75 \$208.75 \$208.75 \$208.75 \$208.75 \$208.75  Per Day \$193.75
3	Clause 19 (ii)	Incidental expenses when claiming actual expenses - all locations	\$16.85
4	Clause 19 (ii)(f)	Daily allowance payable after 35 days and up to 6 months in the same location - all locations	50% of the appropriate location rate
5	Clause 19	Government accommodation- incidental expenses (per day)	\$16.85
6	Clause 24	Use of private motor vehicle  Official business Engine capacity- 2601cc and over 1601cc to 2600cc 1600cc or less  Casual rate (40% of the official business rate)  Engine capacity- 2601cc and over 1601cc-2600cc 1600cc or less  Motor cycle allowance (calculated at 50% of the under 1601cc official business rate)  Towing trailer or horse float (calculated at 13% of the 2601cc and over official business rate)	Cents per kilometre   75.0 74.0 63.0    30.0 29.6 25.2  31.5  9.75
7	Clause 27	Community Language Allowance Scheme - Base Level Rate Higher Level Rate	Per annum \$1,165 \$1,750
8	Clause 29	First aid allowance - Holders of basic qualifications - Holders of current occupational first aid certificate	Per annum \$750 \$1127
9	Clause 31	On-call allowance (per hour)	\$0.82 per hour
10	Clause 32	Laundry Allowance	\$4.20 per week
11	Clause 57 (x)	Overtime meal allowances Breakfast Lunch Dinner Supper	\$25.80 \$25.80 \$25.80 \$9.50
12	Clause 57(xi)(b)	Allowance in lieu of overtime Sessional Staff Above Clerk grade 8	\$306.52 per occasion

13	Clause 28	Flying Allowance	\$17.50 per hour
14	Clause 32	Service Increments Allowance	\$33.28 per annum

C.G. STAFF J

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**CROWN EMPLOYEES (TEACHERS IN SCHOOLS AND RELATED EMPLOYEES) SALARIES AND CONDITIONS AWARD 2009**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Correction to Serial C7330 published 26 February 2010

(369 I.G. 1342)

(No. IRC 2340 of 2008)

**CORRECTION**

1. Insert after subclause 2.27 of clause 2, Dictionary, the following new subclause, and renumber existing subclauses accordingly.
- 2.28 "Highly Accomplished Teacher" means a person or officer employed temporarily by the Department pursuant to the provisions of the *Teaching Services Act*, 1980 under the period of the National Partnerships on Improving Teacher Quality and Low Socio Economic Status School Communities.
2. In the table titled "Salaries - Promotion Classifications in the Teaching Service", of Schedule 4, in the Classification column, between the classifications "Head Teacher Central School", and "District Guidance Officer", insert the following:

"Highly Accomplished Teacher"

G. M. GRIMSON *Industrial Registrar.*

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

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Correction to Serial C7502 published 24 September 2010

(370 I.G. 442)

(No. IRC 865 of 2010)

**CORRECTION**

1. In clause 2, Definitions, for the definition "Act", delete the year "2006" and substitute the following:  
"2002"
2. In clause 2, for the definition "ADHC", insert after the words "Department of Human Services" the following:  
"NSW"
3. In clause 2, for the definition "Department" insert after the words "Department of Human Services NSW" the following:  
"(ADHC)"
4. In paragraph (vi) of subclause (2), of clause 3, Salaries, insert after the words "Public Sector Employment and Management (General) Regulation " the following:  
"2009"
5. Delete paragraph (ii) of subclause (3), of clause 3, Salaries, and substitute the following:  
  - (ii) The rates of pay in Part B for Team Leader One Unit are inclusive of three afternoon, two evening and one weekend penalty shift every 28 day roster period. The Team Leader will not be required to work this precise configuration of penalty and weekend shifts in any 28 day period. The actual work requirements will be determined by operational needs.
6. In paragraph (vi) of subclause (4), of clause 3, delete the word "direction" and substitute the following:  
"direct"
7. In subclause (i) of clause 4, Hours delete the words "6 am" and substitute the following:  
"6.00am"
8. In subclause (ix) of clause 4, delete the words "clause 14" and substitute the following:  
"clause 13"
9. In subclause (xiii) of clause 4, delete the words "Clause 15" and substitute the following:  
"clause 14"

10. In paragraph (iii) of subclause (3), of clause 6, Part-time Staff Members, delete the words "Public Service of NSW" and substitute the following:  
  
"NSW Government"
11. In paragraph (i) of subclause (1), of clause 7, Casual Employees, delete the words "in a Department" and substitute the following:  
  
"in the Department"
12. In paragraph (i) of subclause (4) of clause 7, delete the words "Clause 13 Annual Leave / Recreation Leave" and substitute the following:  
  
"Clause 13 Recreation Leave"
13. In paragraph (ii) of subclause (4) of clause 7, insert after the words "full-time hours" the following:  
  
", unless otherwise specified"
14. Delete subparagraph (a) of paragraph (iv) of subclause (4) of clause 7, and substitute the following:  
  
(a) Clause 12.5 Leave
15. In paragraph (iii) of subclause (2) of clause 9, Overtime, insert after the words "subclause (i) above," the following:  
  
"they"  
  
and after the words "shall be paid at double rates until ", delete the words "they are".
16. In paragraph (iv) of subclause (3) of clause 9, delete the words "Crown Employees (Public Service Conditions of Employment) Reviewed Award 2006" and substitute the following:  
  
"Crown Employees (Public Service Conditions of Employment) Award 2009"
17. In subparagraph (c) of paragraph (i) of subclause (6) of clause 9, delete the words "and or" and substitute the following:  
  
"and/or"
18. In paragraph (iii) of subclause 6, of clause 9, insert after the words "152 hours" the following:  
  
"in the roster period"
19. In subparagraph c. of paragraph (ii) of subclause (7), of clause 9, delete the words "Sick Family Member" and substitute the following:  
  
"Family Member"
20. In paragraph (iii) of subclause 8, of clause 9, insert after the words "152 hours" the following:  
  
"in a roster period"
21. In paragraph (e) of subclause (iv) of clause 10, Sleepovers, delete the word "residents" and substitute the following:  
  
"clients"



22. In paragraph (f) of subclause (iv) of clause 10, insert the word "not" between the words "should" and "be".
23. In subparagraph (3) of paragraph (b) of subclause (v) of clause 10, delete the word "night" and substitute the following:  
"evening"
24. In the third sentence of subclause (viii) of clause 10, delete the word "union" and substitute the following:  
"Association"
25. In subclauses (v), (vi), (vii) and (viii) of clause 10:  
wherever the word "residents" occurs, substitute the word "clients"  
wherever the word "resident's" occurs, substitute the word "client's"
26. In clause 11, Penalty Rates for Shift Work and Weekend Work and Special Work Conditions, wherever the word "night" occurs, substitute the word "evening".
27. In clause subclause (i) of clause 11, delete the word "percentages" and substitute the following:  
"loadings"
28. In the second sentence of clause subclause (iii) of clause 11, delete the word "premiums" and substitute the following:  
"loadings"
29. In subclauses (ii) and (iii) of clause 12, Meals:  
wherever the word "residents" occurs, substitute the word "clients"  
wherever the word "employer" occurs, substitute the word "Department"  
wherever the word "employer's" occurs, substitute the word "Department's"
30. In paragraph (iv) of subclause (6) of clause 13, Recreation Leave, delete the words "Clause 14(1)(iv)" and substitute the following:  
"Clause 13(1)(iv)"
31. In the first sentence of subclause (i) of clause 16, Payment and Particulars of Salary, delete the word "weekly" and substitute the following:  
"fortnightly"
32. In subclause (iv) of clause 19, Dispute Resolution Procedures, delete the word "to" appearing between "resolve" and "grievance" and substitute the following:  
"the"
33. In subclause (i), (ii) and (iv)(d) of clause 20, Anti-Discrimination, wherever the word "award" occurs, substitute the following:  
"Award"

34. In paragraph (d) of subclause (iv) of clause 20, delete the word "federal" and substitute the following;
- "Federal"
35. In subclause (i) of clause 26, General Conditions of Employment, delete the words "Public Service of NSW Personnel Handbook" and the words "Public Sector Employment and Management (General) Regulation 1996" and substitute the following respectively:
- "NSW Government Personnel Handbook",
- "Public Sector Employment and Management (General) Regulation 2009"
36. In the first sentence of subclause (v) of Schedule 2 - Transitional Arrangements, insert the word "rate" between the words "current" and "of".

G. M. GRIMSON *Industrial Registrar.*

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**OPERATIONAL AMBULANCE MANAGERS (STATE) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by NSW Department of Health.

(No. IRC 1513 of 2010)

Before The Honourable Mr Justice Staff

24 December 2010

**AWARD****1. Title**

This Award shall be known as the Operational Ambulance Managers (State) Award ("the Award").

**2. Arrangement**

Clause No.	Subject Matter
------------	----------------

- |    |             |
|----|-------------|
| 1. | Title       |
| 2. | Arrangement |

**SECTION 1. GENERAL**

- |    |                             |
|----|-----------------------------|
| 3. | Object                      |
| 4. | Definitions                 |
| 5. | Classification Descriptions |
| 6. | Work Arrangements           |

**SECTION 2. EMPLOYMENT CONDITIONS**

- |     |                           |
|-----|---------------------------|
| 7.  | Employees Duties          |
| 8.  | Vacancies and Promotion   |
| 9.  | Appointment of Officers   |
| 10. | Roster Leave              |
| 11. | Reasonable Hours          |
| 12. | Public Holidays           |
| 13. | Termination of Employment |

**SECTION 3. SALARIES AND MONETARY ENTITLEMENTS**

- |     |                                     |
|-----|-------------------------------------|
| 14. | Salaries                            |
| 15. | Payment and Particulars of Salaries |
| 16. | Climatic and Isolation Allowance    |
| 17. | Travel Allowances                   |
| 18. | Relieving Other Members of Staff    |
| 19. | Salary Sacrifice to Superannuation  |
| 20. | Salary Packaging                    |

**SECTION 4. LEAVE ENTITLEMENTS**

- |     |  |
|-----|--|
| 21. | Annual Leave                                       |
| 22. | Annual Leave Loading                               |
| 23. | Family and Community Leave & Personal Carers Leave |

24. Maternity, Adoption & Parental Leave
25. Study Leave
26. Trade Union Leave
27. Long Service Leave
28. Sick Leave

#### SECTION 5. MISCELLANEOUS

29. Uniforms
30. Redundancy - Managing Displaced Employees
31. Union Subscriptions
32. Accommodation

#### SECTION 6. AWARD PARAMETERS

33. Issues Resolution
34. Anti-Discrimination
35. Benefits Not To Be Withdrawn
36. No Extra Claims
37. Area Incidence and Duration

#### SECTION 7. MONETARY RATES

Table 1 - Salaries

Table 2 - Allowances

### **SECTION 1. GENERAL**

#### **3. Object**

The parties seek to achieve excellence in the provision of ambulance services for New South Wales through an efficient and effective pre-hospital emergency care and health related transport system.

#### **4. Definitions**

"The Department" means the New South Wales Department of Health.

"The Service" means the Ambulance Service of New South Wales.

"Union" means the HSU east.

"Officer/Superintendent/Operational Manager" means an employee of the Service who is employed pursuant to this Award.

"Employee" means an Officer/Superintendent/Operational Manager of the Service who is employed pursuant to this Award.

"Service" means continuous service with one or more District Committees prior to 13 April 1973, and continuous service as a servant of the New South Wales Ambulance Board on and from 13 April 1973, and continuous service as a servant of the Commission on and from 1 January 1977 and continuous service as a servant of the Corporation on and from 17 August 1982 and continuous service with the NSW Department of Health on and from 17 March 2006.

The "Working Week" for the purpose of this Award shall commence on Saturday and finish on Friday.

#### **5. Classification Descriptions**

"Ambulance Manager Level 1" means an employee who has the following responsibilities, skills and attributes:

Accountability for ensuring funds are expended according to approved budgets and for ensuring targets are met.

Responsibility to provide regular feedback and appraisal regarding the performance of staff.

Responsibility for maintaining effective relationships with a range of stakeholders within the Service to ensure the Service's priorities are met.

Assist with the development and implementation of policies, procedures, standards and practices for the Service.

Responsibility and accountability for providing a professional level of services to the Service or oversee the management of aspects of services and the staff.

Understanding and commitment to the Service's priorities;

Capacity to direct all operational facets based on strategic and business plans;

Ability to ensure budget targets are met.

Capacity to undertake performance appraisal of staff and ability to develop performance measures.

Effective communication and interpersonal skills.

Assist with the development and implementation of policies, procedures, standards and practices.

Able to meet pre-determined targets and deadlines.

Ability to be flexible and adapt work practices to suit circumstances.

"Ambulance Manager Level 2" means an employee who is required to demonstrate the following responsibilities, skills and attributes to a level greater than that required for a Level 1 Ambulance Manager:

Accountability for allocation and/or expenditure of resources and ensuring targets are met.

Responsibility for ensuring optimal budget outcomes for their customers and communities.

Responsibility for providing regular feedback and appraisals for senior staff to improve health outcomes for customers and for maintaining a performance management system.

Responsibility for providing support for the efficient, cost effective and timely delivery of services.

High level of leadership, communication and interpersonal skills.

Capacity to exercise creative and entrepreneurial solutions to improve productivity and effectiveness for customers.

Proven negotiation and delegation skills.

Ability to motivate and co-ordinate staff.

Ability to provide input, interpret, monitor and evaluate policies, procedures and standards for customers.

Capacity to design strategic and business objectives.

Ability to develop performance measures

"Ambulance Manager Level 3" means an employee who is required to demonstrate the following responsibilities, skills and attributes to a level greater than that required for a Level 2 Ambulance Manager:

Responsibility for reviewing senior staff performances through regular appraisal to improve health outcomes for patients and for maintaining a performance management system.

Responsibility to maintain effective relationships and communication to ensure that corporate goals and priorities of the Health System are met.

Responsibility for providing timely delivery of services and accountable to the appropriate Executive.

Responsibility for contributing to the development and implementation of business plans.

Requirement to make judgements and may in some cases, be delegated responsibility to approve changes in standard practice and procedures.

Excellent leadership, communication and interpersonal skills.

Highly developed and effective management skills.

Ability to develop, monitor and reach predicted outcomes to strategic and business plans.

Highly developed and effective negotiation and delegation skills.

Proven capacity to manage multi-disciplinary groups.

Ability to make judgements and have sole delegated responsibility to approve changes in standards, practices, policies and procedures.

"Ambulance Manager Level 4" means an employee who is required to demonstrate the following responsibilities, skills and attributes to a level greater than that required for a Level 3 Ambulance Manager:

Responsibility for ensuring optimal health outcomes within budget for their customers and communities.

Accountability for allocating resources and ensuring budgets are effectively met.

Responsibility for developing appropriate strategies to manage budget changes in a timely manner.

Requirement to make complex judgements and make appropriate changes in standard practices, policies and procedures.

Staff at this level are expected to develop/implement strategic business plans and ensure budgets are allocated and targets met.

System-wide view of health care provision and management to improve health outcomes for customers.

Excellent strategic planning and policy development skills.

Proven management expertise at a senior level.

Competent to make complex judgements and take initiatives through delegated responsibilities.

"Ambulance Manager Level 5" means an employee who is required to demonstrate the following responsibilities, skills and attributes to a level greater than that required for a Level 4 Ambulance Manager.

(a) Authority & Accountability

Freedom to operate within delegated authority, performance agreement, and Service or Health policy

- Recommend service priorities
  - Exercise judgement within delegations
  - Formulate policy and deliver programs in line with performance agreement
  - Involvement in the development of long-term strategies
  - Report directly to a member of the Service's executive
  - Budget management and responsibility for significant budget amount, or
  - Management of complex area service or unit, requiring specialist advice and input
  - Adherence to the Accounts and Audit and Determination for Area Health Services and all Statutory Requirements
- (b) Judgement & Problem-Solving
- Exercise judgement and problem solving in service policy areas
  - Frequent resolution of unusual and complex problems
  - Develop business strategies and business plans
  - Develop ideas, optional action plans, courses of action
  - Anticipate and resolve problems in a challenging and dynamic environment
  - Seek advice when there is no existing policy or precedent
  - Use of evidence-based decision-making to back up decisions
  - Sound ability to solve problems using innovative, creative solutions
  - High level of technical expertise
  - Provision of high level of expert advice and sound judgement
  - Independent decision-making; exercising independent judgement
  - Has a sound understanding of political and cross-Area Health Service issues and how they impact on the organisation
  - Actively develop strategic partnerships
- (c) Leadership & Management Skills
- Provide leadership, management and direction
  - Actively contributes to shaping the organisation's strategic plan
  - Ensures that the strategic plan is outcome-focussed, takes into account the short and long-term priorities, and is achievable
  - Actively monitors progress towards the achievement of the strategic vision
  - Achieve set objectives

- Resolve conflict
- Address and prioritise competing demands
- Lead and manage organisation change on an area-wide basis
- Build appropriate organisation values and culture
- Anticipate problems and develop contingency strategies to meet complex situations
- Applies intellectual rigour to all aspects of their work
- (d) Personal & Interpersonal Skills
  - Provide specialist advice
  - Lead, persuade, motivate and negotiate at senior levels
  - Ability to deal with people at all levels
  - Communicate and liaise effectively at all levels within the organisation
  - Spokesperson for area of responsibility (media, public)
  - Effective community liaison and communication
  - Effectively self-manages
  - Innovative & lateral thinker
  - Flexible & responsive
  - Supports a reflective learning/quality culture that enables both individuals and the organisation to develop
  - Articulates and promotes the organisation's vision and goals
  - Promotes an environment in which traditional ways of thinking are challenged and debate is encouraged
  - Provides effective role-modelling
  - Celebrates achievements and encourages innovation
- (e) Outcomes & Performance
  - Formal personal agreement with CEO or the relevant General Manager.
  - Significant impact on service achievements and targets
  - Formal performance agreements with direct reports
  - Achievement of best practice
  - Monitoring and compliance with all professional standards
  - Responsible for Service-wide service delivery



## **6. Work Arrangements**

- (a) Work will be performed by the most efficient means.
- (b) The parties agree that there will be no forced transfers as a result of the implementation of subclause (a) of this clause.
- (c) Any proposal that will significantly affect employees covered by the Union will be the subject of genuine consultation between the parties.
- (d) Any dispute arising from the operation of this clause will be dealt with in accordance with clause 13, Issues Resolution, of this Award.

## **SECTION 2. EMPLOYMENT CONDITIONS**

### **7. Employees' Duties**

- (a) The Service may direct an employee to carry out such duties as are reasonable, and within the limits of the employee's skills, competence and training consistent with the employee's classification provided that such duties are not designed to promote de-skilling.
- (b) The Service may direct an employee to carry out such duties and use such tools and equipment as may be required provided that the employee has been properly trained and is currently certified in the use of such tools and equipment.
- (c) Any direction issued by the Service pursuant to subclause (a) and (b) shall be consistent with the Service's responsibilities to provide a safe and healthy working environment.
- (d) The application of subclause (a) of this clause shall be undertaken in a fair, reasonable and sensible manner.

### **8. Vacancies & Promotion**

- (a) Advertisements of vacant positions shall be notified throughout the Service by regular Vacancy Circulars clearly displayed on Notice Boards at all Ambulance Stations and Ambulance Workplaces.
- (b) Appointments shall be made on the basis of merit.
- (c) The vacancy shall be filled from applications received provided that the Service can re-advertise the position if necessary.

### **9. Appointment of Officers**

- (a) An employee employed under this Award shall be engaged as a full time employee, a permanent part time employee or a temporary employee.
- (b) Every employee will be provided with a Position Description commensurate with his or her position which he or she will be required to sign. The position description will outline the duties to be performed in addition to the key competencies and accountabilities required for the position.
- (c) All employees will be required to enter into a Performance Agreement.
- (d) Every employee who is appointed to a Superintendent/Operational Manager position advertised/created after the date of the making of this Award will be required to continue to meet the minimum requirements for that position.

- (e) Permanent Part-Time Employee
- (i) A permanent part-time employee is one who is permanently appointed by the Service to work a specified number of days each week which are less than those prescribed for a full time employee, except in emergent or urgent circumstances.
  - (ii) Permanent part-time employees shall be paid an hourly rate calculated on the basis of 1/38 of the weekly rate (annual rate/52.17857) prescribed in Table 1, Salaries, of Section 7, Monetary Rates of this Award.
  - (iii) Permanent part-time employees shall not be entitled to additional rostered leave days off duty as prescribed in subclause (a) of clause 9, Roster Leave, of this Award.
  - (iv) Permanent part-time employees shall be entitled to all other benefits not otherwise expressly provided for herein in the same proportion as the average days per week bear to full-time employment.
  - (v) Permanent part-time employees shall be entitled to payment of the allowances prescribed by clause 16, Climate and Isolation Allowance, of this Award in the same proportion as the average hours worked per week bear to full-time hours.
  - (vi) The parties recognise that permanent part-time employment will provide flexible working arrangements for employees to cater for personal requirements such as family responsibilities.
- (f) Temporary Employee
- (i) A temporary employee is engaged for a continuous fixed period of time to carry out a specific task. Such task may include the provision of relief for permanent employees, conduct of specific projects or the provision of services which are not recurrent in nature.
  - (ii) A temporary employee may be full time or part time.
  - (iii) Time worked up to the rostered daily ordinary hours of work prescribed for a majority of the full-time employees employed on that shift in the station, unit or section concerned shall not be regarded as overtime but an extension of the contract hours for that day and shall be paid at the ordinary rate of pay.
  - (iv) Temporary employees will be required to undertake and successfully complete all the requirements applicable to permanent full-time employees.

#### **10. Roster Leave**

- (a) Each employee shall be granted nine (9) days of absence in each period of 28 days with the ninth day of absence being designated the Additional Rostered Leave day off duty.
- (b) Such time off duty may be granted weekly or allowed to accumulate for 28 days, provided that when it is not convenient for the Service to grant the full amount of leave due under this clause in each period of 28 consecutive days, the employee shall not be called upon to forfeit such leave.
- (c) Leave under this clause shall not be allowed to accumulate to more than twelve (12) days.
- (d) Subject to clause 13, Termination of Employment, subclause (c), of this Award, payment in lieu of roster leave shall not be made.

#### **11. Reasonable Hours**

- (a) An employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working hours which are unreasonable.

- (b) For the purposes of sub-clause (b) what is reasonable or otherwise will be subject to sub-clause (b) an employer may require an employee to work reasonable overtime at overtime rates.
- (c) Determined having regard to:
  - (i) Any risk to employee health and safety.
  - (ii) The employee's personal circumstances including any family and carer responsibilities.
  - (iii) The needs of the workplace or enterprise.
  - (iv) The notice (if any) given by the employer of the overtime and by the employee of his or her intention to refuse it; and
  - (v) Any other relevant matter.

### **12. Public Holidays**

- (a) For the purpose of this clause, the following shall be public holidays, viz: New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, Local Labour Day, Christmas Day and Boxing Day.
- (b)
  - (i) An employee to whom paragraph (i) of subclause (a) of clause 21, Annual Leave, of this Award, applies, and who is required to and does work on a public holiday or a special public holiday proclaimed for the State of New South Wales shall be paid for the time actually worked at the rate of double time and one half.
  - (ii) An employee to whom paragraph (ii) of subclause (a) of clause 21, Annual Leave, of this Award, applies, and who is required to and does work on a public holiday or a special public holiday proclaimed for the State of New South Wales shall be paid for the time actually worked at the rate of time and one half.
  - (iii) For the purpose of paragraphs (i) and (ii) of this subclause, the hourly rate of pay shall be one-thirty eighth of the appropriate ordinary weekly rate of pay prescribed in Table 1, Salaries, of Section 7, Monetary Rates of this Award.
- (c) Special Public Holidays proclaimed for the State of New South Wales are to be granted or payment made as prescribed in paragraphs (i) and (ii) of subclause (b) of this clause, if not granted. Where an employee works on a seven day per week basis as set out in paragraph (ii) of subclause (a) of clause 21, Annual Leave, of this Award, and the employees rostered day off or annual leave falls due on such day, the employee shall be paid, in addition to the employees appropriate weekly rate of pay, an extra day's pay at ordinary rates.
- (d) In addition to those public holidays specified in subclause (a) of this clause, employees shall be entitled to an extra public holiday each year. Such public holiday will occur on a date determined by the Service and shall be regarded, for all purposes of this clause, as any other public holiday.

### **13. Termination of Employment**

- (a) Employment shall be terminated by four (4) weeks notice in writing by either party or by the giving or forfeiting, as the case may be, of four weeks wages in lieu of notice. Notwithstanding this the Service shall have the right to terminate an employee's employment without notice for serious or wilful misconduct in which case wages shall be paid up to the time of dismissal only.
- (b) The Service shall, upon request by the employee, give the employee a signed statement outlining the period of employment.

- (c) Employees with a credit of any additional rostered leave day off duty shall be paid for such accrual upon termination.

### **SECTION 3. SALARIES AND MONETARY ENTITLEMENTS**

#### **14. Salaries**

- (a) Employees who are appointed to an Operational Management position shall be allocated to one of the classification levels as set out in Table 1, Salaries, of Section 7, Monetary Rates of this Award, and shall not be paid less than the minimum level for that position.
- (b) An employee who successfully applies for a position covered by this Award where the salary band encompasses his or her current salary will be appointed at no less than his or her current salary.
- (c) An employee who successfully applies for a position which carries a higher minimum salary level than his or her current salary will be appointed at no less than the minimum of the applicable salary band.
- (d) Once the appointed employee's salary has been determined in accordance with subclause (a), (b) or (c) of this clause, the employee's salary will move in accordance with the percentage increases applicable under this Award.
- (e) Further increases over and above the percentage increases applicable under subclause (d) of this clause will occur based on the employee's work performance that will be measured against their Performance Agreement.
- (f) Any dispute arising from the operation of this clause shall be dealt with in accordance with clause 33, Issues Resolution, of this Award.

#### **15. Payment and Particulars of Salaries**

- (a) Wages shall be paid fortnightly by electronic transfer.
- (b) For each pay-day, employees shall be furnished with a statement showing the gross amount of ordinary wages and penalties together with separate details of all deductions.
- (c) Employees shall have their salary paid into one account with a bank or other financial institution in New South Wales as nominated by the employee except where agreement as to another method of payment has been reached between the Service and the Union due to isolation.
- (d) Salaries shall be deposited by the Service in sufficient time to ensure that wages are available for withdrawal by employees no later than pay day.

This requirement shall not apply where employees nominate accounts with non-bank financial institutions which lack the technological or other facilities to process salary deposits within 24 hours of the Service making their deposits. In such cases the Service shall take all reasonable steps to ensure that wages are available for withdrawal by no later than pay-day.

#### **16. Climatic and Isolation Allowance**

- (a) Subject to subclause (b) of this clause, employees attached to Ambulance Stations situated upon or to the West of a line drawn as herein specified, shall be paid the allowance specified in Table 2, Allowances of Section 7 of this Award, in addition to the salary to which they are otherwise entitled. The line shall be drawn as follows, viz:

Commencing at Tocumwal and thence to the following towns in the order stated, namely - Lockhart, Narrandera, Leeton, Peak Hill, Gilgandra, Dunedoo, Coolah, Boggabri, Inverell and Bonshaw.

- (b) Employees attached to Ambulance Stations situated upon or to the West of a line drawn as herein specified shall be paid the allowance specified in Table 2, Allowances of Section 7 of this Award, in addition to the salary to which they are otherwise entitled. The line shall be drawn as follows, viz:

Commencing at a point on the right bank of the Murray River opposite Swan Hill (Victoria) and thence to the following towns in the order stated namely - Hay, Hillston, Nyngan, Walgett, Collarenebri and Mungindi.

- (c) The allowances prescribed by this clause are not cumulative.
- (d) The allowances prescribed by this clause shall be regarded as part of the salary for the purposes of this Award.

### **17. Travel Allowances**

Employees shall be granted travelling allowances on such terms and conditions prescribed by the Department's Policy Directive 2005\_619 Travel - Official or its subsequent replacements.

### **18. Relieving Other Members of Staff**

- (a) An employee who is required by the Service to relieve another employee paid on a higher scale for a period of not less than one working week shall be entitled to receive the minimum rate of the higher scale of pay.
- (b) This provision shall not apply when an employee on a higher scale is absent from duty by reason of his or her additional roster leave day off duty.
- (c) No reduction shall be made in the scale of pay of an employee called upon to relieve another employee paid on a lower scale.

### **19. Salary Sacrifice to Superannuation**

- (a) Notwithstanding the salaries prescribed in clause 14 Salaries, as varied from time to time, an employee may elect, subject to the agreement of the employee's employer, to sacrifice a part or all of the salary payable under the salaries clause to additional employer superannuation contributions. Such election must be made prior to the commencement of the period of service to which the earnings relate. The amount sacrificed together with any salary packaging arrangements under clause 20 Salary Packaging, of this award may be made up to one hundred (100) per cent of the salary payable under the salaries clause, or up to one hundred (100) per cent of the currently applicable superannuable salary, whichever is the lesser.

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

- (b) Any pre-tax and post-tax payroll deductions must be taken into account prior to determining the amount of available salary to be packaged. Such payroll deductions may include but are not limited to superannuation payments, HECS payments, child support payments, judgment debtor/garnishee orders, union fees and private health fund membership fees.
- (c) Where the employee has elected to sacrifice a part or all of the available payable salary to additional employer superannuation contributions:
- (i) The employee shall be provided with a copy of the signed agreement. The salary sacrifice agreement shall be terminated at any time at the employee's election and shall cease upon termination of the employee's services with the employer.
- (ii) Subject to Australian taxation law, the amount of salary sacrificed will reduce the salary subject to appropriate PAYE taxation deductions by the amount sacrificed; and

- (iii) Any allowance, penalty rate, overtime, payment for unused leave entitlements, weekly workers' compensation, or other payment, other than any payment for leave taken in service, to which an employee is entitled under the relevant award or any applicable award, act, or statute which is expressed to be determined by reference to an employee's salary, shall be calculated by reference to the salary which would have applied to the employee under the salaries clause in the absence of any salary sacrifice to superannuation made under this award.
- (d) The employee may elect to have the specified amount of payable salary which is sacrificed to additional employer superannuation contributions:
  - (i) paid into the superannuation scheme established under the First State Superannuation Act 1992 as optional employer contributions; or
  - (ii) subject to the employer's agreement, paid into a private sector complying superannuation scheme as employer superannuation contributions.
- (e) Where an employee elects to salary sacrifice in terms of subclause (iv) above, the employer will pay the sacrificed amount into the relevant superannuation fund.
- (f) Where the employee is a member of a superannuation scheme established under:
  - (i) the *Police Regulation (Superannuation) Act, 1906*;
  - (ii) the *Superannuation Act, 1916*;
  - (iii) the *State Authorities Superannuation Act, 1987*;
  - (iv) the *State Authorities Non-contributory Superannuation Act, 1987*; or
  - (v) the *First State Superannuation Act, 1992*.

The employee's employer must ensure that the amount of any additional employer superannuation contributions specified in subclause (i) above is included in the employee's superannuable salary which is notified to the New South Wales public sector superannuation trustee corporations.
- (g) Where, prior to electing to sacrifice a part or all of their salary to superannuation, an employee had entered into an agreement with their employer to have superannuation contributions made to a superannuation fund other than a fund established under legislation listed in subclause (vi) above, the employer will continue to base contributions to that fund on the salary payable under clause 14 Salaries of the Award to the same extent as applied before the employee sacrificed that amount of salary to superannuation. This clause applies even though the superannuation contributions made by the employer may be in excess of the superannuation guarantee requirements after the salary sacrifice is implemented.

## 20. Salary Packaging

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

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

- (b) Where an employee elects to package an amount of salary:
- (i) Subject to Australian taxation law, the packaged amount of salary will reduce the salary subject to PAYE taxation deductions by that packaged amount.
  - (ii) Any allowance, penalty rate, overtime payment, payment for unused leave entitlements, weekly workers' compensation, or other payment other than any payment for leave taken in service, to which an employee is entitled under this award or statute which is expressed to be determined by reference to an employee's salary, shall be calculated by reference to the salary which would have applied to the employee under this award in the absence of any salary packaging or salary sacrificing made under this award.
  - (iii) 'Salary' for the purpose of this clause, for superannuation purposes, and for the calculation of award entitlements, shall mean the award salary as specified in clause 14 Salaries, and which shall include 'approved employment benefits' which refer to fringe benefit savings, administration costs, and the value of packaged benefits.
- (c) Any pre-tax and post-tax payroll deductions must be taken into account prior to determining the amount of available salary to be packaged. Such payroll deductions may include but are not limited to superannuation payments, HECS payments, child support payments, judgement debtor/garnishee orders, union fees, and private health fund membership fees.
- (d) The salary packaging scheme utilises a fringe benefit taxation exemption status conferred on public hospitals and area health services, which provides for a fringe benefit tax exemption cap of \$17,000 per annum. The maximum amount of fringe benefits-free tax savings that can be achieved under the scheme is where the value of benefits when grossed-up, equal the fringe benefits exemption cap of \$17,000. Where the grossed-up value exceeds the cap, the employer is liable to pay fringe benefits tax on the amount in excess of \$17,000, but will pass this cost on to the employee. The employer's share of savings, the combined administration cost, and the value of the package benefits, are deducted from pre-tax dollars.
- (e) The parties agree that the application of the fringe benefits tax exemption status conferred on public hospitals and area health services is subject to prevailing Australian taxation laws.
- (f) If an employee wishes to withdraw from the salary packaging scheme, the employee may only do so in accordance with the required period of notice as set out in the Salary Packaging Policy and Procedure Manual.
- (g) Where an employee ceases to salary package, arrangements will be made to convert the agreed package amount to salary. Any costs associated with the conversion will be borne by the employee, and the employer shall not be liable to make up any salary lost as a consequence of the employee's decision to convert to salary.
- (h) Employees accepting the offer to salary package do so voluntarily. Employees are advised to seek independent financial advice and counselling to apprise them of the implications of salary packaging on their individual personal financial situations.
- (i) The employer and the employee shall comply with the procedures set out in the NSW Health Services Salary Packaging Policy and Procedure Manual as amended from time to time.

## **SECTION 4. LEAVE ENTITLEMENTS**

### **21. Annual Leave**

- (a) Annual Leave shall be granted on completion of each 12 months service as follows:
- (i) An employee employed on a Monday to Friday basis - four weeks leave on full pay.

- (ii) An employee employed on duties which require him or her to work irregular hours on a seven day per week basis, including work on Saturdays, Sundays and public holidays - five weeks leave with seven week's pay.
- (b) In the event that an employee's employment has changed from a seven day per week basis to a Monday to Friday basis or vice versa, then annual leave shall be calculated on a pro rata basis.
- (c) It is admitted by the parties that the additional two weeks pay payable to an employee employed on duties in accordance with paragraph (ii) of subclause (a) of this clause has been provided in lieu of and in consideration of public holidays being worked by employees or which have occurred on an employee's rostered day off.
- (d) To the leave prescribed by paragraph (i) of subclause (a) of this clause, there shall be added one working day for each public holiday or special public holiday proclaimed for the State of New South Wales which occurs during a period of annual leave.
- (e)
  - (i) Annual Leave shall be given and shall be taken within a period of six months after the date when the right to annual leave accrued, provided that the giving and taking of such leave may be postponed by mutual agreement between the parties for a further period not exceeding six months.
  - (ii) Annual leave shall be granted on a rotating roster basis provided that such rotation complies with paragraph (i) of this subclause.
  - (iii) An employee shall be eligible for annual leave when twelve months have elapsed since the date on which the last annual leave would have begun if taken immediately it had become due, or if the employee has not previously had Annual Leave since the commencement of the employment.
  - (iv) Nothing in this subclause shall prevent the Service, by agreement with the employee, from allowing annual leave to an employee before a right to it has accrued but where leave is taken in such a case, a further period of annual leave shall not commence to accrue until the expiration of the twelve months in respect of which annual leave was taken before it accrued. Provided that any leave taken by an employee under this paragraph shall not exceed the amount of proportionate annual leave standing to the credit of the employee at the time of entering upon such leave.
  - (v) At least six months notice shall be given to employees of the date on which they shall take their annual leave. Where an employee has been notified that he or she is to take annual leave at a specified time and that time is then altered by the Service the employee shall be reimbursed any actual losses which result to him or her to the extent to which deposits paid for travel and/or accommodation are not refunded.
  - (vi) Employees may exchange annual leave by mutual arrangement with the approval of the Service provided that such exchange complies with paragraph (i) of this subclause.
- (f) Each employee before going on annual leave shall be paid for the period of the leave at the ordinary rate of wage to which he or she is entitled under this Award and such payment shall be made before the employee commences annual leave.
- (g) Notwithstanding the provisions of subclause (f) of this clause, the Service agrees, subject to at least 28 days prior written authorisation by the employee, to pay employees Annual Leave entitlements on a fortnightly basis which coincides with the normal fortnightly pay period.
- (h) Where the employment of an employee is terminated the employee shall be entitled to receive a proportionate payment in respect of service of less than one year, at the weekly wage to which such employee is entitled under this Award.



- (i) Credit of time towards an additional rostered leave day off duty shall not accrue when an employee is absent during his or her four weeks annual leave as provided for under the Annual Holidays Act 1944. However, officers entitled to additional rostered leave days off duty in accordance with clause 10, Roster Leave, of this Award, shall accrue credit towards an additional rostered leave day off to employees in excess of the above mentioned four weeks.

## **22. Annual Leave Loading**

- (a) Employees who, under the *Annual Holidays Act 1944*, become entitled to annual leave under clause 21, Annual Leave, of this Award, shall be paid in respect of such leave an annual leave loading of 17.5 per cent of the appropriate ordinary weekly rate of pay prescribed in Table 1, Salaries of Section 7 of this Award, for the classification in which the employee was employed immediately before commencing his/her annual leave. The 17.5 per cent annual leave loading will apply to the following periods of annual leave, ie; in the case of an employee employed on a Monday to Friday basis - four weeks, and for seven day per week basis employees - five weeks, provided further that in no instance is the calculated amount to exceed one thousand four hundred and twenty-one dollars and zero cents (\$1421.00) with effect from the first pay period to commence on or after 1 July 2007.
- (b) Such loading is payable in addition to the pay for the period of leave given and taken and due to the employee under this Award.
- (c) No loading is payable where the annual leave is taken wholly or partly in advance provided, however, that if the employment of such an employee continues until the day upon which he or she would have become entitled under this to such annual leave, the loading then becomes payable in respect of the period of such leave and is to be calculated in accordance with the rate of wages applicable on such day.
- (d) Where the employment of an employee is terminated by the Service for a cause other than misconduct and at the time of termination the employee has not been given and has not taken the whole of the annual leave to which he or she became entitled after 10 May 1974, he or she shall be paid the loading provided for in subclause (a) of this clause for the period not taken.
- (e) Except as provided by subclause (d) of this clause, no loading is payable on the termination of an employee's employment.
- (f) The annual leave loading shall be paid before the employee commences annual leave.
- (g) Notwithstanding the provisions of subclause (f) of this clause, the Service agrees, subject to at least 28 days prior written authorisation by the employee, to pay employees Annual Leave loading on a fortnightly basis which coincides with the normal fortnightly pay period.

## **23. Family and Community Services Leave and Personal/Carer's Leave**

Employees shall be granted family and community services leave and personal/carer's leave in accordance with the provisions of the Department's Policy Directive 2007\_031 Family and Community Services Leave and Personal/Carer's Leave or its subsequent replacements

## **24. Maternity, Adoption and Parental Leave**

This clause is to be read in conjunction with the Service's Instructional Circular 05/16 or subsequent replacement Instructional Circulars as issued by the Service.

### **A. Maternity Leave**

- (a) Eligibility for Paid Maternity Leave
  - (i) Full time employees

Female employees who prior to the expected date of birth, have completed at least forty (40) weeks continuous service (of not less than 31.25 hours per week) are eligible for paid maternity leave.

(ii) Permanent part-time employees

Permanent part-time employees are employees engaged on a permanent part-time basis as defined by their Award. Female employees employed on this basis are entitled to pro-rata paid maternity leave after forty (40) weeks continuous service.

(iii) An employee who has once met conditions for paid maternity leave will not be required to again work the forty (40) weeks continuous service in order to qualify for a further period of paid maternity leave, unless:

- (1) there has been a break in service where the employee has been re-employed or re-appointed after resignation, medical retirement, or after her services have been otherwise dispensed with; or
- (2) the employee has completed a period of leave without pay of more than forty (40) weeks. In this context, leave without pay does not include sick leave without pay, maternity leave without pay, or leave without pay associated with an illness or injury compensable under workers' compensation legislation.

(b) Entitlements to Paid Maternity Leave

(i) Eligible employees are entitled to fourteen (14) weeks at the ordinary rate of pay from the date maternity leave commences. This leave may commence up to fourteen (14) weeks prior to the expected date of birth.

(ii) Paid maternity leave may be paid:

on a normal fortnightly basis; or

in advance in a lump sum; or

at the rate of half pay over a period of twenty-eight (28) weeks on a regular fortnightly basis.

Annual and/or long service leave credits can be combined with periods of maternity leave on half pay to enable an employee to remain on full pay for that period.

(iii) Should an employee return to duty during the period of paid maternity leave, such paid leave ceases from the date duties are resumed.

(c) Entitlements To Unpaid Maternity Leave

(i) An employee entitled to paid maternity leave is entitled to a further period of unpaid maternity leave of not more than twelve (12) months from the actual date of birth. The leave therefore does not extend beyond the child's first birthday.

(ii) Full time or permanent part time female employees who are not eligible for paid maternity leave are entitled to unpaid maternity leave of not more than 12 months.

(d) Applications for Maternity Leave

(i) An employee who intends to proceed on maternity leave should formally notify their Divisional Manager (in writing) of such intention as early as possible however, not less than eight (8) weeks prior to the commencement of leave. This notice must include a statement of:

- (1) The intention to proceed on maternity leave;
- (2) The expected date of birth certified by a medical practitioner;
- (3) The period of leave to be taken;
- (4) The date on which maternity leave is to commence;
- (5) A Statutory Declaration stating any period of parental leave sought or taken by the employee's spouse. This declaration must also state that the applicant is the child's primary caregiver for the period of leave sought.
- (6) The entitlement to maternity leave is reduced by any period of parental leave taken by the employee's spouse. Apart from parental leave of one (1) week at the time of birth, maternity leave is not to be taken concurrently with parental leave except as otherwise provided at subclause (a)(i) of Part D of this clause.

(e) Applications for Further Maternity Leave

- (i) Where an employee becomes pregnant whilst on maternity leave a further period of maternity leave shall be granted. If an employee enters on the second period of maternity leave during the currency of the initial period of maternity leave, then any residual maternity leave from the initial entitlement ceases.
- (ii) An employee who commences a subsequent period of maternity leave while on unpaid maternity leave under subclause (c)(i) of Part A of this clause or subclause (a)(ii) of Part D of this clause is entitled to be paid at their normal rate (ie the rate at which they were paid before proceeding on maternity leave).
- (iii) An employee who commences a subsequent period of maternity leave during the first 12 months of a return to duty on a part time basis as provided under subclause (a)(iii) of Part D of this clause is entitled to be paid at their substantive full time rate for the subsequent period of maternity leave.
- (iv) An employee who commences a subsequent period of maternity leave more than 12 months after returning to duty on a part time basis under subclause (a)(iii) of Part D of this clause, will be entitled to paid maternity leave for the subsequent period of maternity leave at their part time rate.

(f) Variations of Maternity Leave

After commencing maternity leave, an employee may vary the period of her maternity leave -

- (i) once without the consent of the Service, but with a minimum of fourteen (14) days notice in writing; and
- (ii) otherwise with the consent of the Service, with a minimum of fourteen (14) days notice in writing.

However, more advanced notice is encouraged, especially for uniformed staff because of roster arrangements.

(g) Staffing Provisions

In accordance with obligations established by the Industrial Relations Act 1996 (Section 69) any person who occupies the position of an employee on maternity leave must be informed that the employee has the right to return to her former position. Additionally, since an employee has the right to vary the period of her maternity leave; offers of temporary employment should be in writing, stating clearly the temporary nature of the contract of employment. The duration of

employment should be also set down clearly; to a fixed date or until the employee elects to return to duty, whichever occurs first.

(h) Effect of Maternity Leave on Accrual of Leave, Increments, etc

- (i) Unpaid maternity leave does not count as service for the purposes of accruing sick leave (unless the period of unpaid leave is less than one month, although it is unlikely that unpaid maternity leave would be for such a lesser period), annual leave (unless the period of unpaid maternity leave is less than 28 calendar days) or long service leave (unless the employee has completed ten years service and the period of unpaid maternity leave is less than six months).
- (ii) Unpaid maternity leave is not to be counted as service for determining incremental progression. Periods of maternity leave at full pay and at half pay are to be regarded as service for incremental progression on a pro-rata basis. Notwithstanding the foregoing, increments based on age must be paid on attainment of the appropriate age.
- (iii) During a period of unpaid maternity leave the employee will not be required to meet the employer's superannuation liability. The employee will, however, be required to make any necessary arrangements for their own contributions.
- (iv) When the employee has resumed duties, any period of full pay leave is counted in full for the accrual of annual leave and any period of maternity leave on half pay is taken into account to the extent of one half thereof when determining the accrual of annual leave.
- (v) Except in the case of employees who have completed ten (10) years service the period of maternity leave without pay does not count as service for long service leave purposes. Where the employee has completed ten (10) years service, the period of maternity leave without pay shall count as service provided such leave does not exceed six (6) months.
- (vi) Where public holidays occur during the period of paid maternity leave, payment is at the rate of maternity leave received, ie. public holidays occurring in a period of full pay maternity leave are paid at full rate and those occurring during a period of half pay leave are paid at half rate.

(i) Illness Associated with Pregnancy

- (i) If, because of an illness associated with her pregnancy, an employee is unable to continue to work, then she can elect to use any available paid leave (sick, annual and/or long service leave) or to take any sick leave without pay.
- (ii) Where an employee is entitled to paid maternity leave but, because of illness or injury, is on workers' compensation, sick, annual, long service leave, or sick leave without pay prior to the birth, such leave will cease nine (9) weeks prior to the expected date of birth. The employee will then commence on maternity leave with the normal provisions applying.

(j) Effect of Premature Birth on Payment of Maternity Leave

An employee who gives birth prematurely prior to proceeding on maternity leave, shall be treated as being on maternity leave from the date she enters on leave to give birth to the child.

(k) Stillbirth

In the case of a stillbirth, (as classified by the Registry of Births, Deaths and Marriages) an employee may elect to take sick leave or maternity leave, subject to production of a medical certificate. She may resume duty at any time provided she produces a doctor's certificate as to her fitness.

(l) Miscarriage

In the event of a miscarriage, any absence from work is to be covered by the current sick leave provisions.

(m) Fitness to Continue Working During Pregnancy and Alternative Work

(i) Whilst an employee may commence maternity leave up to fourteen (14) weeks, prior to the expected date of birth, this is not compulsory. However, if an employee decides to continue working prior to taking maternity leave, she must be able to satisfactorily perform her normal duties.

(ii) Where, because of an illness or risk associated with her pregnancy, an employee cannot carry out the duties of her position, an employer is obligated, as far as practicable, to provide alternative employment in some other position that she is able to satisfactorily perform, until maternity leave commences. A position to which an employee is transferred under these circumstances must be as close as possible in status and salary to her substantive position.

(n) Right to Return to Previous Position

(i) An employee who returns to work after maternity leave has a right to return to her former position.

(ii) Where this position no longer exists, the employee is entitled to be placed in a position nearest in status and salary to that of her former position and to which the employee is capable and/or qualified.

(o) Portability of Service for Paid Maternity Leave

When determining an employee's eligibility for paid maternity leave, continuous service with an organisation that is part of the public sector service as defined in the *Public Sector Employment and Management Act 2002* will be recognised, provided that:

service was on a full time or permanent part time (as specified) basis;

cessation of service with the former employer was not by reason of dismissal on any ground, except retrenchment or reduction of work;

the employee commences duty with the new employer on the next working day after ceasing employment with the former employer. (There may be a break in service of up to 2 months before commencing duty with the new employer, provided that the new position was secured before ceasing duty with the former employer. However, such a break in service will not be counted as service for the purpose of calculating any prior service prerequisite for paid maternity leave.)

Portability of service for paid maternity leave involves the recognition of service in public sector organisations for the purpose of determining an employee's eligibility to receive paid maternity leave. For example, where an employee moves between a Public Service Department and a public hospital, previous continuous service will be counted towards the service prerequisite for paid maternity leave.

B. Adoption Leave

(a) Eligibility for Adoption Leave

(i) All full time and permanent part time employees who are adopting a child and are to be the primary care giver of the child are entitled to unpaid adoption leave .

- (ii) Employees who are adopting a child and are to be the primary care giver of the child are entitled to paid adoption leave as follows:

Full time employees

Employees who, prior to the date of taking custody of the child, have completed 40 weeks continuous service (of not less than 31.25 hours per week) are eligible for paid adoption leave.

Permanent part-time employees

Permanent part-time employees are employees engaged in a permanent part-time basis as defined by their Award. These employees are entitled to pro-rata paid adoption leave after forty (40) weeks continuous service.

- (iii) An employee who has once met conditions for paid adoption leave will not be required to again work the forty (40) weeks continuous service in order to qualify for a further period of paid adoption leave, unless:

- (1) there has been a break in service where the employee has been re-employed or re-appointed after resignation, medical retirement, or after her services have been otherwise dispensed with; or
- (2) the employee has completed a period of leave without pay of more than forty (40) weeks. In this context, leave without pay does not include sick leave without pay, maternity leave without pay, or leave without pay associated with an illness or injury compensable under workers' compensation legislation.

(b) Entitlements

(i) Paid Adoption Leave

Eligible employees are entitled to fourteen (14) weeks at the ordinary rate of pay. This leave may commence from the date of taking custody of the child.

Paid adoption leave may be paid:

on a normal fortnightly basis; or

in advance in a lump sum; or

at the rate of half pay over a period of twenty-eight (28) weeks on a regular fortnightly basis.

Annual and/or long service leave credits can be combined with periods of adoption leave at half pay to enable an employee to remain on full pay for that period.

(ii) Unpaid Adoption Leave

Eligible employees are entitled to unpaid adoption leave as follows:

where the child is under the age of 12 months - a period of not more than 12 months from the date of taking custody;

where the child is over the age of 12 months and under 18 years old - a period of up to 12 months, such period to be agreed upon by both the employee and the employer.

## (c) Applications for Adoption Leave

- (i) Due to the fact that an employee may be given little notice of the date of taking custody of a child, employees who believe that, in the reasonably near future, they will take custody of a child, should formally notify the employer as early as practicable of the intention to take adoption leave, normally 8 weeks prior. This will allow arrangements associated with the adoption leave to be made.
- (ii) A statement must also be provided from the adoption agency or appropriate body/government authority confirming that the applicant/ employee is to have custody and the expected date of placement of the child.

## (d) Applications for Further Adoption Leave

Same provisions as maternity leave.

## (e) Variations of Adoption Leave

Same provisions as maternity leave.

## (f) Staffing Provisions

Same provisions as maternity leave.

## (g) Effect of Adoption Leave on Accrual of Leave, Increments, etc

Same provisions as maternity leave.

## (h) Right to Return to Previous Position

Same provisions as maternity leave.

## (i) Portability of Service for Paid Adoption Leave

Same provisions as maternity leave.

## C. Parental Leave

## (a) Eligibility for Parental Leave

## (i) Full time employees

Employees who, prior to the expected date of birth or to the date of taking custody of the child, have completed 40 weeks continuous service (of not less than 31.25 hours per week) are eligible for parental leave.

## (ii) Permanent part-time employees

Permanent part-time employees are employees engaged in a permanent part-time basis as defined by their Award. These employees are entitled to pro-rata paid parental leave after forty (40) weeks continuous service.

## (iii) An employee who has once met conditions for parental leave will not be required to again work the forty (40) weeks continuous service in order to qualify for a further period of parental leave, unless:

- (1) there has been a break in service where the employee has been re-employed or re-appointed after resignation, medical retirement, or after her services have been otherwise dispensed with; or

- (2) the employee has completed a period of leave without pay of more than forty (40) weeks. In this context, leave without pay does not include sick leave without pay, maternity leave without pay, or leave without pay associated with an illness or injury compensable under workers' compensation legislation.

(b) Entitlements

Eligible employees whose spouse or partner (including a same sex partner) is pregnant or is taking custody of a child, are entitled to a period of leave not exceeding 52 weeks, which includes one week of paid leave, and may be taken as follows:

- (i) an unbroken period of up to one week at the time of the birth of the child, taking custody of the child or other termination of the pregnancy (short parental leave).
- (ii) the entitlement of one week's paid leave may be taken at anytime within the 52 week period and shall be paid:  
  
at the employees ordinary rate of pay for a period not exceeding one week on full pay, or  
  
two weeks at half pay or the period of parental leave taken, whichever is the lesser period.
- (iii) a further unbroken period of unpaid parental leave not exceeding 52 weeks when added to short parental leave in order to be the primary caregiver of the child (extended parental leave).
- (iv) extended parental leave cannot be taken at the same time as the employee's spouse or partner is on maternity or adoption leave, except as otherwise provided at subclause (a)(i) of Part D of this clause.

Annual and/or long service leave credits can be combined with periods of parental leave at half pay to enable an employee to remain on full pay for that period.

(c) Applications for Parental Leave

- (i) An employee who intends to proceed on parental leave should formally notify their employer of such intention as early as possible, so that arrangements associated with their absence can be made.
- (ii) The employee should give written notice of the intention to take the leave, at least four weeks before proceeding on leave, and should detail the dates on which they propose to start and end the period of leave. It is recognised in situations of taking custody of a child, little or no notice may be provided to the employee. In such an instance, the employee should notify the employer as early as practicable.
- (iii) The employee must, before the start of leave, provide a certificate from a medical practitioner confirming that their spouse or partner is pregnant and the expected date of birth, or in the case of an adoption, an official form or notification on taking custody of the child.
- (iv) In the case of extended parental leave, the employee must, before the start of leave, provide a statutory declaration by the employee stating:

if applicable, the period of any maternity leave sought or taken by his spouse, and

that they are seeking the period of extended parental leave to become the primary caregiver of the child.



- (d) Variations of Parental Leave  
Same provisions as maternity leave.
  - (e) Staffing Provisions  
Same provisions as maternity leave.
  - (f) Effect of Parental Leave on Accrual of Leave, Increments, etc.  
Same provisions as maternity leave.
  - (g) Right to Return to Previous Position  
Same provisions as maternity leave.
  - (h) Portability of Service for Paid Parental Leave  
Same provisions as maternity leave.
- D. Right to Request
- (a) An employee entitled to maternity, adoption or parental leave may request the employer to allow the employee:
    - (i) to extend the period of simultaneous parental leave use up to a maximum of eight weeks;
    - (ii) to extend the period of unpaid maternity, adoption or extended parental leave for a further continuous period of leave not exceeding 12 months;
    - (iii) to return from a period of maternity, adoption or parental leave on a part time basis until the child reaches school age;to assist the employee in reconciling work and parental responsibilities.
  - (b) The employer shall consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the employer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.
  - (c) The employee's request and the employer's decision made under subclauses (a)(ii) and (iii) of this Part must be recorded in writing.
  - (d) Where an employee wishes to make a request under subclause (a)(iii) of this Part:
    - (i) the employee is to make an application for leave without pay to reduce their full time weekly hours of work;
    - (ii) such application must be made as early as possible to enable the employer to make suitable staffing arrangements. At least four weeks notice must be given;
    - (iii) salary and other conditions of employment are to be adjusted on a basis proportionate to the employee's full time hours, that is for long service leave the period of service is to be converted to the full time equivalent and accredited accordingly.

**E. Communication During Leave**

- (a) Where an employee is on maternity, adoption or parental leave and a definite decision has been made to introduce significant change at the workplace, the employer shall take reasonable steps to:
  - (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 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 leave.
- (b) The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of leave to be taken, whether the employee intends to request to return to work on a part time basis.
- (c) The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with subclause (a) of this Part.

**25. Study Leave**

Employees shall be granted Study Leave on such terms and conditions as prescribed by the Service's Instructional Circular 96/04 or its subsequent replacements.

**26. Trade Union Leave**

Employees shall be granted Trade Union Leave on such terms and conditions prescribed by the Department's Policy Directive 2006\_097 Trade Union Activities or its subsequent replacements.

**27. Long Service Leave**

- (a) Employees shall be granted long service leave on such terms and conditions as may be applicable from time to time to officers employed under the provisions of the *Public Sector Employment and Management Act 2002*, and the regulations made there under. This includes the taking of long service leave on half pay.
- (b) Where an employee has accrued a right to an additional rostered leave day off duty on pay prior to entering a period of long service leave such day shall be taken on the next working day immediately following the period of long service leave.
- (c) An employee returning to duty from long service leave shall be given the next additional rostered leave day off duty in sequence irrespective of whether sufficient credits have been accumulated or not.

**28. Sick Leave**

- (a) If the Service is satisfied that an employee is unable to perform his or her duties on account of illness, not attributable to the employee's misconduct, it shall grant to such employee leave of absence on full pay for a period or periods as follows:
  - (i) All employees shall be entitled to sick leave for a period or periods not exceeding in the aggregate of 114 hours in any period of twelve months.
  - (ii) In the event of an employee not taking the full period of 114 hours in any period of twelve (12) months, the untaken period of such leave shall accumulate. A maximum of 76 hours of the untaken hours in each period of twelve (12) months shall accumulate in respect of available sick leave which accumulated prior to 20 June 1980.

- (iii) Periods of less than thirty eight (38) hours shall not be recredited to employees who are sick whilst on Annual or Long Service Leave.
- (b)
  - (i) The Service shall not, with the sole object of avoiding obligations under this clause, terminate the services of an employee who is unable to perform his or her duties on account of illness and who is entitled to sick leave under this clause.
  - (ii) The employee shall notify the Service, where practicable, of his or her inability to attend for duty at least four (4) hours but in any case no less than one (1) hour before the commencement time of duty and inform the Service as far as possible the estimated duration of same.
- (c) All periods of sickness shall be certified by a legally qualified Medical Practitioner, provided however, that the Service may dispense with the requirements of a medical certificate where the absence does not exceed two (2) consecutive days or where, in the Service's opinion, circumstances are such as not to warrant such requirements.
- (d) An employee shall not be entitled to sick leave on full pay for any period in respect of which such employee is entitled to accident pay or workers' compensation, provided, however, that where an employee is not in receipt of accident pay, the Service shall pay to an employee, who has sick leave entitlements under this clause, the difference between the amount received, as workers' compensation and full pay. The employee's sick leave entitlement under this clause shall, for each week during which such difference is paid, be reduced by the proportion of hours which the difference bears to full time hours. On the expiration of available sick leave, weekly workers compensation payments only shall be payable.
- (e) Any accumulation of sick leave standing to the credit of an employee at the date of commencement of this Award, shall be added to the leave which is accumulated pursuant to paragraph (ii) of subclause (a) of this clause.

## **SECTION 5. MISCELLANEOUS**

### **29. Uniforms**

- (a)
  - (i) The Service shall provide each new employee with sufficient, suitable and serviceable uniforms as determined by the Service.
  - (ii) Uniforms provided shall be replaced by the Service upon condemnation in equivalent numbers.
  - (iii) The Service shall provide any other special clothing which the Service requires an employee to wear.
  - (iv) Articles of clothing issued under paragraphs (i) and (iii) of this subclause remain the property of the Service and shall be returned by the employee upon request by the Service.
- (b) Any request for uniform replacement by the Service or an employee will not be unreasonably refused. In the event of refusal the provision of clause 13, Issues Resolution, of this Award, shall apply.
- (c) Employees required to wear a uniform shall be paid a laundry allowance as prescribed in Table 2 of Section 7, Monetary Rates.

### **30. Redundancy-Managing Displaced Employees**

Employees shall be entitled to the provisions of the Department's Policy Directive 2007\_085 Managing Displaced Staff of the NSW Health Service or its subsequent replacement.

### 31. Union Subscriptions

The Service agrees, subject to prior written authorisation by the employee, to deduct Union subscriptions from the pay of the authorising employee.

### 32. Accommodation

- (a) Officers, who at 9 December 2010 receive accommodation quarters rent free or payment for accommodation will have the following entitlements whilst they remain in their current position and in their current location:
- (i) the entitlement to accommodation quarters rent free or payment for accommodation will cease 12 months after 23 December 2010;
  - (ii) after that time, any officer who elects to remain in an Ambulance Service residence will be required to pay half market rental for a period of 12 months and full market rental thereafter.
  - (iii) Managers' availability for operational responses is not altered by the agreed variation to this clause.

## SECTION 6. AWARD PARAMETERS

### 33. Issues Resolution

- (a) The Parties Must:
- (i) Use their best endeavours to cooperate in order to avoid grievances and disputes arising between the parties or between the Service and individual employee(s); and
  - (ii) Abide by the procedures set out in this clause to resolve any issue which might arise; and
  - (iii) Place emphasis on negotiating a settlement of any issue at the earliest possible stage in the process.
- (b) In this clause "issue" means any question, issue, grievance, dispute or difficulty which might arise between the parties about:
- (i) The interpretation, application or operation of this Award; or
  - (ii) Any allegation of discrimination in employment within the meaning of the *Anti-Discrimination Act 1977* (NSW) which is not covered by established policies and procedures applicable to the Service, regardless of whether the issue relates to an individual employee or to a group of employees.
- (c) Any issue, and in the case of a grievance or dispute any remedy sought, must be discussed in the first instance by the employee(s) (or the Union on behalf of the employee(s) if the employee(s) so request) and the immediate supervisor of that employee(s).
- (d) If the issue is not resolved within a reasonable time it must be referred by the employee(s) immediate supervisor to his or her Supervisor (or his or her nominee) and may be referred by the employee(s) to the Union Organiser for the Service. Discussions at this level must take place and be concluded within two working days of referral or such extended period as may be agreed.
- (e) If the issue remains unresolved, it may be referred by any of the parties to more senior officials of the Union who must then confer with the General Manager Operations (and/or his or her nominee(s)) of the Service. The conclusions reached by those representatives must be reported to the parties within two working days of referral or such extended periods as may be agreed.

- (f) If these procedures are exhausted without the issue being resolved, or if any of the time limits set out in those procedures are not met, parties may seek to have the matter mediated by an agreed third party, or the matter may be referred, in accordance with the provisions of the Industrial Relations Act 1996 (NSW), to the Industrial Relations Commission for its assistance in resolving the issue.
- (g) Unless agreed otherwise by the parties the status quo before the emergence of the issue must continue whilst these procedures are being followed. For this purpose "status quo" means the work procedures and practices in place:
  - (i) immediately before the issue arose; or
  - (ii) Immediately before any change to those procedures or practices, which caused the issue to arise, was made.

The Service must ensure that all practices applied during the operation of these procedures are in accordance with safe working practices.
- (h) Throughout all the stages of these procedures adequate records must be kept by the parties of all discussions.
- (i) These procedures are to be facilitated by the earliest possible advice by one party to the other of any issue or problem which may give rise to a grievance or dispute.
- (j) All matters in dispute arising out of the application of this Award may be referred to a Disputes Committee consisting of not more than six (6) members with equal representation of the Corporation and the Union. Such Committee shall have the power to investigate all matters in dispute and report to the Corporation and the Union, respectively, with such recommendation as it may think right and in the event of no mutual decision being arrived at by the Committee, the matter in dispute may be referred to the Industrial Relations Commission of N.S.W.

#### **34. Anti-Discrimination**

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

- (e) This clause does not create legal rights or obligations in addition to those imposed upon the parties by the legislation referred to in this clause.

NOTES -

- (i) Employers and employees may also be subject to Commonwealth anti-discrimination legislation.
- (ii) Section 56(d) of the *Anti-Discrimination Act 1977* provides:

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

### 35. Benefits Not to be Withdrawn

Except in so far as altered expressly or by necessary implication, nothing in his Award shall in itself, be deemed or be construed to reduce the wages of any employee at the date of the commencement of this Award.

### 36. Leave Reserved and No Extra Claims

This Award recognises all work value and special case claims up to its commencement date, except for the following matter where leave is reserved to the parties to make application in respect of:

- (a) Additional Annual Leave as awarded in the Operational Ambulance Officers (State) Award in 2001.
- (b) The Award arrangements for Operations Centres, including a new Award, classification structures, rates of pay and conditions of employment.

No additional claims to the Award can be pursued during the life of the 2010 Memorandum of Understanding between the Department and the Union, which ceases on 30 June 2014, excepting the matters in (a) and (b) above. Following the expiry of the Memorandum on 30 June 2014, the parties are entitled to pursue variations to salaries, salary related allowances and conditions of employment from 1 July 2014 onwards, which may include instituting proceedings before the Commission if the parties are unable to achieve agreement.

### 37. Area, Incidence and Duration

- (a) This Award rescinds and replaces the Operational Ambulance Managers (State) Award published 26 June 2009 (368 I.G. 527) and all variations thereof.
- (b) This Award shall apply to persons employed in classifications contained herein employed by the Ambulance Service of New South Wales.
- (c) This Award takes effect from 24 December 2010 and shall remain in force for a period of three years.

## SECTION 7. MONETARY RATES

Note: All rates contained in the following tables are effective from the first full pay period commencing on or after the date listed in the table.

**Table 1 - Salaries**

Classification	Rate from 1.7.2010 (4%) \$pa		Rate from 1.7.2011 (4%) \$pa		Rate from 1.7.2012 (3.9%) \$pa	
	Min	Max	Min	Max	Min	Max
Operational Manager Level 1	86,299	90,408	89,751	94,025	93,251	97,692

Level 2	88,351	104,792	91,885	108,984	95,469	113,235
Level 3	102,735	117,120	106,845	121,804	111,012	126,555
Level 4	115,062	137,668	119,665	143,175	124,332	148,758
Level 5	135,612	152,052	141,036	158,134	146,536	164,301
Operations Centre Manager						
Level 1	84,084	88,087	87,447	91,610	90,858	95,183
Level 2	86,083	102,102	89,526	106,186	93,018	110,327
Level 3	100,099	114,112	104,103	118,676	108,163	123,305
Level 4	112,108	134,133	116,592	139,498	121,139	144,939
Level 5	132,130	148,148	137,415	154,074	142,774	160,083

**Table 2 - Allowances**

Item	Clause	Brief Description	Rate from 1.7.2010 per week \$	Rate from 1.7.2011 per week \$	Rate from 1.7.2012 per week \$
1	13	Climatic and Isolation Allowance (a)*	4.30	4.30	4.30
2	13	Climatic and Isolation Allowance (b)*	8.70	8.70	8.70
3	37	Laundry Allowance per week*	12.50	12.50	12.50

\* Rate move independently to award wage increase.

C.G. STAFF J

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Printed by the authority of the Industrial Registrar.

**OPERATIONAL AMBULANCE OFFICERS (STATE) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by NSW Department of Health.

(No. IRC 1514 of 2010)

Before The Honourable Mr Justice Staff

24 December 2010

**AWARD****1. Title**

This Award shall be known as the "Operational Ambulance Officers (State) Award".

**2. Arrangement**

Clause No.	Subject Matter
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- |    |             |
|----|-------------|
| 1. | Title       |
| 2. | Arrangement |

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### **SECTION 1. GENERAL**

#### **3. Object**

The parties seek to achieve excellence in the provision of ambulance services for New South Wales through an efficient and effective pre-hospital emergency care and health related transport system.

#### 4. Definitions

"Day Worker" means an employee who works his or her ordinary hours from Monday to Friday inclusive and who commences work on such days between 6:00 am and 10:00 am inclusive.

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

"The Department" means the New South Wales Department of Health.

"The Service" means the Ambulance Service of New South Wales.

"Union" means the HSU east.

"Officer and/or Operational Ambulance Officer" means an employee of the Service who is employed pursuant to this Award.

"Employee" means an Officer and/or Operational Ambulance Officer of the Service who is employed pursuant to this Award.

"Service" means continuous service with one or more District Committees prior to 13 April 1973, and continuous service of the New South Wales Ambulance Board on and from 13 April 1973, and continuous service of the Health Commission on and from 1 January 1977 and continuous service of the Health Administration Corporation on and from 17 August 1982, and continuous service with the NSW Department of Health on and from 17 March 2006.

The "Working Week" for the purpose of this Award, shall commence on Saturday and finish on Friday.

"Modified Hours Roster" means any roster which arranges the hours of duty of full time employees in a format other than on an eight (8) hours per shift basis.

#### 5. Classifications

The Table at Section 9 Transitional Arrangements provides the transition arrangements from the previous classification into the new classification structure effective from the first pay period commencing on or after 12 September 2008.

(a) Division 1

- (i) Trainee Patient Transport Officer means an employee who is undertaking the necessary and relevant training and work experience as determined by the Service to become a Patient Transport Officer and who is appointed to an approved Trainee Patient Transport Officer position.

This category of employee will be involved in routine and non-emergency patient transport utilising basic life support skills. Inter alia, this category of employee will receive training and certification in occupational health and safety, ambulance first aid, driver training, patient handling, oxygen administration, equal employment opportunity, anti-discrimination and anti-harassment.

- (ii) Patient Transport Officer means an employee who has successfully completed the necessary and relevant training and work experience as determined by the Service to become a Patient Transport Officer and who is appointed to an approved Patient Transport Officer position. Provided that such an employee shall be required to undertake and successfully complete further instruction/in-service courses necessary for Patient Transport Officers as determined by the Service.

This category of employee will be involved in routine and non-emergency patient transport utilising basic life support skills. This category of employee will not be utilised to crew ambulances engaged in emergency/casualty response.

Provided that such an officer shall be required to undertake and successfully complete further instruction/in service courses and certification examinations as required by the Service every three years.

The parties agree that this classification will remain a source of alternative duties for injured officers requiring rehabilitation as a result of workplace injury.

(b) Division 2

- (i) Trainee Paramedic means an employee who is undertaking the necessary and relevant training and work experience as determined by the Service to become a Paramedic Intern and who is appointed to an approved Trainee Paramedic position.

This category of employee will be involved in emergency and routine patient transport as a second officer utilising emergency and basic life support skills. Inter alia, this category of employee will receive training and certification in emergency ambulance care, protocols, procedures and pharmacology, anatomy and physiology, patient handling, occupational health and safety, equal employment opportunity, anti-discrimination, anti-harassment and driver training.

- (ii) Paramedic Intern means an employee who is undertaking the necessary and relevant training and work experience as determined by the Service to become a Paramedic and who is appointed to an approved Paramedic Intern position.
- (iii) Paramedic means an employee who has successfully completed the necessary and relevant training and work experience as determined by the Service to become a Paramedic and who is appointed to an approved Paramedic position. Provided that such an employee shall be required to undertake and successfully complete further instruction/in-service courses necessary for the maintenance of their clinical certificate to practice and the reissue of their clinical certificate to practice every three (3) years.
- (iv) Paramedic Specialist means an employee who has successfully completed the requirements to be a Paramedic and who has completed the necessary and relevant training and work experience as determined by the Service to become a Paramedic Specialist. Paramedic Specialist will include:
1. Intensive Care Paramedic means an employee who has completed the necessary and relevant training and work experience as determined by the Service to become a Paramedic Specialist - Intensive Care Paramedic and who is appointed to an approved Intensive Care Paramedic position.
  2. Extended Care Paramedic means an employee who has completed the necessary and relevant training and work experience as determined by the Service to become a Paramedic Specialist - Extended Care Paramedic and who is appointed to an approved Extended Care Paramedic position.
  3. Other such specialist categories as may be developed between the parties.

Provided that such an employee shall be required to undertake and successfully complete further instruction/in-service courses necessary for the maintenance of their clinical certificate to practice and the reissue of their clinical certificate to practice every three years.

Team Leader (rank insignia will be in accordance with the Service's Uniform Policy as contained in Clause 37 a(ii)) means an employee who has successfully completed the requirements as set out for Paramedic and who has successfully completed the requirements for and is appointed to a Team Leader position identified as such by the Service. Provided that such an employee shall be required to undertake and successfully complete further instruction/in-service courses necessary for the maintenance of their clinical certificate to practice and the reissue of their clinical certificate to practice every three years.

Station Manager (rank insignia will be in accordance with the Service's Uniform Policy as contained in Clause 37 a(ii)) means an employee who has successfully completed the requirements as set out for Paramedic and who has successfully completed the requirements for and is appointed to a Station Manager position identified as such by the Service. Provided that such an employee shall be required to undertake and successfully complete further instruction/in-service courses necessary for the maintenance of their clinical certificate to practice and the reissue of their clinical certificate to practice every three years.

District Manager (rank insignia will be in accordance with the Service's Uniform Policy as contained in Clause 37 a(ii)) means an employee who has successfully completed the requirements as set out for a Paramedic and who has successfully completed the requirements for and is appointed to a District Manager position identified as such by the Service. Provided that such an officer shall be required to undertake and successfully complete further instruction/in service courses and certification examinations as required by the Service every three years.

Ambulance Clinical Educator (rank insignia will be in accordance with the Service's Uniform Policy as contained in Clause 37 a(ii)) means an employee who has successfully completed the requirements for and is appointed to an Ambulance Clinical Educator position identified as such by the Service.

This category of employee will be principally involved in the Clinical Science theory and clinical education of employees utilising advanced educational and management skills.

This category of employee will be principally involved with Clinical Science theory and paramedical, competency based education and training programs, will be required to give advice about and be responsible for the development of clinical science based curricula, adult education and education modalities and will be required to give advice to employees regarding course content, course progression and learning techniques. The Clinical Educator is also required to manage clinical and paramedical education courses and programs.

Clinical Educators not holding a certificate to practice shall be required to undertake and successfully complete further instruction/in-service courses as required by the Service.

Clinical Educators who are eligible for and who wish to maintain a certificate to practice shall be required to undertake and successfully complete further instruction/in-service courses necessary for the maintenance of their certificate to practice and the reissue of their certificate to practice every three years.

Ambulance Paramedic Educator means an employee who has successfully completed the requirements for and is appointed to an Ambulance Paramedic Educator position identified as such by the Service.

This category of employee will be principally involved theoretical and paramedical, competency based education and training programs, will be required to give advice about and be responsible for the development of paramedical based curricula, adult education and education modalities and will be required to give advice to employees regarding course content, course progression and learning techniques. The Paramedic Educator is also required to manage paramedical education courses and programs.

Provided that such an employee shall be required to undertake and successfully complete further instruction/in-service courses necessary for the maintenance of their certificate to practice and the reissue of their certificate to practice every three years.

Ambulance Clinical Training Officer means an employee who has successfully completed the requirements for and is appointed to an Ambulance Clinical Training Officer position identified as such by the Service.

This category of employee will be principally involved in the provision of training on an individual or small group basis in the local area and primarily would rely on training material developed on a central basis with project input by some or all of the Clinical and Paramedic Training Officers.

The Clinical Training Officer is responsible for the planning, delivery and evaluation of education and training programs for operational staff, including Trainee Paramedics, Paramedics and Patient Transport Officers that are consistent with National Competency Standards and the Service's policies and procedures.

Provided that such an employee shall be required to undertake and successfully complete further instruction/in-service courses necessary for the maintenance of their certificate to practice and the reissue of their certificate to practice every three years.

Operations Centre (Standby) Allowance means the allowance paid to Paramedic, Paramedic Specialist, Team Leader, Station Manager or District Manager who has completed the training required by the Service and may be reasonably required by the Service to undertake the duties of an Ambulance Operations Centre Officer, Duty Operations Centre Officer and/or a Senior Operations Centre Officer.

The allowance as set out in Item 2 of Table 2A - Allowances, of Section 8 - Monetary Rates shall be regarded as part of the salary for all purposes of this Award.

Rescue (Standby) Allowance means the allowance paid to a Paramedic, Paramedic Specialist, Team Leader, Station Manager or District Manager who has completed the training required by the Service and may be reasonably required by the Service to be rostered to an accredited Ambulance Rescue Unit.

The allowance as set out in Item 2 of Table 2A - Allowances of Section 8 - Monetary Rates shall be regarded as part of the salary for all purposes of this Award.

Specialist Allowance is paid to an employee who has successfully completed the requirements for and is appointed by the Service to an identified Specialist position of Special Casualty Access Team (SCAT), Rescue and/or other specialties as agreed to by the parties. Provided that such an employee shall be required to undertake and successfully complete further instruction/in service courses and certification examinations as required by the Service every three years.

The allowance as set out in Item 1 of Tables 2A - Allowances, of Section 8 - Monetary Rates shall be regarded as part of the salary for all purposes of this Award.

Trainee Ambulance Operations Centre Officer means an employee who is required to undertake and successfully complete the requirements for appointment to an Ambulance Operations Centre Officer position identified as such by the Service.

This category of employee will be involved in the dispatch and movement of emergency and non-emergency ambulances utilising the Service's Computer Aided Dispatch and Telecommunication systems. Inter alia this category of employee will receive training and certification by the Service in Occupational Health and Safety, Ambulance First Aid, Medical Terminology, Computer Aided Dispatch and Telecommunications Systems, Computer mapping, emergency vehicle movement coordination, Equal Employment Opportunity, Anti Discrimination and Anti Harassment.

Paramedic Interns, Paramedics, Paramedic Specialists, Team Leaders, Station Managers, and District Managers are to be paid in addition to their current wage, the Operations Centre Allowance as set out in Item 2 of Table 2B - Additional Allowances, of Part B, Monetary Rates.

Ambulance Operations Centre Officer means an employee who has successfully completed the requirements as set out for Trainee Ambulance Operations Centre Officer and who is appointed to an Ambulance Operations Centre Officer position identified as such by the Service.

This category of employee will be involved in the dispatch and movement of emergency and non-emergency ambulances utilising the Service's Computer Aided Dispatch and Telecommunication systems.

Provided that such an officer shall be required to undertake and successfully complete further instruction/in service courses and certification examinations as required by the Service every three years. The parties agree that this classification will remain a source of alternative duties for injured officers requiring short term rehabilitation as a result of a workplace injury in which case they will need to be provided with training and successfully complete the requirements set out for a Trainee Ambulance Operations Centre Officer.

Ambulance Operations Centre Officer - Paramedic and Paramedic Specialist

Paramedics, Paramedic Specialists, Team Leaders, Station Managers and District Managers who are permanently appointed to positions of Ambulance Operations Centre Officer are to be paid up to the maximum rate applicable for a Paramedic Specialist and are to be paid, in addition to their wages and allowances, the Operations Centre Allowance as set out in Table 2B of Section 8 Monetary Rates. This allowance is only applicable to Paramedics, Paramedic Specialists, Station Managers and District Managers for the time in which Operations Centre activities are undertaken.)

Ambulance Operations Centre Officer - Non Paramedic

Non paramedic officers are paid at the rates specified in Table 1B of Section 8 Monetary Rates.

Duty Operations Centre Officer means an employee who has successfully completed the requirements as set out for a Paramedic and who has successfully completed the requirements for and is appointed to a Duty Operations Centre Officer position identified as such by the Service.

This category of employee will be involved in the dispatch and movement of emergency and non-emergency ambulances utilising the Service's Computer Aided Dispatch and Telecommunication systems utilising management skills.

This category of employee will be required to give advice regarding emergency and non-emergency ambulance care and may be required to be involved in emergency and routine patient transport utilising management skills in addition to emergency and basic life support skills.

Provided that such an officer shall be required to undertake and successfully complete further instruction/in service courses and certification examinations as required by the Service every 3 years.

Senior Operations Centre Officer means an employee who has successfully completed the requirements as set out for a Paramedic and who has successfully completed the requirements for and is appointed to a Senior Operations Centre Officer position identified as such by the Service.

This category of employee will be involved in the dispatch and movement of emergency and non-emergency ambulances utilising the Service's Computer Aided Dispatch and Telecommunication systems utilising management skills.

This category of employee will be required to give advice regarding emergency and non-emergency ambulance care and may be required to be involved in emergency and routine patient transport utilising management skills in addition to emergency and basic life support skills.

Provided that such an officer shall be required to undertake and successfully complete further instruction/in service courses and certification examinations as required by the Service every 3 years.

Aeromedical Operations Officer means an employee who has successfully completed the requirements for and is appointed to an Aeromedical Operations Officer position identified as such by the Service. Provided that such an officer shall be required to undertake and successfully complete further instruction/in service courses and certification examinations as required by the Service every 3 years.

## **6. Introduction of Change**

Any proposal that will significantly affect employees covered by the Award will be the subject of genuine consultation between the parties.

Should such a change lead to an expanded scope of practice for any classification or group of employees covered by this award, the parties agree to discuss the impact of this on the classification structure.

## SECTION 2. EMPLOYMENT CONDITIONS

### 7. Employees' Duties

- (a) The Service may direct an employee to carry out such duties as are reasonable, and within the limits of the employee's skills, competence and training consistent with the employee's classification, provided that such duties are not designed to promote de-skilling.
- (b) The Service may direct an employee to carry out such duties and use such tools and equipment as may be required, provided that the employee has been properly trained and is currently certified in the use of such tools and equipment.
- (c) Any direction issued by the Service pursuant to subclause (a) and (b) of this clause shall be consistent with the Service's responsibilities to provide a safe and healthy working environment.
- (d) The application of subclause (a) of this clause shall be undertaken in a fair, reasonable and sensible manner.

### 8. Vacancies and Promotion

- (a) Advertisement of vacant positions shall be notified throughout the Service by regular vacancy circulars clearly displayed on notice boards at all ambulance stations and ambulance workplaces.
- (b) Appointments shall be made on the basis of merit.
- (c) The vacancy shall be filled from applications received, provided that the Service can re-advertise the position if necessary.
- (d) Subclauses a, b, and c are overruled to the extent necessary for the implementation of the Ambulance Service's lateral transfer policy. Any changes to this policy will be the subject of consultation.

#### Trial Remote Incentive Initiative

- (e) The Service will trial a remote incentive initiative as set out in the Service's Trial Remote Incentive Policy and the trial will take place over the three year period of this Award. Any change in the policy within this period will be the subject of consultation. The parties acknowledge that the trial may be terminated by the Service at the end of the three year period.

### 9. Appointment of Officers

- (a) All employees appointed, excepting Trainee Patient Transport Officers, shall be appointed on probation for a period of twelve months from the date of their appointment or re-appointment to the Service. For Trainee Patient Transport Officers, the period of probation will be six months from the date of appointment or re-appointment to the Service.
- (b) An employee engaged under this Award shall be engaged as a permanent full time, permanent part time, temporary full time, temporary part time, or casual.
- (c) Every employee will be provided with a position description as developed between the parties commensurate with their position, which he or she will be required to sign.
- (d) Permanent Full Time Employee

A permanent full time employee is a permanent employee who is required to work an average of 38 hours per week in accordance with clause 20, Hours of Duty.

## (e) Permanent Part Time Employee

- (i) A permanent part time employee is permanently appointed by the Service to work a specified number of hours per week, which are less than the full time hours prescribed in clause 20 Hours of Duty.
- (ii) A permanent full time employee may also work as a permanent part time employee for an approved specified period of time eg. 12 months. The parties recognise that permanent part-time employment will provide flexible working arrangements for employees to cater for personal requirements such as family responsibilities. At the conclusion of the approved specified period of time, the employee will revert to their permanent full time status.
- (iii) Permanent part-time employees shall work in accordance with rosters exhibited in each station at least 7 days in advance of the commencing date of the roster and shall show the hours of duty for the agreed roster period or 28 days, whichever is the greater.
- (iv) Permanent part-time employees shall be paid an hourly rate calculated on the basis of one thirty-eighth of the rate prescribed in Table 1A or 1B - Wages of Section 8 - Monetary Rates, with a minimum payment of two hours for each start.
- (v) Permanent part-time employees shall be entitled to payment of the allowances prescribed by clause 13, Climatic and Isolation Allowance, in the same proportion as the actual hours worked per week bear to full time hours.
- (vi) Employees engaged under this clause shall not be entitled to allocated days off as prescribed in clause 21, Allocated Days Off.
- (vii) Employees engaged under this clause shall be entitled to all other benefits not otherwise expressly provided for herein at the same proportion as their actual hours of work bear to full-time hours.
- (viii) All time worked by permanent part-time employees in excess of the rostered daily ordinary hours of work prescribed for the majority of full-time employees on that shift in the unit or section concerned shall be paid for at the rate of time and one-half for the first two hours and double time thereafter.
- (ix) Time worked up to the rostered daily ordinary hours of work prescribed for a majority of the full-time employees employed on that shift in the unit or section concerned shall not be regarded as overtime but an extension of the contract hours for that day and shall be paid at the ordinary rate of pay.
- (x) Permanent part-time employees will be required to undertake and successfully complete all the requirements applicable to permanent full-time employees as defined in clause 5, Classifications.

## (f) Temporary Employee

- (i) A temporary employee is engaged for a continuous fixed period of time. The duties may include the provision of relief for permanent employees, conduct of specific projects or the provision of services which are not recurrent in nature.
- (ii) A temporary employee may be full time or part time.
- (iii) A temporary employee shall be paid for the number of hours worked each week on an hourly rate calculated at the same hourly rate as prescribed for a full time employee in the same classification plus 10 per cent loading. The loading shall not apply if:
  - 1. The period of employment extends beyond 13 weeks



2. The employer and the employee agree, during the 13 weeks, that the employee will be employed on a permanent basis.
- (iv) A temporary employee shall be entitled to a minimum payment of 2 hours for each start. Time worked up to the rostered daily ordinary hours of work prescribed for a majority of the full-time employees employed on that shift in the station, unit or section concerned shall not be regarded as overtime but an extension of the contract hours for that day and shall be paid at the ordinary rate of pay.
- (v) Temporary employees will be required to undertake and successfully complete all the requirements applicable to permanent full-time employees as defined in clause 5, Classifications.
- (g) Casual Employee
- (i) A casual employee is engaged on an hourly basis for a short period of time. The nature of the work performed would be irregular, intermittent, urgent or short term. However employees will be allocated sufficient hours of work required to maintain a certificate to practice.
- (ii) Time worked up to the rostered daily ordinary hours of work prescribed for a majority of the full-time employees employed on that shift in the station, unit or section concerned shall not be regarded as overtime but an extension of the contract hours for that day and shall be paid at the ordinary rate of pay.
- (iii) Casual employees will be paid an hourly rate calculated on the basis of one thirty-eighth of the appropriate rate prescribed for the appropriate classification in clause 5, plus 10% loading with a minimum payment of two hours for each start. This loading is in recognition of the casual nature of the work and the leave entitlements forgone. Annual leave entitlements are in accordance with the *Annual Holidays Act, 1944*.
- (iv) Casual employees will be required to undertake and successfully complete all the requirements applicable to permanent full-time employees as defined in clause 5, Classifications.
- (h) Secure Employment

#### Objective of this Clause

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

#### Casual Conversion

- (i) A casual employee engaged by the Service on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) The Service shall give such a casual employee notice in writing of the provisions of this subclause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the Service fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (h)(i), upon receiving notice under paragraph (h)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the Service 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 Service shall consent to or refuse the election, but shall not unreasonably so refuse. Where the Service refuses an election to convert, the reasons for doing so

shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

- (iv) Any casual employee who does not, within four weeks of receiving written notice from the Service, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the Service.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (h)(iii), the Service and employee shall, in accordance with this paragraph, and subject to paragraph (h)(iii), discuss and agree upon:
  - a. whether the employee will convert to full-time or part-time employment; and
  - b. if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

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

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.

#### **10. Termination of Employment**

- (a) Employment shall be terminated by two weeks' notice in writing by either party or by the giving or forfeiting, as the case may be, of two weeks wages in lieu of notice.
- (b)
  - (i) Employees with a credit of hours accrued towards an allocated day(s) off duty as prescribed by of clause 21, Allocated Days Off, shall be paid for such accrual upon termination.
  - (ii) Employees with a credit of hours accrued as a result of working a roster in accordance with subclause (a) of clause 20, Hours of Duty, shall be paid for such accrual upon termination.
  - (iii) Employees with a debit of hours accrued as a result of working a roster in accordance with subclause (a) of clause 20, Hours of Duty, shall reimburse the Service for such accrual upon termination.
  - (iv) Employees with a credit of hours accrued as a result of opting for time off in lieu of overtime in accordance with subclause (a) of clause 26, Time Off in Lieu of Overtime, shall be paid for such

accrual upon termination at the appropriate overtime rate based on the rate of pay applying at the time of termination.

- (c) The Service shall, upon request by the employee, give the employee a signed statement outlining the period of employment.

### **SECTION 3. WAGES AND MONETARY ENTITLEMENTS**

#### **11. Wages**

- (a) Employees shall not be paid less than the minimum wages for their classification as set out in Table 1 and 1A and 1B - Wages Section 8 - Monetary Rates.
- (b) Wages shall be paid fortnightly by electronic transfer.
- (c) For each pay day, employees shall be furnished with a statement showing the gross amount of ordinary wages and overtime, together with separate details of all deductions.
- (d) Overtime and penalty rates shall be paid within one week of the end of the pay period in which such overtime or penalty rates were worked.
- (e) Employees shall have their salary paid into one account with a bank or other financial institution in New South Wales, as nominated by the employee, except where agreement as to another method of payment has been reached between the Union and the Service due to the isolation of an ambulance station. Salaries shall be deposited by the employer in sufficient time to ensure that wages are available for withdrawal by employees no later than pay day; provided that this requirement shall not apply where employees nominate accounts of non-bank financial institutions which lack the technological or other facilities to process salary deposits within 24 hours of the employer making their deposits with such financial institutions, but in such cases the employer shall take all reasonable steps to ensure that the wages of such employees are available for withdrawal by no later than pay day.

#### **12. Allowance and Classification Arrangements**

- (a) An employee who is paid an allowance or at a classification for which there is a certification or qualification requirement, will cease to have an entitlement to such payment if the employee:
- (i) Fails to successfully complete further instruction/in service courses and/or certification examinations as required by the Service every three years or;
  - (ii) Elects not to undertake further instruction/in service courses and/or certification examinations as required by the Service every three years.
  - (iii) Applies for and obtains a transfer to a position which is not a nominated position requiring such skills.
- (b) Payment of shift penalties and other work related allowances or payments to employees subject to misconduct/disciplinary inquiries will be made on the terms and conditions prescribed by the Department's Policy Directive 2005\_095

#### **13. Climatic and Isolation Allowance**

- (a) Subject to subclause (b) of this clause, employees attached to ambulance stations situated upon or to the west of a line drawn as herein specified, shall be paid the allowance specified in Item 6 of Table 2A - Allowances of Section 8 - Monetary Rates, in addition to the salary to which they are otherwise entitled. The line shall be drawn as follows, viz:

Commencing at Tocumwal and thence to the following towns in the order stated, namely - Lockhart, Narrandera, Leeton, Peak Hill, Gilgandra, Dunedoo, Coolah, Boggabri, Inverell and Bonshaw.

- (b) Employees attached to ambulance stations situated upon or to the west of a line drawn as herein specified shall be paid the allowance asset out in Item 7 of the said Table 2A, in addition to the salary to which they are otherwise entitled. The line shall be drawn as follows, viz:

Commencing at a point on the right bank of the Murray River opposite Swan Hill (Victoria) and thence to the following towns in the order stated namely - Hay, Hillston, Nyngan, Walgett, Collarenebri and Mungindi.

- (c) The allowances prescribed by this clause are not cumulative.
- (d) Except for the computation of overtime the allowances prescribed by this clause shall be regarded as part of the salary for the purposes of this Award.

#### **14. Travelling Time and Expenses**

- (a) Except where subclause (c) of clause 16, Relieving Other Members of Staff, an employee who is directed to report for duty at a station other than that to which he or she is appointed shall travel to and from such station in the Service's time and the employee's fares and incidental expenses shall be paid by the Service, unless otherwise agreed between the Service and the employee.

If such travel is undertaken outside rostered hours, the employee shall be reimbursed at ordinary rates for the time spent travelling in excess of the normal time taken to travel between his or her home and the station to which he or she is appointed.

- (b) If an employee is rostered to a shift requiring him or her to work at more than one station in a working week, the employee's fares in excess of the fares to the employee's usual station shall be paid in full.
- (c) Where an employee, with the prior approval of the Service, travels by the employee's own motor vehicle, the employee shall be paid the specified journey rate as prescribed by clause 50 of the Public Sector Employment and Management (General) Regulation, 1996, as amended from time to time, for all kilometres travelled in excess of the kilometres that the employee would normally travel between the employee's usual place of residence and the ambulance station designated as his or her base station and return to such residence.
- (d) Travel, either by public transport or own mode of conveyance, shall in all instances be by the most direct route.

#### **15. Travelling on Cases**

- (a) Where an employee is required to transport a case which involves eight hours or more travelling, the employee shall be paid all travelling expenses including meals and accommodation and, if not staying overnight at the point of turn around, shall be permitted a meal either before commencing or during the return journey.
- (b) An employee directed to have a meal away from his or her station will be paid a crib/ meal away from station allowance in accordance with existing provisions and practice. In determining existing practice, regard will be had to the following:
- (i) That allowances do not apply to crib breaks taken by Trainee Patient Transport Officers and Patient Transport Officers.
  - (ii) The agreement between the parties in 1988 under the Commission's then Structural Efficiency Principle.
  - (iii) That this provision does not apply to employees in Operations Centres.
- (c) Where an entitlement exists in (b), the quantum of the allowance is prescribed in Table 2A Allowances in Section 8 Monetary Rates.

- (i) Where an employee is entitled to one crib break per shift or an unpaid meal break (under the transitional arrangements in clause 20), the payment for any crib/meal directed to be taken away from station will be the rate prescribed at Item 9 of Table 2A - Allowances.
- (ii) Where an employee is entitled to two crib breaks per shift, the payment for any crib directed to be taken away from station will be the lower rate as prescribed at Item 10 of Table 2A Allowances. The number of crib breaks per shift is prescribed in clause 20 Hours of Duty.
- (d) This provisions of this clause will be reviewed by the Commission in conjunction with the review of rosters and crib breaks to be undertaken in accordance with clause 20A Evaluation and Transition to New Roster Arrangements and clause 20B Evaluation and Transition to Crib Break Arrangements - Sydney and Central Coast.
- (e) Where an employee is required to transport a case which involves two or more hours travelling the employee shall be entitled to a paid break of ten minutes duration each two hours.
- (f) The ten-minute break prescribed by subclause (e) of this clause is not cumulative.
- (g) No single officer transports will be allocated where it is reasonably expected that the travelling time of the round trip will be in excess of eight hours.

#### **16. Relieving Other Members of Staff**

- (a) An employee called upon to relieve another employee paid on a higher scale shall be entitled to receive the minimum rate of the higher scale of pay. This provision shall not apply when an employee on a higher scale is absent from duty by reason of his or her allocated day off duty as a consequence of working a 38-hour week in accordance with paragraph (i) of subclause (a) of clause 21, Allocated Days Off. No reduction shall be made in the scale of pay of an employee called upon to relieve another paid on a lower scale. Where an employee is called upon to relieve a Superintendent/Operations Manager, he/she shall be paid the minimum rate of the position so relieved.
- (b) When an employee is called upon to relieve another employee posted at another station and by so doing is required to live away from home, he or she shall be called a relieving employee. A relieving employee shall be paid a living away from home allowance as set out in Item 12 of Table 2A - Allowances Section 8 - Monetary Rates. Except that, a relieving employee who is provided with board and lodgings at no charge will not be entitled to receive the living away from home allowance.
- (c) If accommodation at no charge is not available to the relieving employee, accommodation costs will be met by the Service directly with the provider. In the unusual circumstance that the employee pays the cost of the accommodation they will be entitled to the reimbursement of accommodation expenses as per the Department's Policy Directive on Travel (Policy Directive 2005\_619)
- (d) If the relieving employee is required to be on call, he or she shall be paid, in addition to the aforementioned amount, the amount specified in clause 23, Employees On Call.
- (e) The Service shall decide whether an employee travels to or from their relief duties in rostered hours. If the travel is to be accomplished outside rostered hours, the employee shall be reimbursed at ordinary rates for the time spent travelling in excess of the normal time taken to travel between his or her home and the station to which he or she is appointed.

#### **17A. Special Events Coverage**

- (a) Employees will not be compelled to provide special events coverage.
- (b) Whilst there is no exhaustive list of all the requirements for which the Service may wish to utilise "special events coverage", the parties agree that such requirement would typically be for special events and sporting fixtures such as public holiday celebrations, athletic events, Mardi-gras, local shows, VIP visits, sporting events, disaster exercises, public relations activities and local expositions. This clause will not be used for training, including SCAT and rescue training.

- (c) An employee who is scheduled to provide special events coverage will be compensated by payment at his or her ordinary hourly rate for the hours worked plus the appropriate penalty rates prescribed in clause 27, Penalty Rates for Shift Work and Weekend Work, in lieu of payment at overtime rates.
- (d) Special events coverage shifts shall be between four and 12 hours in duration with a minimum payment of two hours in the event of cancellation on the day.

For the purposes of assessing an employee's eligibility for payment, each day shall stand alone.

- (e) Time worked as special events coverage shall stand alone and shall not be regarded as time worked for the calculation of hours of duty, annual leave, long service leave or any other provision contained within this Award.
- (f) There shall be an equitable distribution (between employees) of special events coverage both in terms of the allocation of work amongst those employees offering their services and in terms of Saturday and Sunday work.

### **17B. Non-Operational Activity**

- (a) Employees will not be compelled to provide non-operational activity coverage.
- (b) Whilst there is no exhaustive list of all activities that may be regarded as "non-operational activities", the parties agree that examples of such activities would be: attendance at Divisional Clinical Quality Committees; Occupational Health and Safety Committees; attendance for members of Service approved committees/workgroups and representing the Service at authorised community or local Government meetings where attendance of duty personnel is not possible.
- (c) Non-operational activity does not include attendance at training schools, compliance with Certificate to Practice (CTP) activities/requirements nor union activities.
- (d) Employees who participate in non-operational activities will be compensated by payment at their ordinary hourly rate for the hours worked. In addition, employees will be paid two hours for travel time (covering travel to and from the activity). In the case of rural employees, specific approval for the quantum of travel time will be agreed prior to approval being finalised. Accumulation of hours worked in these activities is not allowed. Payment for the approved activities will be made in the next available pay period.
- (e) Time worked as non-operational activity(s) shall stand alone and shall not be regarded as time worked for the calculation of hours of duty, annual leave, long service leave or any other provision contained within this Award.

### **18. Salary Sacrifice to Superannuation**

- (a) Notwithstanding the salaries prescribed in clause 11 Wages as varied from time to time, an employee may elect, subject to the agreement of the employee's employer, to sacrifice a part or all of the salary payable under the wages clause to additional employer superannuation contributions. Such election must be made prior to the commencement of the period of service to which the earnings relate. The amount sacrificed together with any salary packaging arrangements under clause 19, Salary Packaging, of this award may be made up to one hundred per cent of the salary payable under the wages clause, or up to one hundred per cent of the currently applicable superannuable salary, whichever is the lesser.

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

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

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

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

- (g) Where, prior to electing to sacrifice a part or all of their salary to superannuation, an employee had entered into an agreement with their employer to have superannuation contributions made to a superannuation fund other than a fund established under legislation listed in subclause (f) above, the employer will continue to base contributions to that fund on the salary payable under clause 11 Wages, to the same extent as applied before the employee sacrificed that amount of salary to superannuation. This clause applies even though the superannuation contributions made by the employer may be in excess of the superannuation guarantee requirements after the salary sacrifice is implemented.

### **19. Salary Packaging**

- (a) By agreement with their employer, employees may elect to package part or all of their salary in accordance with this clause, to obtain a range of benefits as set out in the NSW Health Services Salary Packaging Policy and Procedure Manual, as amended from time to time. Such election must be made prior to the commencement of the period of service to which the earnings relate. Where an employee

also elects to salary sacrifice to superannuation under this award, the combined amount of salary packaging/sacrificing may be up to 100 per cent of salary.

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

- (b) Where an employee elects to package an amount of salary:
- (i) Subject to Australian taxation law, the packaged amount of salary will reduce the salary subject to PAYE taxation deductions by that packaged amount.
  - (ii) Any allowance, penalty rate, overtime payment, payment for unused leave entitlements, weekly workers' compensation, or other payment other than any payment for leave taken in service, to which an employee is entitled under this award or statute which is expressed to be determined by reference to an employee's salary, shall be calculated by reference to the salary which would have applied to the employee under this award in the absence of any salary packaging or salary sacrificing made under this award.
  - (iii) 'Salary' for the purpose of this clause, for superannuation purposes, and for the calculation of award entitlements, shall mean the award salary as specified in clause 11 Wages, and which shall include 'approved employment benefits' which refer to fringe benefit savings, administration costs, and the value of packaged benefits.
- (c) Any pre-tax and post-tax payroll deductions must be taken into account prior to determining the amount of available salary to be packaged. Such payroll deductions may include but are not limited to superannuation payments, HECS payments, child support payments, judgement debtor/garnishee orders, union fees, and private health fund membership fees.
- (d) The salary packaging scheme utilises a fringe benefit taxation exemption status conferred on public hospitals and area health services, which provides for a fringe benefit tax exemption cap of \$17,000 per annum. The maximum amount of fringe benefits-free tax savings that can be achieved under the scheme is where the value of benefits when grossed-up, equal the fringe benefits exemption cap of \$17,000. Where the grossed-up value exceeds the cap, the employer is liable to pay fringe benefits tax on the amount in excess of \$17,000, but will pass this cost on to the employee. The employer's share of savings, the combined administration cost, and the value of the package benefits, are deducted from pre-tax dollars.
- (e) The parties agree that the application of the fringe benefits tax exemption status conferred on public hospitals and area health services is subject to prevailing Australian taxation laws.
- (f) If an employee wishes to withdraw from the salary packaging scheme, the employee may only do so in accordance with the required period of notice as set out in the Salary Packaging Policy and Procedure Manual.
- (g) Where an employee ceases to salary package, arrangements will be made to convert the agreed package amount to salary. Any costs associated with the conversion will be borne by the employee, and the employer shall not be liable to make up any salary lost as a consequence of the employee's decision to convert to salary.
- (h) Employees accepting the offer to salary package do so voluntarily. Employees are advised to seek independent financial advice and counselling to apprise them of the implications of salary packaging on their individual personal financial situations.

The employer and the employee shall comply with the procedures set out in the NSW Health Services Salary Packaging Policy and Procedure Manual as amended from time to time.



## SECTION 4. HOURS OF WORK

### 20. Hours of Duty

- (a) This clause is to be read in conjunction with clause 20A Evaluation and Transition to New Roster Arrangements and clause 20B Evaluation and Transition to Crib Break Arrangements.
- (b) The ordinary hours of duty shall be:
  - (i) An average of 38 per week, to be worked in shifts of eight hours duration on no more than 19 days per 28 day period. Shift workers shall be free from duty for not less than two full days in each working week or four full days in each two working weeks, unless otherwise agreed between the parties.
  - (ii) Where work is performed on a modified hours roster the maximum length of a shift shall not exceed 12 hours with the average of 38 hours per week to be calculated over the modified hour roster cycle.
- (c) Officers working a modified roster of 12 hour shifts will be entitled to two paid 30 minute crib breaks to be taken between the fourth and seventh hour and the eighth and eleventh hour unless otherwise agreed between the parties. Officers working shifts of less than 12 hours duration shall have one paid 30 minute crib break to be taken between the fourth and seventh hour unless otherwise agreed between the parties.
- (d) Officers who, due to operational requirements, are unable to take their paid crib break within the prescribed times, or whose crib break is not completed, shall receive an additional payment of one hour at ordinary time rates.
- (e) Subclauses (c) and (d) do not apply to officers in the Operations Centres. Such officers will continue to work shifts and meal/crib breaks in accordance with their modified roster provisions.

### 20A. Evaluation and Transition to New Roster Arrangements

#### Sydney and Central Coast

- (a) An evaluation and implementation program for new roster arrangements will be conducted under the auspices of the Industrial Relations Commission. Use of the existing rosters will not attract penalty payments, such as overtime, that may otherwise arise from the reduction in the maximum shift length prescribed in Clause 20.
- (b) In developing the rosters, regard will be had to any pressing personal circumstances of employees, such as child care arrangements.

#### Other Than Sydney and Central Coast

- (c) A transitional arrangement will apply in the stations not covered in (a) until new rosters are developed in consultation between employees, the Service and the Union. During the transitional arrangement the agreed existing rosters will continue to apply until new rosters are implemented. Where the shift length is 12 hours or more, officers will be entitled to two paid 30 minute crib breaks to be taken between the fourth and seventh hour and the eighth and eleventh hour unless otherwise agreed between the parties. Use of the existing rosters will not attract penalty payments, such as overtime, that may otherwise arise from the reduction in the maximum shift length prescribed in Clause 20.

### 20B. Evaluation and Transition to Crib Break Arrangements - Sydney and Central Coast

- (a) The existing one hour unpaid meal break provisions will continue to apply until new rosters are implemented. Also, any modified meal break provisions agreed between the parties will continue to apply until new rosters are implemented. If these modified arrangements currently provide for meal penalties, such penalties will be in accordance with (e) below.

- (b) The extension of shift overtime payment for a missed or partially missed unpaid meal break will continue to be available until the paid crib break provision is introduced. This payment will not be subject to the phasing described in (e). This payment will cease when rosters incorporate paid crib breaks.
- (c) The penalty for a missed or incomplete meal break will be phased out as described below to ultimately be in accordance with the penalty for a missed or incomplete crib break as prescribed in Clause 20.
- (d) The penalty for a missed or incomplete meal break is based upon the penalty prescribed in the previous award at Clause 10(b) and (c) ie:

"(b) Employees working shifts that incorporate a meal break shall be allowed a meal break of not less than one hour no later than four hours nor more than six hours from the starting time of shifts unless otherwise agreed between the parties. In respect of shifts of eight hour and nine hour duration, which include a one-hour meal break, employees shall be given the one hour meal break, not less than four nor more than five and one half hours from the starting time of shifts unless otherwise agreed between the parties.

(c) Employees working shifts that incorporate a meal break who are recalled to duty from their meal break shall be paid in respect of the first call out, one hour at ordinary rates and in respect of any subsequent call out, ordinary rates extra for the time so worked; provided, that the subsequent call out occurs prior to him or her having completed the meal break. At the beginning of the seventh hour, the meal is considered to have commenced and one hour's penalty at ordinary rates is to be paid for the first case. Subsequent cases referred to in the subclause will attract ordinary time extra until the full meal break has been taken.

This penalty shall also apply where an employee is sent to his or her meal prior to the completion of the fourth hour. This provision will not apply to employees on night shift although the appropriate meal break, in accordance with the provisions contained in subclause (b) of this clause, shall be given unless otherwise agreed between the parties."

- (e) The prescribed penalty in (d) above will be reduced as follows:
  - (i) By 25% between the 12 September 2008 to 5 December 2008
  - (ii) By a further 25% between 5 December 2008 to 16 January 2009 -(a total reduction of 50%).
  - (iii) By a further 25% between 16 January 2009 to 27 February 2009 - (a total reduction of 75%)
- (f) Employees participating in the roster evaluation in 20A(a)(ii) will be paid either the amount prescribed in 20B(e) or the historical average of the allowance paid for the particular group of employees, which ever is the greater. The historical average is based on payments made to employees in the relevant dispatch board over the six months ending 12 September 2008. The reconciliation will correspond with the pay period.
- (g) From 27 February 2009, the penalty for a missed or incomplete meal break will be at the rate prescribed in 20(d) above.

## **21. Allocated Days Off**

- (a)
  - (i) Employees who work on a roster other than a modified hours roster shall have their hours arranged to include a proportion of one hour (such proportion will be on the basis of 0.4 of one hour for each eight-hour shift worked) which shall accumulate towards the employees allocated day off duty on pay.

- (ii) Unless otherwise agreed between the parties, each day worker, subject to paragraph (i) of this sub-clause, shall be free from duty for not less than two full days in each working week and at least one allocated day off in each 28-day period.
- (iii) Unless otherwise agreed between the parties, each shift worker, subject to paragraph (i) of this subclause, shall be free from duty for not less than two full days in each week or four full days in each two working weeks and at least one allocated day off in each 28-day period, unless otherwise agreed between the Service and the employee.
- (iv) The employee's allocated day off duty prescribed in paragraph (i) of this subclause shall be determined by mutual agreement between the Service and the employee, having regard to the needs of the Service. Where practicable, such allocated day off duty shall be consecutive with the employee's other days off duty.
- (v) Once set, the allocated day off duty may not be changed in a current roster cycle unless there are genuine unforeseen circumstances prevailing or by mutual agreement between the Service and the employee. Where these circumstances exist and the allocated day off 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.
- (vi) There shall be no accrual of credit towards an allocated day off for the first four weeks of ordinary annual leave taken in accordance with clause 29, Annual Leave. However, where an employee has accumulated sufficient time to take his or her allocated day off duty prior to entering on annual leave, and that day would have been taken if the employee had not gone on annual leave, it shall be allowed to the employee on the first working day immediately following the period of leave.
- (vii) Where an employee has not accumulated sufficient time for an allocated day off prior to entering on annual leave, time in credit shall count towards taking the next allocated day off duty falling in sequence after the employee's return to duty.
- (viii) An employee entitled to allocated days off duty in accordance with subclause (a) of this clause shall continue to accumulate credit towards his or her allocated day off duty whilst on sick leave. Where an employee's allocated day off duty falls during a period of sick leave, the employee's available sick leave shall not be debited for that day.
- (ix) Where an employee's allocated day off duty falls due during a period of workers' compensation, the employee, on returning to duty, shall be given the next allocated day off duty in sequence, irrespective of whether sufficient credit has been accumulated or not.
- (x) Where a day worker's allocated day off falls on a public holiday as prescribed by clause 28, Public Holidays, the employee shall be given the option of taking the next working day off as rostered or substituting another day in lieu thereof by mutual agreement with the Service.
- (xi) Where a shift worker's allocated day off falls on a special or additional public holiday, he or she shall be paid an additional day or half day's pay, as the case may be, at ordinary rates.

## **22. Roster of Hours**

- (a) The ordinary hours of duty prescribed by clause 20, Hours of Duty, shall be worked according to rosters which shall be exhibited at least 7 calendar days before the commencement date of the roster and shall show the hours of duty for the agreed roster period or 28 days whichever is the greater. Casual employees are not subject to this clause.
- (b) In exceptional circumstances, arising from additional work demands or unplanned absences of other employees, the roster may be changed with 7 days notice. In so doing, due regard will be had to the family and carers commitments of employees effected.

- (c) Work will be performed by the most efficient means. To achieve this, the Service will deploy skills based on operational needs and case priority. This will include the deployment of officers to meet operational needs. Efficient deployment may require an officer to report for duty at another work location within the shift or roster. Deployment to another station within the roster will only occur within reasonable travelling distance (having regard to the circumstances of each case).
- (d) The parties agree that there will be no forced transfers as a result of the implementation of subclause (c) of this clause.
- (e)
  - (i) There shall be a minimum break of ten hours between shifts, except in case of an emergency or agreement between the Service and the employee.
  - (ii) However, an employee who works so much overtime after the completion of their shift on any day that results in less than eight consecutive hours off duty before the commencement of their next shift will be released after the completion of such overtime until they have had eight consecutive hours off duty, with no loss of pay for ordinary working time occurring due to such absences.
- (f) Subject to compliance with subclause (a) and (b) of this clause, the roster of an employee may only be altered by mutual agreement between the parties.
- (g) Employees may arrange for shift changes with the following provisos:
  - (i) Where the Service's prior consent is given to swap a shift, the employee working the shift shall record the working of that shift on his or her time sheet with payment made accordingly.
  - (ii) Shift swaps should only occur on the basis that each employee maintains an average of 38 hours per week.
  - (iii) Where a shift is to be paid back it shall be done in the current agreed roster period or, where this is not practical, within the following agreed roster period, or in a future roster period approved by the Service.
- (h)
  - (i) A day off duty for employees working a roster other than a modified hours roster shall be 24 hours plus a minimum 6 hours between the shifts.
  - (ii) A day off duty for employees working a modified hours roster shall be 24 hours.
  - (iii) Where an employee's normal rostered day off is cancelled by the Service, he or she shall be paid at overtime rates unless otherwise agreed between the parties.
- (i) Where an employee is rostered to an allocated day off, that day off is to be shown on the roster.
- (j) The rosters of shift workers shall provide for an equitable distribution of Saturday and Sunday work between employees working the same roster.
- (k) The parties agree that changes to rosters that will significantly affect employees and/or that where a new branch station is opened there will be genuine consultation between the parties.

**23. Employees on Call**

- (a)
- (i) Time on call means time during which an employee who is rostered off duty is required to hold himself or herself in readiness to answer a call. In any one day where an employee answers telephone calls when not on call, he or she is to be paid for one hour at ordinary rates of pay.
  - (ii) The provisions for employees recalled to work are contained in this clause. A recall under this clause shall not be treated as overtime for any other purpose and shall not be treated as time worked for the purposes of Clause 22 Roster of Hours.
  - (iii) Whilst no provision is made as to freedom from on call, it is the intention of the parties that employees should be free from call, as far as practicable, on at least 14 days in each roster cycle of 28 days. However if required by the employer, and with the agreement of the employee, an employee can be on call in excess of 14 days in each roster cycle of 28 days. In such circumstance, the employee shall receive the daily on call allowance for each such additional episode.
  - (iv) The parties will review any situation where an employee is required to be consistently on call in excess of 14 days in each 28-day cycle.
  - (v) A period of on call is to be regarded as commencing at the completion of duty on one rostered shift to the commencement of duty on the next rostered shift.
  - (vi) Employees shall not be required to be on call during any part of a rostered day off duty, ie. from the end of the shift before the rostered period off duty and the commencement of the shift after the rostered period off duty.
- (b)
- (i) Time on call shall not be counted as time worked unless an employee is called to duty, in which case the employee shall be paid for a minimum of four hours at overtime rates for each time he or she is recalled; provided that where a second or subsequent call is received by an employee whilst he or she is still performing duties associated with the first call, he or she shall attend the second or subsequent call without additional payment, unless the total time exceeds four hours, in which case payment shall be made for the actual time worked at overtime rates.
  - (ii) Where an employee is on-call and is recalled to duty and such recall merges with the employees normal commencing time, such work shall attract overtime for the actual time worked and not a call out.
  - (iii) A call out shall be deemed to commence at the time the employee is tasked by the Operations Centre and shall be deemed to be complete when all duties associated with the case/s are complete.
- (c) Where an employee who is on call is called out for duty which in total involves 4 hours or more actual work within 8 hours of the scheduled commencement of their next rostered shift, he or she shall be entitled to exercise the Rest Options provision of the Service's Fatigue Management Standard Operating Policy.
- (d) An employee who is not on call shall only be recalled to duty with the employee's agreement. Such a recall is subject to the same provisions as recalls performed when an employee is on call.
- (e) The provision of paragraph (i) of sub-clause (b) of this clause shall not apply to employees attached to One-Officer Branch Stations or to employees supplied with quarters as set out in subclause (b) of clause 38 Accommodation, who are recalled to duty but not required to leave the station, in which case, the employee shall be paid for the actual period or periods of duty in any one day a minimum of two hours at overtime rates.

- (f)
- (i) The weekly on-call allowance as set out in Item 4 of Table 2A - Allowances, of Part B, Monetary rates, shall apply in the following circumstances:
    - (1) Employees required by the Service to be on call on a roster other than a modified hours roster;
    - (2) Employees employed on or before 31 July 1988 who are required by the Service to be on call; or
    - (3) Employees who are required by the Service to be on call as part of a modified hours roster where the weekly on call allowance applies by agreement between the parties.
  - (ii) The daily on-call allowance as set out in Item 3 of the said Table 2A, Allowances of Section 8 - Monetary Rates shall apply in all other circumstances where an employee is required by the Service to be on call.
  - (iii) The provisions of paragraphs (i) and (ii) of this subclause shall not apply to resident employees in One-Officer Branch Stations, as defined in subclause (a) of clause 38, Accommodation.
  - (iv) Payment of the on-call allowance shall not apply during periods of Annual Leave or Long Service Leave.
- (g) If an employee who is rostered on call is required to respond to a call, he or she shall be reimbursed actual fares or expenses incurred in travelling to and from work, unless a service vehicle is provided for this purpose.
- (h) If an employee rostered on call is required to use his or her own motor vehicle, then he or she shall be paid the specified journey rate as prescribed by clause 50 of the Public Sector Employment and Management (General) Regulation, 1996, as amended from time to time, for all kilometres travelled.

#### 24. Overtime

- (a) Subject to clause 23, Employees On Call, all time worked in excess of the rostered hours on any one day shall be paid for at the rate of time and one-half for the first two hours and thereafter at the rate of double time, provided that overtime worked on a Public Holiday shall be paid for at the rate of double time and one-half.
- (b) Overtime shall be computed on the wages prescribed by Tables 1A and 1B in Section 8 - Monetary Rates, and the allowance prescribed by clause 23, Employees On Call, as compensation for time on-call shall be disregarded.
- (c) Employees shall, when required, work reasonable levels of overtime to meet the needs of the Service.
- (d) Should an employee be required to work overtime for more than two hours before his or her normal commencing time, or after his or her normal ceasing time, he or she shall be paid a meal allowance as set out in Item 11 of Table 2A - Allowances of Section 8 - Monetary Rates, and shall be paid such allowance after every subsequent four hours of overtime worked.
- (e) Where an employee is required to work a complete overtime shift, he or she shall be given the appropriate meal break for that shift. However, the meal penalty provision of subclause (b) of clause 20, Hours of Duty, shall not apply.
- (f) For the purposes of assessing overtime, each day shall stand alone, provided however that where any one period of overtime is continuous and extends beyond midnight, all overtime hours in this period shall be regarded as if they had occurred within the one day.

**25. Reasonable Hours**

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

**26. Time Off in Lieu of Overtime**

- (a) The parties agree that an employee who is required to work overtime outside normal rostered hours may be compensated by way of time off in lieu of payment for the overtime.
- (b) This clause is subject to the following:
  - (i) Time off in lieu of overtime shall be in amounts equal to the period of overtime worked;
  - (ii) Time off in lieu of overtime must be taken within three months of the overtime being worked;
  - (iii) Where it is not possible for an employee to take time off in lieu of overtime within the three-month period, it is to be paid out at the appropriate overtime rate based on the rate of pay applying at the time payment is made;
  - (iv) The option of taking time off in lieu of overtime is subject to the active agreement of the Service management, so that it is conceivable that employees in one unit or location within the Service may be permitted to take time off in lieu of overtime but employees working in other locations and settings within the Service may not.
  - (v) Employees cannot be compelled to take time off in lieu of overtime;
  - (vi) Records of time off in lieu of overtime owing to employees and taken by employees must be maintained by the Service;
  - (vii) Time off in lieu of overtime shall be taken at a time which is mutually agreed to by the Service and the employee;
  - (viii) No more than 38hrs of time off in lieu of overtime can be accumulated by an employee.
  - (ix) In making overtime available to employees the Service will not discriminate between those employees who elect to take time off in lieu of overtime in preference to those employees who elect to be paid for overtime in accordance with clause 23, Employees On Call, and/or clause 24, Overtime.

**27. Penalty Rates for Shift Work and Weekend Work**

- (a) Employees working afternoon or night shifts shall be paid the following percentage in addition to the ordinary rate for such shift:
- (i) Afternoon shift commencing at or after 10.00 am and before 1.00 pm - 10 per cent.
  - (ii) Afternoon shift commencing at or after 1.00 pm and before 4.00 pm - 12.5 per cent.
  - (iii) Night shift commencing at or after 4.00 pm and before 4.00 am - 15 per cent.
  - (iv) Night shift commencing at or after 4.00 am and before 6.00 am - 10 per cent.
  - (v) The additional payments prescribed under this subclause shall not form part of the employee's ordinary pay for the purpose of this Award.
- (b) Employees whose ordinary working hours include work on a Saturday and/or Sunday shall be paid for ordinary working hours worked between midnight 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 (a) of this clause.
- (c) Employees who work overtime on Saturdays and Sundays shall be paid time and one half for the first two hours then at double time at the appropriate rate prescribed herein.
- (d) The provisions of this clause shall not apply to work performed on a public holiday or special public holiday.

**28. Public Holidays**

- (a) For the purpose of this clause, the following shall be public holidays, viz: New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, Local Labour Day, Christmas Day and Boxing Day.
- (b)
- (i) An employee to whom subparagraph (1) and (2) of subclause (a) of clause 29, Annual Leave, applies and who is required to and does work on a public holiday or a special public holiday shall be paid for the time actually worked on such holiday at the rate of double time and a half.
  - (ii) An employee to whom subparagraph (3) and (4) of subclause (a) of the said clause 29 applies and who is required to and does work on a public holiday shall be paid in addition to the appropriate ordinary weekly rate of pay prescribed Table 1A and 1B Section 8 - Monetary Rates, at the rate of one half time extra for the rostered time actually worked on such public holiday.
  - (iii) For the purpose of paragraphs (i) and (ii) of this subclause, the hourly rate of pay shall be one thirty-eighth of the appropriate ordinary weekly rate of pay prescribed in the said Wages Tables in Section 8 - Monetary Rates.
- (c) Special holidays proclaimed for any city or town are to be granted or equivalent payment made in lieu thereof to employees, either day workers or shift workers, employed in stations located in such city or town. Equivalent payment means double time and one-half.

Where a shiftworker's rostered day off falls due on such day, he or she shall be paid, in addition to his appropriate weekly rate of pay, an extra day or half days pay at ordinary rates, whichever is applicable.

- (d) In addition to those public holidays specified in subclause (a) of this clause, employees shall be entitled to an extra public holiday each year. Such public holiday will occur on a date determined by the Service



to be taken in the Christmas New Year period, or other suitable period as agreed between the Service and the Union and shall be regarded for all purposes of this clause as any other public holiday.

Where a shiftworker's rostered day off or annual leave falls due on such a day, he or she shall be paid, in addition to his or her appropriate weekly rate of pay, an extra days pay at ordinary rates.

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

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

## **SECTION 5. LEAVE ENTITLEMENTS**

### **29. Annual Leave**

- (a) Annual Leave shall be granted on completion of each 12 months service as follows:
- (i) Day Worker (as defined in clause 4, Definitions) - four weeks leave on full pay.
  - (ii) Shift Worker (as defined in clause 4, Definitions) but who is not required to work public holidays - five weeks leave on full pay.
  - (iii) Shift Worker (as defined in clause 4, Definitions) who has not been required to successfully complete the requirements for appointment to a Paramedic position - five weeks leave with seven weeks pay.
  - (iv) Shift Worker (as defined in clause 4, Definitions) who has or is required to successfully complete the requirements for appointment to a Paramedic position - six weeks leave with eight weeks pay. (The leave entitlement in this sub-paragraph commenced accrual on 4 February 2002)
- (b) In the event that an employee's employment has changed from a seven day per week basis to a Monday to Friday basis or vice versa, than annual leave shall be calculated on a pro rata basis.
- (c) It is admitted by the parties that two weeks pay has been provided to those employees to whom paragraph (iii) and (iv) of subclause (a) of this clause applies in lieu of and in consideration of public holidays being worked by such employees or which have occurred on a rostered day off.
- (d) To the leave prescribed by paragraph (1) of subclause (a) of this clause, there shall be added one working day for each public holiday or special public holiday or one half working day for each half public holiday or special half public holiday which occurs during a period of annual leave.
- (e)
- (i) Once an employee becomes entitled to annual leave (ie. after the initial 12 month period of employment has occurred) annual leave will be taken biannually in two separate periods of three weeks duration. Provided that the giving and taking of such leave may be postponed by mutual agreement between the parties for a further period not exceeding six months. Providing further that, with the agreement of the Service, an employee may take their annual leave in one period of 6 weeks duration.
  - (ii) Annual leave shall be granted on a rotating roster basis, provided that such rotation complies with paragraph (i) of this subclause.

- (iii) Nothing in this subclause shall prevent the Service, by agreement with the employee, from allowing annual leave to an employee before the right thereto has accrued, but where leave is taken in such a case a further period of annual leave shall not commence to accrue until the expiration of the twelve months in respect of which annual leave was taken before it accrued. Provided that any leave taken by an employee under this paragraph shall not exceed the amount of proportionate annual leave standing to the credit of the employee at the time of entering upon such leave.
- (iv) At least six months notice shall be given to employees of the date on which they shall take their annual leave. Where an employee has been notified that he or she is to take his or her normal leave at a specified time and that time is thereafter altered by the Service, the employee shall be reimbursed any actual losses which result to him or her to the extent to which deposits paid for travel and/or accommodation are not refunded.
- (v) Employees may exchange/split annual leave by mutual arrangements with the approval of the Service, provided that such exchange complies with paragraph (i) of this subclause.
- (f) Each employee before going on annual leave shall be paid for the period of the leave at the ordinary rate of wage to which he or she is entitled under this Award and such payment shall be made before the employee commences annual leave.
- (g) Notwithstanding the provisions of subclause (f) of this clause, the Service agrees, subject to at least 28 days prior written authorisation by the employee, to pay the employee's annual leave entitlements on a fortnightly basis which coincides with the normal fortnightly pay period.
- (h) Where the employment of an employee is terminated the employee shall be entitled to receive a proportionate payment in respect of service of less than one year, at the weekly wage to which such employee is entitled under this Award.
- (i) Credit of time towards an allocated day off duty as prescribed in clause 21, Allocated Days Off, shall not accrue when an employee is absent during their four weeks annual leave as provided for under the terms of the *Annual Holidays Act 1944*. However, employees entitled to allocated days off duty in accordance with the said clause 21 shall accrue credit towards an allocated day off duty in respect to any additional periods of annual leave which is granted to employees in excess of the abovementioned four weeks.

### **30. Annual Leave Loading**

- (a) Employees who, under the *Annual Holidays Act 1944*, become entitled to annual leave under this clause shall be paid in respect of such leave an annual leave loading of 17.5 per cent of the appropriate ordinary weekly rate of pay prescribed by clause 11 Wages, for the classification in which the employee was employed immediately before commencing his or her annual leave. The 17.5 per cent annual leave loading will apply only to the payments associated with actual periods of annual leave as per clause 29 (a)(1)-(4) and provided further that in no instance is the calculated amount to exceed \$1,112.30.
- (b) Such loading is payable in addition to the pay for the period of leave given and taken and due to the employee under this Award.
- (c) No loading is payable where the annual leave is taken wholly or partly in advance; provided, however, that if the employment of such an employee continues until the day upon which he would have become entitled under this clause to such annual leave, the loading then becomes payable in respect of the period of such leave and is to be calculated in accordance with the rate of wages applicable on such day.
- (d) Where the employment of an employee is terminated by the Service for a cause other than misconduct and at the time of termination the employee has not been given and has not taken the whole of the annual leave to which he or is entitled, he or she shall be paid the loading provided for in subclause (a) of this clause for the period not taken.

- (e) Except as provided by subclause (d) of this clause, no loading is payable on the termination of an employee's employment.
- (f) Where a shiftworker is given and takes annual leave, he or she shall be paid the loading set out in subclause (a) of this clause; provided that if the amount to which the employee would have been entitled by way of shift work allowances and weekend penalty rates for the ordinary time (not including time on a public or special public holiday) which the employee would have worked during the period of leave exceeds the loading calculated in accordance with subclause (a), then that amount shall be paid to the employee in lieu of the loading.
- (g) The annual leave loading or the shift penalties, whichever is appropriate, shall be paid before the employee commences annual leave.
- (h) Notwithstanding the provisions of subclause (g) of this clause, the Service agrees, subject to at least 28 days prior written authorisation by the employee, to pay the employee's annual leave Loading or shift penalties on a fortnightly basis which coincides with the normal fortnightly pay period.

### **31. Family and Community Services Leave and Personal/Carer's Leave**

Employees shall be granted family and community services leave and personal/carer's leave in accordance with the provisions of the Department's Policy Directive 2007\_031, Family and Community Services Leave and Personal Carers Leave.

### **32. Maternity, Adoption and Parental Leave**

This clause is to be read in conjunction with the provisions in the Service's Instructional Circular 05/16 or subsequent replacement Instructional Circulars as issued by the Service.

#### **A. Maternity Leave**

##### **(a) Eligibility for Paid Maternity Leave**

###### **(i) Full time employees**

Female employees who prior to the expected date of birth, have completed at least forty (40) weeks continuous service (of not less than 31.25 hours per week) are eligible for paid maternity leave.

###### **(ii) Permanent part-time employees**

Permanent part-time employees are employees engaged on a permanent part-time basis as defined by their Award. Female employees employed on this basis are entitled to pro-rata paid maternity leave after forty (40) weeks continuous service.

###### **(iii) An employee who has once met conditions for paid maternity leave will not be required to again work the forty (40) weeks continuous service in order to qualify for a further period of paid maternity leave, unless:**

- (1) there has been a break in service where the employee has been re-employed or re-appointed after resignation, medical retirement, or after her services have been otherwise dispensed with; or
- (2) the employee has completed a period of leave without pay of more than forty (40) weeks. In this context, leave without pay does not include sick leave without pay, maternity leave without pay, or leave without pay associated with an illness or injury compensable under workers' compensation legislation.

## (b) Entitlements to Paid Maternity Leave

- (i) Eligible employees are entitled to fourteen (14) weeks at the ordinary rate of pay from the date maternity leave commences. This leave may commence up to fourteen (14) weeks prior to the expected date of birth.
- (ii) Paid maternity leave may be paid:
  - on a normal fortnightly basis; or
  - in advance in a lump sum; or
  - at the rate of half pay over a period of twenty-eight (28) weeks on a regular fortnightly basis.

Annual and/or long service leave credits can be combined with periods of maternity leave on half pay to enable an employee to remain on full pay for that period.

- (iii) Should an employee return to duty during the period of paid maternity leave, such paid leave ceases from the date duties are resumed.

## (c) Entitlements to Unpaid Maternity Leave

- (i) An employee entitled to paid maternity leave is entitled to a further period of unpaid maternity leave of not more than twelve (12) months from the actual date of birth. The leave therefore does not extend beyond the child's first birthday.
- (ii) Full time or permanent part time female employees who are not eligible for paid maternity leave are entitled to unpaid maternity leave of not more than 12 months.

## (d) Applications for Maternity Leave

- (i) An employee who intends to proceed on maternity leave should formally notify their Operations Manager/Operations Centre Manager (in writing) of such intention as early as possible however, not less than eight (8) weeks prior to the commencement of leave. This notice must include a statement of:
  - (1) The intention to proceed on maternity leave;
  - (2) The expected date of birth certified by a medical practitioner;
  - (3) The period of leave to be taken;
  - (4) The date on which maternity leave is to commence;
  - (5) A Statutory Declaration stating any period of parental leave sought or taken by the employee's spouse. This declaration must also state that the applicant is the child's primary caregiver for the period of leave sought.
  - (6) The entitlement to maternity leave is reduced by any period of parental leave taken by the employee's spouse. Apart from parental leave of one (1) week at the time of birth, maternity leave is not to be taken concurrently with parental leave except as otherwise provided at subclause (a)(i) of Part D of this clause.

## (e) Applications for Further Maternity Leave

- (i) Where an employee becomes pregnant whilst on maternity leave a further period of maternity leave shall be granted. If an employee enters on the second period of maternity

leave during the currency of the initial period of maternity leave, then any residual maternity leave from the initial entitlement ceases.

- (ii) An employee who commences a subsequent period of maternity leave while on unpaid maternity leave under subclause (c)(i) of Part A of this clause or subclause (a)(ii) of Part D of this clause is entitled to be paid at their normal rate (ie the rate at which they were paid before proceeding on maternity leave).
- (iii) An employee who commences a subsequent period of maternity leave during the first 12 months of a return to duty on a part time basis as provided under subclause (a)(iii) of Part D of this clause is entitled to be paid at their substantive full time rate for the subsequent period of maternity leave.
- (iv) An employee who commences a subsequent period of maternity leave more than 12 months after returning to duty on a part time basis under subclause (a)(iii) of Part D of this clause, will be entitled to paid maternity leave for the subsequent period of maternity leave at their part time rate.

(f) Variations of Maternity Leave

After commencing maternity leave, an employee may vary the period of her maternity leave -

- (i) once without the consent of the Service, but with a minimum of fourteen (14) days notice in writing; and
- (ii) otherwise with the consent of the Service, with a minimum of fourteen (14) days notice in writing.

However, more advanced notice is encouraged, especially for uniformed staff because of roster arrangements.

(g) Staffing Provisions

In accordance with obligations established by the *Industrial Relations Act 1996* (Section 69) any person who occupies the position of an employee on maternity leave must be informed that the employee has the right to return to her former position. Additionally, since an employee has the right to vary the period of her maternity leave; offers of temporary employment should be in writing, stating clearly the temporary nature of the contract of employment. The duration of employment should be also set down clearly; to a fixed date or until the employee elects to return to duty, whichever occurs first.

(h) Effect of Maternity Leave on Accrual of Leave, Increments, etc

- (i) Unpaid maternity leave does not count as service for the purposes of accruing sick leave (unless the period of unpaid leave is less than one month, although it is unlikely that unpaid maternity leave would be for such a lesser period), annual leave (unless the period of unpaid maternity leave is less than 28 calendar days) or long service leave (unless the employee has completed ten years service and the period of unpaid maternity leave is less than six months).
- (ii) Unpaid maternity leave is not to be counted as service for determining incremental progression. Periods of maternity leave at full pay and at half pay are to be regarded as service for incremental progression on a pro-rata basis. Notwithstanding the foregoing, increments based on age must be paid on attainment of the appropriate age.
- (iii) During a period of unpaid maternity leave the employee will not be required to meet the employer's superannuation liability. The employee will, however, be required to make any necessary arrangements for their own contributions.

- (iv) When the employee has resumed duties, any period of full pay leave is counted in full for the accrual of annual leave and any period of maternity leave on half pay is taken into account to the extent of one half thereof when determining the accrual of annual leave.
  - (v) Except in the case of employees who have completed ten (10) years service the period of maternity leave without pay does not count as service for long service leave purposes. Where the employee has completed ten (10) years service, the period of maternity leave without pay shall count as service provided such leave does not exceed six (6) months.
  - (vi) Where public holidays occur during the period of paid maternity leave, payment is at the rate of maternity leave received, ie. public holidays occurring in a period of full pay maternity leave are paid at full rate and those occurring during a period of half pay leave are paid at half rate.
- (i) **Illness Associated with Pregnancy**
- (i) If, because of an illness associated with her pregnancy, an employee is unable to continue to work, then she can elect to use any available paid leave (sick, annual and/or long service leave) or to take any sick leave without pay.
  - (ii) Where an employee is entitled to paid maternity leave but, because of illness or injury, is on workers' compensation, sick, annual, long service leave, or sick leave without pay prior to the birth, such leave will cease nine (9) weeks prior to the expected date of birth. The employee will then commence on maternity leave with the normal provisions applying.
- (j) **Effect of Premature Birth on Payment of Maternity Leave**
- An employee who gives birth prematurely prior to proceeding on maternity leave, shall be treated as being on maternity leave from the date she enters on leave to give birth to the child.
- (k) **Stillbirth**
- In the case of a stillbirth, (as classified by the Registry of Births, Deaths and Marriages) an employee may elect to take sick leave or maternity leave, subject to production of a medical certificate. She may resume duty at any time provided she produces a doctor's certificate as to her fitness.
- (l) **Miscarriage**
- In the event of a miscarriage, any absence from work is to be covered by the current sick leave provisions.
- (m) **Fitness to Continue Working During Pregnancy and Alternative Work**
- (i) Whilst an employee may commence maternity leave up to fourteen (14) weeks, prior to the expected date of birth, this is not compulsory. However, if an employee decides to continue working prior to taking maternity leave, she must be able to satisfactorily perform her normal duties.
  - (ii) Where, because of an illness or risk associated with her pregnancy, an employee cannot carry out the duties of her position, an employer is obligated, as far as practicable, to provide alternative employment in some other position that she is able to satisfactorily perform, until maternity leave commences. A position to which an employee is transferred under these circumstances must be as close as possible in status and salary to her substantive position.

(iii) Pregnant Ambulance Officers and Patient Transport Officers may take up their entitlement to alternative duties at any time during their pregnancy if their medical condition determines they are unable to carry out normal duties.

(n) Medical Certificate Requirement

In the case of Ambulance Officers and Patient Transport Officers a medical certificate must be provided at 24 weeks gestation to their supervisor, confirming fitness and ability to continue working in normal duties.

(o) Right to Return to Previous Position

(i) An employee who returns to work after maternity leave has a right to return to her former position.

(ii) Where this position no longer exists, the employee is entitled to be placed in a position nearest in status and salary to that of her former position and to which the employee is capable and/or qualified.

(p) Portability of Service for Paid Maternity Leave

When determining an employee's eligibility for paid maternity leave, continuous service with an organisation that is part of the public sector service as defined in the *Public Sector Employment and Management Act 2002* will be recognised, provided that:  
service was on a full time or permanent part time (as specified) basis;

cessation of service with the former employer was not by reason of dismissal on any ground, except retrenchment or reduction of work;

the employee commences duty with the new employer on the next working day after ceasing employment with the former employer. (There may be a break in service of up to 2 months before commencing duty with the new employer, provided that the new position was secured before ceasing duty with the former employer. However, such a break in service will not be counted as service for the purpose of calculating any prior service prerequisite for paid maternity leave.)

Portability of service for paid maternity leave involves the recognition of service in public sector organisations for the purpose of determining an employee's eligibility to receive paid maternity leave. For example, where an employee moves between a Public Service Department and a public hospital, previous continuous service will be counted towards the service prerequisite for paid maternity leave.

B. Adoption Leave

(a) Eligibility for Adoption Leave

(i) All full time and permanent part time employees who are adopting a child and are to be the primary care giver of the child are entitled to unpaid adoption leave .

(ii) Employees who are adopting a child and are to be the primary care giver of the child are entitled to paid adoption leave as follows:

Full time employees

Employees who, prior to the date of taking custody of the child, have completed 40 weeks continuous service (of not less than 31.25 hours per week) are eligible for paid adoption leave.

Permanent part-time employees

Permanent part-time employees are employees engaged in a permanent part-time basis as defined by their Award. These employees are entitled to pro-rata paid adoption leave after forty (40) weeks continuous service.

- (iii) An employee who has once met conditions for paid adoption leave will not be required to again work the forty (40) weeks continuous service in order to qualify for a further period of paid adoption leave, unless:
  - (1) there has been a break in service where the employee has been re-employed or re-appointed after resignation, medical retirement, or after her services have been otherwise dispensed with; or
  - (2) the employee has completed a period of leave without pay of more than forty (40) weeks. In this context, leave without pay does not include sick leave without pay, maternity leave without pay, or leave without pay associated with an illness or injury compensable under workers' compensation legislation.

(b) Entitlements

(i) Paid Adoption Leave

Eligible employees are entitled to fourteen (14) weeks at the ordinary rate of pay. This leave may commence from the date of taking custody of the child.

Paid adoption leave may be paid:

on a normal fortnightly basis; or

in advance in a lump sum; or

at the rate of half pay over a period of twenty-eight (28) weeks on a regular fortnightly basis.

Annual and/or long service leave credits can be combined with periods of adoption leave at half pay to enable an employee to remain on full pay for that period.

(ii) Unpaid Adoption Leave

Eligible employees are entitled to unpaid adoption leave as follows:

where the child is under the age of 12 months - a period of not more than 12 months from the date of taking custody;

where the child is over the age of 12 months and under 18 years old - a period of up to 12 months, such period to be agreed upon by both the employee and the employer.

(c) Applications for Adoption Leave

- (i) Due to the fact that an employee may be given little notice of the date of taking custody of a child, employees who believe that, in the reasonably near future, they will take custody of a child, should formally notify the employer as early as practicable of the intention to take adoption leave, normally 8 weeks prior. This will allow arrangements associated with the adoption leave to be made.
- (ii) A statement must also be provided from the adoption agency or appropriate body/government authority confirming that the applicant/ employee is to have custody and the expected date of placement of the child.



- (d) Applications for Further Adoption Leave  
Same provisions as maternity leave.
- (e) Variations of Adoption Leave  
Same provisions as maternity leave.
- (f) Staffing Provisions  
Same provisions as maternity leave.
- (g) Effect of Adoption Leave on Accrual of Leave, Increments, etc  
Same provisions as maternity leave.
- (h) Right to Return to Previous Position  
Same provisions as maternity leave.
- (i) Portability of Service for Paid Adoption Leave  
Same provisions as maternity leave.

C. Parental Leave

- (a) Eligibility for Parental Leave
  - (i) Full time employees  
Employees who, prior to the expected date of birth or to the date of taking custody of the child, have completed 40 weeks continuous service (of not less than 31.25 hours per week) are eligible for parental leave.
  - (ii) Permanent part-time employees  
Permanent part-time employees are employees engaged in a permanent part-time basis as defined by their Award. These employees are entitled to pro-rata paid parental leave after forty (40) weeks continuous service.
  - (iii) An employee who has once met conditions for parental leave will not be required to again work the forty (40) weeks continuous service in order to qualify for a further period of parental leave, unless:
    - (1) there has been a break in service where the employee has been re-employed or re-appointed after resignation, medical retirement, or after her services have been otherwise dispensed with; or
    - (2) the employee has completed a period of leave without pay of more than forty (40) weeks. In this context, leave without pay does not include sick leave without pay, maternity leave without pay, or leave without pay associated with an illness or injury compensable under workers' compensation legislation.
- (b) Entitlements  
Eligible employees whose spouse or partner (including a same sex partner) is pregnant or is taking custody of a child, are entitled to a period of leave not exceeding 52 weeks, which includes one week of paid leave, and may be taken as follows:

- (i) An unbroken period of up to one week at the time of the birth of the child, taking custody of the child or other termination of the pregnancy (short parental leave).
- (ii) The entitlement of one week's paid leave may be taken at anytime within the 52 week period and shall be paid:  
  
at the employees ordinary rate of pay for a period not exceeding one week on full pay, or two weeks at half pay or the period of parental leave taken, whichever is the lesser period.
- (iii) A further unbroken period of unpaid parental leave not exceeding 52 weeks when added to short parental leave in order to be the primary caregiver of the child (extended parental leave).
- (iv) Extended parental leave cannot be taken at the same time as the employee's spouse or partner is on maternity or adoption leave, except as otherwise provided at subclause (a)(i) of Part D of this clause.

Annual and/or long service leave credits can be combined with periods of parental leave at half pay to enable an employee to remain on full pay for that period.

(c) Applications for Parental Leave

- (i) An employee who intends to proceed on parental leave should formally notify their employer of such intention as early as possible, so that arrangements associated with their absence can be made.
- (ii) The employee should give written notice of the intention to take the leave, at least four weeks before proceeding on leave, and should detail the dates on which they propose to start and end the period of leave. It is recognised in situations of taking custody of a child, little or no notice may be provided to the employee. In such an instance, the employee should notify the employer as early as practicable.
- (iii) The employee must, before the start of leave, provide a certificate from a medical practitioner confirming that their spouse or partner is pregnant and the expected date of birth, or in the case of an adoption, an official form or notification on taking custody of the child.
- (iv) In the case of extended parental leave, the employee must, before the start of leave, provide a statutory declaration by the employee stating:

if applicable, the period of any maternity leave sought or taken by his spouse, and

that they are seeking the period of extended parental leave to become the primary caregiver of the child.

(d) Variations of Parental Leave

Same provisions as maternity leave.

(e) Staffing Provisions

Same provisions as maternity leave.

(f) Effect of Parental Leave on Accrual of Leave, Increments, etc.

Same provisions as maternity leave.

(g) Right to Return to Previous Position

Same provisions as maternity leave.

(h) Portability of Service for Paid Parental Leave

Same provisions as maternity leave.

D. Right to Request

(a) An employee entitled to maternity, adoption or parental leave may request the employer to allow the employee:

(i) to extend the period of simultaneous parental leave use up to a maximum of eight weeks;

(ii) to extend the period of unpaid maternity, adoption or extended parental leave for a further continuous period of leave not exceeding 12 months;

(iii) to return from a period of maternity, adoption or parental leave on a part time basis until the child reaches school age,

to assist the employee in reconciling work and parental responsibilities.

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

(c) The employee's request and the employer's decision made under subclauses (a)(ii) and (iii) of this Part must be recorded in writing.

(d) Where an employee wishes to make a request under subclause (a)(iii) of this Part:

(i) the employee is to make an application for leave without pay to reduce their full time weekly hours of work;

(ii) such application must be made as early as possible to enable the employer to make suitable staffing arrangements. At least four weeks notice must be given

(iii) salary and other conditions of employment are to be adjusted on a basis proportionate to the employee's full time hours, that is for long service leave the period of service is to be converted to the full time equivalent and accredited accordingly.

E. Communication During Leave

(a) Where an employee is on maternity, adoption or parental leave and a definite decision has been made to introduce significant change at the workplace, the employer shall take reasonable steps to:

(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 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 leave.

- (b) The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of leave to be taken, whether the employee intends to request to return to work on a part time basis.
- (c) The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with subclause (a) of this Part.

### **33. Study Leave**

Employees shall be granted study leave on such terms and conditions prescribed by the Service's Instructional Circular 96/4.

### **34. Trade Union Leave**

Employees shall be granted trade union leave on such terms and conditions prescribed by the Department's Policy Directive 2006\_097.

### **35. Long Service Leave**

- (a) Employees shall be granted long service leave on such terms and conditions as may be applicable from time to time to employees employed under the provisions of the Public Sector Employment and Management Act 2002, and the regulations made thereunder. This includes the taking of long service leave on half pay.
- (b) Where an employee has accrued a right to an allocated day off duty on pay prior to entering a period of long service leave, such day shall be taken on the next working day immediately following the period of long service leave.
- (c) An employee returning to duty from long service leave shall be given the next allocated day off duty in sequence, irrespective of whether sufficient credits have been accumulated or not.

### **36. Sick Leave**

- (a) If the Service is satisfied that an employee is unable to perform his or her duties on account of illness, not attributable to the employee's misconduct, it shall grant to such employee leave of absence on full pay for a period or periods as follows:
  - (i) All employees shall be entitled to sick leave for a period or periods not exceeding in the aggregate 114 hours in any period of 12 months.
  - (ii) Sick leave hours will be deducted at a rate equal to the length of the shift for which the employee was rostered ie sick leave hours will be deducted for the equivalent number of ordinary hours that would otherwise have been worked.
  - (iii) In the event of an employee not taking the full period of 114 hours in any period of 12 months, the untaken period of such leave shall accumulate.  
  
A maximum of 76 hours of the untaken hours in each period of 12 months shall accumulate in respect of available sick leave which accumulated prior to 20 June 1980.
  - (iv) Periods of less than 38 hours shall not be re-credited to employees who are sick whilst on annual leave or long service leave.
- (b) The Service shall not, with the sole object of avoiding obligations under this clause, terminate the services of an employee who is unable to perform his or her duties on account of illness and who is entitled to sick leave under this clause.

- (c) The employee shall notify the Service, where practicable, of his or her inability to attend for duty at least four hours but in any case no less than one hour before the commencement time of duty and inform the Service, as far as possible, the estimated duration of same.
- (d) All periods of sickness shall be certified by a legally qualified medical practitioner, provided however, that the Service may dispense with the requirements of a medical certificate where the absence does not exceed two consecutive days or where, in the Services opinion, circumstances are such as not to warrant such requirements.
- (e) An employee shall not be entitled to sick leave on full pay for any period in respect of which such employee is entitled to accident pay or workers' compensation; provided, however, that where an employee is not in receipt of accident pay, the Service shall pay to an employee, who has sick leave entitlements under this clause, the difference between the amount received, as workers' compensation and full pay. The employee's sick leave entitlement under this clause shall, for each week during which such difference is paid, be reduced by the proportion of hours which the difference bears to full-time hours. On the expiration of available sick leave, weekly compensation payments only shall be payable.
- (f) Any accumulation of sick leave standing to the credit of an employee as at 6 February 1998 shall be added to the leave which is accumulated pursuant to paragraph (ii) of subclause (a) of this clause.

## **SECTION 6. MISCELLANEOUS**

### **37. Uniforms**

- (a)
  - (i) The Service shall provide each new employee with sufficient, suitable and serviceable uniforms.
  - (ii) The Service will provide uniforms in accordance with its Uniform Policy. Any change to the policy will be the subject of consultation.
  - (iii) Uniforms provided shall be replaced by the Service upon condemnation in equivalent numbers.
  - (iv) The Service shall provide any other special clothing which the Service requires an employee to wear.
  - (v) Articles of uniform and special clothing issued under paragraphs (i) and (iv) of this subclause remain the property of the Service and shall be returned by the employee upon request by the Service.
- (b) Any request for uniform replacement by the Service or an employee will not be unreasonably refused.
- (c) Employees required to wear a uniform shall be paid a laundry allowance as prescribed in Item 13 of Table 2A of Section 8 Monetary Rates.

### **38. Accommodation**

- (a) One-Officer Branch Stations - As compensation for time on-call, employees shall be given accommodation rent free and shall be supplied, without charge, with fuel and light. The on-call allowance as set out in paragraph (i) and (ii) of subclause (d) of clause 23, Employees On Call, shall not apply.

Employees shall be given relief from duty from duty for not less than two full days in each working week or four full days in each two working weeks, unless otherwise agreed between the parties, and shall be paid the maximum rate prescribed by this Award for Paramedics.

Days of relief from duty for an employee who works on a roster other than a modified hours roster may be accumulated by mutual arrangement between the employee and the Service up to a maximum of eight days. Nothing in this subclause shall be deemed to prohibit an employee in a one-officer branch

station from temporarily leaving the station at times when he or she is rostered on duty or on-call after having made arrangements satisfactory to the Service for the proper carrying on by him or her of the service during the temporary absence.

- (b) Two-Officer Branch Stations - If an employee is supplied with quarters attached to an ambulance station, the maximum weekly rent shall not exceed the weekly on-call allowance specified in Item 4 of Table 2A - Allowances of Part B, Monetary Rates.
- (c) Rental for all other employees will be subject to such terms and conditions prescribed by the Department's Policy Directive 2005\_089.
- (d) Where an employee is provided with accommodation and is transferred or resigns, he or she shall be given not less than four weeks notice to vacate such accommodation, such notice to take effect from the date of notification of transfer or resignation.

### **39. Lockers and Showers**

- (a) The Service shall provide for the use of the employees hot and cold showers and washbasins and for each employee a locker with suitable hanging facilities. Lavatory accommodation, when situated in shower or locker rooms, shall be effectively partitioned there from.
- (b) Lockers may only be opened for inspection in the presence of the employee but in cases where the employee neglects or refuses to be present or in any circumstances where notice to the employee is impracticable such inspection may be carried out in the absence of the employee by an employee of the Service appointed by the Chief Executive, or his or her nominee, and if practicable an Union Sub-Branch Officer, otherwise by any two employees of the Service, one of whom is nominated by the Union

### **40. Union Subscriptions**

The Service agrees, subject to prior written authorisation by the employee, to deduct Union Subscriptions from the pay of the authorising employee.

### **41. Union Notice Boards**

Each ambulance station and ambulance workplace shall permit a notice board of reasonable dimensions to be erected in a prominent position upon which the Union representatives shall be permitted to post Union notices.

## **SECTION 7. AWARD PARAMETERS**

### **42. Issues Resolution**

- (a) The parties must:
  - (i) Use their best endeavours to cooperate in order to avoid grievances and disputes arising between the parties or between the Service and individual employee(s); and
  - (ii) Abide by the procedures set out in this clause to resolve any issue which might arise; and
  - (iii) Place emphasis on negotiating a settlement of any issue at the earliest possible stage in the process.
- (b) In this clause, "issue" means any question, issue, grievance, dispute or difficulty which might arise between the parties about:
  - (i) The interpretation, application or operation of this Award; or

- (ii) Any allegation of discrimination in employment within the meaning of the *Anti-Discrimination Act 1977* which is not covered by established policies and procedures applicable to the Service, regardless of whether the issue relates to an individual employee or to a group of employees.
- (c) Any issue, and in the case of a grievance or dispute, any remedy sought, must be discussed in the first instance by the employee(s) (or the Union on behalf of the employee(s) if the employee(s) so request) and the immediate supervisor of that employee(s).
- (d) If the issue is not resolved within a reasonable time, it must be referred by the employee(s) immediate supervisor to his or her supervisor (or his or her nominee) and may be referred by the employee(s) to the Union Organiser for the Service. Discussions at this level must take place and be concluded within two working days of referral or such extended period as may be agreed.
- (e) If the issue remains unresolved, it may be referred by any of the parties to more senior officials of the Union who must then confer with the Chief Executive (and/or his/her nominee(s)) of the Service. The conclusions reached by those representatives must be reported to the parties within two working days of referral or such extended periods as may be agreed.
- (f) If these procedures are exhausted without the issue being resolved, or if any of the time limits set out in those procedures are not met, parties may seek to have the matter mediated by an agreed third party, or the matter may be referred, in accordance with the provisions of the *Industrial Relations Act 1996*, to the Industrial Relations Commission of New South Wales for its assistance in resolving the issue.
- (g) Unless agreed otherwise by the parties, the status quo must continue whilst these procedures are being followed. For this purpose "status quo" means the work procedures and practices in place:
  - (i) Immediately before the issue arose; or
  - (ii) Immediately before any change to those procedures or practices, which caused the issue to arise, was made.

The Service must ensure that all practices applied during the operation of these procedures are in accordance with safe working practices.
- (h) Throughout all the stages of these procedures, adequate records must be kept by the parties of all discussions.
  - (i) These procedures are to be facilitated by the earliest possible advice by one party to the other of any issue or problem which may give rise to a grievance or dispute.
  - (j) All matters in dispute arising out of the application of this Award may be referred to a disputes committee consisting of not more than six members with equal representatives of the Service and the Union. Such committee shall have the power to investigate all matters in dispute and report to the Service and the Union, respectively, with such recommendation as it may think right and, in the event of no mutual decision being arrived at by the Committee, the matter in dispute may be referred to the Industrial Relations Commission of New South Wales.

### 43. Anti-Discrimination

- (a) It is intention of the parties bound by this Award to seek to achieve the object in section 3(f) of the *Industrial Relations Act, 1996* to prevent and eliminate discrimination in the workplace. This includes discrimination on the grounds of race, sex, marital status, disability, homosexuality, transgender identity, age and responsibilities as a carer.
- (b) It follows that in fulfilling their obligations under the dispute resolution procedure prescribed by this Award the parties have obligations to take all reasonable steps to ensure that the operation of the provisions of this Award are not directly or indirectly discriminatory in their effects. It will be consistent with the fulfilment of these obligations for the parties to make application to vary any provision of the Award which, by its terms or operation, has a direct or indirect discriminatory effect.

- (c) Under the *Anti-Discrimination Act 1977*, it is unlawful to victimise an employee because the employee has made or may make or has been involved in a complaint of unlawful discrimination or harassment.
- (d) Nothing in this clause is to be taken to affect:
- (i) Any conduct or act which is specifically exempted from anti-discrimination legislation;
  - (ii) Offering or providing junior rates of pay to persons under 21 years of age;
  - (iii) Any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*;
  - (iv) A party to this Award from pursuing matters of unlawful discrimination in any State or Federal jurisdiction.
- (e) This clause does not create legal rights or obligations in addition to those imposed upon the parties by the legislation referred to in this clause.

## NOTES -

- (i) Employers and employees may also be subject to Commonwealth anti-discrimination legislation.
- (ii) Section 56(d) of the *Anti-Discrimination Act 1977* provides:

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

**44. Benefits Not to be Withdrawn**

Except in so far as altered expressly or by necessary implication, nothing in this Award shall, in itself, be deemed or be construed to reduce the wages of any employee at the date of the commencement of this Award.

**45. Exemptions**

- (a) On and from 25 November 1977, in respect of conditions of employment relating to meals, meal breaks, on-call, Sunday penalty rates, annual leave, annual leave loading, sick leave, Relieving other members of staff, hours, working week and the issue of shoes or boots, gauntlets or gloves for employees attached to the former Hunter Region Ambulance District (as delimited by the New South Wales Ambulance Transport Service Board at a meeting held on 8 February 1963), reference is to be made to Determinations of the Health Commission dated 25 November 1977 and 14 December 1979.

For the purposes of this, the Hunter Ambulance District shall mean the Hunter Ambulance District as delimited by the New South Wales Ambulance Transport Service Board at a meeting held on 8 February 1963, viz:

Commencing on the coast between Munmorah Lake and Tuggerah or Budgewoi or Middle Lake, thence in a westerly direction to the northern shore of Tuggerah or Budgewoi or Middle Lake, thence by the northern shore of that Lake (including Budgewoi, Halekulani and Buff Point) to Wallarah Creek, thence in a straight line to the junction of the MacDonal River and Yengo (or Boree) Creek, thence by the MacDonal River in a northerly direction to where it joins the Wareng (or Howes Valley) Creek, thence by the Big Broken Back Range to Payne's Crossing, thence in a straight line to "Mistletoe", thence by the road to Belford Railway Station, thence by the Main Northern Railway line to Black Creek and by the road from Stanhope to Cranky Corner and then by the road to "The Pass", thence by a straight line to Mount Royal, thence in a straight line to Eccleston, thence by the road to Salisbury Gap, then on to (but excluding) Salisbury, thence by the Wallorobba Range to the Railway Gates on the North Coast Railway Line, thence by the road to Wallarobba, thence by the most direct road to where it meets the Dungog-Clarencetown Road south of Brookfield, thence by that road to the bridge over the Williams River at Clarencetown (including Clarencetown), thence by that road to a point one mile south of Limeburners



Creek, thence by a straight line to Dark Point on the coast, thence by the coast to the point of commencement.

- (b) This exemption shall only apply to those employees employed as such immediately prior to 14 October 1992.

#### 46. Leave Reserved and No Extra Claims

This Award recognises all work value and special case claims up to its commencement date, except for the following matters where leave is reserved to the parties to make application in respect of:

- (a) The Award arrangements for Operations Centres, including a new Award, classification structures, rates of pay and conditions of employment;
- (b) The operation of sub-clauses 22(a) and 22(b) in respect of the seven day period of notice for the posting of rosters and the seven day period of notice for subsequently altering such rosters; and
- (c) Review of allowance for undertaking a paid crib break away from Station.

No additional claims to the Award can be pursued during the life of the 2010 Memorandum of Understanding between the Department and the Union, which ceases on 30 June 2014, excepting those listed in (a) to (c) above. Following the expiry of the Memorandum on 30 June 2014, the parties are entitled to pursue variations to salaries, salary related allowances and conditions of employment for 1 July 2014 onwards, which may include instituting proceedings before the Commission if the parties are unable to achieve agreement.

#### 47. Area, Incidence and Duration

- (a) This Award rescinds and replaces the Operational Ambulance Officers (State) Award published 26 June 2009 (368 I.G. 556) and all variations thereof.
- (b) It shall apply to all employees, as defined in this Award, employed by the Ambulance Service of New South Wales, excluding the County of Yancowinna, and shall regulate the terms and conditions of employment of such employees.
- (c) This Award takes effect from 24 December 2010 and shall remain in force for a period of three years.

### SECTION 8. MONETARY RATES

Note:- all rates contained in the following tables are effective from the first full pay period commencing on or after the date listed in the table.

**Table 1A - Wages**

Classification	Rate from 1.7.2010 (4%) pw \$	Rate from 1.7.2011 (4%) pw \$	Rate from 1.7.2012 (3.9%) pw \$
Patient Transport Officer			
Year 1	804.80	837.00	869.60
Year 2	840.70	874.30	908.40
Trainee Paramedic	939.10	976.70	1014.80
Paramedic Intern			
Year 1	965.70	1004.30	1043.50
Year 2	984.30	1023.70	1063.60
Paramedic			
Year 1	1047.50	1089.40	1131.90
Year 2	1123.10	1168.00	1213.60

Paramedic Specialist			
Year 1	1207.20	1255.50	1304.50
Year 2	1240.60	1290.20	1340.50
Year 3	1277.80	1328.90	1380.70
Team Leader	1341.80	1395.50	1449.90
Station Manager	1393.00	1448.70	1505.20
District Manager	1443.90	1501.70	1560.30
Clinical Training Officer	1443.90	1501.70	1560.30
Clinical / Paramedic Educator			
Year 1	1757.40	1827.70	1899.00
Year 2	1876.70	1951.80	2027.90

**Table 1B - Operations Centre Staff - Wages**

Classification	Rate from 1.7.2010 (4%) pw \$	Rate from 1.7.2011 (4%) pw \$	Rate from 1.7.2012 (3.9%) pw \$
Ambulance Operations Centre - Non Paramedic			
Trainee	972.20	1011.10	1050.50
Year 1	999.80	1039.80	1080.40
Year 2	1019.10	1059.90	1101.20
Ambulance Operations Centre Paramedic			
Year 1	1084.10	1127.50	1171.50
Year 2	1162.80	1209.30	1256.50
Ambulance Operations Centre Paramedic Specialist			
Year 1	1190.30	1237.90	1286.20
Year 2	1230.90	1280.10	1330.00
Year 3	1269.10	1319.90	1371.40
Duty Operations Centre Officer	1434.20	1491.60	1549.80
Senior Operations Centre Officer	1474.80	1533.80	1593.60
Aeromedical Operations Centre Officer	1466.70	1525.40	1584.90

**Table 2A - Allowances**

Item No.	Clause	Brief Description	Rate from 1.7.2010 (4%) pw \$	Rate from 1.7.2011 (4%) pw \$	Rate from 1.7.1012 (3.9%) pw \$
1	5	Specialist Allowance	37.60	39.10	40.60
2	5	Rescue (Standby) Allowance	13.00	13.50	14.00
3	23	On Call Allowance (per 24hrs)	18.20	18.90	19.60
4	23	On Call Allowance (per week)	73.00	75.90	78.90
5	5	Ambulance Studies Certificate Allowance (current recipients only)	22.00	22.90	23.80
6	13	Climatic and Isolation Allowance (a)*	4.30	4.30	4.30
7	13	Climatic and Isolation Allowance (b)*	8.70	8.70	8.70
8	15a	Travelling Meal Allowance*	25.80	25.80	25.80
9	15c(i)	Meal Away from Station Allowance*	25.80	25.80	25.80
10	15c(ii)	Crib Away From Station Allowance*	12.90	12.90	12.90
11	24	Overtime Meal Allowance*	25.80	25.80	25.80

12	16	Living Away from Home Allowance*	74.45	74.45	74.45
13	37	Laundry Allowance per week*	12.50	12.50	12.50

\* This is not subject to Award wages increases.

**Table 2B - Additional Allowances**

Uniformed Operations Centres Staff

Item No.	Clause No.	Brief Description	Rate from 1.7.2010 (4%) \$	Rate from 1.7.2011 (4%) \$	Rate from 1.7.2012 (3.9%) \$
1	5	Operations Centre (standby) Allowance	19.30	20.10	20.90
2	5	Operations Centre Allowance (This Allowance is only applicable to Paramedics, Paramedic Specialists, Team Leaders, Station Managers and District Managers. Such an allowance is cumulative on other allowances paid to the employee at the time.)	77.00	80.00	83.20
3	5	Duty Operations Centre Officer-Air Ambulance (Transitional Allowance applicable only to officers employed as Air Ambulance Co-ordination Officers as at 6 February 1998).	12.10	12.60	13.10

## SECTION 9. TRANSITION ARRANGEMENTS

The transition of employees into the 2008 classification structure effective from the first pay period commencing on or after 12 September 2008:

Prior September 2008	After September 2008
Patient Transport Officer	Patient Transport Officer
Trainee and Year 1	Year 1
Year 2	Year 2
Ambulance Officer Trainee & Year 1	Trainee Paramedic
Ambulance Officer Grade 1	Paramedic Intern
Year 1	Year 1
Year 2	Year 2
Ambulance Officer Grade 2	Paramedic
Year 1-3	Year 1
Year 4-7	Year 2
Ambulance Officer Grade 2 (with Advanced Life Support qual)	Paramedic Specialist Year 1
Ambulance Officer Grade 2 (with Intensive Care Paramedic qual.)	Paramedic Specialist
Year 2-3	Year 1
Year 4-5	Year 2
Year 6-7	Year 3
Station Officer Grade 1	Team Leader
Station Officer Grade 2	Station Manager
District Officer	District Manager
Clinical Training Officer	Clinical Training Officer
Ambulance Technical Educator	Clinical Training Officer

Clinical / Paramedic Educator	Clinical / Paramedic Educator
Grade 1	Grade 1
Grade 2	Grade 2
Ambulance Operations Centre - Non Paramedic	Ambulance Operations Centre - Non Paramedic
Trainee	Trainee
Year 1	Year 1
Year 2	Year 2
Ambulance Operations Centre Grade 2	Ambulance Operations Centre Paramedic
Year 1-3	Year 1
Year 4-7	Year 2
Ambulance Operations Centre Grade 2 (with Intensive Care Paramedic qual.)	Ambulance Operations Centre Paramedic Specialist
Year 2-3	Year 1
Year 4-5	Year 2
Year 6-7	Year 3
Duty Operations Centre Officer	Duty Operations Centre Officer
Senior Operations Centre Officer	Senior Operations Centre Officer
Aeromedical Operations Centre Officer	Aeromedical Operations Centre Officer

C.G. STAFF J

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**SERIAL C7533**

**STOREMEN & PACKERS, GENERAL (STATE) INDUSTRIAL  
COMMITTEE**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by National Union of Workers, New South Wales Branch an industrial organisation of employees.

(No. IRC 29 of 2011)

The Honourable Justice Boland, President

25 January 2011

**ORDER**

The Commission orders that -

1. The duration of the Industrial Committee, known as the Storemen & Packers General (State) Industrial Committee published 10 October 2003 (341.I.G.731), and established on 21 November 2002, be extended to the 25 January 2014.
2. This order shall take effect on and from 25 January 2011 until 25 January 2014.

R. P. BOLAND *J, President.*

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**SERIAL C7534**

**DOMESTIC PET FEED MANUFACTURE (STATE) INDUSTRIAL  
COMMITTEE**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by National Union of Workers, New South Wales Branch an industrial organisation of employees.

(No. IRC 30 of 2011)

The Honourable Justice Boland, President

25 January 2011

**ORDER**

The Commission orders that -

1. The duration of the Industrial Committee, known as the Domestic Pet Feed Manufacture (State) Industrial Committee published 26 September 2003 (341.I.G.596), and established on 19 November 2002, be extended to the 25 January 2014.
2. This order shall take effect on and from 25 January 2011 until 25 January 2014.

R. P. BOLAND *J, President.*

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**SERIAL C7535**

**STARCH & CONDIMENT MAKERS &c. (STATE) INDUSTRIAL  
COMMITTEE**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by National Union of Workers, New South Wales Branch an industrial organisation of employees.

(No. IRC 31 of 2011)

The Honourable Justice Boland, President

25 January 2011

**ORDER**

The Commission orders that -

1. The duration of the Industrial Committee, known as the Starch & Condiment Makers &c. (State) Industrial Committee published 19 September 2003 (341.I.G.520), and established on 26 November 2002, be extended to the 25 January 2014.
2. This order shall take effect on and from 25 January 2011 until 25 January 2014.

R. P. BOLAND *J, President.*

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**ANIMAL FEED MANUFACTURE (STATE) INDUSTRIAL  
COMMITTEE**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by National Union of Workers, New South Wales Branch an industrial organisation of employees.

(No. IRC 32 of 2011)

The Honourable Justice Boland, President

25 January 2011

**ORDER**

The Commission orders that -

1. The duration of the Industrial Committee, known as the Animal Feed Manufacture (State) Industrial Committee published 26 September 2003 (341.I.G.597), and established on 19 November 2002, be extended to the 25 January 2014.
2. This order shall take effect on and from 25 January 2011 until 25 January 2014.

R. P. BOLAND *J, President.*

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**SERIAL C7537**

**STOREMEN & PACKERS, WHOLESALE PAINT, VARNISH, OIL &  
COLOUR STORES (STATE) INDUSTRIAL COMMITTEE**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by National Union of Workers, New South Wales Branch an industrial organisation of employees.

(No. IRC 33 of 2011)

The Honourable Justice Boland, President

25 January 2011

**ORDER**

The Commission orders that -

1. The duration of the Industrial Committee, known as the Storemen & Packers, Wholesale Paint, Varnish, Oil & Colour Stores (State) Industrial Committee published 19 September 2003 (341.I.G.518), and established on 21 November 2002, be extended to the 25 January 2014.
2. This order shall take effect on and from 25 January 2011 until 25 January 2014.

R. P. BOLAND *J, President.*

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**SERIAL C7538**

**STOREMEN & PACKERS, WHOLESALE OIL & PETROLEUM  
PRODUCTS (STATE) INDUSTRIAL COMMITTEE**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by National Union of Workers, New South Wales Branch an industrial organisation of employees.

(No. IRC 34 of 2011)

The Honourable Justice Boland, President

25 January 2011

**ORDER**

The Commission orders that -

1. The duration of the Industrial Committee, known as the Storemen & Packers, Wholesale Oil & Petroleum Products (State) Industrial Committee published 19 September 2003 (341.I.G.519), and established on 21 November 2002, be extended to the 25 January 2014.
2. This order shall take effect on and from 25 January 2011 until 25 January 2014.

R. P. BOLAND *J, President.*

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**SERIAL C7539**

**ADVERTISING SALES REPRESENTATIVES (SYDNEY DAILY  
NEWSPAPERS) INDUSTRIAL COMMITTEE**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by National Union of Workers, New South Wales Branch an industrial organisation of employees.

(No. IRC 35 of 2011)

The Honourable Justice Boland, President

25 January 2011

**ORDER**

The Commission orders that -

1. The duration of the Industrial Committee, known as the Advertising Sales Representatives (Sydney Daily Newspapers) Industrial Committee published 12 September 2003 (341.I.G.451), and established on 21 November 2002, be extended to the 25 January 2014.
2. This order shall take effect on and from 25 January 2011 until 25 January 2014.

R. P. BOLAND *J, President.*

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**SERIAL C7540**

**COMMERCIAL TRAVELLERS (STATE) INDUSTRIAL COMMITTEE**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by National Union of Workers, New South Wales Branch an industrial organisation of employees.

(No. IRC 36 of 2011)

The Honourable Justice Boland, President

25 January 2011

**ORDER**

The Commission orders that -

1. The duration of the Industrial Committee, known as the Commercial Travellers (State) Industrial Committee published 20 December 2002 (337.I.G.563), and established on 15 November 2002, be extended to the 25 January 2014.
2. This order shall take effect on and from 25 January 2011 until 25 January 2014.

R. P. BOLAND *J, President.*

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**SERIAL C7541**

**BISCUIT, CAKE MAKERS & PASTRYCOOKS &c. (STATE)  
INDUSTRIAL COMMITTEE**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by National Union of Workers, New South Wales Branch an industrial organisation of employees.

(No. IRC 37 of 2011)

The Honourable Justice Boland, President

25 January 2011

**ORDER**

The Commission orders that -

1. The duration of the Industrial Committee, known as the Biscuit, Cake Makers & Pastrycooks &c. (State) Industrial Committee published 19 September 2003 (341.I.G.516), and established on 26 November 2002, be extended to the 25 January 2014.
2. This order shall take effect on and from 25 January 2011 until 25 January 2014.

R. P. BOLAND *J, President.*

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**SERIAL C7542**

**ADVERTISING SALES REPRESENTATIVES (TELEVISION AND  
RADIO) INDUSTRIAL COMMITTEE**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by National Union of Workers, New South Wales Branch an industrial organisation of employees.

(No. IRC 38 of 2011)

The Honourable Justice Boland, President

25 January 2011

**ORDER**

The Commission orders that -

1. The duration of the Industrial Committee, known as the Advertising Sales Representatives (Television and Radio) Industrial Committee published 12 September 2003 (341.I.G.450), and established on 21 November 2002, be extended to the 25 January 2014.
2. This order shall take effect on and from 25 January 2011 until 25 January 2014.

R. P. BOLAND *J, President.*

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**SERIAL C7543**

**ADVERTISING SALES REPRESENTATIVES (STATE) INDUSTRIAL  
COMMITTEE**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by National Union of Workers, New South Wales Branch an industrial organisation of employees.

(No. IRC 39 of 2011)

The Honourable Justice Boland, President

25 January 2011

**ORDER**

The Commission orders that -

1. The duration of the Industrial Committee, known as the Advertising Sales Representatives (State) Industrial Committee published 12 September 2003 (341.I.G.452), and established on 21 November 2002, be extended to the 25 January 2014.
2. This order shall take effect on and from 25 January 2011 until 25 January 2014.

R. P. BOLAND *J, President.*

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**SERIAL C7546**

**DENTAL ASSISTANTS AND SECRETARIES (STATE) INDUSTRIAL  
COMMITTEE**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by the Australian Dental Association (NSW Branch) Limited.

(No. IRC 1249 of 2010)

The Honourable Justice Boland, President

7 February 2011

**ORDER**

The Commission orders that:-

1. The duration of the Industrial Committee, known as the Dental Assistants and Secretaries (State) Industrial Committee published 29 July 1994 (281 I.G. 251), be extended for a further period of three (3) years to 7 February 2014.
2. This order shall take effect on and from 7 February 2011.

R. P. BOLAND *J, President.*

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SERIAL C7532

**ENTERPRISE AGREEMENTS APPROVED  
BY THE INDUSTRIAL RELATIONS COMMISSION**(Published pursuant to s.45(2) of the *Industrial Relations Act 1996*)**EA11/1 - Cessnock City Council Indoor Staff Enterprise Agreement 2010**

**Made Between:** Cessnock 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:** Replaces EA05/362.

**Approval and Commencement Date:** Approved and commenced 17 January 2011.

**Description of Employees:** The agreement applies to all permanent indoor employees employed by Cessnock City Council, with the exception of those indoor employees currently employed under a term contract in an ongoing position; the Directors and the General Manager, who fall within the coverage of the Local Government (State) Award 2010.

**Nominal Term:** 29 Months.

**EA11/2 - Sydney Opera House Enterprise Agreement 2010**

**Made Between:** Sydney Opera House (Human Resources) -&- the Media, Entertainment and Arts Alliance New South Wales.

**New/Variation:** Replaces EA07/9.

**Approval and Commencement Date:** Approved 14 January 2011 and commenced 1 July 2010.

**Description of Employees:** The agreement applies to all employees employed by the Sydney Opera House Trust located at Bennelong Point, Sydney NSW 2000, (except Senior Executive Service positions, Senior Officers and employees covered by the Crown Employees (Public Service Conditions of Employment) Award 2009.

**Nominal Term:** 36 Months.