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NEW SOUTH WALES
INDUSTRIAL GAZETTE

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**CROWN EMPLOYEES (DEPARTMENT OF HUMAN SERVICES
(JUVENILE JUSTICE) - 38 HOUR WEEK OPERATIONAL STAFF
2010) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Director of Public Employment.

(Nos. IRC 1531 of 2008 and 1593 of 2009)

Before Commissioner Bishop

13 January 2011

AWARD

1. Arrangement

PART A

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PART B

MONETARY RATES

2. Title and Scope

- 2.1 This Award shall be known as the Crown Employees (Department of Human Services (Juvenile Justice) - 38 Hour Week Operational Staff 2010) Award. This Award covers Operational Staff of the Department as defined in Clause 3 of this Award who are employed under the provisions of the Act.
- 2.2 All other relevant conditions of employment not specified in this Award shall be provided in accordance with the Crown Employees (Public Service Conditions of Employment) Award 2009 and the Public Service of New South Wales Government Personnel Handbook where applicable.

3. Definitions

"Act" means the *Public Sector Employment and Management Act 2002* as amended.

"Additional Responsibilities Allowance" means the allowance, as set out in Table 2(b) of Part B of this Award, as payment for undertaking the additional responsibilities of an allocated Youth Officer as set out in the position description of Youth Officer.

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

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

"Centre" means a Detention Centre as defined by the *Children (Detention Centres) Act 1987*.

"Court Logistics" means the positions located in the Court Logistics, Classifications and Security Intelligence Branch of the Department.

"Day Worker" means an Operational Staff member, other than a Shift Worker, who works ordinary hours of thirty eight (38) hours per week Monday to Friday inclusive and who commences work on such days at or after 6 am and before 10 am otherwise than as part of a shift system with an allocated day off ie 19 days in each 4 week period.

"Department" means the New South Wales Department of Human Services (Juvenile Justice).

"Detainee" means a person as defined by the *Children (Detention Centres) Act 1987*.

"Expense Related Payments" means payments in the nature of re-imbusement for reasonable expenses incurred in the performance of official duties and subject to a formal case-by-case claims approval process.

"Non-Metropolitan Centre" means, for the purpose of Clause 6.1 of this Award, the Acmena, Frank Baxter, Orana and Riverina Juvenile Justice centres.

"Operational Staff" means, for the purposes of this Award, the following positions:

- Centre Manager;
- Assistant Manager;
- Assistant Manager Client Services;
- Unit Manager;
- Shift Supervisor/Assistant Unit Manager;
- Youth Officer, Centre;
- Youth Officer, Non Court Based, Court Logistics;
- Youth Officer, Court Based, Court Logistics;
- Court Supervisor, Court Logistics;
- Logistics Officer, Court Logistics;
- Drug Detection Security and Intelligence Officer;
- Vocational Instructor; and
- Kitchen Support Officer.

"Shift Worker" means an Operational Staff member who works ordinary rostered hours up to 19 days in a 28 day period, as set out in Clause 5 of this Award.

4. Rates of Pay and Allowances

4.1 The minimum rates of pay and allowances to be paid to Operational Staff are set out in Tables 1 and 2 of Part B of this Award.

- 4.2 A chokage Allowance shall be paid at the rate as set out in item 1 of Table 2(a) of Part B to Vocational Instructors who are required to assist in clearing sewerage chokages and are required to assist in opening up any soil pipe, waste pipe, drain pipe or pump containing sewerage or who are required to work in a septic tank in operation.
- 4.3 A trade allowance shall be paid at the rate as set out in item 3 of Table 2(a) of Part B to Vocational Instructors who hold a trade qualification relevant to the Vocational Instructor's vocational employment classification, in addition to the rates prescribed.
- 4.4
- (a) A supervisory allowance shall be paid at the rate as set out in item 4 of Table 2(a) of Part B of this Award to a position of Vocational Instructor (Cook) at Frank Baxter and Cobham Juvenile Justice Centres in charge of up to and including five (5) employees.
- (b) The allowance is paid in recognition of additional supervisory responsibilities for a position of Vocational Instructor (Cook) at the above locations, or other such locations as the Department may determine from time to time. The recipient must possess relevant trade qualifications or have an equivalent qualification or experience. The allowance is not part of salary, and will not be counted for superannuation or leave purposes.

5. Hours

5.1

- (a) Ordinary Hours
- (i) The ordinary hours of work for Shift Workers shall not exceed 152 hours per twenty eight (28) calendar days or an average of 38 hours per week in each roster cycle. Each Shift Worker shall be free from duty for not less than eight (8) full days and an allocated rostered day off in each cycle.
- (ii) The hours of work prescribed in paragraph (a)(i) of this sub-clause shall be arranged to allow variable working hours in each roster cycle of twenty eight (28) days to ensure that each Shift Worker shall work his/her other ordinary hours of work on not more than nineteen (19) days in the cycle.
- (b) Rostered Day Off Duty
- (i) Time for a rostered day off duty accrues at 0.4 of an hour for each eight hour day or shift.
- (ii) All paid ordinary working time and paid leave count towards accrual of time for the rostered day off duty.
- (iii) An Operational Staff rostered day off duty prescribed in paragraph (a)(ii) of this sub-clause shall be determined by having regard to the operational needs of the Centre. Where practicable the rostered day off duty shall be consecutive with the days off prescribed in paragraph (a)(i) of this sub-clause.
- (iv) Should the operational needs of the Centre require the rostered day off duty to be 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.
- (v) Where an Operational Staff member has accumulated sufficient time to take his/her rostered day off duty prior to entering on annual leave, it shall be allowed to the Operational Staff on the first working day immediately following the period of leave.
- (vi) Where an Operational Staff member has not accumulated sufficient time for a rostered day off duty prior to entering on annual leave, time in credit shall count towards taking the

next rostered day off duty falling in roster sequence after the Operational Staff member's return to duty.

- (vii) An Operational Staff member shall be entitled to the next rostered day off duty after returning from a period of worker's compensation leave or extended leave.
- (viii) A rostered day off duty is not re-credited if the Operational Staff member is ill or incapacitated on a rostered day off duty. However sick leave shall not be debited.
- (ix) Upon termination of employment, the Operational Staff member shall be paid for any untaken rostered time off.
- (x) Permanent part-time Operational Staff members, due to the terms of engagement, are paid for all time worked as there is no accrual of time for rostered days off duty.
- (xi) In the case of an Operational Staff member in receipt of an All Incidents Allowance prescribed in Clause 7 of this Award, should the operational needs of a Centre require the rostered day off duty to be changed, another day shall be substituted in the current cycle. Should this not be practicable, rostered days off duty may be accrued to a maximum of five (5) days in any calendar year and be taken in a less active period.

5.2 Meal Breaks

- (a) Meal breaks must be given to and taken by Operational Staff members. No Operational Staff shall be required to work continuously for more than five (5) hours without a meal break of no less than thirty (30) minutes. However where a Operational Staff member is called upon to work for any portion of a rostered unpaid meal break, such time shall be paid for at overtime rates.
- (b) The time taken for an Operational Staff member required by the Department to take a meal or meals with a detainee or detainees shall be considered as ordinary hours of work. All time in such circumstances shall be paid at the applicable rate of the shift and the Department shall provide a meal to the Operational Staff member free of charge, the meal to be of the same or no less than the quality of that provided to the detainee or detainees. In such circumstances the provision of paragraph (a) of this sub-clause shall not apply.
- (c) The provisions of paragraph (b) of this subclause shall only apply if an Operational Staff member or a group of Operational Staff take the meal or meals at the allocated meal time for the detainee or detainees and such Operational Staff or group of Operational Staff are physically located with the detainee or detainees and are engaged in the supervision of the detainee or detainees while taking their meal or meals.

6. Hours, Working Arrangements, Leave, Meal Breaks and Overtime - Operational Staff Member (Non-Metropolitan Centres - Detainee Movements and Transport), Operational Staff Member (Court Logistics)

6.1 Operational Staff Member (Non-Metropolitan Centres, Detainee Movements and Transport)

Notwithstanding Clause 5 (except clause 5.1(b)) and Clause 8 (excluding 8.1-8.5) of this Award, if it is deemed necessary for operational reasons to undertake detainee movements or transport relating to a non-metropolitan centre, the following provisions will apply:

- (a) Ordinary Hours
 - (i) The ordinary hours of work for the relevant Operational Staff member shall be thirty-eight (38) hours per week Monday to Friday inclusive between the hours of 6:00 a.m. and 10:00 p.m. with an allocated day off. i.e. nineteen (19) days in each four (4) week period.

(b) Working Arrangements

- (i) The ordinary daily working hours for each Operational Staff member shall be displayed as a proposed working arrangement in a place conveniently accessible to staff members. The working arrangement will cover a minimum period of seven (7) days and will be displayed at least fourteen (14) days prior to the commencement date of the first working day of the proposed working arrangement.
- (ii) A working arrangement may be altered at any time to enable service to be delivered where another staff member is absent from duty on account of illness, in an emergency or due to unforeseen circumstances.
- (iii) Operational staff members will be required to work variable start times depending upon operational requirements.

(c) Annual Leave

- (i) At the rate of twenty (20) working days per year.

(d) Public Holidays

- (i) All gazetted Public Holidays shall be taken as they fall.

(e) Meal Breaks

- (i) Meal breaks must be given to and taken by the relevant Operational Staff. No Operational Staff member shall be required to work continuously for more than five (5) hours without a meal break of no less than thirty (30) minutes. However, where an Operational Staff member is called upon to work for any portion of an unpaid meal break, such time shall be paid for at overtime rates.
- (ii) In circumstances where the Department is unable to supply a meal, an Operational Staff member shall be compensated for any actual expenses properly and reasonably incurred for meals purchased for a detainee in custody under their supervision, and for the Operational Staff member.
- (iii) An amount equivalent to the rate for lunch or dinner money for overtime under the Crown Employees (Public Service Conditions of Employment) Award 2009 shall be paid to those employees who are unable to take a meal break for operational reasons after three (3) to five (5) hours from the start time. This arrangement shall be paid in lieu of overtime and will only occur in emergency or extreme circumstances, as the Department is obliged to provide appropriate breaks in accordance with Occupational Health and Safety requirements.

(f) Other duties

When there are no detainee movements or transport, the Operational Staff members, under the arrangements set out in this Clause, are to perform other mainstream Centre duties (such as working on the unit floor) as directed by the Department.

(g) Overtime

- (i) An Operational Staff Member may be directed by the Department to work overtime, provided it is reasonable for the staff member to be required to do so. An Operational 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 Operational Staff member's prior commitments outside the workplace, particularly the staff member's family and carer responsibilities, community obligations or study arrangements;
 - (2) Any risk to the Operational 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 Department and the effect on client services;
 - (4) The notice, if any, given regarding the working of the overtime, and the Operational Staff member's intention to refuse overtime; or
 - (5) Any other relevant matter.
- (ii) Payment for overtime shall be made only where the Operational Staff member works approved overtime.
- (iii) 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 (2) hours and at the rate of double time thereafter for all directed overtime worked outside the Operational Staff member's ordinary hours of duty.
 - (2) Saturday - At the rate of time and one-half for the first two (2) hours and at the rate of double time thereafter.
 - (3) Sundays - All overtime at the rate of double time.
 - (4) Public Holidays - All overtime at the rate of double time and one-half.
- (iv) An Operational 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.
- (h) Rest periods
- (i) An Operational Staff member who works overtime shall be entitled to be absent until eight (8) consecutive hours have elapsed.
 - (ii) Where an Operational Staff member, at the direction of the supervisor, resumes or continues work without having had eight (8) consecutive hours off duty then such Operational Staff member shall be paid at the appropriate overtime rate until released from duty. The Operational 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.
- 6.1 Hours, Working Arrangements, Leave, Meal Breaks and Overtime - Operational Staff Members (Court Logistics)
- (a) Logistics Officer, Court Logistics
- (i) Ordinary hours
 - (1) The ordinary hours of work for each Logistics Officer shall be thirty-eight (38) hours per week Monday to Friday inclusive between the hours of 7:00 a.m. and 9:00 p.m. with an allocated day off. i.e. nineteen (19) days in each four (4) week period.

(ii) Working arrangements

- (1) The ordinary daily working hours for each Logistics Officer shall be displayed as a proposed working arrangement in a place conveniently accessible to staff members. The working arrangement will cover a minimum period of seven (7) days and will be displayed at least fourteen (14) days prior to the commencement date of the first working day of the proposed working arrangement.
- (2) A working arrangement may be altered at any time to enable service to be delivered where another staff member is absent from duty on account of illness, in an emergency or due to unforeseen circumstances.
- (3) Logistics Officers will be required to work variable start times depending upon operational requirements.
- (4) If a variable start time commences at or after 10:00 a.m. and before 1:00 p.m., or at or after 1:00 p.m. and before 4:00 p.m. a loading of 10% and 12.5% shall apply respectively.

(iii) Annual leave

- (1) At the rate of twenty (20) working days per year.

(iv) Public Holidays

- (1) All gazetted Public Holidays shall be taken as they fall.

(v) Meal Breaks

- (1) Meal breaks must be given to and taken by the relevant Logistics Officer. No Logistics Officer shall be required to work continuously for more than five (5) hours without a meal break of no less than thirty (30) minutes. However, where a Logistics Officer is called upon to work for any portion of an unpaid meal break, such time shall be paid for at overtime rates.
- (2) An amount equivalent to the rate for lunch or dinner money for overtime under the Crown Employees (Public Service Conditions of Employment) Award 2009 shall be paid to those employees who are unable to take a meal break for operational reasons after three (3) to five (5) hours from the start time. This arrangement shall be paid in lieu of overtime and will only occur in emergency or extreme circumstances, as the Department is obliged to provide appropriate breaks in accordance with Occupational Health and Safety requirements.

(vi) Overtime

- (1) A Logistics Officer may be directed by the Department to work overtime, provided it is reasonable for the Logistics Officer to be required to do so. A Logistics Officer may refuse to work overtime in circumstances where the working of such overtime would result in the Logistics Officer working unreasonable hours. In determining what is unreasonable, the following factors shall be taken into account:
 - a. The Logistics Officer's prior commitments outside the workplace, particularly the Logistics Officer's family and carer responsibilities, community obligations or study arrangements;
 - b. Any risk to the Logistic Officer's health and safety;

- c. A working arrangement may be altered at any time to enable service to be delivered where another Logistics Officer is absent from duty on account of illness, in an emergency or due to unforeseen circumstances;
 - d. 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;
 - e. The notice, if any, given regarding the working of the overtime, and the Logistics Officer's intention to refuse overtime; and/or
 - f. Any other relevant matter.
- (2) Payment for overtime shall be made only where the Logistics Officer works approved overtime.
 - (3) Overtime shall be paid at the following rates:
 - a. 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 Logistics Officer's ordinary hours of duty, if working standard hours, or outside the bandwidth.
 - b. Saturday - At the rate of time and one-half for the first two hours and at the rate of double time thereafter.
 - c. Sundays - All overtime at the rate of double time.
 - d. Public Holidays - All overtime at the rate of double time and one-half.
 - (4) A Logistics Officer 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.
- (vii) Rest periods
- (1) A Logistics Officer who works overtime shall be entitled to be absent until eight (8) consecutive hours have elapsed.
 - (2) Where a Logistics Officer, at the direction of the supervisor, resumes or continues work without having had eight (8) consecutive hours off duty then such Logistics Officer shall be paid at the appropriate overtime rate until released from duty. The Logistics Officer shall then be entitled to eight (8) consecutive hours off duty and shall be paid for the ordinary working time occurring during the absence.
- (b) Court Supervisor, Court Logistics
- (i) Ordinary hours
 - (1) The ordinary hours of work for each Court Supervisor shall be thirty-eight (38) hours per week Monday to Friday inclusive between the hours of 7:00 a.m. and 6:00 p.m. with an allocated day off. i.e. nineteen (19) days in each four (4) week period.
 - (ii) Working arrangements
 - (1) The ordinary daily working hours for each Court Supervisor shall be displayed as a proposed working arrangement in a place conveniently accessible to staff members. The working arrangement will cover a minimum period of seven (7)

days and will be displayed at least fourteen (14) days prior to the commencement date of the first working day of the proposed working arrangement.

- (2) A working arrangement may be altered at any time to enable service to be delivered where another staff member is absent from duty on account of illness, in an emergency or due to unforeseen circumstances.
 - (3) Court Supervisors will be required to work variable start times depending upon operational requirements.
- (iii) Annual leave
- (1) At the rate of twenty (20) working days per year.
- (iv) Public Holidays
- (1) All gazetted Public Holidays shall be taken as they fall.
- (v) Meal Breaks
- (1) Meal breaks must be given to and taken by the relevant Court Supervisor. No Court Supervisor shall be required to work continuously for more than five (5) hours without a meal break of no less than thirty (30) minutes. However, where a Court Supervisor is called upon to work for any portion of an unpaid meal break, such time shall be paid for at overtime rates.
 - (2) In circumstances where the Department is unable to supply a meal, a Court Supervisor shall be compensated for any actual expenses properly and reasonably incurred for meals purchased for a detainee in custody under their supervision, and for the Court Supervisor.
 - (3) An amount equivalent to the rate for lunch or dinner money for overtime under the Crown Employees (Public Service Conditions of Employment) Award 2009 shall be paid to those employees who are unable to take a meal break for operational reasons after three (3) to five (5) hours from the start time. This arrangement shall be paid in lieu of overtime and will only occur in emergency or extreme circumstances, as the Department is obliged to provide appropriate breaks in accordance with Occupational Health and Safety requirements.
- (vi) Overtime
- (1) A Court Supervisor may be directed by the Department to work overtime, provided it is reasonable for the Court Supervisor to be required to do so. A Court Supervisor may refuse to work overtime in circumstances where the working of such overtime would result in the Court Supervisor working unreasonable hours. In determining what is unreasonable, the following factors shall be taken into account:
 - a. The Court Supervisor's prior commitments outside the workplace, particularly the Court Supervisor's family and carer responsibilities, community obligations or study arrangements;
 - b. Any risk to the Court Supervisor's health and safety;
 - c. A working arrangement may be altered at any time to enable service to be delivered where another Court Supervisor is absent from duty on account of illness, in an emergency or due to unforeseen circumstances;

- d. 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;
 - e. The notice, if any, given regarding the working of the overtime, and the Court Supervisor's intention to refuse overtime; and/or
 - f. Any other relevant matter.
- (2) Payment for overtime shall be made only where the Court Supervisor works approved overtime.
 - (3) Overtime shall be paid at the following rates:
 - a. 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 Court Supervisor's ordinary hours of duty, if working standard hours, or outside the bandwidth.
 - b. Saturday - At the rate of time and one-half for the first two hours and at the rate of double time thereafter.
 - c. Sundays - All overtime at the rate of double time.
 - d. Public Holidays - All overtime at the rate of double time and one-half.
 - (4) A Court Supervisor 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.
- (vii) Rest periods
- (1) A Court Supervisor who works overtime shall be entitled to be absent until eight (8) consecutive hours have elapsed.
 - (2) Where a Court Supervisor, at the direction of the supervisor, resumes or continues work without having had eight (8) consecutive hours off duty then such Court Supervisor shall be paid at the appropriate overtime rate until released from duty. The Court Supervisor 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) Youth Officers (Court Based), Court Logistics
- (i) Ordinary hours
 - (1) The ordinary hours of work for each Youth Officer shall be thirty-eight (38) hours per week Monday to Friday inclusive between the hours of 7:00 a.m. and 6:00 p.m. with an allocated day off. i.e. nineteen (19) days in each four (4) week period.
 - (ii) Working arrangements
 - (1) The ordinary daily working hours for each Youth Officer shall be displayed as a proposed working arrangement in a place conveniently accessible to Youth Officers. The working arrangement will cover a minimum period of seven (7) days and will be displayed at least fourteen (14) days prior to the commencement date of the first working day of the proposed working arrangement.

- (2) A working arrangement may be altered at any time to enable service to be delivered where another staff member is absent from duty on account of illness, in an emergency or due to unforeseen circumstances.
 - (3) Youth Officers will be required to work variable start times depending upon operational requirements.
- (iii) Annual leave
- (1) At the rate of twenty (20) working days per year.
- (iv) Public Holidays
- (1) All gazetted Public Holidays shall be taken as they fall.
- (v) Meal Breaks
- (1) Meal breaks must be given to and taken by the relevant Youth Officer. No Youth Officer shall be required to work continuously for more than five (5) hours without a meal break of no less than thirty (30) minutes. However, where a Youth Officer is called upon to work for any portion of an unpaid meal break, such time shall be paid for at overtime rates.
 - (2) In circumstances where the Department is unable to supply a meal, a Youth Officer shall be compensated for any actual expenses properly and reasonably incurred for meals purchased for a detainee in custody under their supervision, and for the Youth Officer.
 - (3) An amount equivalent to the rate for lunch or dinner money for overtime under the Crown Employees (Public Service Conditions of Employment) Award 2009 shall be paid to those employees who are unable to take a meal break for operational reasons after three (3) to five (5) hours from the start time. This arrangement shall be paid in lieu of overtime and will only occur in emergency or extreme circumstances, as the Department is obliged to provide appropriate breaks in accordance with Occupational Health and Safety requirements.
- (vi) Overtime
- (1) A Youth Officer may be directed by the Department to work overtime, provided it is reasonable for the Youth Officer to be required to do so. A Youth Officer may refuse to work overtime in circumstances where the working of such overtime would result in the Youth Officer working unreasonable hours. In determining what is unreasonable, the following factors shall be taken into account:
 - a. The Youth Officer's prior commitments outside the workplace, particularly the Youth Officer's family and carer responsibilities, community obligations or study arrangements;
 - b. Any risk to the Youth Officer's health and safety;
 - c. A working arrangement may be altered at any time to enable service to be delivered where another Youth Officer is absent from duty on account of illness, in an emergency or due to unforeseen circumstances;
 - d. 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;

- e. The notice, if any, given regarding the working of the overtime, and the Youth Officer's intention to refuse overtime; and/or
 - f. Any other relevant matter.
- (2) Payment for overtime shall be made only where the Youth Officer works approved overtime.
- (3) Overtime shall be paid at the following rates:
- a. 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 Youth Officer's ordinary hours of duty, if working standard hours, or outside the bandwidth.
 - b. Saturday - At the rate of time and one-half for the first two hours and at the rate of double time thereafter.
 - c. Sundays - All overtime at the rate of double time.
 - d. Public Holidays - All overtime at the rate of double time and one-half.
- (4) A Youth Officer 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.
- (vii) Rest periods
- (1) A Youth Officer who works overtime shall be entitled to be absent until eight (8) consecutive hours have elapsed.
 - (2) Where a Youth Officer, at the direction of the supervisor, resumes or continues work without having had eight (8) consecutive hours off duty then such Youth Officer shall be paid at the appropriate overtime rate until released from duty. The Youth Officer shall then be entitled to eight (8) consecutive hours off duty and shall be paid for the ordinary working time occurring during the absence.
- (d) Youth Officers (Non-Court Based), Court Logistics
- (i) Ordinary hours
 - (1) The ordinary hours of work for each Youth Officer shall be thirty-eight (38) hours per week Monday to Friday inclusive with variable start times, with an allocated day off. i.e. nineteen (19) days in each four (4) week period.
 - (ii) Working arrangements
 - (1) The ordinary daily working hours for each Youth Officer shall be displayed as a proposed working arrangement in a place conveniently accessible to Youth Officers. The working arrangement will cover a minimum period of seven (7) days and will be displayed at least fourteen (14) days prior to the commencement date of the first working day of the proposed working arrangement.
 - (2) A working arrangement may be altered at any time to enable service to be delivered where another staff member is absent from duty on account of illness, in an emergency or due to unforeseen circumstances.
 - (3) Youth Officers will be required to work variable start times depending upon operational requirements.

- (iii) Annual leave
 - (1) At the rate of twenty (20) working days per year.
- (iv) Public Holidays
 - (1) All gazetted Public Holidays shall be taken as they fall.
- (v) Meal Breaks
 - (1) Meal breaks must be given to and taken by the relevant Youth Officer. No Youth Officer shall be required to work continuously for more than five (5) hours without a meal break of no less than thirty (30) minutes. However, where a Youth Officer is called upon to work for any portion of an unpaid meal break, such time shall be paid for at overtime rates.
 - (2) In circumstances where the Department is unable to supply a meal, a Youth Officer shall be compensated for any actual expenses properly and reasonably incurred for meals purchased for a detainee in custody under their supervision, and for the Youth Officer.
 - (3) An amount equivalent to the rate for lunch or dinner money for overtime under the Crown Employees (Public Service Conditions of Employment) Award 2009 shall be paid to those employees who are unable to take a meal break for operational reasons after three (3) to five (5) hours from the start time. This arrangement shall be paid in lieu of overtime and will only occur in emergency or extreme circumstances, as the Department is obliged to provide appropriate breaks in accordance with Occupational Health and Safety requirements.
- (vi) Overtime
 - (1) A Youth Officer may be directed by the Department to work overtime, provided it is reasonable for the Youth Officer to be required to do so. A Youth Officer may refuse to work overtime in circumstances where the working of such overtime would result in the Youth Officer working unreasonable hours. In determining what is unreasonable, the following factors shall be taken into account:
 - a. The Youth Officer's prior commitments outside the workplace, particularly the Youth Officer's family and carer responsibilities, community obligations or study arrangements;
 - b. Any risk to the Youth Officer's health and safety;
 - c. A working arrangement may be altered at any time to enable service to be delivered where another Youth Officer is absent from duty on account of illness, in an emergency or due to unforeseen circumstances;
 - d. 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;
 - e. The notice, if any, given regarding the working of the overtime, and the Youth Officer's intention to refuse overtime; and/or
 - f. Any other relevant matter.
 - (2) Payment for overtime shall be made only where the Youth Officer works approved overtime.

- (3) Overtime shall be paid at the following rates:
- a. 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 Youth Officer's ordinary hours of duty, if working standard hours, or outside the bandwidth.
 - b. Saturday - At the rate of time and one-half for the first two hours and at the rate of double time thereafter.
 - c. Sundays - All overtime at the rate of double time.
 - d. Public Holidays - All overtime at the rate of double time and one-half.
- (4) A Youth Officer 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.

(vii) Rest periods

- (1) A Youth Officer who works overtime shall be entitled to be absent until eight (8) consecutive hours have elapsed.
- (2) Where a Youth Officer, at the direction of the supervisor, resumes or continues work without having had eight (8) consecutive hours off duty then such Youth Officer shall be paid at the appropriate overtime rate until released from duty. The Youth Officer shall then be entitled to eight (8) consecutive hours off duty and shall be paid for the ordinary working time occurring during the absence.

(viii) Loadings

- (1) A Youth Officer shall be paid for work performed during the ordinary hours plus the following loadings depending on the commencing times for each day's ordinary hours.

Day	At or after 6 am and before 10 am	Nil
Afternoon	At or after 10 am and before 1 pm	10%
Afternoon	At or after 1 pm and before 4 pm	12.5%
Night	At or after 4pm and before 4 am	15%
Night	At or after 4 am and before 6 am	10%

- (2) The loadings above shall only apply to ordinary time worked from Monday to Friday.

7. All Incidents Allowance

- 7.1 An All Incidents Allowance of 22% of base salary shall be payable to Operational Staff classified at Items (iv) - (viii) in Part B of this Award in addition to the salary prescribed in such Table as compensation for all time worked in excess of ordinary hours and other work related allowances including payments in lieu of overtime, on call, shift penalties and annual leave loading but does not include compensation for expense related payments. However the Department has the discretion to approve that work outside normal rostered hours attract the provisions of Clause 8.13 - Overtime.
- 7.2 The allowance shall be regarded as salary for all leave and superannuation purposes.

8. Shift Workers - Loadings, Penalties, Leave, Rosters and Overtime

8.1 Monday to Friday - Shift Loadings

- (a) 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 shift loadings depending on the commencing times of such shifts:

Day	At or after 6 am and before 10 am	Nil
Afternoon	At or after 10 am and before 1 pm	10%
Afternoon	At or after 1 pm and before 4 pm	12.5%
Night	At or after 4 pm and before 4 am	15%
Night	At or after 4 am and before 6 am	10%

- (b) The loadings specified in this sub-clause shall only apply to shifts worked from Monday to Friday.

8.2 Weekends and Public Holidays - Penalties

- (a) For the purpose of this sub-clause any shift, of which 50% or more 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.

8.3 Saturday Shifts - Penalties

- (a) 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.

8.4 Sunday Shifts - Penalties

- (a) 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 ordinary time and three quarters.

8.5 Public Holidays - Penalties

- (a) When rostered on a Public Holiday and work is performed, additional payment will be made at the rate of half time.
- (b) When rostered off on a Public Holiday, no additional compensation or payment will be made.
- (c) Where a gazetted Public Holiday falls on a Sunday, Shift Workers rostered to work on that day shall be paid ordinary time and an additional payment at the rate of three quarter time.
- (d) A Shift Worker is entitled to receive compensation for regularly working Sundays and Public Holidays as specified in clause 8.6 of this Award.

8.6 Additional Payments

- (a) Additional payments will be made on the following basis:

Number of ordinary shifts worked on Sundays and/or Public Holidays during a qualifying period of twelve months from 1 December one year to 30 November the next year.	Additional Payment
4 - 10	1/5th of one week's ordinary salary

11 - 17	2/5ths of one week's ordinary salary
18 - 24	3/5ths of one week's ordinary salary
25 - 31	4/5ths of one week's ordinary salary
32 or more	One week's ordinary salary

- (b) The additional payment shall be made after 1 December in each year for the preceding twelve (12) months.
- (c) Where the Shift Worker retires or the employment of a Shift Worker is terminated by the employer, any payment that has accrued from the preceding 1 December until the last date of service shall be paid to the Shift Worker.
- (d) Payment shall be made at the rate applicable as at 1 December each year, or at the salary rate applicable at the date of retirement or termination.

8.7 Recreation Leave

- (a) Shift Workers shall be entitled to recreation leave at the rate of six (6) weeks per year (thirty (30) working days) inclusive of payment for any Public Holiday/s falling within the leave period.
- (b) Additional recreation leave at the rate of five (5) days per year, will accrue to a Shift Worker, employed under this Award and the Act, who is stationed indefinitely in a remote area of the State being the Western and Central Division of the State described as such in the Second Schedule to the Crown Lands Consolidated Act (NSW) 1913 before its repeal.
- (c) Shift Workers entitled to additional recreation leave under this Clause can elect, at any time, to cash out that additional recreation leave.
- (d) Shift Workers on recreation leave are eligible to receive the more favourable of:
 - (i) 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
 - (ii) 17½% annual leave loading.

8.8 Annual Leave Loading

- (a) With the exception of those Shift Workers in receipt of the All Incidents Allowance prescribed in Clause 7 of this Award, Shift Workers are entitled to the payment of an annual leave loading of 17.5% on the monetary value of four weeks recreation leave accrued in a leave year.
- (b) For the purposes of 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.
- (c) If located in an area of the State of New South Wales which attracts a higher rate of annual leave accrual, under Clause 8.7(b) of this Award, the annual leave loading shall be paid on a maximum of four weeks leave.
- (d) The annual leave loading payable shall not exceed the amount which would have been payable to a Shift Worker in receipt of salary equivalent to the maximum salary for Grade 12 Clerk.

8.9 Rosters

- (a) The ordinary hours of work for each Shift Worker shall be displayed on a roster in a place conveniently accessible to Shift Workers. The roster will cover a minimum period of twenty eight (28) days, where practical, and shall be displayed at least fourteen (14) days prior to the commencing date of the first working period in any roster.

- (b) A roster may be altered at any time to enable the service of a Centre to be delivered where another officer is absent from duty on account of illness, in an emergency or due to unforeseen circumstances. Where any such alteration involves a Shift Worker working on a day that would have been his or her day off such time worked shall be paid for at overtime rates as specified in Clause 89 of the Crown Employees (Public Service Conditions of Employment) Award (NSW) 2009.
- (c) Each roster shall indicate the starting and finishing time of each shift and include rostered days off. Where current or proposed shift arrangements are incompatible with the Shift Worker's family, religious or community responsibilities, every effort to negotiate alternative arrangements with the Shift Worker shall be made by the Department Head or delegate.

8.10 Notice of Change of Shift

- (a) 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.

8.11 Breaks between Shifts

- (a) There shall be a minimum break of eight (8) consecutive hours between ordinary rostered shifts.
- (b) 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 in accordance with Clause 89, Overtime Worked by Shift Workers of the Crown Employees (Public Service Conditions of Employment) Award (NSW) 2009 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.
- (c) Time spent off duty may be calculated by determining the amount of time elapsed after:
 - (i) The completion of an ordinary rostered shift; or
 - (ii) The completion of authorised overtime; or
 - (iii) The completion of additional travelling time, if travelling on duty, but shall not include time spent travelling to and from the workplace.

8.12 Daylight Saving

- (a) 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 of pay for the shift.

8.13 Overtime

- (a) A Shift Worker may be directed by the Department Head to work overtime, provided it is reasonable for the Shift Worker to be required to do so. A Shift Worker may refuse to work overtime in circumstances where the working of such overtime would result in the Shift Worker working unreasonable hours. In determining what is unreasonable, the following factors shall be taken into account:
 - (i) The Shift Worker's prior commitments outside the workplace, particular the Shift Worker's family and carer responsibilities, community obligations or study arrangements;
 - (ii) Any risk to the Shift Worker's health and safety;
 - (iii) 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;

- (iv) The notice, if any, given regarding the working of the overtime, and the Shift Worker's intention to refuse overtime; or
 - (v) Any other relevant matter.
- (b) Overtime shall be paid to Shift Workers under the following conditions:
- (i) The rates specified are in substitution for and not cumulative upon the rates payable for work performed on Monday to Friday, Saturday, Sunday or Public Holidays.
 - (ii) For the purposes of assessing overtime, each day shall stand alone. Where any one (1) period of overtime is continuous and extends beyond midnight, all overtime hours in this period shall be regarded as if it had occurred within the one (1) day.
 - (iii) Overtime shall be paid for hours worked in excess of the ordinary hours of work, as defined in Clause 5 of this Award. Entitlements under this clause are restricted by the provisions of Clause 7 of this Award.
- (c) Overtime shall be paid to Shift Workers at the following rates:
- (i) 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 Shift Worker's ordinary hours of duty.
 - (ii) Saturday - At the rate of time and one-half for the first two hours and at the rate of double time thereafter.
 - (iii) Sundays - All overtime at the rate of double time.
 - (iv) Public Holidays - All overtime at the rate of double time and one half.

9. Casual Employment

- 9.1 A casual employee is one engaged on an hourly basis.
- 9.2 A casual employee may only be engaged for short-term periods where there is the need to supplement the workforce arising from fluctuations in the needs of the Centre.
- 9.3 A casual employee shall be paid on an hourly basis based on the appropriate rate, prescribed in Table 1 of Part B of this Award, plus 15% thereof with a minimum payment of four (4) hours for each engagement. This loaded rate of pay is in lieu of all leave entitlements, other than recreation and extended leave.
- 9.4 A casual employee shall be entitled to the shift loadings, prescribed in clause 8.1 of this Award, where a shift commences prior to 6 am or finishes subsequent to 6 pm.
- 9.5 For weekend and Public Holiday work, casual employee shall, in lieu of all other penalty rates and the 15% casual loading, receive the following rates:
- (a) Time and one half for work between midnight Friday and midnight Saturday;
 - (b) Time and three quarters for work between midnight Saturday and midnight Sunday; and
 - (c) Double time and one half for work on a Public Holiday.

For the purpose of this clause, any shift of which 50% or more is worked on a Saturday, Sunday or Public Holiday shall be deemed to have been worked wholly on a Saturday, Sunday or Public Holiday and shall be paid as such.

- 9.6 On termination a casual employee shall be paid 1/12th of ordinary earnings in lieu of recreation leave.
- 9.7 A casual employee's employment may be terminated for any reason by the giving of one (1) hour's notice by either party.
- 9.8 Casuals shall also receive the following leave entitlements in accordance with the Crown Employees (Public Service Conditions of Employment) Award 2009:
- (a) Unpaid parental leave in accordance with Clause 12.5.4;
 - (b) Personal Carer's entitlement in accordance with Clause 12.6; and
 - (c) Bereavement entitlement in accordance with Clause 12.7.

10. Higher Duties

- 10.1 Operational Staff called upon by the Department to perform work of a classification or position paid at a higher rate, shall be paid that higher rate on the completion of a minimum of one eight (8) hour shift, or equivalent working day.
- 10.2 Relieving for part of a shift in a higher position shall not attract monetary payment but shall be compensated through the acquisition of skills and experience gained by this opportunity.
- 10.3 The provisions of this clause apply only where an employee relieves in another position covered by this Award.

11. Settlement of Disputes

11.1 Procedures relating to individual employees

- (a) Individual employees may raise matters pertaining to this Award and other conditions of employment matters with the Centre Manager, Manager, Supervisor or other authorised departmental representative as the case may be, providing that the following conditions are observed:
 - (i) The employee shall notify the Centre Manager, Manager, Supervisor or other authorised departmental representative in writing, as to the substance of any matter and request a meeting with the Centre Manager, Manager, Supervisor or other authorised departmental representative for discussions in order to settle the matter. The employee may have another employee or an Association delegate present during these discussions.
 - (ii) If no remedy to the employee's matter is found, then the employee shall seek further discussions and attempt to resolve the matter at a higher level of authority, where appropriate.
 - (iii) Reasonable time limits must be allowed for discussions at each level of authority.
 - (iv) At the conclusion of the discussions, the departmental representative must provide a response to the employee if the matter has not been resolved and include reasons for not implementing any proposed remedy. At this stage if the employee's concerns still exist, the provisions of Clause 11.3(e) of this Award shall be invoked.

11.2 Settlement of Disputes

- (a) All questions, disputes or difficulties relating to the provisions of this award or any other condition of employment 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 Department, if required.

- (b) The staff member is required to notify in writing their immediate supervisor or manager, as to the substance of the question, dispute or difficulty, request a meeting to discuss the matter, and if possible, state the remedy sought.
- (c) Where the question, dispute or difficulty involves confidential or other sensitive material (including issues of harassment or discrimination under the Anti Discrimination Act 1977) that makes it impractical for the staff member to advise their immediate supervisor or manager the notification may occur to the next appropriate level of management. including where required, to the Department Head or delegate.
- (d) The immediate supervisor or manager, or other appropriate officer, shall convene a meeting in order to resolve the question, dispute or difficulty within two (2) working days, or as soon as practicable, of the matter being brought to attention.
- (e) If the question, dispute or difficulty remains unresolved with the immediate supervisor or manager, the staff member may request to meet the appropriate person at the next level of management in order to resolve the matter. This manager shall respond within two (2) working days, or as soon as practicable. The staff member may pursue the sequence of reference to successive levels of management until the matter is referred to the Department Head.
- (f) The Department may refer the matter to the Director of Public Employment (DPE) for consideration.
- (g) If the matter remains unresolved, the Department shall provide a written response to the employee and any other party involved in the question, dispute or difficulty, concerning action to be taken, or the reason for not taking action, in relation to the matter.
- (h) A staff member, at any stage, may request to be represented by the Association.
- (i) The staff member or the Association on their behalf or the Department may refer the matter to the New South Wales Industrial Relations Commission if the matter is unresolved following the use of these procedures.
- (j) The staff member, Association, Department and DPE shall agree to be bound by any order or determination by the New South Wales Industrial Relations Commission in relation to the dispute.
- (k) Whilst the procedures outlined in this clause are being followed, normal work undertaken prior to notification of the question, 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.

12. Dignity and Respect in the Workplace

- 12.1 The Dignity and Respect Policy, Guidelines and Grievance Procedure of the Department shall apply to all staff covered by this Award.
- 12.2 The Dignity and Respect Grievance Procedure must be used when there is a work related grievance as defined in the Dignity and Respect Policy, Guidelines and Grievance Procedure, so that the grievance can be resolved as quickly and as close to the source of the problem as possible.
- 12.3 To put it beyond doubt, if there is a question, dispute or difficulty in relation to the interpretation, application or operation of this or any other applicable award or condition of employment, the dispute resolution procedure contained in Clause 11 of this Award must be followed.

13. Uniforms and Protective Clothing

- 13.1 Sufficient and serviceable uniforms or overalls shall be supplied, free of cost, to each Operational Staff Member required to wear them, provided that any shift employee to whom a new uniform or part of a uniform has been supplied by the Department who without good reason, fails to return the corresponding article last supplied, shall not be entitled to have such article replaced without payment therefore at a reasonable price.
- 13.2 An employee, on leaving the service of the Department, shall return any uniform or part thereof supplied by the Department which is still in use by that employee immediately or prior to leaving.
- 13.3 If the uniform of an employee is not laundered at the expense of the Department an allowance, as set out in Item 2 of Table 2(a), of Part B of this Award, shall be paid to such employee.
- 13.4 Each employee whose duties require them to work in the rain shall be supplied with suitable protective clothing upon request.
- 13.5 Each employee whose duties require them to work in a hazardous situation with or near machinery shall be supplied with appropriate protective clothing and equipment.

14. Right of Entry to Association Officials

- 14.1 Entry of Association Officials onto Departmental premises shall be in accordance with sections 297 & 298 of the *Industrial Relations Act* (NSW) 1996.

15. Area, Incidence and Duration

- 15.1 The Award shall apply to Operational Staff in the Department as defined in Clause 3 of this Award who are employed under the provisions of the Act.
- 15.2 This award was reviewed under s.19 of the *Industrial Relations Act* 1996 and rescinds and replaces the Crown Employees (Department of Juvenile Justice - Detention Centres 2005) Award published 10 March 2006 (357 I.G.1177) and all variations thereof.
- 15.3 This Award shall take effect on and from the first pay period to commence on or after 1 July 2010 and remain in force until 30 June 2011.

PART B

MONETARY RATES

Table 1 - Rates of Pay and Qualifications for positions covered by this Award

- (i) Unqualified Youth Officer

Level	Year	A & C Grade Equivalent	Eff. Date 07/07/2008	Eff. Date 06/07/2009	Eff. Date 05/07/2010	Minimum Qualifications for appointment under sec. 17 or 19 of the Act
			\$	\$	\$	
1	-	GS Year 10	45,659	47,485	49,385	

(ii) Youth Officer

Level	Year	A & C Grade Equivalent	Eff. Date 07/07/2008	Eff. Date 06/07/2009	Eff. Date 05/07/2010	Minimum Qualifications for appointment under sec. 17 or 19 of the Act
			\$	\$	\$	
2	1	Min 1	48,173	50,100	52,104	6 Units of Certificate IV in Youth Work or Youth Justice and/or equivalent related discipline*
	2	Max 1	49,589	51,573	53,636	
	3	Min 2	50,972	53,011	55,131	
3	1	Max 2	52,370	54,465	56,644	Certificate IV in Youth Work or Youth Justice and/or equivalent related discipline*

Youth Officers who, as a consequence of the making of this award, and who have only completed Certificate III in Juvenile Justice shall be allowed to progress to Level 2 year 3 by meeting the requirements of incremental progression without first obtaining 6 units of Certificate IV in Youth Work or Youth Justice.

Annual increments shall occur on the anniversary of the completion of Certificate III or 6 units of competence in Certificate IV in Youth Work or Youth Justice subject to satisfactory performance.

(iii) Shift Supervisor/Assistant Unit Manager

Level	Year	A & C Grade Equivalent	Eff. Date 07/07/2008	Eff. Date 06/07/2009	Eff. Date 05/07/2010	Minimum Qualifications for appointment under sec. 17 or 19 of the Act
			\$	\$	\$	
4	1	Min 4	57,210	59,498	61,878	Certificate IV in Youth Work or Youth Justice and/or equivalent related discipline*
	2	Max 4	58,969	61,328	63,781	
	3	Min 5	63,573	66,116	68,761	
	4	Max 5	65,578	68,201	70,929	

(iv) Unit Manager

Level	Year	A & C Grade Equivalent	Eff. Date 07/07/2008	Eff. Date 06/07/2009	Eff. Date 05/07/2010	Minimum Qualifications for appointment under sec. 17 or 19 of the Act
			\$	\$	\$	
5	1	Min 6	68,148	70,874	73,709	Certificate IV in Youth Work or

	2	Max 6	70,146	72,952	75,870	Youth Justice and/or equivalent related discipline* and Certificate IV in Frontline Management and/or equivalent related discipline*
	3	Min 7	72,247	75,137	78,142	
	4	Max 7	74,408	77,384	80,479	

(v) Assistant Manager

Level	Year	A & C Grade Equivalent	Eff. Date 07/07/2008	Eff. Date 06/07/2009	Eff. Date 05/07/2010	Minimum Qualifications for appointment under sec. 17 or 19 of the Act
			\$	\$	\$	
6	1	Min 8	77,508	80,608	83,832	Completion of Diploma and/or Degree in a relevant discipline as set out in relevant Assistant Manager Position Description
	2	Max 8	79,972	83,171	86,498	
	3	Min 9	82,356	85,650	89,076	
	4	Max 9	84,671	88,058	91,580	

(vi) Centre Manager - Level 7

Level	Year	A & C Grade Equivalent	Eff. Date 07/07/2008	Eff. Date 06/07/2009	Eff. Date 05/07/2010	Minimum Qualifications for appointment under sec. 17 or 19 of the Act
			\$	\$	\$	
7	1	Min 10	88,128	91,653	95,319	Diploma and/or Degree in a relevant discipline*
	2	Max 10	90,754	94,384	98,159	

(vii) Centre Manager - Level 8

Level	Year	A & C Grade Equivalent	Eff. Date 07/07/2008	Eff. Date 06/07/2009	Eff. Date 05/07/2010	Minimum Qualifications for appointment under sec. 17 or 19 of the Act
			\$	\$	\$	
8	1	Min 11	95,253	99,063	103,026	Diploma and/or Degree in a relevant discipline*
	2	Max 11	99,291	103,263	107,394	

(viii) Centre Manager - Level 9

Level	Year	A & C Grade Equivalent	Eff. Date 07/07/2008	Eff. Date 06/07/2009	Eff. Date 05/07/2010	Minimum Qualifications for appointment under sec. 17 or 19 of the Act
			\$	\$	\$	
9	1	Min 12	105,512	109,732	114,121	Diploma and/or Degree in a relevant discipline*
	2	Max 12	110,160	114,566	119,149	

A Centre Manager shall not have their level reduced by the making of this award.

(ix) Vocational Instructor (Trade, Maintenance, Grounds)

Level	Year	Salary FPP 07/07/2008 \$	Salary FPP 06/07/2009 \$	Salary FPP 05/07/2010 \$	Qualification and Experience
1	1	45,659	47,485	49,385	Relevant experience
2	1	48,173	50,100	52,104	Relevant Trade Certificate and Train Small Groups qualification or equivalent plus relevant experience.
2	2	49,589	51,573	53,636	
2	3	50,972	53,011	55,131	
2	4	52,370	54,465	56,644	

(x) Kitchen Support Officer and Vocational Instructor (Cook)

Level	Year	Salary FPP 07/07/2008 \$	Salary FPP 06/07/2009 \$	Salary FPP 05/07/2010 \$	Qualification and Experience
1	1	37,678	39,185	40,752	Relevant experience
	2	39,272	40,843	42,477	
2	1	48,173	50,100	52,104	Relevant TAFE Certificate or TAFE Certificate in Hospitality (Commercial Cookery or Catering Operations) or equivalent and Train Small Groups qualification or equivalent plus relevant experience
	2	49,589	51,573	53,636	
	2	50,972	53,011	55,131	
	2	52,370	54,465	56,644	

(xi) Logistics Officer

Level	Year	Salary FPP 07/07/2008 \$	Salary FPP 06/07/2009 \$	Salary FPP 05/07/2010 \$	Qualification and Experience
4	3	63,573	66,116	68,761	Certificate IV in Youth or Youth Justice and/or equivalent related discipline *
4	4	65,578	68,201	70,929	
5	1	68,148	70,874	73,709	
5	2	70,146	72,952	75,870	

(xii) Court Supervisor

Level	Year	A & C Grade Equivalent	Eff. Date 07/07/2008	Eff. Date 06/07/2009	Eff. Date 05/07/2010	Minimum Qualifications for appointment under sec. 17 or 19 of the Act
			\$	\$	\$	
4	1	Min 4	57,210	59,498	61,878	Certificate IV in Youth Work or Youth Justice and/or equivalent related discipline*
	2	Max 4	58,969	61,328	63,781	
	3	Min 5	63,573	66,116	68,761	
	4	Max 5	65,578	68,201	70,929	

(xiii) Drug Detection Security and Intelligence Officer

Level	Year	A & C Grade Equivalent	Eff. Date 07/07/2008	Eff. Date 06/07/2009	Eff. Date 05/07/2010	Minimum Qualifications for appointment under sec. 17 or 19 of the Act
			\$	\$	\$	
2	1	Min 1	48,173	50,100	52,104	6 Units of Certificate IV in Youth Work or Youth Justice and/or equivalent related discipline*
	2	Max 1	49,589	51,573	53,636	
	3	Min 2	50,972	53,011	55,131	
3	1	Max 2	52,370	54,465	56,644	Certificate IV in Youth Work or Youth Justice and/or equivalent related discipline*

* Related and relevant disciplines are to be determined by the Department

PART B**MONETARY RATES****Table 2 - Allowances and Additional Responsibilities Allowance**

(a) Allowances

Item	Allowance	Salary FPP 07/07/2008 \$	Salary FPP 06/07/2009 \$	Salary FPP 05/07/2010 \$
1	Chokage Allowance	3.87 per day	4.02 per day	4.18 per day
2	Uniform Allowance	4.00 per week	4.16 per week	4.33 per week

3	Trade Allowance	1,461.00 per annum	1,519.00 per annum	1,580.00 per annum
4	Supervisory Allowance Vocational Instructor (Cook) Frank Baxter and Cobham Juvenile Justice Centres in charge of up to and including five (5) employees.	39.36 per week	40.94 per week	42.58 per week

(b) Additional Responsibilities Allowance

Allowance	Salary FPP 07/07/2008 \$	Salary FPP 06/07/2009 \$	Salary FPP 05/07/2010 \$
Allocated Youth Officer Additional Responsibilities Allowance	N/A	1.08 per hour	1.12 per hour

E. A. R. BISHOP, Commissioner

 Printed by the authority of the Industrial Registrar.

CROWN EMPLOYEES (FIRE AND RESCUE NSW PERMANENT FIREFIGHTING STAFF) AWARD 2011

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by NSW Fire Brigades.

(No. IRC 146 of 2011)

Before The Honourable Justice Walton, Vice-President

3 March 2011

AWARD

PART A

1. Introduction

- 1.1 This Award shall be known as the "Crown Employees (Fire and Rescue NSW Permanent Firefighting Staff) Award 2011".
- 1.2 This Award regulates the rates of pay and conditions of employment for employees covered by this Award.
- 1.3 This Award is in three Parts as follows:-
- Part A - Introduction, Index, Basic Wage, and Definitions
- Part B - Rates of Pay and Conditions of Employment
- Part C - Monetary Rates
- 1.4 Except as provided by subclause 1.5, the provisions of Part B, Rates of Pay and Conditions of Employment shall apply to all employees covered by this Award.
- 1.5 The provisions of Clause 9 - Overtime, Clause 10 - Meals and Refreshments, Clause 12 - Relieving Provisions, Clause 16 - Training Course Attendance Entitlements, Clause 19 - Examination and Assessment leave, Clause 25 - Court Attendance Entitlements, Clause 27 - Notice of Transfer and Clause 28 - Transfers Outside the GSA shall not apply to Executive Officers.

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3. Basic Wage

- 3.1 This Award, in so far as it fixes rates of wages, is made by reference and in relation to the adult basic wage of \$121.40 per week.
- 3.2 The said basic wage may be varied by the Commission under subclause 2 of Clause 15 of Division 4 of Part 2 of Schedule 4, Savings, Transitional and other provisions, of the *Industrial Relations Act 1996*.
- 3.3 A reference in this Award to the adult basic wage is to be read as a reference to the adult basic wage currently in force under the said Clause 15.

4. Definitions

"Agreed Distance" means the relevant distance set out within the Matrices which appeared at Part E of the Crown Employees (NSW Fire Brigades Firefighting Staff) Award 2001, or as subsequently amended pursuant to subclause 12.10, copies of which shall be provided by the Department to employees in the manner agreed between the Department and the Union.

"Commissioner" means Commissioner of the Department holding office as such under the *Public Sector Employment and Management Act 2002*.

"Competency" means the training competencies developed by the Department following consultation between the Department and the Union providing the appropriate level of training, or part thereof, for the skill required to undertake the work for each classification covered by this Award.

"Department" means Fire and Rescue NSW established by the *Fire Brigades Act 1989* and as a Department under Schedule 1 of the *Public Sector Employment and Management Act 2002*.

"DPE" means the Director of Public Employment, as established under the *Public Sector Employment and Management Act 2002*.

"Employee" means a person, other than an employee covered by the Crown Employees (Fire and Rescue NSW Retained Firefighting Staff) Award 2011, employed in one of the classifications covered by this Award, as a member of Fire and Rescue NSW in terms of the provisions of the *Fire Brigades Act 1989*. Provided that where "employee" is referred to in the provisions of this Award which apply exclusively to either Operational Firefighters, Operational Support Positions or to Executive Officers, "employee" shall mean only those classifications to which the exclusive conditions are intended to apply.

"Executive Officer" means an employee having the rank of Chief Superintendent or Superintendent.

"Fire District" has the same meaning as in the *Fire Brigades Act 1989*.

"Firefighter" means an employee classified as a Recruit, Firefighter Level 1, Firefighter Level 2, Qualified Firefighter, Senior Firefighter or Leading Firefighter.

"GSA" (Greater Sydney Area) means within the area bounded by the Local Government areas of Pittwater, Hornsby, Baulkham Hills, Hawkesbury, Penrith, Liverpool, Wollondilly, Campbelltown and Sutherland.

"Incident" means a fire call or any other emergency incident attended by Fire and Rescue NSW.

"Major Aerial Appliance" means a firefighting vehicle equipped with a motorised boom and/or ladder extension with a reach of more than 18 metres.

"Minor Aerial Appliance" means a firefighting vehicle equipped with a motorised boom and/or ladder extension with a reach of up to and including 18 metres.

"Officer" means any employee having the rank of Station Officer.

"Operational Firefighter" means a firefighter classified as one of the following: Recruit Firefighter; Firefighter Level 1; Firefighter Level 2; Qualified Firefighter; Senior Firefighter; Leading Firefighter; Station Officer; or Inspector.

"Operational Support Position" means a position classified as such by the Department following consultation between the Department and the Union and graded using a NSW Government accredited job evaluation system.

"Outduty" means a period of duty performed by a Firefighter, not being a Relieving Employee, where the Firefighter either commences or ceases duty at a station other than the station where the Firefighter normally reports for duty, but does not include an employee on suitable duties.

"Overtime" means for an Operational Firefighter all time worked with approval or direction in excess of the employee's rostered shift.

"Platoon" means a group of employees assigned to a shift.

"Rate of Pay" means the ordinary time rate of pay for an Operational Firefighter and includes the "shift allowance", "loading" and "industry allowance" referred to in Clause 6, Rates of Pay and Allowances.

"Relieving Employee" means an employee serving at a station while not being permanently attached to any one station.

"Senior Officer" means an employee having the rank of Inspector.

"Stand By" means a period of duty up to and including four hours performed by a Firefighter at a station other than the station at which the Firefighter commenced duty and where the Firefighter finishes duty at the station at which duty commenced.

"Standard Roster" means the roster prescribed in subclause 8.3 of Clause 8 of this Award.

"Substantial Meal" means a meal similar in standard to that provided by domestic airlines to inflight passengers travelling interstate economy class.

"Union" means the New South Wales Fire Brigade Employees' Union.

PART B

5. Intention

The intention of this Award is to regulate the rates of pay and conditions of employment for employees covered by this Award.

6. Rates of Pay and Allowances

6.1 The provisions of clauses 6.2 to 6.7 inclusive shall not apply to Executive Officers and the provisions of subclause 6.8 shall not apply to Operational Firefighters. The provisions of subclauses 6.9 to 6.17 inclusive shall apply to all employees.

6.1.1 An employee shall be paid the rate of pay prescribed for the employee's classification in Tables 1.1 to 1.3 & 2.1 to 2.4 of Part C, Monetary Rates, of this Award.

6.2 The "rate of pay" is a composite rate which incorporates the basic wage, margin, loading, shift allowance and industry allowance previously prescribed separately in the Fire Brigade Employees (State) Award (as varied from time to time), published in the NSW Industrial Gazette on 28 June, 1991

6.3 The "shift allowance" referred to in subclause 6.2 is an amount to compensate for shiftwork.

6.4 The 'loading' referred to in subclause 6.2 is an amount which is in compensation for the incidence, as a result of the normal roster arrangements, of work on weekends and public holidays. In cases where

additional public holidays are Gazetted, employees who actually work on such days, in the area covered by the public holiday, shall be credited with the same number of hours of consolidated leave as those hours actually worked on each such day. For the purposes of this clause additional public holidays shall not include local public holidays.

- 6.5 The "industry allowance" referred to in subclause 6.2 is an amount which is in consideration of conditions particular to working in the Firefighting Industry.

6.5A The "Roster Allowance" is in consideration of conditions particular to rosters in the Firefighting Industry and shall be paid for all purposes, at the rate prescribed for the employee's classification in Tables 1.1 to 1.3 of Part C, per week.

- 6.6 Except as provided for in this subclause, or in subclause 6.7, in addition to the rates of pay prescribed in Tables 1.1 to 1.3 & 2.1 to 2.4 of Part C, employees, where applicable, shall be paid:

6.6.1 An amount not exceeding the Laundry Expenses set at Item 1 of Table 3 of Part C, for all reasonable laundry expenses incurred by an employee who performs duty on a temporary basis outside the GSA. Accounts for such laundry expenses are to be submitted when a claim is made.

6.6.2 The Kilometre Allowance set at Item 2 of Table 3 of Part C, per kilometre:

6.6.2.1 for Firefighters who perform a "Stand By" and who are required to use their private vehicle to perform such "Stand By". The distance shall be the agreed distance or, if the return distance travelled by the employee from the station at which duty commenced to the station at which the "Stand By" is performed is not contained in the Matrices, the actual distance necessarily and reasonably travelled; and

6.6.2.2 for Operational Firefighters who travel between stations pursuant to Clause 12, Relieving Provisions; and

6.6.2.3 for Officers who are required to use their own vehicle to attend an incident whilst off duty.

6.6.3 The Major Aerial Allowance set at Item 3 of Table 3 of Part C, per week, for Firefighters who are qualified to operate a Major Aerial Appliance and who are attached to a station with this equipment.

6.6.4 The Minor Aerial Allowance set at Item 4 of Table 3 of Part C, per week, for Firefighters and Officers who are qualified to operate a Minor Aerial Appliance and who are attached to a station with this equipment.

6.6.5 The Hazmat Allowance set at Item 5 of Table 3 of Part C, per week, for Firefighters and Officers who are qualified for and attached to a Hazmat station within Sydney, Newcastle, Wollongong or the Central Coast.

6.6.6 The Communications Allowance set at Item 6 of Table 3 of Part C, per week, for Firefighters who are qualified for and attached to the Communications sections at Sydney, Katoomba, Newcastle or Wollongong, which shall be paid for all purposes.

6.6.7 The Communications Allowance set at Item 7 of Table 3 of Part C, per week, for Officers who are qualified for and attached to the Communications sections at Sydney, Katoomba, Newcastle or Wollongong, which shall be paid for all purposes.

6.6.8 The Communications Allowance set at Item 8 of Table 3 of Part C, per week, for Senior Officers who are qualified for and attached to the Communications section at Sydney, which shall be paid for all purposes.

- 6.6.9 The Country Allowance set at Item 9 of Table 3 of Part C for Officers and Senior Officers who are attached to a station or workplace located outside the GSA and outside the areas specified in subclause 28.2.2 of this Award, which shall be paid for all purposes.
- 6.6.10 The Remote Area Allowance set at Item 10 of Table 3 of Part C, per week, for Firefighters and Officers who work at Broken Hill or Moree, which shall be paid for all purposes.
- 6.6.11 The Rescue Allowance set at Item 11 of Table 3 of Part C for Firefighters and Officers who are recognised as qualified rescue operators by the State Rescue Board and who are attached to a Primary or Secondary Rescue station.
- 6.6.12 The Service Allowance set at Item 12 of Table 3 of Part C for Firefighters who have completed the requisite period of employment as a Firefighter.
- 6.6.13 The Marine Allowance set at Item 13 of Table 3 of Part C, per week, for Firefighters and Officers who are qualified for and attached to a designated marine station.
- 6.7 Exceptions, Explanations and Method of Adjustment
- 6.7.1 The allowances set at subclauses 6.6.3 to 6.6.13 (inclusive) shall not be payable to the occupants of Operational Support positions.
- 6.7.2 The allowances set at subclauses 6.6.3 to 6.6.13 (inclusive) shall be paid in full, regardless of the number of shifts actually worked by the employee within that week.
- 6.7.3 The term "attached to" within this Clause shall include employees who are permanently assigned to the relevant station or section, Relieving Employees whose base station is the relevant station or section and who are performing duty at some other location, employees who are permanently assigned to the relevant station or section but who are performing an Outduty at some other location, but shall not include employees who perform duty at the relevant station or section pursuant to Clause 9, Overtime, except as provided for in subclauses 6.6.6, 6.6.7, 6.6.8, 6.6.9 and 6.6.10.
- 6.7.4 The allowances set at subclause 6.6.12 shall in future be adjusted by firstly calculating the increase for 5-10 years service to the nearest cent to arrive at a new base rate and then doubling that new base rate to arrive at the new 10-15 years service amount and tripling that new base rate to arrive at the new 15-plus years service amount.
- 6.7.5 The Major and Minor Aerial allowances set at subclauses 6.6.3 and 6.6.4 respectively, shall not be paid concurrently. In situations where both allowances would otherwise apply pursuant to this Clause, the Major Aerial Allowance only shall be paid.
- 6.8 The salaries for Executive Officers are as specified in Tables 1.1 to 1.3 of Part C, Monetary Rates. Such salaries are all incidence rates of pay and include compensation for:
- 6.8.1 the way in which ordinary hours are worked in terms of sub-clause 8.12;
- 6.8.2 the working of any excess hours or being on call; and
- 6.8.3 the non payment of an annual leave loading.
- 6.9
- 6.9.1 Employees shall be paid fortnightly and payment shall be made into a bank account specified by the employee, or other financial institutions acceptable to the Department and the Union.
- 6.9.2 Employees shall be paid not later than Thursday in any pay week. Provided that Operational Firefighters who perform overtime shall be paid within two pay periods of the date upon which such overtime was worked.

6.10

6.10.1 An employee shall not be entitled to payment in respect of any unwarranted absence from duty or in respect of leave granted without pay.

6.10.2 Where any strike or stoppage of work occurs during a pay period for which payment has already been made, the Department shall deduct the amount overpaid from the wages of the employee. The provisions of subclause 6.16 shall not apply in cases where overpayments have occurred as a result of any strike or stoppage of work.

6.11 Unless as otherwise provided for in Clause 24, Special Leave for Union Activities, where an employee is, on application, granted leave by the Department to attend to Union business, all such leave shall be leave without pay.

6.12 Where the period of absence or leave under subclauses 6.10 and 6.11 of this clause, is a portion of a week, the amount to which an employee shall be disentitled shall be ascertained on an hourly basis. Such disentitlement shall be calculated to the nearest five minutes.

6.13 Where a portion of a week is worked in a higher classification immediately following promotion, payment for that portion shall be ascertained, on an hourly basis, by dividing the minimum rate of pay applicable to the new classification by forty. Such entitlement shall be calculated to the nearest five minutes.

6.14 In the event of the death of an employee, all monies due to the employee pursuant to the provisions of this Award shall be paid to the employee's estate.

6.15 Payroll Deductions:

6.15.1 Except as provided for in 6.15.2, all salary deductions shall be made in accordance with the Treasury Guidelines.

6.15.2 Upon application by an employee, the Department shall make deductions from the employee's pay for Union subscriptions and shall forward the amount so deducted to the Union as soon as possible thereafter.

6.16 Overpayments:

6.16.1 In cases where an employee has been overpaid, the Department shall be entitled to recover such overpayment in full. Unless the employee agrees otherwise, the maximum rate at which the overpayment can be recovered is an amount, calculated on a per fortnight basis, equivalent to 10% of the employee's gross fortnightly pay.

6.16.2 In all cases where overpayments have occurred, the Department shall as soon as possible advise the employee concerned of both the circumstances surrounding the overpayment and the amount involved. The Department will also advise the employee of the pay period from which the recovery of the overpayment is to commence.

6.16.3 The recovery rate of 10% of an employee's gross fortnightly pay referred to in subclause 6.16.1 may be reduced by approval of the Commissioner if the Commissioner is satisfied that such a rate of recovery would cause undue hardship to the employee concerned.

6.16.4 Where an employee's remaining period of service does not permit the full recovery of any overpayment to be achieved on the fortnightly basis prescribed in subclause 6.16.1, the Department shall have the right to deduct any balance of such overpayment from monies owing to the employee on the employee's date of termination, resignation or retirement, as the case may be.

7. Higher Duties

- 7.1 An employee shall not be permitted to perform Higher Duties unless, firstly, the employee is qualified to perform such duties and, secondly, where a rank or classification structure applies, the employee is at the rank or classification immediately below the rank or classification in which the relief is to be performed.
- 7.2 An employee performing Higher Duties shall be paid, for the period of relief, the difference between the employee's usual rate of pay and the minimum rate of pay for the classification in which the higher duties are performed. Such employees shall not be entitled to allowances in subclauses 6.6.3 to 6.6.14 (inclusive) where they are performing higher duties in an Operational Support position.
- 7.3 While a Senior Officer who relieves an Executive Officer shall be remunerated for the period of relief in terms of subclause 7.2, such employee shall, with the exception of provisions relating to hours of work and overtime, retain the conditions of employment applicable to a Senior Officer. In relation to hours of work and excess hours such an employee shall, for the period of relief, be covered by subclause 8.12 of Clause 8, Hours of Work.
- 7.4 In selecting employees to perform Higher Duties the following procedures shall apply:
- 7.4.1 Where the period of relief is to be less than one month, a merit based selection process need not be applied. However, the Department shall have regard to the principles of equitably sharing career development opportunities.
- 7.4.2 Where the period of relief is one month or more and the need for the relief is known in advance, expressions of interest shall be called for and selection made on the basis of merit.
- 7.4.3 Where the need for the relief is not known in advance, but it subsequently becomes known that the duration of the relief is anticipated to be for two months or more, the initial appointment shall be made in accordance with subclause 7.4.1. However, immediately following that initial appointment expressions of interest are to be called for and selection made on the basis of merit.
- 7.4.4 For the purposes of this clause, merit shall be determined consistent with the principles and processes underlying merit based selection in the NSW Public Service.

8. Hours of Work

- 8.1 The average ordinary working hours of Operational Firefighters shall be forty hours per week over the cycle of weeks for which the rosters of ordinary hours of duty and leave operate. All rosters include, in addition to the average forty ordinary hours per week, an average per week of; two hours of thirty-eight hour week leave accrual which shall be accumulated and added to annual leave accrual, and taken in accordance with a leave roster.
- 8.2 Arrangement of Rosters
- 8.2.1 Rosters shall be arranged, as far as practicable, to give Operational Firefighters at least fourteen days notice in advance. Once a roster is drawn up it shall not be departed from except by the Department following consultation between the Department and the Union or to meet an emergency due to sickness or other unexpected or unavoidable cause.
- 8.2.2 Except as provided for in subclause 8.2.1, effective on and from the date of operation of this Award, any change at any location from one roster system to another, or to a new roster system, shall only be by the Department following consultation between the Department and the Union.
- 8.3 Standard 10\14 Roster System

	1st Week	2nd Week	3rd Week	4th Week
Platoon	F S S M T W T	F S S M T W T	F S S M T W T	F S S M T W T
A	D D N N	D D N N	D D N N	D D N N

HOURS	48	48	48	48
B HOURS	NN D 38	D NN 38	DD NN 48	DD NN 48
C HOURS	DD N 34	N DD 34	NN D 38	D NN 38
D HOURS	DD NN 48	DD NN 48	DD N 34	N DD 34

	5th Week	6th Week	7th Week	8th Week
Platoon	F S S M T W T	F S S M T W T	F S S M T W T	F S S M T W T
A HOURS	DD N 34	N DD 34	NN D 38	D NN 38
B HOURS	DD NN 48	DD NN 48	DD N 34	N DD 34
C HOURS	DD NN 48	DD NN 48	DD NN 48	DD NN 48
D HOURS	NN D 38	D NN 38	DD NN 48	DD NN 48

8.3.1 The Standard 10/14 roster system is based on four platoons over an 8-week cycle.

8.3.2 The shifts within the Standard 10/14 roster cycle shall be as set out in the Table at subclause 8.3 where: D = 0800 hours to 1800 hours; and N = 1800 hours to 0800 hours.

8.4 Back to Back Roster System

	1st Week	2nd Week	3rd Week	4th Week
Platoon	F S S M T W T	F S S M T W T	F S S M T W T	F S S M T W T
E HOURS	DDDD 48	DDDD 48	DDDD 48	DDDD 48
F HOURS	DDD 36	D DD 36	DD D36	DDD 36

	5th Week	6th Week	7th Week	8th Week
Platoon	F S S M T W T	F S S M T W T	F S S M T W T	F S S M T W T
E HOURS	DDD 36	D DD 36	DD D 36	DDD 36
F HOURS	DDDD 48	DDDD 48	DDDD 48	DDDD 48

8.4.1 The Back to Back roster is based on two platoons over an 8-week cycle.

8.4.2 The shifts within the Back-to-Back roster cycle shall be as set out in the Table at subclause 8.4 where: D = 0600 hours to 1800 hours.

8.5 Overlap Roster

	1st Week	2nd Week	3rd Week	4th Week
Platoon	F S S M T W T	F S S M T W T	F S S M T W T	F S S M T W T
G HOURS	D DDDD 52.5	DDD 31.5	D DDDD 52.5	DDD 31.5
H HOURS	DDD 31.5	D DDDD 52.5	DDD 31.5	D DDDD 52.5

	5th Week	6th Week	7th Week	8th Week
Platoon	F S S M T W T	F S S M T W T	F S S M T W T	F S S M T W T
G HOURS	D D D D D 52.5	D D D 31.5	D D D D D 52.5	D D D 31.5
H HOURS	D D D 31.5	D D D D D 52.5	D D D 31.5	D D D D D 52.5

8.5.1 The Overlap roster system is based on two platoons over an 8-week cycle.

8.5.2 The shifts within the Overlap roster cycle shall be as set out in the Table at subclause 8.5 where:
D = 0700 hours to 1730 hours.

8.6 Special Roster System

8.6.1 The Special Roster System is a Monday to Friday day shift roster with the commencing and ceasing times for Monday to Thursday being 0800 hours to 1630 hours, respectively and for Friday 0800 hours to 1600 hours respectively.

8.7 Except for fire stations operating the Standard 10/14 roster system on the date of the making of this Award, the roster prescribed in subclause 8.3 of this clause shall not apply to fire stations which the Department determines shall be staffed by employees on a full-time basis for less than 168 hours per week and by Retained Firefighters for the balance of the week where the ordinary hours not exceeding 40 per week shall be worked as directed by the Department from time to time.

8.8 The average ordinary working hours of employees holding the classification of Recruit Firefighter shall be 40 hours per week. The rostered hours of work for Recruit Firefighters shall be arranged so that they shall not accrue 38 hour leave. The hourly rate of pay of an employee holding the classification of Recruit Firefighter shall be determined by dividing the weekly rate of pay for a Recruit Firefighter by 40.

8.9 Irrespective of which roster is for the time being applicable, the following general conditions shall apply:

8.9.1 In the event of an alarm, requiring any station to stand by or respond to an incident, being received at the station during roll call, the oncoming platoon shall, if required, respond to the incident. The off-going platoon shall remain on duty, if required, or until otherwise directed. Roll calls shall be conducted by the station bell being rung two minutes before rostered time to change shift.

8.9.2 The oncoming shift available in the station may attend roll call without any overtime penalty being incurred, but on completion of the roll call and the Officer-in-Charge being satisfied that there are adequate staff for the shift, the off-going shift shall then be dismissed.

8.9.3 No employee shall be charged with being absent from duty who misses the roll call at two minutes in the time set for the change of shift, provided that the employee is on station premises by the rostered time for the shift to commence. An employee retained beyond the ceasing time of the shift shall be paid overtime.

8.9.4 If, when the oncoming platoon reports at a station at the time prescribed for the change of shift, the other platoon is proceeding to or attending an incident or alarm, the oncoming platoon, if so ordered, shall after roll call, proceed to the incident and the Officer or senior members of the platoon shall report, without delay, the arrival of the platoon to the Officer-in-Charge of the incident. The off-going platoon shall remain on duty at the incident until relieved.

8.9.5 The Officer-in-Charge of the incident may, if in that Officer's judgment it is expedient, hold both the oncoming and off-going platoons for duty at the incident. If the off-going platoon is not held at the incident or is not detained at the incident for duty elsewhere, it shall report back to the station and shall remain available until the other platoon returns or until otherwise directed, when it shall be dismissed.

- 8.9.6 In the event of one or more members of the ongoing platoon being absent an equal number of members in the platoon on duty shall be liable to be detained on duty until such time as they may be relieved. Nothing herein contained shall be deemed to sanction an unauthorised absence or to relieve the absent member from a liability to be charged with being absent without leave and dealt with accordingly.
- 8.10 The rosters provide for an amount of residual leave of 7.25 hours per annum, which is to be credited as consolidated leave, on the anniversary of the employee's date of commencement of employment by the Department notwithstanding the provisions of subclause 8.8.
- 8.11 No employee shall be permitted to work in excess of sixteen hours straight except in the case of a call to an incident or other emergency circumstances.
- 8.12 Executive Officers

Executive Officers shall work an average of forty ordinary hours per week on a flexible basis according to the needs of the organisation on any day of the week or at any time of the day.

9. Overtime

- 9.1 Overtime shall be paid for at the rate of time and one-half for the first two hours and at the rate of double time thereafter, provided that an employee who is required to work overtime shall be entitled to payment for at least 15 minutes of overtime on each occasion that the employee is called upon to work overtime. To avoid doubt, where work commences prior to the start of an employee's rostered shift and continues beyond the conclusion of that shift then the relevant rate of pay shall be determined by having regard to the entire period of overtime worked, so that any and all overtime worked in excess of two hours is paid at the rate of double time.
- 9.2 For meal allowance entitlements where an employee works for more than two hours after the rostered finishing time of the shift, see Clause 10, Meals and Refreshments.
- 9.3 When it is reasonably necessary for an employee who has returned to the station either before or after the ceasing hour of the shift to clean up before leaving the station, and thereby justifiably leaves the station after the ceasing hour, the time so reasonably and necessarily occupied beyond the ceasing hour shall be paid for as overtime; provided, however, that on return to the station the employee draws the situation to the attention of the Officer-in-Charge of the station and that during the next working shift applies in writing for the overtime due under this subclause, specifying the grounds of the claim; provided, further, that if an employee is prevented by duty or other reasonable cause from making the claim on the next working shift the employee shall make the claim on the next ensuing working shift.
- 9.4 The hourly rate of pay for an employee for the purpose of this clause shall be ascertained by dividing the appropriate weekly "rate of pay" for such employee by forty.
- 9.5 Recall to Incident
- 9.5.1 An employee who is off duty and who is called upon, pursuant to subclause 9.5.2, to report for duty to attend an incident shall be entitled to a minimum payment equal to two hours at overtime rates.
- 9.5.2 Notwithstanding anything elsewhere contained in this clause, in the case of an incident, all employees off duty shall be liable to be called upon to report for duty and if called upon shall report immediately for duty
- 9.5.3 An employee who is on annual leave or long service leave and who reports for duty to attend an incident shall, in addition to payment pursuant to subclause 9.1, be credited with consolidated leave equal to the amount of time so worked.

- 9.5.4 For meal allowance entitlements when the employee remains on duty for a period of four hours or more in connection with a recall pursuant to subclause 9.5.1, see Clause 10, Meals and Refreshments.
- 9.6 Recall to Maintain Required Staffing Levels
- 9.6.1 An employee off duty who is required to report for duty for the purpose of maintaining required staffing levels shall, on so reporting, be entitled to a minimum payment equal to four hours at overtime rates.
- 9.7 Where an employee recalled pursuant to either subclauses 9.5.2 or 9.6.1:
- 9.7.1 Is required to transport the employee's gear from the station/location at which the gear is located to another station/location in order to perform the duties of the recall, such employee shall be paid the Kilometre Allowance set at Item 2 of Table 3 of Part C, for the distance travelled on the forward journey between the two locations. In the event that the Department is unable to transport the employee's gear back to the station/location at which the gear was located, the employee shall also be entitled to be paid return kilometres equal to the forward journey. For the purpose of this subclause "distance travelled" means the agreed distance or, if the distance is not covered by a Matrix, the actual kilometres travelled.
- 9.7.2 Incurs a toll as a consequence of using a bridge, tunnel or motorway when travelling to perform the recall, such employee shall be reimbursed for the cost of the toll.
- 9.8 On such nights as may be fixed by the Department or by the Commissioner on reasonable notice in the circumstances not exceeding two nights in any week, an employee shall work such overtime as is reasonably necessary for usual Brigade inspections, or for giving instructions to Retained Firefighters.
- 9.9 When overtime work is necessary it shall, except in the case of an emergency, be so arranged that employees have at least eight consecutive hours off duty between the work of successive shifts. Where an employee works so much overtime between the termination of the employee's ordinary work on any day or shift, and the commencement of the employee's ordinary work on the next day or shift, that the employee has not had at least eight consecutive hours off duty between these times, the employee shall be released after completion of such overtime until the employee has had eight consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.
- 9.9.1 If on the direction of the employee's authorised supervisor, such employee resumes or continues work without having had such eight consecutive hours off duty, the employee shall be paid at the rate of double time until the employee is released from duty for such period, and the employee shall be entitled to be absent until the employee has had eight consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.
- 9.9.2 Provided that while recalls shall be paid for at overtime rates in accordance with this Award, where the actual total time worked on a recall or recalls is less than 3 hours it shall not count for the purpose of determining whether an employee has had an eight hour break pursuant to this subclause.

10. Meals and Refreshments

- 10.1 Attendance at an Incident
- 10.1.1 For the purposes of this clause, an "incident" also includes hazard reduction or any similar situation where facilities comparable to those provided at fire stations are not available to partake of a meal.
- 10.1.2 Where an employee attends an incident which extends for two hours or more;
- 10.1.2.1 In the GSA, Newcastle, Broken Hill, Gosford, Wyong and Wollongong Fire Districts, refreshments shall be provided;

- 10.1.2.2 In all other Fire Districts, refreshments shall be provided as soon as possible after two hours but no later than three hours.
- 10.1.3 Where such an incident extends for four hours or more, the employee shall be provided with a substantial meal. After every subsequent four hours of attendance at such an incident, a further substantial meal shall be provided.
- 10.2 Payment in Lieu of the Provision of Refreshments/Meals
- 10.2.1 Where refreshments are not provided in terms of subclause 10.1.2, the Refreshment Allowance set at Item 15 of Table 3 of Part C, shall be paid.
- 10.2.2 Where meals are not provided in terms of subclause 10.1.3, the Meal Allowance set at Item 14 of Table 3 of Part C, shall be paid.
- 10.3 During Overtime
- 10.3.1 An employee who works overtime which:
- 10.3.1.1 involves the attendance at an incident shall be provided with refreshments/meals in terms of subclauses 10.1.2 and 10.1.3 or the payment in lieu thereof as prescribed in subclause 10.2;
- 10.3.1.2 does not involve attendance at an incident and is not a recall for the purpose of maintaining required staffing levels, shall, if such overtime extends for more than two hours, be paid the Meal Allowance set out at Item 14 of Table 3 of Part C. After every subsequent four hours of such overtime worked, the Refreshment Allowance set out at Item 15 of Table 3 of Part C, shall be paid.
- 10.4 Method of Payment and Calculation of Allowances in Lieu of Refreshments/Meals
- 10.4.1 The payments referred to in this clause shall, unless the Officer-in-Charge is not available to make such payment, be made prior to or at the cessation of the shift or overtime as the case may be. In cases where the Officer-in-Charge is not available to make payment, the employee shall be paid at the earliest opportunity thereafter.
- 10.4.2 The allowances referred to in this clause shall be calculated as follows:-
- 10.4.2.1 The Meal Allowance at Item 14 of Table 3 of Part C, is the average, rounded to the nearest five cents, of the amounts prescribed for the overtime meal allowances for breakfast, lunch and dinner at Item 19 of Table 1 Part B of the Crown Employees (Public Service Conditions of Employment) Award 2002.
- 10.4.2.2 The Refreshment Allowance in Item 15 of Table 3 is half, rounded to the nearest five cents, of the Meal Allowance in Item 14 of Table 3 of Part C.
- 10.4.2.3 The amounts specified in 10.4.2.1 and 10.4.2.2 shall be re-calculated, and shall take effect from the same date, as any adjustments made to the overtime meal allowances for breakfast, lunch and dinner allowances in the Crown Employees (Public Service Conditions of Employment) Award 2002.

11. Transport

- 11.1 Where an employee has been rostered for duty and works from 0800 hours to 1800 hours and is retained on overtime and ceases duty after 2000 hours and public transport or other normal means of transport is not reasonably available, arrangements may be made by the Department to provide transport (by taxi or otherwise) to ensure that the employee obtains reasonable transport home.

12. Relieving Provisions

- 12.1 The provisions of this clause shall only apply to:
- 12.1.1 Relieving Employees, as defined in Clause 4, when such employees work a rostered shift at either the employee's base station/location or performs a relief duty at another station/location; and
 - 12.1.2 Other employees when such employees perform an "Outduty", as defined in Clause 4.
- 12.2 Relieving Employees shall be assigned to a base station/location which, as far as is practicable having regard to the Department's operational requirements, is in the employee's stated preferred Zone, or in the Zone closest to the employee's residence.
- 12.3 Relieving Employees shall report for duty at their base station/location unless otherwise directed.
- 12.4 Subject to the exceptions in 12.4.1, employees cannot be directed to perform relief duty outside the Fire District to which they are attached.
- 12.4.1 Exceptions
 - 12.4.1.1 Inspectors;
 - 12.4.1.2 Relieving Employees (pursuant to 12.1.1);
 - 12.4.1.3 Employees (pursuant to 12.1.2) who are placed upon a transfer register pursuant to clause 28, Transfers Outside of the GSA, and are claiming residential priority may be directed to relieve in an area to which that transfer register applies.
- 12.5 Notwithstanding the provisions of 12.4, any employee may elect to perform relief duty outside the Fire District to which they are attached.
- 12.6 Relieving Allowance
- 12.6.1 The Relieving Allowance set at Item 16 of Table 3 of Part C shall be paid to:
 - 12.6.1.1 a Relieving Employee for each rostered shift worked by the employee at the employee's base station and, except as provided for by subclause 12.6.2 or as otherwise provided by this Award, for each rostered shift on which the employee performs a relief duty at another station/location.
 - 12.6.1.2 other employees on each occasion, except as provided for by subclause 12.6.2 or as otherwise provided by this Award, when such employees perform an outduty in terms of subclause 12.1.2.
 - 12.6.2 Unless otherwise provided in this Award, the Relieving Allowance prescribed in subclause 12.6.1 shall not be paid to either a Relieving Employee (or other employee pursuant to 12.1.2) in cases where the employee is compensated for excess travelling time and/or payment for travel/accommodation expenses in accordance with the provisions of Clause 26, Travelling Compensation.
- 12.7 Unless specifically provided for elsewhere in this clause, when a Relieving Employee (or other employee pursuant to 12.1.2) is required to perform relief duty on a rostered shift at another station/location:
- 12.7.1 included within a Matrix and for which an agreed distance therefore exists, the employee shall be entitled to, in addition to the relieving allowance, payment of the Kilometre Allowance set out at Item 2 of Table 3 of Part C, for that agreed distance.

- 12.7.2 not included within a Matrix or where the base station/location and other stations/locations are in separate Matrices and therefore not covered by subclause 12.7.1:
- 12.7.2.1 with prior notice, the employee shall be entitled to the relieving allowance payment plus, if applicable, payment of the Kilometre Allowance set out at Item 2 of Table 3 of Part C for any excess distance travelled. For the purposes of this subclause, excess distance shall be any distance actually and reasonably travelled by the employee to the relief station/location in excess of that normally travelled by the employee to report for duty at the employee's base station/location.
 - 12.7.2.2 without prior notice, the employee shall be entitled to, in addition to the relieving allowance, payment of the Kilometre Allowance set out at Item 2 of Table 3 of Part C, for the distance actually travelled.
 - 12.7.2.3 the provisions of 12.7.2.1 are to be read in conjunction with the provisions of subclause 12.8.
- 12.8 If, in a particular case, an employee considers that the presumed "no disadvantage" envisaged in the provisions of 12.7.2.1 is in fact not the case, the employee may submit a claim for the total compensation that the employee considers to be reasonable in the circumstances. All such claims must be supported with written reasons.
- 12.9 For the purpose of this Clause, "distance" shall mean the agreed return distance prescribed between two stations/locations in a Matrix. Each Matrix shall stand alone for the purpose of calculating the relevant distance. If the distance between two stations/locations is not prescribed in a Matrix, then "distance" shall mean the actual distance necessarily and reasonably travelled.
- 12.10 The parties acknowledge that the majority of the distances contained in the Matrices have been calculated using an electronic measuring device. In the event that a discrepancy is identified, the distance in question shall first be rechecked using the electronic measuring device. If the discrepancy still exists then the distance in question shall be checked using, if practicable, a motor vehicle, and if not, some other method agreed to by the Department and the Union.
- 12.10.1 If a distance in the Matrices is found to be incorrect, then a new agreed distance will be determined. Any new distance and its effective date will be published in the next available In Orders.
 - 12.10.2 In cases where the corrected distance is more than that shown in the Matrices, it will take effect from the beginning of the pay period in which the discrepancy was first notified in writing by an employee.
 - 12.10.3 In cases where the revised distance is less than that contained in the Matrices, the new distance will operate prospectively from the beginning of the first pay period to commence on or after the date that the new distance is published in In Orders.
- 12.11 Multiple Reliefs During a Rostered Shift.
- 12.11.1 Where a Relieving Employee (or other employee pursuant to 12.1.2) performs relief duties during a rostered shift at more than one station/location, payment shall be made for kilometres for the forward journey/journeys between the station at which duty commenced and the subsequent station/s and between the station at which duty ceased and the station at which duty commenced. Provided that this provision shall not reduce any entitlement that the employee may have in relation to commencing duty at the station at which duty commenced.
 - 12.11.2 The provisions of 12.11.1 shall not apply in cases where the provisions of Clause 26, Travelling Compensation, apply.

12.12 Provision of Transport

- 12.12.1 Where a Relieving Employee (or other employee pursuant to 12.1.2) is directed without prior notice after the commencement of a rostered shift, to perform relief duty at another station/location, the employee may request the provision of transport by the Department.
- 12.12.2 Where an employee requests the provision of transport in terms of 12.12.1, the employee shall be entitled to the following provisions. Apart from these provisions, no other provisions of this clause shall apply.
- 12.12.2.1 Payment of the Relieving Allowance.
- 12.12.2.2 Except if the employee makes an election in terms of 12.12.2.3, the employee shall be entitled to transport back to the station/location at which duty commenced and to travelling time as prescribed in Clause 26, Travelling Compensation, for the time actually taken, from the completion of duty, to return to the station at which duty commenced.
- 12.12.2.3 Where an employee elects to return to the station/location after completion of duty to the station at which duty commenced by the employee's own means, the employee shall be entitled to be paid the Kilometre Allowance set at Item 2 of Table 3 of Part C, for half the distance prescribed in the relevant Matrix. If no distance is prescribed, the distance shall be the actual distance necessarily and reasonably travelled by the employee to return to the station at which duty commenced.
- 12.13 Where a Relieving Employee (or other employee pursuant to 12.1.2) incurs a toll as a consequence of using a bridge, tunnel or motorway when travelling to perform a relief duty, such employee shall be reimbursed for the cost of the toll.
- 12.14 A Relieving Employee (or other employee pursuant to 12.1.2), who is directed to perform a relief duty on a rostered shift at a station/location which requires the employee to reside at a place other than the employee's residence, shall be entitled to the relevant provisions of Clause 26, Travelling Compensation, in lieu of the provisions of this clause.
- 12.15 Where a Relieving Employee (or other employee pursuant to 12.1.2) performs a relief at a station/location which, under normal circumstances would not require the employee to reside at a place other than the employee's residence, but because of special circumstances the employee is given approval by the Department for accommodation in order to have sufficient rest before returning home, the employee shall be entitled to the following:
- 12.15.1 Appropriate accommodation provided or arranged by the Department.
- 12.15.2 Retention of the Relieving Allowance.
- 12.15.3 With the exception of travelling time and costs for travel, the relevant provisions of Clause 26, Travelling Compensation.
- 12.15.4 The Kilometre Allowance set at Item 2 of Table 3 of Part C, as if the employee had not stayed in the accommodation.
- 12.16 The Relieving Allowance set at Item 16 and the Kilometre Allowance set at Item 2 of Table 3 of Part C, are in compensation for excess travelling time and the cost of excess travel to and from the station/locations at which relief duties are performed on a rostered shift.
- 12.17 Performance of Outduties.
- 12.17.1 An employee cannot be directed to perform more than twelve (12) outduties in any Calendar year.

- 12.17.2 Notwithstanding the provisions of 12.17.1, an employee may elect to perform more than twelve (12) outduties in any Calendar year.
- 12.18 The provisions of this clause do not apply in cases where an employee acts up in a position following an expression of interest pursuant to subclause 7.4.2 or where an employee acts up as an Executive Officer, or where an employee, not being a Relieving Employee, acts up at the employee's base station/location.
- 12.19 Unless specifically provided for by this clause, the provisions of this clause and Clause 26, Travelling Compensation, shall be mutually exclusive. That is, an employee who is entitled to make a claim, in relation to a particular situation, under the provisions of Clause 26, Travelling Compensation, shall not be entitled to make any claim under the provisions of this clause, or vice versa.
- 12.20 Where an employee is required to use the employee's private vehicle to perform a "Stand By", as defined in Clause 4, Definitions, compensation shall only be in terms of subparagraph 6.6.2.1.

13. Progression and Promotion Provisions

- 13.1 This clause prescribes:

13.1.1 progression and promotion provisions, and;

13.1.2 the constitution and operation of the Training Review Committee.

Progression and Promotion Provisions

- 13.2 All employees shall be required to satisfy and maintain the competencies specified, by the Commissioner on the advice of the Training Review Committee for the classification to which they are appointed.

Recruit Firefighter to Firefighter Level 1

- 13.3 Recruit Firefighters shall be on probation until they have progressed to Firefighter Level 1, or for a period of six months, whichever is the lesser. Progression from Recruit Firefighter to Firefighter Level 1 shall be subject to the satisfactory completion of the training and/or training competencies undertaken at the Fire and Rescue NSW Training College and specified, by the Commissioner on the advice of the Training Review Committee, for progression to Firefighter Level 1.

Firefighter Level 1 to Firefighter Level 2

- 13.4 Progression from Firefighter Level 1 to Firefighter Level 2 shall be subject to twenty four (24) months service from the date of commencement as a Recruit Firefighter and to the satisfactory completion of the training and/or training competencies specified, by the Commissioner on the advice of the Training Review Committee, for progression to Firefighter Level 2.

Firefighter Level 2 to Qualified Firefighter

- 13.5

13.5.1 Progression from Firefighter Level 2 to Qualified Firefighter shall be subject to thirty six (36) months service from the date of commencement as a Recruit Firefighter and to the satisfactory completion of the training and/or training competencies specified, by the Commissioner on the advice of the Training Review Committee, for progression to Qualified Firefighter.

13.5.2 For Recruit Firefighters employed on or after 1 January 2010 progression from Firefighter Level 2 to Qualified Firefighter shall be subject to the attainment of Certificate III Public Safety (Firefighting and Emergency Operations) and to the satisfactory completion of the training and/or training competencies specified, by the Commissioner on the advice of the Training Review Committee, for progression to Qualified Firefighter.

13.6

13.6.1 Progression to Qualified Firefighter is a mandatory achievement required for all Firefighters. Failure to achieve progression to this classification within a reasonable time, will result in the employee being considered unsuitable for continued employment in the Department, and the employment of such an employee will be terminated accordingly. In such circumstances, the Department will advise the Union that the services of the employee are to be terminated.

13.6.2 The reference to "reasonable time" in subclause 13.6.1 means a period in excess of thirty six (36) months. The excess time to be allowed shall be determined by the Commissioner after taking into account all the circumstances of the case of the employee concerned.

Qualified Firefighter to Senior Firefighter

13.7 Progression from Qualified Firefighter to Senior Firefighter shall be subject to a minimum of seventy two (72) months service from the date of commencement as a Recruit Firefighter and to the satisfactory completion of the training and/or training competencies specified, by the Commissioner on the advice of the Training Review Committee, for progression to Senior Firefighter.

Senior Firefighter to Leading Firefighter

13.8 Progression from Senior Firefighter to Leading Firefighter shall be subject to: firstly; at least three years service as a Senior Firefighter as of the date of the relevant Pre-Entry Test; secondly, the acquisition of the necessary Station Officer competencies specified by the Department following consultation between the Department and the Union; and thirdly, acceptance into the coming year's Station Officers' Promotion Program.

13.8.1 Applications for entry into the coming year's Station Officers' Promotion Program shall be called for from eligible Senior Firefighters in In Orders in July each year. The number of positions available in that coming year's Station Officers' Promotion Program shall be specified in the same In Orders, and will be solely dependent on the forward planning needs of the Department.

13.8.2 The order of merit for entry into the Station Officers' Promotion Program shall be determined by the level of achievement of applicants in an annual Pre-Entry Test, which shall be held each September. This Pre-Entry Test shall consist of two components. The first component shall be directed at assessing the current knowledge of the applicant. This test shall be focussed on the knowledge that an eligible Senior Firefighter should reasonably be expected to have after 9 years of service and shall comprise 70% of the total score of the Pre-Entry Test (40% technical/general knowledge and 30% on incident scenarios). The second component shall focus on the knowledge and understanding of Station Officers' management and supervision issues. This component shall be conducted by an independent party and shall be based on pre-reading supplied to the applicants. This component shall comprise 30% of the total score of the annual Pre-Entry Test.

13.8.3 The successful applicants for a given year's Station Officers' Promotion Program shall be drawn from the top of the order of merit list referred to in subclause 13.8.2. The Department shall accept and promote to Leading Firefighter the same number of those applicants as there were positions advertised in accordance with subclause 13.8.1.

Leading Firefighter to Station Officer Level 1

13.9 Promotion from Leading Firefighter to Station Officer shall be subject to the occurrence of a vacancy and in accordance with the following provisions:-

13.9.1 Subject to the provisions of 13.9.2, promotion to Station Officer Level 1 shall be subject to the successful completion of the Station Officers' Promotion Program, the content and format of which shall be specified by the Commissioner following consultation between the Department and the Union. The order of promotion of

Leading Firefighters who successfully complete the Station Officers' Promotion Program shall be determined by their placement on the order of merit list arising from assessments forming part of that Station Officers' Promotion Program.

- 13.9.2 Leading Firefighters who do not successfully complete their initial Station Officers' Promotion Program shall gain automatic entry to the next subsequent Program and, provided this second Program is successfully completed, such employees shall take precedence in the order of promotion of that Program's successful participants. If a Leading Firefighter does not successfully complete the Station Officers' Promotion Program upon this second attempt then that employee will be returned to the classification of Senior Firefighter.

Station Officer Level 1 to Station Officer Level 2

- 13.10 Progression from Station Officer Level 1 to Station Officer Level 2 shall be subject to the completion of two years satisfactory service as a Station Officer.

Station Officer Level 2 to Inspector

- 13.11 Promotion from Station Officer Level 2 to Inspector shall be subject to the occurrence of a vacancy and the successful completion of the Inspectors' Promotion Program, the content and format of which shall be specified by the Commissioner following consultation between the Department and the Union.

13.11.1 Applications for entry into each Inspectors' Promotion Program shall be called for from Station Officers Level 2 In Orders. The number of positions available in each Inspectors' Promotion Program shall be specified in the same In Orders, and will be solely dependent on the forward planning needs of the Department.

13.11.2 The order of merit for entry into each Inspectors' Promotion Program shall be determined by the level of achievement of applicants in a Pre-Entry Test, the content and format of which shall be specified by the Commissioner following consultation between the Department and the Union.

13.11.3 Subject to the provisions of subclause 13.11.4, the successful applicants for each Inspectors' Promotion Program shall be drawn from the top of the order of merit list referred to in subclause 13.11.2. The Department shall accept the same number of those applicants to the Inspectors' Promotion Program as there were positions advertised in accordance with subclause 13.11.1. The order of promotion of Station Officers Level 2 who successfully complete the Inspectors' Promotion Program shall be determined by their placement on the order of merit list arising from assessments forming part of the Inspectors' Promotion Program.

13.11.4 Station Officers Level 2 who do not successfully complete their initial Inspectors' Promotion Program shall gain automatic entry to next subsequent Inspectors' Promotion Program and, provided this second Program is successfully completed, such employees shall take precedence in the order of promotion of that Program's successful participants. If a Station Officer Level 2 does not successfully complete the Inspectors' Promotion Program upon this second attempt then that employee will be required to undertake the Pre Entry Test as described in sub clause 13.11.2.

Inspector to Executive Officer

- 13.12 Promotion from Inspector to Chief Superintendent or Superintendent shall be determined solely on the basis of competitive merit selection and is subject to the occurrence of a vacancy. Selection Committees shall be constituted in accordance with the Recruitment and Employment Guidelines and Procedures of the N.S.W. Public Service.

General Provisions

13.13 While the progression/promotion provisions specified in this clause refer to minimum periods of service as one of the requirements for such progression/ promotion, the Department and the Union acknowledge and accept that:

13.13.1 as the competency standards/levels required by Fire and Rescue NSW are determined and established for each classification, the requirement for minimum periods of service may, on specification by the Commissioner following consultation between the Department and the Union in each case, no longer apply.

13.13.2 the competency standards/levels required by Fire and Rescue NSW for each classification shall be those as determined from time to time by the Commissioner on the advice of the Training Review Committee.

13.14 In all cases, progression/promotion shall, in addition to the provisions specified for such progression/promotion, also be subject to satisfactory service.

Training Review Committee (TRC)

13.15 The TRC shall provide advice to the Commissioner on an effective and equitable system of training in Fire and Rescue NSW using the principles of Competency Based Training.

13.16 The structure of the TRC will consist of 3 representatives of the Department and 3 representatives of the Union.

13.17 The Chairperson of the Committee will alternate every 12 months between a nominee of the Department and the Union.

13.18 The role of the TRC will include (but not be limited to):

13.18.1 advising on the further development of training throughout Fire and Rescue NSW;

13.18.2 advising on the implementation of a Competency Based Training regime throughout Fire and Rescue NSW;

13.18.3 considering Recognised Prior Learning (RPL) policy generally and in particular, the consideration of individual applications for RPL.

13.19 Procedure

13.19.1 The TRC will meet at least once every four weeks;

13.19.2 Members who are on shift on the day of the meeting will be released from day to day operations, except in the event of an incident or other emergency circumstances, for the purposes of fulfilling the above roles;

13.19.3 The TRC will be adequately resourced by the Department so that it can effectively fulfil the above roles.

13.20 The Commissioner is not bound to accept the advice of the TRC and may act independently of the TRC to implement changes to training, competencies and other matters covered by Clause 13 within Fire and Rescue NSW provided that notice of any such decision to implement change is notified in accordance with clause 36.6 in which case clauses 36.7 to 36.9 inclusive shall apply.

14. Operational Support Positions

Establishment of Operational Support Positions

14.1 Operational Support positions shall be identified and established as such by the Commissioner.

14.2 The format and content of each Position Description referred to in subclause 14.4 shall be determined by the Commissioner, but shall include, for each position:

14.2.1 Title;

14.2.2 Statement of duties;

14.2.3 Essential and desirable qualifications, which shall in all instances include a minimum operational rank of Qualified Firefighter;

14.2.4 Hours of work, specifying which roster is to be worked pursuant to Clause 8 of this Award; and

14.2.5 Operational Support classification, ranging from Level 1 to Level 3, which shall be determined by the Commissioner using the Hay job evaluation system.

14.3 Upon completion of the evaluation, a copy of the Position Description and the evaluation will be forwarded to the Union which may elect to provide a response within 14 days, and the Commissioner shall take any response into account before making a final determination.

14.4

14.4.1 A register of established Operational Support Position Descriptions shall be maintained by both parties. Once established, Position Descriptions may only be varied by the Commissioner, subject to 14.2 and 14.3.

14.4.2 The Commissioner will provide the Union with written notice of any variation to a Position Description.

General Conditions for Operational Support Positions

14.5 Appointment to Operational Support positions will be determined solely on the basis of competitive merit selection and will be subject to the occurrence of a vacancy. Selection Committees shall be constituted in accordance with the Recruitment and Employment Guidelines of the NSW Public Service.

14.6 The rates of pay for employees occupying Operational Support positions are as specified in Tables 2.1 to 2.45 of Part C, Monetary Rates.

14.7 Unless expressly provided elsewhere within this Award, the general conditions of employment for occupants of Operational Support positions shall be the same as those applying to Operational Firefighters generally pursuant to subclauses 1.4 and 1.5 of this Award.

14.8 All time spent from the commencement date of this Award by an occupant in an Operational Support Position shall count for the minimum periods of service in each rank pursuant to Clause 13 Progression and Promotion.

14.9 Occupants of Operational Support positions temporarily reassigned or otherwise attending any incident (as defined by this Award) shall revert to, and function in the capacity of their substantive operational rank for the duration of that time.

14.10 Occupants of Operational Support positions may at any time elect to resume duty in, and be paid the rate for, the employees' substantive rank.

14.11 The classification of Operational Support levels 4 and 5 were deleted on 19 September 2008 with the occupants of these positions reverting to the ranks of Superintendent and Chief Superintendent from 19 September 2008.

14.12 Occupants of level 4 Operational Support positions as at 19 September 2008 who revert to the rank of Superintendent under clause 14.11 shall continue to receive the rate of pay applicable to level 4

Operational Support positions as at 19 September 2008 indexed as shown at Table 2.4 of Part C unless and until promoted or otherwise no longer holding that position.

15. Training and Staff Development

- 15.1 Employees covered by this Award will complete appropriate training, as specified by the Commissioner from time to time, to improve the productivity and efficiency of the Department's operations.
- 15.2 The appropriate competencies based on relevant skills and qualifications requirements as specified by the Commissioner for each classification level, shall be progressively implemented and shall be subject to an ongoing process of review and evaluation.
- 15.3 Upon request, the Department will consider an application by an employee to attend a course which is appropriate, relevant and recognised by the Department but is not essential for promotion. If approval is granted by the Department for the employee to attend such a course, the employee shall be entitled to the provisions of Clause 16 of this Award.

16. Training Course Attendance Entitlements

- 16.1 The provisions of this Clause shall apply to employees who participate, with Departmental approval, in training programs, examinations or assessments conducted by, on behalf of, or approved by the Department. For the purposes of this Clause, references to "training" or "course" shall be taken to include such examinations or assessments.
- 16.2 Accommodation
 - 16.2.1 The Commissioner (or delegate) shall approve appropriate accommodation for an employee, if it can be demonstrated that an unreasonable amount of travelling time and/or distance is involved when travelling to and from the employee's residence to the training venue.
 - 16.2.2 Where an employee attends a course within the Greater Sydney Area (GSA), and if the travelling time to and from the training venue exceeds two (2) hours each way (by the approved mode of transport) or if the return distance from the employee's residence to the training venue exceeds 175 kms, the employee shall be entitled to appropriate accommodation.
 - 16.2.3 Where Departmental accommodation is not provided to an employee with an entitlement to accommodation, the relevant accommodation allowance prescribed by Clause 26, Travelling Compensation shall be paid.
 - 16.2.4 Where it is not possible for an employee to travel to the training venue on the first day of the course or where the travelling time would be unreasonable to travel on the first day of the course, the employee shall be entitled to appropriate accommodation on the evening prior to the start of the course. If it is not possible for an employee to travel from the training venue to his or her residence at the conclusion of the course or if the travelling time would be unreasonable, the employee shall be entitled to appropriate accommodation on the evening of the last day of the course. Approval must be obtained from the Commissioner (or delegate) prior to bookings being made.
 - 16.2.5 Appropriate accommodation for employees who attend courses outside the GSA shall be determined by the Commissioner (or delegate) having regard to the above criteria.
 - 16.2.6 Where the training program requires evening attendance the employee shall be granted appropriate accommodation irrespective of the employee's work location or residential address.
 - 16.2.7 Notwithstanding the above, any employee who considers that these criteria would cause undue hardship etc. may make application for special consideration. All such applications will be considered on their individual merits according to the program content and the starting and completion times, on a daily basis.

16.3 Meals

- 16.3.1 Excluding the Recruit Firefighters Program and Departmental training programs/courses which are conducted at Departmental premises which have meal room facilities comparable to those provided at fire stations, all employees attending training programs which extend for a whole day shall be provided with morning/afternoon tea and lunch.
- 16.3.2 Where employees have been granted approval for overnight accommodation and when such accommodation is provided by the Department, expenses reasonably and properly incurred shall be reimbursed in accordance with Clause 26, Travelling Compensation.
- 16.3.3 Employees who are not required to accommodate themselves overnight shall, where appropriate, be paid the relevant meal allowances prescribed by Clause 26, Travelling Compensation.
- 16.3.4 Meal allowances are not payable during times at which an accommodation allowance (as prescribed in subclause 16.2.3 above) has been claimed. A component of the accommodation allowance compensates for the costs associated with breakfast, lunch and evening meals.

16.4 Incidentals

- 16.4.1 Employees who are provided with Departmental accommodation shall be entitled to claim the appropriate incidentals allowance as prescribed by Clause 26, Travelling Compensation.
- 16.4.2 The incidental allowance cannot be claimed for any day during which an accommodation allowance referred to in subclause 16.2.3 above is paid. The incidental allowance forms a component of the accommodation allowance and, amongst other things, recognises the cost associated with personal telephone calls, etc.

16.5 Excess Fares

- 16.5.1 Any employee who incurs additional transport costs while travelling to and from the training venue shall be entitled to have the additional expenses reimbursed. The additional expenses will be calculated on the basis of public transport costs.
- 16.5.2 Where an employee is granted approval to utilise the employee's private vehicle in lieu of public transport, the appropriate specified journey rate, set at Item 1 of Table 4 of Part C, shall be paid in respect of the kilometres travelled in excess of the employee's normal journey to and from work.
- 16.5.3 Where a first class rail service (or its equivalent) is reasonably available, an employee may utilise this service and be reimbursed for the cost of the fare.

16.6 Excess Travelling Time

- 16.6.1 Employees without an accommodation entitlement shall be entitled to compensation for excess travelling time for each day of the course.
- 16.6.2 Employees who accept accommodation shall be entitled to compensation for excess travelling time in respect of the first forward journey to and the last journey from the course venue. Where the course extends beyond one (1) week, employees who return to their residences on weekends shall be entitled to excess travelling time and excess fares for the additional forward and return journeys.
- 16.6.3 Unless special circumstances exist, employees who have an accommodation entitlement, but who decline accommodation, shall only be entitled to compensation for excess travelling time in respect of the first forward journey to and the last journey from the training venue.

16.6.4 Compensation shall be in accordance with Clause 26, Travelling Compensation.

16.7 Mode of Transport

16.7.1 Employees shall be advised of the approved transport arrangements prior to the commencement of the training program. Such approval shall be based on the most practical and economic means of transport having regard to the entitlements contained in this clause, provided that an employee cannot be directed by the Department to use the employee's private vehicle.

16.7.2 Any employee who wishes to use alternative means of transport may only do so with the approval of the Commissioner (or delegate). Such approval must be obtained before travel commences.

16.7.3 If approval is granted to travel by an alternative means of transport any entitlements shall be based on the arrangements approved under subclause 16.7.1.

16.8 Relieving Allowances and Other Allowances

16.8.1 Attendance at a training program does not in itself attract the payment of relieving allowances. However, any employee in receipt of relieving allowances or other allowances relating to qualifications or work performed at the time the program commences, shall continue to be paid the allowances which would normally be paid. Provided that such allowances shall only be paid for those days on which the employee would normally have been rostered for duty.

16.8.2 Relieving employees shall not be paid any additional relieving allowances as a consequence of undertaking a training program.

16.9 Kilometre Allowance

16.9.1 The kilometre allowance prescribed by Clause 12, Relieving Provisions, is not payable to employees when they attend a training program.

16.9.2 The provisions of subclause 16.5.2 above shall apply to any employee who is granted approval to utilise his or her private vehicle for transport to and from the training venue.

16.10 Attendance at Courses Whilst on Annual or Long Service Leave or Rostered Off Duty

16.10.1 Subject to approval by the Department:

16.10.1.1 Where an employee elects to attend a course whilst on annual leave or long service leave, he or she will be re-credited with the appropriate leave for the hours spent attending the training course.

16.10.1.2 Where an employee elects to attend a course whilst rostered off duty, he or she shall be paid at overtime rates for the hours spent attending the course.

16.10.2 Where an employee is directed to attend a course while rostered off duty, he or she may choose to either be paid at overtime rates or be credited with consolidated leave for the hours spent attending the course.

16.10.3 All travelling time shall be compensated in accordance with Clause 26, Travelling Compensation.

16.11 Stand Off

16.11.1 Where an employee is required by the Department to attend a course, any necessary stand off period shall be granted.

16.12 Payments in Advance

- 16.12.1 Employees attending a training course may, where reasonable and appropriate, elect to be advanced the following payments:-
- accommodation allowance (subclause 16.2.3)
 - meal allowances (subclause 16.3.3)
 - incidental allowances (subclause 16.4.1)
- 16.12.2 The advice to employees of course arrangements shall be conveyed in writing and include details of the Centre at which claims for advance payments should be submitted. Submitted claims must include a copy of the relevant approval.
- 16.12.3 Accommodation allowances are only payable when approval is given for an employee to make his or her own accommodation arrangements.

17. Annual Leave

- 17.1 The provisions of subclauses 17.2 to 17.8 inclusive shall not apply to Executive Officers. The provisions of subclauses 17.9 to 17.13 inclusive shall not apply to Operational Firefighters. The provisions of subclauses 17.14 and 17.15 shall apply to all employees.
- 17.2 Annual leave to the extent of 190 hours full pay shall accrue to each employee in respect of each completed year of service. This annual leave shall be added to the 91.2 hours on full pay of 38 hour week leave referred to at subclause 8.2.1, resulting in a combined entitlement of 281.2 hours leave which shall be known as "Annual Leave." Employees shall over a 64 week cycle accrue 344.91 hours of this combined "Annual Leave", 336 hours of which shall be taken in accordance with the leave roster in operation at the commencement of this Award and the residual 8.91 hours of which shall be converted to an annual amount of 7.25 hours per annum which shall be credited to each employee as consolidated leave on the anniversary of the employee's date of commencement of employment as an Operational Firefighter.
- 17.3 Where the commencing date of the rostered period of annual leave occurs whilst an employee is on sick leave and does not return to duty within seven days of such date, the employee concerned shall be entitled to elect whether to proceed immediately on annual leave or to commence annual leave on one of the next six succeeding Fridays.
- 17.4 Employees shall be entitled to sixteen working hours annual leave, to be credited as consolidated leave, in addition to the period of annual leave prescribed by subclause 17.2, provided that:
- 17.4.1 Employees who were members of the service as at 30 November 1975, shall become entitled to such additional leave on each anniversary of their appointment to the service which occurs after 30 November 1975.
 - 17.4.2 Employees who joined the service after 30 November 1975, shall become entitled to such additional leave on each anniversary of their appointment to the service.
- Employees Stationed at Broken Hill or Moree
- 17.5 Employees stationed at Broken Hill or Moree shall, in addition to the period of additional annual leave prescribed by subclause 17.4 be allowed sixteen working hours additional leave of absence, provided that proof of travelling time is furnished to the Department, and provided further that:
- 17.5.1 Employees stationed at Broken Hill after 30 November 1975, and who proceed on annual leave whilst so stationed shall become entitled to such additional leave allowance on each anniversary of their appointment to the service which occurs after 30 November 1975. In the case of employees stationed at Moree, such entitlement shall commence from 24 February 2004.

17.6 Further to the provisions of subclause 17.5:

17.6.1 As a matter of practicality in the case of Broken Hill and Moree, because annual leave is not taken on an annual basis, the sixteen working hours per annum should be further converted to fourteen hours in respect of each period of annual leave so actually taken.

17.6.2 If a working night shift occurs on the roster immediately before or immediately after the period of four weeks' leave rostered to be taken, or both before and after such period, such night shift, or one of such night shifts at the employee's option may be taken off duty.

17.6.3 If, however, no night shift so occurs, but day shifts fall as the working shifts immediately before and after the rostered annual leave period, the employee should be allowed, optionally, to take off either one or both day shifts.

17.6.4 If the employee elects to take off one day shift, that will be credited with four hours' accrued annual leave, and if the employee elects to take two day shifts, accrued annual leave will be reduced by six hours.

17.7 The taking of annual leave is subject to Departmental requirements and, when unforeseen circumstances arise, may be rescheduled by authority of the Commissioner.

17.8 In the event of the termination of the employment of any employee for any cause with less than twelve months' service from the date of the last leave accrued, the employee shall be paid pro rata for leave for each month of service.

Executive Officers

17.9 Executive Officers shall accrue annual leave on full pay at the rate of twenty five (25) working days per year.

17.10 Executive Officers shall accrue annual leave from month to month only, but for the purpose of calculating annual leave which may be due on the cessation of employment, credit shall be given for periods of service of less than one (1) month.

17.11 Executive Officers may accrue annual leave up to a maximum of forty (40) working days. Unless approved otherwise by the Commissioner, the right to take any accrued annual leave in excess of forty (40) working days shall be forfeited.

17.12 The Commissioner may direct an Executive Officer to take such leave as is convenient to the workings of the Department.

17.13 Executive Officers shall not be granted annual leave for any period of less than a quarter day or in other than multiples of a quarter day.

17.14 Where application is made by an employee in writing to the Commissioner that, by reasons of special circumstances, which shall be specified, the Commissioner may authorise, in writing, the taking of annual leave at some other time to be determined by the Commissioner for the purpose of this Award, such leave shall be deemed to have been taken in accordance with the leave roster.

17.15 Prior to an employee entering upon a period of annual leave, the employee may elect to be paid with respect of the period of leave in one of the following ways:

17.15.1 in full when the employee commences the period of leave; or

17.15.2 at the same time as the employee's normal pay would have been paid if the worker had remained on duty.

18. Compassionate Leave

- 18.1 In no way restricting the right of the Commissioner to approve leave for compassionate reasons in other circumstances, an employee other than a casual employee, shall be entitled to up to two shifts (or two days in the case of day workers) compassionate leave without deduction of pay, up to and including the day of the funeral, on each occasion of the death of a person as prescribed in subclause 18.3 of this clause.
- 18.2 The employee must notify the employer as soon as practicable of the intention to take compassionate leave and will, if requested by the employer, provide to the satisfaction of the employer proof of death.
- 18.3 Compassionate leave shall be available to the employee in respect to the death of a person being:
- 18.3.1 a spouse of the employee; or
 - 18.3.2 a de facto spouse who, in relation to a person, is a person of the opposite sex to the first mentioned person and who lives with the first mentioned person as the husband or wife of that person on a bona fide domestic basis, although not legally married to that person; or
 - 18.3.3 a child or an adult child (including an adopted child, a stepchild, a foster child or an ex-nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the employee or spouse or de facto spouse of the employee; or
 - 18.3.4 a same sex partner who lives with the employee as the de facto partner of that employee on a bona fide domestic basis; or
 - 18.3.5 a relative of the employee who is a member of the same household where, for the purposes of this subclause:
 - 18.3.5.1 "relative" means a person related by blood, marriage or affinity;
 - 18.3.5.2 "affinity" means a relationship that one spouse, because of marriage, has to blood relatives of the other; and
 - 18.3.5.3 "household" means a family group living in the same domestic dwelling.
- 18.4 An employee shall not be entitled to compassionate leave under this clause during any period in respect of which the employee has been granted other leave.
- 18.5 Compassionate leave may be taken in conjunction with other leave available under subclauses 22.2, 22.3, 22.4 and 22.5 of the said clause 22. In determining such a request, the employer will give consideration to the circumstances of the employee and the reasonable operational requirements of the Department.

19. Examination and Assessment Leave

- 19.1 Except as specified otherwise by the Commissioner following consultation between the Department and the Union, all examinations and/or assessments required for progression or promotion shall be arranged so that they take place when the employee is normally rostered for duty on day shift.
- 19.2 Where the Department is unable to make the necessary arrangements for an employee to sit an examination/assessment on shift as per subclause 19.1 within two months from the date the employee makes application for assessment, the employee may make arrangements to sit the examination/assessment externally. In such cases, employees shall be entitled to the conditions provided for by Clause 16, Training Course Attendance Entitlements, of this Award. The Department shall notify the employee as early as practicable of its inability to make such necessary arrangements.

- 19.3 An employee sitting for an examination or assessment as per subclause 19.1 shall be granted, prior to the examination or assessment, such paid leave as might reasonably be necessary for attendance at the examination or assessment, including travel.

20. Long Service Leave

- 20.1 Subject also to the provisions of subclause 20.8, Long Service Leave calculated from the date of appointment to the service shall accrue to employees in accordance with the following entitlements:

20.1.1 After service for ten years, leave for two months on full pay or four months on half pay.

20.1.2 After service in excess of ten years:

20.1.2.1 Leave pursuant to subclause 20.1.1; and

20.1.2.2 In addition, an amount of leave proportionate to the length of service after ten years, calculated on the basis of five months on full pay or ten months on half pay, for ten years served after service for ten years.

20.1.2.3 Long Service Leave shall not include annual leave.

- 20.2 Where the services of an employee with at least five years but less than seven years service are terminated by the Department for any reason other than the employee's serious and wilful misconduct, or by the employee on account of illness, incapacity or domestic or other pressing necessity, or by reason of the death of the employee, the employee shall, for five years' service be entitled to one month's leave on full pay and for service after five years to a proportionate amount of leave on full pay calculated on the basis of three months' leave for fifteen years' service.

- 20.3 In the event of the termination of the employment of the employee other than by death, the monetary value of Long Service Leave due, if any, shall be paid to such employee.

20.4

20.4.1 Approval to take Long Service Leave as provided by this clause shall, subject to the exigencies of the Department, be granted by the Department as and when such leave becomes due (i.e. after seven years) or any time thereafter. Provided that an employee shall give notice, in writing, to the Department of the employee's intention to take such leave. Such notice shall be given at least twenty days before the date on which the employee intends to commence such leave.

20.4.2 Notwithstanding the provisions of subclause 20.4.1, the period of notice referred to in subclause 20.4.1 may be reduced on a case by case basis, subject to the discretion of the Commissioner.

- 20.5 Approval to take Long Service Leave may be deferred by the Commissioner due to Departmental requirements.

- 20.6 Long Service Leave may be taken in the following combinations and not otherwise:

20.6.1 In the case of employees working the roster systems prescribed by subclauses 8.3 and 8.4 of Clause 8, Hours of Work, in multiples of eight consecutive calendar days with a minimum period of eight consecutive calendar days.

20.6.2 In the case of employees working the roster systems prescribed by subclauses 8.5 and 8.6 of Clause 8, Hours of Work, or any other roster system agreed to between the Department and the Union based on a seven day cycle, in multiples of seven consecutive calendar days with a minimum period of seven consecutive calendar days.

20.6.3 Where approval is granted to take Long Service Leave on half pay the multiples and minimum periods specified in subclauses 20.6.1 and 20.6.2 shall be doubled.

- 20.7 Prior to an employee entering upon a period of Long Service Leave, the employee may elect to be paid with respect of the period of leave in one of the following ways:
- 20.7.1 in full when the employee commences the period of leave; or
 - 20.7.2 at the same time as the employee's normal pay would have been paid if the worker had remained on duty.
- 20.8 Notwithstanding anything elsewhere provided by this clause, effective on and from the date of operation of this Award:
- 20.8.1 employees may apply to take pro-rata Long Service Leave after the completion of seven (7) years of service. Additionally employees with such service shall be entitled to pro-rata Long Service Leave on resignation or termination.
 - 20.8.2 employees may apply to take a period of Long Service Leave at double pay provided that:
 - 20.8.2.1 The additional payment will be made as a non-superable taxable allowance payable for the period of the absence from work.
 - 20.8.2.2 The employee's leave balance will be debited for the actual period of the absence from work and an equivalent number of days as are necessary to pay the allowance.
 - 20.8.2.3 Other leave entitlements, e.g., recreation leave, sick leave and Long Service Leave will accrue at the single time rate where an employee takes Long Service Leave at double time.
 - 20.8.2.4 Superannuation contributions will only be made on the basis of the actual absence from work, i.e., at the single time rate.
 - 20.8.2.5 Where an employee other than an Executive Officer elects to take Long Service Leave at double pay, the minimum & multiple periods of actual absence as prescribed in 20.6 shall apply. Where an Executive Officer elects to take Long Service Leave at double pay, the minimum period of actual absence should be not less than one week.
 - 20.8.3 where a public holiday falls during a period of Long Service Leave the employee shall be paid for that day and additionally it shall not be deducted from the period of the leave.
 - 20.8.3.1 In respect of public holidays that fall during a period of double pay Long Service leave an employee will not be debited in respect of the leave on a public holiday. The employees leave balance will however be reduced by an additional day to fund the non-superable taxable allowance.
- 20.9 Entitlements to Extended Leave (Long Service Leave) pursuant to the Public Sector Employment and Management Act 2002 shall take effect on and from 5 October 1993, provided that the total years of service will count for the determination of entitlements accruing from that date.

21. Parental Leave

- 21.1 Definition of Parental Leave
- 21.1.1 For the purposes of this clause, parental leave is maternity leave, paternity leave or adoption leave.
 - 21.1.2 Maternity leave is taken by a female employee in connection with the pregnancy or the birth of a child of the employee. Maternity leave consists of an unbroken period of leave.

21.1.3 Paternity leave is leave taken by a male employee who becomes a parent but is ineligible to be granted either maternity leave or adoption leave but is to be the primary care giver of a child or who wishes to share the child caring duties with their partner.

21.1.4 Adoption leave is leave taken by a female or male employee in connection with the adoption by the employee of a child under the age of five (5) years (other than a child who has previously lived continuously with the employee for a period of at least six (6) months or who is a child or step-child of the employee or of the employee's spouse).

21.1.5 For the purposes of this clause, "spouse" includes a de facto spouse and a former spouse.

21.2 Entitlement to Parental Leave

21.2.1 An employee is entitled to parental leave, as provided by this clause, in connection with the birth or adoption of a child.

21.2.2 Maternity Leave - all female employees who do not have the necessary service as prescribed in subclause 21.3.1 for paid Maternity Leave, shall be entitled to unpaid maternity leave of up to fourteen (14) weeks before the expected date of birth of the child.

21.2.3 Paid Maternity Leave may be granted to a female employee subject to the following conditions -

21.2.3.1 The female employee has applied for Maternity Leave within such time and in such manner as herein set out; and

21.2.3.2 Before the expected date of birth has completed not less than forty (40) weeks' continuous service. Paid Maternity Leave shall be for a period of fourteen (14) weeks at full pay or twenty-eight (28) weeks at half pay from the date Maternity Leave commences.

In addition to the unpaid or paid Maternity leave referred to in 21.2.2 & 21.2.3.2 respectively, all female employees shall be entitled to a further period of unpaid Maternity leave, provided that the total period of absence on Maternity leave shall not exceed sixty-one (61) weeks.

The period over which Annual and/or Long Service Leave combined with unpaid Maternity Leave, shall not exceed a total period of two years from the date of birth of the child.

21.2.4 Short Adoption Leave is an unbroken period of fourteen (14) weeks of unpaid leave, taken by an employee who does not have the necessary service for paid Adoption Leave as prescribed in subclause 21.3.1, from the time of placement of the child.

21.2.5 Paid Adoption Leave may be granted to an employee adopting a child subject to the following conditions:

21.2.5.1 The employee has applied for Adoption Leave within such time and in such manner as herein set out; and

21.2.5.2 Before the commencement of Adoption Leave the employee has completed not less than forty (40) weeks' continuous service.

21.2.5.3 The employee is to be the primary care giver of the child.

Paid Adoption Leave shall be for a period of fourteen (14) weeks at full pay or twenty-eight (28) weeks at half pay of Adoption Leave or the period of Adoption Leave taken, whichever is the lesser period.

In addition to the unpaid or paid Adoption leave referred to in 21.2.4 & 21.2.5 of this subclause respectively, all employees shall be entitled to a further period of unpaid Adoption leave,

provided that the total period of absence on Adoption leave shall not exceed sixty-one (61) weeks.

21.2.6 Paternity Leave is a period of up to a maximum of fifty-two (52) weeks of either unpaid or a combination of paid and unpaid parental leave taken from the date of birth of the child, or other termination of the pregnancy. Application for such leave must be made within such time and in such manner as herein set out. Paternity leave shall consist of -

21.2.6.1 an unbroken period of up to one (1) week unpaid leave (short paternity leave) at the time of the birth of the child, or other termination of the pregnancy

an unbroken period of up to one (1) week on full pay or two (2) weeks on half pay at the time of the birth of the child, or other termination of the pregnancy provided that at such time the employee has completed not less than forty (40) weeks continuous service

21.2.6.2 In addition to the unpaid or paid Paternity leave referred to in 21.2.6.1, all male employees shall be entitled to a further period of unpaid Paternity leave in order to be the primary care-giver of the child (extended paternity leave), provided that the total period of absence on Paternity leave shall not exceed fifty-two (52) weeks.

21.2.7 Except as provided for in subclause 21.2.3 and 21.2.5, Parental Leave shall not extend beyond a period of 1 year after the child was born or adopted.

21.3 Length of service for eligibility

21.3.1 A female employee is entitled to paid maternity leave or, in the case of both male and female employees, paid paternity or adoption leave only if the employee has had at least 40 weeks' continuous service.

21.3.2 There is no minimum period of employment for eligibility for unpaid parental leave.

21.3.3 Continuous service is service under one or more unbroken contracts of employment, including:

21.3.3.1 any period of authorised leave or absence, and

21.3.3.2 any period of part-time work.

21.3.3.3 full or part time service within the Public Service or within a Public Sector organisation listed in the schedules attached to the Transferred Officers Extended Leave Act 1961 and in appendices A and B contained in the Personnel Handbook published by the DPE.

21.4 Notices and Documents required to be given to Commissioner

21.4.1 Maternity leave

The notices and documents to be given to the Commissioner for the purposes of taking maternity leave are as follows:

21.4.1.1 The female employee should give at least 8 weeks' written or oral notice of the intention to take the leave (unless it is not reasonably practicable to do so in the circumstances),

21.4.1.2 The female employee must, at least 4 weeks before proceeding on leave, give written notice of the dates on which the employee proposes to start and end the period of leave,

- 21.4.1.3 The female employee must, before the start of leave, provide a certificate from a medical practitioner confirming that the employee is pregnant and the expected date of birth.

21.4.2 Paternity leave

The notices and documents to be given to the Commissioner for the purposes of taking paternity leave are as follows:

- 21.4.2.1 In the case of extended paternity leave, the employee should give at least 10 weeks written or oral notice of the intention to take the leave (unless it is not reasonably practicable to do so in the circumstances),
- 21.4.2.2 The employee must, at least 4 weeks before proceeding on leave, give notice of the dates on which the employee proposes to start and end the period of leave,
- 21.4.2.3 The employee must, before the start of leave, provide a certificate from a medical practitioner confirming that the employee's spouse is pregnant and the expected date of birth,
- 21.4.2.4 In the case of extended paternity leave, the employee must, before the start of leave, provide a statutory declaration by the employee stating:
- 21.4.2.4.1 any period of maternity leave sought or taken by his spouse, and
 - 21.4.2.4.2 that he is seeking that period of extended paternity leave to become the primary care-giver of a child.

21.4.3 Adoption leave

The notices and documents to be given to the Commissioner for the purposes of taking adoption leave are as follows:

- 21.4.3.1 In the case of extended adoption leave, the employee should give written or oral notice of any approval or other decision to adopt a child at least 10 weeks before the expected date of placement (unless it is not reasonably practicable to do so in the circumstances),
- 21.4.3.2 The employee must give written notice of the dates on which the employee proposes to start and end the period of leave, as soon as practicable after the employee is notified of the expected date of placement of the child but at least 14 days before proceeding on leave,
- 21.4.3.3 The employee must, before the start of leave, provide a statement from an adoption agency or another appropriate body of the expected date of placement of the child with the employee for adoption purposes,
- 21.4.3.4 In the case of extended adoption leave, the employee must, before the start of leave, provide a statutory declaration by the employee stating:
- 21.4.3.4.1 any period of adoption leave sought or taken by his or her spouse, and
 - 21.4.3.4.2 that the employee is seeking that period of extended adoption leave to become the primary care-giver of a child.

21.4.4 An employee does not fail to comply with this clause if the failure was caused by:

- 21.4.4.1 the child being born (or the pregnancy otherwise terminating) before the expected date of birth, or

- 21.4.4.2 the child being placed for adoption before the expected date of placement, or
- 21.4.4.3 other compelling circumstances.

In the case of the birth of a living child, notice of the period of leave is to be given within two (2) weeks after the birth and the certificate of the medical practitioner is to state that the child was born and the date of birth. In the case of the adoption of a child, notice of the period of leave is to be given within two (2) weeks after the placement of the child.

21.4.5 An employee must notify the Commissioner of any change in the information provided under this clause within two (2) weeks after the change.

21.4.6 If required by the Commissioner, an employee who applies for Parental Leave is to give the Commissioner a statutory declaration, or enter into an agreement with the Commissioner, that for the period of the leave the employee will not engage in any conduct inconsistent with the employee's contract of employment.

21.5 Continuity of service

Parental leave does not break an employee's continuity of service, but subject to subclauses 21.5.1, 21.5.2 and 21.5.3, is not to be taken into account in calculating an employee's period of service for any other purposes.

21.5.1 Any period of paid Adoption, paid Maternity or paid Paternity Leave shall count as full service for the purposes of determining progression either within a classification or from one classification to another. However, unpaid Parental Leave shall not count as service for determining such progression.

21.5.2 Adoption Leave on full pay, Maternity Leave at full pay and Paternity Leave at full pay shall count as full service for the purposes of determining all forms of leave.

21.5.3 Unpaid Parental Leave shall not count as service for determining any form of leave entitlement, except for Long Service Leave (Extended Leave) in cases where at least ten (10) years of service has been completed and unpaid Parental Leave does not exceed six (6) months.

21.6 Simultaneous taking of Parental Leave

Subject to subclause 21.20.1.1, Parental Leave is to be available to only one parent at a time, in a single unbroken period, except that both parents may simultaneously take:

21.6.1 For maternity and paternity leave, an unbroken period of up to one week at the time of the birth of the child;

21.6.2 For adoption leave, an unbroken period of up to three weeks at the time of the placement of the child.

21.7 Cancellation of Parental Leave

21.7.1 Before starting leave

Parental leave applied for but not commenced is automatically cancelled if:

21.7.1.1 the employee withdraws the application for leave by written notice to the Commissioner, or

21.7.1.2 the pregnancy concerned terminates other than by the birth of a living child or the placement of the child concerned does not proceed.

21.7.2 After starting leave

If:

21.7.2.1 the pregnancy of the employee or the employee's spouse terminates other than by the birth of a living child while the employee or spouse is on parental leave, provided:

21.7.2.1.1 if a child is still-born the female employee may elect to take available sick leave or maternity leave;

21.7.2.1.2 in the event of a miscarriage any absence from work is to be covered by the current sick leave provisions; or

21.7.2.2 the child in respect of whom an employee is then on parental leave dies, or

21.7.2.3 the placement of a child for adoption purposes with an employee then on adoption leave does not proceed or continue,

the employee is entitled to resume work at a time nominated by the Commissioner within 2 weeks after the date on which the employee gives the Commissioner a notice in writing stating that the employee intends to resume work and the reason for the intended resumption.

21.7.3 This provisions of subclause 21.7 do not affect an employee's entitlement to special maternity leave or special adoption leave.

21.8 Parental Leave and other Leave

21.8.1 An employee may take any annual leave, long service leave (extended leave) or consolidated leave to which the employee is entitled instead of or in conjunction with parental leave.

21.8.2 However, the total period of leave cannot be so extended beyond the maximum period of parental leave authorised by this clause.

21.8.3 The maximum period of parental leave authorised by this clause is reduced by any period of paid sick leave taken by the employee while on maternity leave.

21.8.4 Any paid absence authorised by law or by an award, enterprise agreement or contract of employment is not available to an employee on parental leave, except if the paid absence is:

21.8.4.1 annual leave, long service leave (extended leave) or consolidated leave, or

21.8.4.2 in the case of maternity leave - sick leave.

21.9 Employee and Commissioner may agree to interruption of parental leave by return to work

21.9.1 An employee on parental leave may, with the agreement of the Commissioner, break the period of leave by returning to work for the Department, provided that:

21.9.1.1 A female employee who gives birth to a living child shall not resume duty until six (6) weeks after the birth of the child unless special arrangements for early return are made at the request of the female employee and supported by a certificate from a qualified medical practitioner;

21.9.1.2 A female employee who has returned to full-time duty after less than her full entitlement to maternity leave, shall be entitled to revert to maternity leave either on a full-time or part-time basis if she so elects. This election may be exercised

only once and a minimum of four (4) weeks notice (or less if acceptable to the Commissioner) of her intention to resume maternity leave must be given.

21.9.2 The period of leave cannot be extended by such a return to work beyond the maximum period of leave authorised by this clause.

21.10 Extension of period of Parental Leave

21.10.1 An employee may extend the period of parental leave once only by giving the Commissioner notice in writing of the extended period at least fourteen (14) days before the start of the extended period. The period of leave cannot be extended by such a notice beyond the maximum period of leave authorised by this clause.

21.10.2 Subject to the provisions of subclause 21.20, an employee may extend the period of parental leave at any time with the agreement of the Commissioner. The period of leave can be extended by such an agreement beyond the maximum period of leave authorised by this clause.

21.10.3 This section applies to an extension of leave while the employee is on leave or before the employee commences leave.

21.11 Shortening of period of Parental Leave

An employee may shorten the period of parental leave with the agreement of the Commissioner and by giving the Commissioner notice in writing of the shortened period at least fourteen (14) days before the leave is to come to an end.

21.12 Return to work after Parental Leave

21.12.1 An employee returning to work after a period of parental leave is entitled to be employed in:

21.12.1.1 the classification (if possible, at the same location) held by the employee immediately before proceeding on that leave, or

21.12.1.2 if the employee was transferred to a safe job before proceeding on maternity leave - the classification (if possible, at the same location) held immediately before the transfer.

21.12.2 If the classification no longer exists but there are other classifications available that the employee is qualified for and is capable of performing, the employee is entitled to be employed in a classification as comparable as possible in status and pay to that of the employee's former classification.

21.12.3 The provisions of subclause 21.12 extend to a female employee returning to work after a period of Special maternity leave and sick leave.

21.13 Payment

21.13.1 Payment for the fourteen (14) weeks on full pay or twenty-eight (28) weeks on half pay paid Maternity Leave may be made -

21.13.1.1 in advance in a lump sum; or

21.13.1.2 on a normal fortnightly basis, and shall be at the same hourly rate as the rate paid for other forms of paid leave, and may include payment of a higher duties allowance if the employee;

21.13.1.2.1 has acted in the higher position for a period in excess of one year; and

21.13.1.2.2 the period of higher duties relief continues up to the day prior to the employee's departure on maternity leave; and

21.13.1.2.3 the higher duties relief is at the full difference in pay.

21.13.2 Payment to eligible employees for the fourteen (14) weeks on full pay or twenty-eight (28) weeks on half pay paid Adoption Leave may be made -

21.13.2.1 in advance in a lump sum; or

21.13.2.2 on a normal fortnightly basis.

21.14 Commissioner's Obligations

21.14.1 Information to Employees

On becoming aware that an employee (or an employee's spouse) is pregnant, or that an employee is adopting a child, the Commissioner must inform the employee of:

21.14.1.1 the employee's entitlements to parental leave under this clause, and

21.14.1.2 the employee's obligations to notify the Commissioner of any matter under this clause.

21.14.2 Records

The Commissioner must keep, for at least six (6) years, a record of parental leave granted under this clause to employees and all notices and documents given under this clause by employees or the Commissioner.

21.15 Termination of Employment because of Pregnancy etc

21.15.1 The Commissioner must not terminate the employment of an employee because:

21.15.1.1 the employee is pregnant or has applied to adopt a child, or

21.15.1.2 the employee has given birth to a child or has adopted a child, or

21.15.1.3 the employee has applied for, or is absent on, parental leave,

but otherwise the rights of the Commissioner in relation to termination of employment are not affected by this clause.

21.15.2 For the purposes of establishing such a termination of employment, it is sufficient if it is established that the alleged reason for termination was a substantial and operative reason for termination.

21.15.3 This clause does not affect any other rights of a dismissed employee.

21.16 Replacement employees

21.16.1 A replacement employee is a person who is specifically employed as a result of an employee proceeding on parental leave (including as a replacement for an employee who has been temporarily promoted or transferred in order to replace the employee proceeding on parental leave).

21.16.2 Before a replacement employee is employed, the Commissioner must inform the person of the temporary nature of the employment and of the rights of the employee on parental leave to return to work.

- 21.16.3 A reference in this clause to an employee proceeding on leave includes a reference to a pregnant employee exercising a right to be transferred to a safe job.

21.17 Transfer to a Safe Job

- 21.17.1 This subclause applies whenever the present work of a female employee is, because of her pregnancy or breastfeeding, a risk to the health or safety of the employee or of her unborn or new born child. The assessment of such a risk is to be made on the basis of a medical certificate supplied by the employee and of the obligations of the Commissioner under the Occupational Health and Safety Act 2000.

- 21.17.2 The Commissioner is to temporarily adjust the employee's working conditions or hours of work to avoid exposure to risk as follows -

- 21.17.2.1 Where a female employee is confirmed pregnant she is to notify the Regional Commander or Officer-in-Charge as soon as possible who will, in turn, direct that she be withdrawn from operational firefighting duties;

21.17.2.2

- 21.17.2.2.1 The standard issue uniform is to be worn by members until the pregnancy becomes apparent prior to the birth and from the tenth week, if practicable, following the birth.

- 21.17.2.2.2 Employees will be provided with a maternity uniform for use when appropriate.

- 21.17.2.3 An employee on maternity leave who gives birth to a living child shall not resume operational firefighting duties until thirteen (13) weeks have elapsed after the birth of the child unless a special request for early return is made by the employee supported by a medical certificate from a qualified medical practitioner, subsequently endorsed by the Department's occupational physician.

- 21.17.2.4 Duties other than fire fighting may be undertaken after six (6) weeks following the birth of the child, if endorsed by the occupational physician.

21.17.2.5

- 21.17.2.5.1 Upon withdrawal from operational firefighting duties alternate work of a suitable nature is to be provided.

- 21.17.2.5.2 Allocation of duties will be determined by the Department following consultation between the Department's Occupational Health Physician, the employee's Officer-in-Charge and the employee.

- 21.17.3 If such an adjustment is not feasible or cannot reasonably be required to be made, the Commissioner is to transfer the employee to other work where she will not be exposed to that risk.

- 21.17.4 If such a transfer is not feasible or cannot reasonably be required to be made, the Commissioner is to grant the employee maternity leave under this clause (or any available paid sick leave) for as long as is necessary to avoid exposure to that risk, as certified by a medical practitioner.

21.18 Special Maternity Leave and Sick Leave

If the pregnancy of an employee not then on maternity leave terminates before the expected date of birth (other than by the birth of a living child) or she suffers illness related to her pregnancy:

- 21.18.1 the employee is entitled to such period of unpaid leave (to be known as special maternity leave) as a medical practitioner certifies to be necessary before her return to work, or
- 21.18.2 the employee is entitled to such paid sick leave (either instead of or in addition to special maternity leave) as she is then entitled to and as a medical practitioner certifies to be necessary before her return to work.

21.19 Special Adoption Leave

An employee who is seeking to adopt a child is entitled to up to two (2) days unpaid leave if the employee requires that leave to attend compulsory interviews or examinations as part of the adoption procedure. This leave may also be granted from a credit of Consolidated leave.

21.20 Right to request

- 21.20.1 An employee entitled to parental leave may request the employer to allow the employee:
- 21.20.1.1 to extend the period of simultaneous parental leave up to a maximum of eight weeks;
- 21.20.1.2 to extend the period of unpaid parental leave for a further continuous period of leave not exceeding 12 months;
- to assist the employee in reconciling work and parental responsibilities.
- 21.20.2 The employer shall consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the employer's business.
- 21.20.3 Employee's request and the employer's decision to be in writing:
- The employee's request and the employer's decision made under 21.20.1.1 and 21.20.1.2 must be recorded in writing.

21.21 Communication during parental leave

- 21.21.1 Where an employee is on parental leave and a definite decision has been made to introduce significant change at the workplace, the employer shall take reasonable steps to:
- 21.21.1.1 make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave; and
- 21.21.1.2 provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave.
- 21.21.2 The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken and whether the employee intends to return to work.
- 21.21.3 The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with paragraph 21.21.1.

22. Personal/Carer's Leave

22.1 Use of Sick Leave -

22.1.1 An employee, other than a casual employee, with responsibilities in relation to a class of person set out in subclause 22.1.3.2, who needs the employee's care and support shall be entitled to use, in accordance with this clause, any current or accrued sick leave entitlement, provided for at Clause 23 of this Award, for absences to provide care and support for such persons when they are ill. Such leave may be taken for part of a single day.

22.1.2 The employee shall, if required, establish, by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person. In normal circumstances an employee must not take carer's leave under this clause where another person has taken leave to care for the same person.

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

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

22.1.3.2 the person concerned being:

22.1.3.2.1 a spouse of the employee; or

22.1.3.2.2 a de facto spouse who, in relation to a person, is a person of the opposite sex to the first mentioned person and who lives with the first mentioned person as the husband or wife of that person on a bona fide domestic basis, although not legally married to that person; or

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

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

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

22.1.3.2.5.1 "relative" means a person related by blood, marriage or affinity;

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

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

22.1.4 An employee shall, wherever practicable, give the Department notice, prior to the absence, of the intention to take leave, the name of the person requiring care and their relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the employee to give prior notice of absence, the employee shall notify the Department by telephone of such absence at the first opportunity on the day of absence.

22.2 Unpaid Leave for Family Purpose -

22.2.1 An employee may elect, with the consent of the Department, to take unpaid leave for the purpose of providing care and support to a class of person, as set out in subclause 22.1.3.2, who is ill.

22.3 Annual Leave -

22.3.1 An employee may elect, with the consent of the Department, subject to the *Annual Holidays Act 1944*, to take annual leave not exceeding five (5) days in any calendar year at a time or times agreed upon by the Department and the Union.

22.4 Time Off in Lieu of Payment for Overtime -

22.4.1 An employee may elect, with the consent of the Department, to take time off in lieu of payment for overtime at a time or times agreed upon with the Department within twelve (12) months of the said election.

22.4.2 Overtime taken as time off during ordinary-time hours shall be taken at the ordinary-time rate, that is, an hour for each hour worked.

22.4.3 If having elected to take time as leave, in accordance with subclause 22.4.1 above, the leave is not taken for whatever reason, payment for time accrued at overtime rates shall be made at the expiry of the (twelve) 12 month period or on termination.

22.4.4 Where no election is made in accordance with subclause 22.4.1, the employee shall be paid their overtime in accordance with this Award.

22.5 Make-up Time -

22.5.1 An employee may elect, with the consent of the Department, to work "make-up time", under which the employee takes time off ordinary hours and works those hours at a later time during the spread of ordinary hours provided in this Award, at the ordinary rate of pay.

22.5.2 An employee on shift work may elect, with the consent of the Department, to work "make-up time", under which the employee takes time off ordinary hours and works those hours at a later time, at the shift work rate which would have been applicable to the hours taken off.

23. Sick Leave

23.1 The management of sick leave by the Department will be underpinned by an Attendance Management System that seeks to support employees in maintaining their health and recovering from illness or incapacity, and ensuring that sick leave is used only for legitimate purposes.

23.2 In every case of illness or incapacity sustained by an employee whilst off duty, the following conditions shall apply.

23.3 Such employee shall, as soon as practicable, inform their immediate supervisor of such inability to attend for duty and, as far as possible, shall state the estimated duration of their absence.

23.4 Subject to the provisions of subclause 23.8, such employee shall forward to their immediate supervisor, a medical certificate stating the nature of the illness or incapacity and, if known, the date the employee is fit to resume duty. If a medical certificate does not specify the date the employee is fit to resume duty, the employee must, before being entitled to resume duty, furnish a further medical certificate to the effect that the employee has recovered from the illness or incapacity and is fit for duty, unless the employer dispenses with this requirement.

23.5 If so required, such employee shall submit to examination by the Department's medical officer.

23.6 Every employee who is absent from duty for a period of more than twenty-eight days shall be examined by the Department's medical officer or a medical officer nominated by the Department and must be certified by such medical officer as fit for duty prior to being permitted to resume duty. An employee who is required to attend the Department's medical officer or nominated medical officer shall be reimbursed any out of pocket expenses reasonably and necessarily incurred. The Department shall meet the cost of any such consultation.

- 23.7 The granting of sick leave, the duration thereof and the pay, if any, for the same shall be on the following basis:
- 23.7.1 One hundred and forty-four hours on full pay in any one year.
- 23.7.2 Effective 17 February 1997, the sick leave prescribed in 23.7.1 shall be fully cumulative less any sick leave taken.
- 23.7.3 Sick leave beyond the scale provided for shall be sick leave without pay.
- 23.7.4 Sick leave is intended to be allowed in respect of absences from duty caused by ordinary illness or incapacity for duty as the result of an illness or injury sustained whilst off duty. When the incapacity is due to organised sporting activity or paid work, unconnected with the Department, any sick leave payment shall take into account any benefit in the nature of sick leave or workers compensation payments the employee concerned receives from the body organising the sporting activity or paid work, but to the extent of such benefit, the employee's sick leave entitlement shall not be affected.
- 23.7.5 Where payment has been made for sick leave, under this clause, to an employee whose sick leave entitlement previously has been exhausted, or whose right to sick leave is not established, the Department may deduct the amount overpaid from the salary of the employee concerned in the next pay period or, if such a deduction would cause hardship, in accordance with the provisions of subclause 6.15 of this Award.
- 23.7.6 Recruit firefighters shall be eligible for sick leave. However, such employees shall only be entitled to use up to and including 72 hours of sick leave.
- 23.7.7 When the incapacity is due to a cause which would entitle an employee to workers' compensation, the Department shall pay the difference between the amount of workers' compensation payment and the ordinary rate of pay of the employee concerned. The employee's entitlement for sick leave arising from ordinary illness shall not be affected.
- 23.7.8 The employee shall prove to the satisfaction of the Department, or, in the event of a dispute, to the satisfaction of the Industrial Relations Commission, that the employee was unable, on account of such illness or incapacity, to attend for duty on that day or days for which sick leave is claimed. Payment shall not be allowed for such leave until this condition is fulfilled. A medical certificate tendered in support of such claim shall state the illness or incapacity, and that the employee was prevented by such illness or incapacity from attending for duty on the day or days for which sick leave is claimed.
- 23.8 Employees are entitled to take unsupported sick leave absences, where no medical certificate is required, subject to the following provisions:
- 23.8.1 Such absences may not exceed 3 separate occasions in any calendar year, where an 'occasion' shall be a shift or part of a shift (or in the case of Executive Officers, 3 separate days in any calendar year; and
- 23.8.2 Such absences may not be taken on consecutive days; and
- 23.8.3 Such absences may not be taken on public holidays; and
- 23.8.4 Such absences may not be taken in relation to any matter that may be covered by workers' compensation.
- Commitment to Reduction in Sick Leave Levels
- 23.9 The Parties to this Award are committed to ensuring a reduction in the cost associated with sick leave.

- 23.10 To ensure that sick leave levels are reduced, the Parties have agreed to implement a policy for the management of employee absence relating to personal illness and injury.
- 23.11 It is accepted that the Attendance Management Policy for Permanent Firefighters will place the Parties to this Award, including all employees covered by the Award, under an obligation to effectively manage sick leave in order to achieve the targeted reduction. To that end, the Parties will work co-operatively to ensure the implementation and success of the Attendance Management Policy for Permanent Firefighters.

Review Mechanisms

- 23.12 During the life of the Award, the Department and the Union will, at regular intervals, monitor and review the operation of the Attendance Management Policy for Permanent Firefighters and the data on reduction in average sick leave levels.
- 23.13 At each review the Department and the Union will assess progress against sick leave reduction targets.
- 23.14 Subject to clause 23.15, if targets are not being met the Department will, after consultation with the Union, identify and implement the additional measures required to meet the targets and will vary the Attendance Management Policy for Permanent Firefighters accordingly.
- 23.15 In the event of a dispute as to a proposed variation, then provided the Union notifies a dispute within 7 days, the issue as to any proposed variation will be dealt with by the Industrial Relations Commission and during that process the status quo in regards to sick leave then applying will operate unless otherwise varied or altered by the Commission.

Executive Officer entitlements

- 23.16 Sick Leave on full pay accumulates at the rate of fifteen (15) days each calendar year, and any such accrued leave not taken is fully cumulative.
- 23.17 For the purpose of subclause 23.16 "service" means continuous service.

24. Special Leave for Union Activities

24.1 Attendance at Union Conferences/Meetings

24.1.1 Employees who are members of the Union and accredited by the Union as a delegate are entitled to special leave with pay to attend the following:

- 24.1.1.1 annual or bi-annual conferences of the Union; and
- 24.1.1.2 annual conferences of the United Firefighters Union of Australia; and
- 24.1.1.3 meetings of the Union's Executive/Committee of Management; or
- 24.1.1.4 annual conference of Unions NSW; or
- 24.1.1.5 bi-annual conference of the Australian Council of Trade Unions.

24.1.2 While there is no limit on special leave for Union activities, such leave is to be kept to a minimum and is subject to the employee:

- 24.1.2.1 establishing accreditation as a delegate with the Union; and
- 24.1.2.2 providing sufficient notice of absence to the Department; and
- 24.1.2.3 lodging a formal application for special leave.

24.1.3 Such leave is also subject to the Union:

- 24.1.3.1 providing documentary evidence to the Department about an accredited delegate in sufficient time to enable the Department to make arrangements for performance of duties; and
- 24.1.3.2 meeting all travelling, accommodation and any other costs incurred for the accredited delegate; and
- 24.1.3.3 providing the Department with confirmation of attendance of the accredited delegate.

24.1.4 Providing the provisions of this clause are satisfied by both the employee and the Union, the Department shall:

- 24.1.4.1 release the accredited delegate for the duration of the conference or meeting;
- 24.1.4.2 grant special leave (with pay); and
- 24.1.4.3 ensure that the duties of the absent delegate are performed in his/her absence, if appropriate.

24.1.5 Period of Notice

- 24.1.5.1 Generally, dates of conferences or meetings are known well in advance and it is expected that the Department would be notified as soon as accreditation has been given to a delegate or at least two weeks before the date of attendance.
- 24.1.5.2 Where extraordinary meetings are called at short notice, a shorter period of notice would be acceptable, provided such notice is given to the Department as soon as advice of the meeting is received by the accredited delegate.

24.1.6 Travel Time

- 24.1.6.1.1 Where a delegate has to travel to Sydney, inter or intra State, to attend a conference or meeting, special leave will also apply to reasonable travelling time to and from the venue of the conference or meeting.
- 24.1.6.1.2 No compensation is to be provided if travel can be and is undertaken on an accredited delegate's non-working day or before or after his/her normal hours of work.

24.1.7 Payment

- 24.1.7.1 Employees entitled to special leave in terms of this clause shall, for such special leave, receive their normal rate of pay. Provided that for the purpose of this clause "normal rate of pay" will include allowances, except for the Relieving Allowance set at Item 16 of Table 3 of Part C.

24.1.8 Special leave in terms of this clause shall count as service for all purposes.

24.1.9 Availability of Special Leave

- 24.1.9.1 Special leave shall not be available to employees whilst they are rostered off duty or on any period of other leave.

24.2 Attendance at Courses/Seminars Conducted or Supported by TUEF

- 24.2.1 Except where inconsistent with the provisions of subclause 24.2, the provisions of subclause 24.1 of this clause shall also apply for attendance at courses or seminars conducted or supported by the Trade Union Education Foundation (TUEF).
- 24.2.2 Up to a maximum of 12 days in any period of two years may be granted to employees who are members of the Union.
- 24.2.3 The grant of leave to attend courses or seminars conducted or supported by TUEF, is subject to the following conditions:
- 24.2.3.1 Departmental operating requirements permit the grant of leave and the absence does not result in working of overtime by other employees;
 - 24.2.3.2 Expenses associated with attendance at such courses or seminars, e.g. fares, accommodation, meal costs, etc., will be required to be met by the employee concerned but, subject to the maximum prescribed in subclause 24.2.2., special leave may include travelling time necessarily required during working hours to attend courses or seminars;
 - 24.2.3.3 Applications for leave must be accompanied by a statement from the Union that it has nominated the employee concerned for such a course or seminar and supports the application.

25. Court Attendance Entitlements

- 25.1 The provisions of this clause shall apply to employees attending Court and related conferences as a:
- 25.1.1 result of the duties performed by the employee in the employee's position with the Department, including attendance at an incident.
 - 25.1.2 witness for the Crown but not as a result of the duties performed by the employee in the employee's position with the Department.
 - 25.1.3 witness in a private capacity.
- 25.2 Attendance at Court as a result of the duties performed by an employee in the employee's position with the Department, including attendance at an incident.
- 25.2.1 Such attendance shall be regarded as attendance in an Official Capacity and uniform must be worn.
 - 25.2.2 The employee is entitled to be reimbursed for all expenses reasonably and necessarily incurred in excess of any reimbursement for expenses paid by the Court. Any such claim shall be in accordance with Clause 26, Travelling Compensation. Other than as provided by subclause 25.2, employees are not entitled to claim nor retain any monies as witness' expenses. Any monies received, other than reimbursement of expenses actually and necessarily incurred, shall be paid to the Department.
 - 25.2.3 Where the employee is required to attend while off duty, overtime shall be paid from the time of arrival at the Court to the time of departure from the Court. Travelling time shall be compensated in accordance with Clause 26, Travelling Compensation. Where approval has been given to the employee to use the employee's private vehicle, employees shall be entitled to receive the appropriate Specified Journey Rate prescribed at Item 1 of Table 4 of Part C. All public transport costs, reasonably and necessarily incurred, shall be fully reimbursed.
 - 25.2.4 Where the employee receives a subpoena or notification of a requirement to attend Court, the employee must ensure that the Officer-in-Charge is informed of those commitments immediately.

As far as is practicable, employees who are required to attend Court in an Official Capacity shall do so free from their ordinary duties and responsibilities.

25.2.5 The following provisions are to apply to ensure that employees attending Court are given adequate time free from duty to meet Court commitments:-

25.2.5.1 Day Shift

Where an employee is rostered to work a day shift arrangements must be made within the normal protocol for the employee to be relieved whilst attending Court.

25.2.5.2 Night Shift

An employee required to attend Court shall not be rostered for duty on the night shift which ceases on the day of the Court proceedings. When the employee is released from duty at the Court, and if required to report for duty that evening, such duty shall not commence until an eight hour break has been taken, pursuant to subclause 9.9 of Clause 9, Overtime.

25.2.6 Where the employee is recalled to duty to attend Court while on Annual or Long Service Leave:

25.2.6.1 For each day or part thereof, such employee may elect to be recredited with a full days leave or to be paid a minimum of eight hours at the rate of time and one half (i.e., half time in addition) for the first two hours and double time (i.e., time in addition) thereafter.

25.2.6.2 Time worked in excess of eight hours on any recall to duty during annual or long service leave shall be compensated at the rate of double time. The calculation of time worked for the purpose of calculating double time shall commence from the time duty commences at Court until the employee is excused from the Court.

25.2.6.3 Where the combined period of travelling time and Court attendance is less than or equal to eight hours, travelling time is included in the minimum payment prescribed in subclause 25.2.6.1. Where the combined period of Court attendance and travelling time exceeds eight hours, the excess travelling time shall be compensated for in terms of Clause 26, Travelling Compensation.

25.2.7 Where an employee is subpoenaed to attend Court while on Sick Leave it is the responsibility of the employee to ensure that the circumstances are communicated to the Court. If the employee is still required to and does attend Court, the sick leave debited for that period will be recredited and the entitlement to reimbursement of expenses referred to above shall apply.

25.2.8 "Stand-By"

25.2.8.1 "Stand-By" for the purposes of this clause only, means a period when an employee is required to be immediately available, upon notice, to attend Court.

25.2.8.2 Where an employee is required to be on stand-by during a shift or, during any period when the employee is rostered off duty, the employee must, as soon as the requirement is known, advise his/her Officer-in-Charge.

25.2.8.3 Written confirmation from the Court of such necessity to be on Stand-By must also be provided.

25.2.8.4 Where an employee is rostered off-duty and is on Stand-By, the employee shall be entitled to be paid the appropriate amounts set at Item 17 of Table 3 of Part C.

25.3 Where an Employee Attends Court as a Witness for the Crown but not as a result of the duties performed by the employee in the employee's position with the Department.

25.3.1 Employees shall be granted special leave of absence with pay for the period they are necessarily absent from duty, and shall pay to the Department all monies paid to them as witnesses, other than monies paid as a reimbursement of out of pocket expenses incurred by them in consequence of being so subpoenaed.

25.4 Where an Employee Attends Court in a Private Capacity, (i.e., not subpoenaed by the Crown).

25.4.1 Employees shall be granted leave of absence without pay for the period they are necessarily absent from duty or, if they so desire, may apply for consolidated leave and, in either case, may retain monies paid to them as witnesses.

26. Travelling Compensation

26.1 Excess Travelling Time

When an Operational Firefighter is required to travel outside their normal hours of duty the Operational Firefighter may apply for payment for excess time spent travelling, subject to the following:

26.1.1 If the travel is on a non-working day and is undertaken by direction of the Commissioner or an authorised officer, the Operational Firefighter is entitled to the benefit of subclause 26.1.

26.1.2 Where the travel is on a working day, the excess time spent travelling before the normal commencing time or after the normal ceasing time, rounded to the lower quarter hour, shall be counted for the benefit of subclause 26.1.

26.1.3 Payment for excess travelling time on both a working day and a non-working day shall be at the Operational Firefighter's ordinary rate of pay on an hourly basis (calculated by dividing the weekly rate by 40) subject to a ceiling of the hourly rate of pay of a Station Officer Level 2 set at Item 3 of Table 4 of Part C.

26.1.4 Where the Operational Firefighter has travelled overnight but has been provided with sleeping facilities, the travelling time shall not include travel between 2300 hours on one day and 0730 hours on the next day.

26.1.5 Travelling time does not include time spent:

26.1.5.1 travelling on permanent transfer where the transfer involves promotion with increased salary; or as a consequence of a breach of discipline by the employee; or is at the employee's request; or is under an arrangement between employees to exchange positions;

26.1.5.2 travelling by ship on which meals and accommodation are provided; or

26.1.5.3 taking a meal when the employee stops a journey to take the meal.

26.1.6 Travelling time shall be calculated by reference to the use of the most practical and economic means of transport.

26.1.7 Payment will not be made or allowed for more than eight (8) hours in any period of twenty four (24) hours.

26.2 Waiting Time

When an Operational Firefighter qualifies for the benefit of Excess Travelling Time, necessary waiting time is to be counted as Travelling Time calculated as follows:

26.2.1 Where there is no overnight stay with accommodation at a centre away from the employee's residence or normal work location, one hour shall be deducted from:

26.2.1.1 the time between arrival at the centre and the commencement of duty; and

26.2.1.2 the time between ceasing duty and the time of departure from the centre.

26.2.2 Where overnight accommodation is provided, any time from arrival until departure shall not count as waiting time except as follows:

26.2.2.1 if duty is performed on the day of arrival, the time less one hour between arrival and the commencement of duty; and

26.2.2.2 if duty is performed on the day of departure, the time less one hour from the completion of duty to departure; or

26.2.2.3 if no duty is performed on day of departure the time after 0830 hours until departure.

26.3 Meal Allowances

26.3.1 When an employee is required to perform official duty at a temporary work location and is not required to reside away from home (a one day journey), the employee shall be eligible to be paid the following meal allowances subject to the following conditions:

26.3.1.1 For breakfast when required to commence travel at/or before 0600 hours and at least one and a half hours before the normal commencing time, the amount set at Item 4 of Table 4 of Part C.

26.3.1.2 For lunch when, by reason of the journey, an employee is unable to take lunch at the place or in the manner in which the employee ordinarily takes lunch and is put to additional expense, the amount set at Item 5 of Table 4 of Part C or an amount equivalent to the additional expense, whichever is the lesser.

26.3.1.3 For an evening meal when required to work or travel until or beyond 1830 hours and at least one and a half hours after the ordinary ceasing time, an amount set at Item 6 of Table 4 of Part C.

26.3.1.4 Meal Allowances shall not be paid where the employee is provided with an adequate meal.

26.4 Accommodation Allowances

When an employee is required to perform official duty at a temporary work location which requires the employee to reside away from home and the employee is not provided with accommodation by the Government, the employee shall be eligible to be paid the following accommodation (sustenance) allowances subject to the conditions set out below:

26.4.1. For the first 35 calendar days, the appropriate amounts set at Item 7 of Table 4 of Part C; or

26.4.2 The actual necessary expenses for meals and accommodation (actuals), together with incidental expenses as appropriate, set at Item 8 of Table 4 of Part C. The necessary expenses do not include morning and afternoon tea.

26.4.3 After the first 35 calendar days and for up to six months an employee shall be paid an allowance at the rate set at Item 9 of Table 4 of Part C provided the allowance paid to an employee, temporarily located in Broken Hill, shall be increased by 20%. The allowance is not payable in respect of:

- 26.4.3.1 Any period during which the employee returns home on weekends or public holidays commencing with the time of arrival at the residence and ending at the time of departure from the residence; or
- 26.4.3.2 Any other period during which the employee is absent from the temporary work location (including leave) otherwise than on official duty, unless approved by the Commissioner.

26.4.4 The capital city rate shall apply to Sydney as bounded by the GSA.

26.4.5

- 26.4.5.1 Where an employee proceeds directly to a temporary work location in a Capital city and returns direct, the Capital city rate applies to the whole absence.
- 26.4.5.2 Where an employee breaks the journey, other than for a meal, in a centre that is not a capital city, the capital city rate applies only in respect of the time spent in the capital city, the elsewhere rate applies to the remainder of the absence.

26.5 Incidental Expenses Allowances - Government Provided Accommodation

When an employee is required to perform official duty at a temporary work location which requires that the employee reside away from home and is provided with accommodation by the Government, the employee shall be eligible to be reimbursed expenses properly and reasonably incurred during the time actually spent away from the employee's residence in order to perform that duty and in addition be paid an allowance at the rate set at Item 10 of Table 4, of Part C as appropriate. Such expenses are limited to costs in relation to food, laundry and accommodation that exceed what would normally have been incurred at home. Any meal taken at a Government establishment is to be paid for and appropriate reimbursement sought.

26.6 Additional Provisions

- 26.6.1 Unless specifically provided for in Clause 12, Relieving Provisions, Clause 16, Training Course Attendance Entitlements or Clause 25, Court Attendance Entitlements, the provisions of this clause shall not apply in the circumstances provided for by those clauses. Nor do they apply to Recruits undertaking College training.
- 26.6.2 When an employee is required to travel to a temporary work location or to attend a training course or conference on what would normally be regarded as a one day journey and the time of travel will exceed four hours on any one day in addition to the normal hours of work, the employee may be directed or may request that the employee reside temporarily at a place other than the employee's residence to avoid such travel time on any day and in such case shall be entitled to the accommodation allowances as appropriate.
- 26.6.3 The claim for an accommodation allowance or reimbursement of expenses shall be for the whole of the period of absence and cannot be dissected into part of the time of the absence by way of allowance and part of the absence being compensated by reimbursement.
- 26.6.4 When an employee in receipt of an accommodation allowance is granted special leave to return home from a temporary work location, the employee shall be reimbursed for the cost of the return rail fare or if a first class rail service is reasonably available, the cost of a first class return rail fare, or a motor vehicle allowance at the appropriate specified journey rate set at Item 1 of Table 4 of Part C to the value of the rail fares. No taxi fares or other incidental expenses are payable.
- 26.6.5 An employee shall be entitled to the option of using public transport or reimbursement for the use of the employee's private vehicle on the following basis:

- 26.6.5.1 Reimbursement is not to be paid for a journey if an official motor vehicle is available for the journey.
- 26.6.5.2 If an official motor vehicle was not available but public transport was reasonably available for the journey, the amount of any reimbursement is not to exceed the cost of the journey by public transport.
- 26.6.5.3 Where the employee elects to use a private vehicle the employee shall be reimbursed at the specified journey rate prescribed from time to time or the cost of public transport, whichever, unless the Commissioner approves otherwise, is the lesser.
- 26.6.5.4 Where an official motor vehicle is not available, and public transport was not reasonably available for the journey, if the employee agrees to use the employee's private vehicle, reimbursement shall be at the appropriate Official Business rate set at Item 11 of Table 4 of Part C.
- 26.6.5.5 Where the meal allowance or the accommodation allowance is insufficient to adequately reimburse the employee for expenses properly and reasonably incurred, a further amount may be paid so as to reimburse the employee for the additional expenses incurred subject to the following:
 - 26.6.5.5.1 The Commissioner may require the production of receipts or other proof that expenditure was incurred.
 - 26.6.5.5.2 If any expense in respect of which an allowance is payable was not properly and reasonably incurred by the employee in the performance of official duties, payment of the allowance may be refused or the amount of the allowance may be reduced.
 - 26.6.5.5.3 If any purported expense was not incurred by the employee, payment of the allowance may be refused or the amount of the allowance may be reduced.
- 26.6.5.6 The Commissioner is to consider the convenience of the employee when an employee is required to travel to a temporary work location.
- 26.6.5.7 Unless special circumstances exist, the employee's work, the mode of transport used and the employee's travel itineraries are to be organised and approved in advance so that compensation for excess travel time and payment of allowances is reasonably minimised.

26.7 Claims

Claims should be submitted promptly, i.e., within one month from the completion of the work or within such time as the Commissioner determines.

26.7.1 The Commissioner may approve applications for advance payments of travelling and sustenance allowances. Such applications should detail the appropriate expenditure anticipated and be in accordance with In Orders 1982/34.

26.7.2 In assessing claims for excess travelling time and payment of allowances reference should be made to the time that might reasonably have been taken by the particular mode of transport used. Provided that where an employee can demonstrate that the use of the means of transport proposed by the Department is unreasonable in the circumstances, the employee may apply to the Commissioner for a review of the Department's decision. Where an employee does not wish to use the means of transport proposed by the Department e.g. air travel as against train or car travel, travelling time and allowances should be assessed on the basis that the most practical and economical means of transport is used.

26.7.3 Where an allowance is payable at a daily rate and a claim is made for a portion of the day, the amount to be paid is to be calculated to the nearest half hour.

26.8

26.8.1 The meal, accommodation and incidental allowances in Items 4 to 10 of Table 4 of Part C, shall be adjusted on 1 July in line with the corresponding reasonable allowance amounts for the appropriate financial year as published by the Australian Taxation Office (ATO).

26.8.2 The per kilometre rates in Items 1 & 11 of Table 4 of Part C, 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).

27. Notice of Transfer

27.1 When an employee is to be transferred to work at a new location and/or to a different platoon, the Commissioner shall give the employee the following notice -

27.1.1 Seven (7) days notice when the transfer is within the same fire district or within the GSA and on the same platoon,

27.1.2 Fourteen (14) days notice when the transfer is within the same fire district or within the GSA but to a different platoon,

27.1.3 Twenty eight (28) days notice when the transfer is outside the GSA or the employee's current fire district, and such notice shall be confirmed in writing.

27.2 An employee may elect to waive, in whole or in part, the notice requirements of subclause 27.1.

28. Transfers Outside of the GSA

This Clause prescribes the transfer arrangements which shall apply in the case of all Operational Firefighter vacancies which arise outside of the GSA on and from 1 May 2006.

28.1 Transfer Register Applications

28.1.1 Applications for placement on any Transfer Register shall be made by way of report to the Manager Operational Personnel. Such reports shall clearly state the Transfer Register on which the employee seeks to be placed, the employee's current classification, the employee's current address and whether or not the employee is claiming residential priority pursuant to subclause 28.4.

28.1.2 With the exception of Recruit Firefighters, all firefighters shall be eligible to apply for placement on any one or more of the Country Transfer Registers or Regional Transfer Registers listed at subclause 28.2.

28.1.3 With the exception of Inspectors with regards to the Blue Mountains area (only), all Station Officers and Inspectors shall be eligible to apply for placement on any one or more of the Regional Transfer Registers listed at subclause 28.2.2.

28.1.4 Leading Firefighters shall not be eligible to apply for placement on any Officer Transfer Register until such time as they have been promoted to Station Officer rank. Similarly, Station Officers shall not be eligible to apply for placement on any Senior Officer Transfer Register until such time as they have been promoted to Inspector rank. Employees so promoted shall be required to submit a new report pursuant to subclause 28.1.1 in order to be placed on the corresponding Transfer Register for their new classification.

28.1.5 The Manager Operational Personnel shall acknowledge receipt of all applications within 14 days of the day upon which they are received. This receipt shall confirm the employee's service

number, name, date of application, Transfer Register for which the employee has applied and, if applicable, whether or not the employee's claim for residential priority has been accepted. Applications for placement on a Transfer Register shall only be valid upon the issuing of this receipt, which shall serve as proof of an employee's application.

28.1.6 Employees may be removed from a Transfer Register by submitting a further report to that effect to the Manager Operational Personnel, who shall in turn issue a receipt as proof of that withdrawal.

28.2 Transfer Registers

28.2.1 Country Transfer Registers:

Transfer Register	Local Government Area
Albury	Albury City Council
Armidale	Armidale City Council
Batemans Bay	Eurobodalla Shire Council
Bathurst	Bathurst City Council
Broken Hill	Broken Hill City Council
Coffs Harbour	Coffs Harbour City Council
Dubbo	Dubbo City Council
Goulburn	Goulburn City Council
Moree	Moree Plains Shire Council
Nowra	Shoalhaven City Council
Orange	Orange City Council
Port Macquarie	Hastings Council
Queanbeyan	Queanbeyan City Council
Tamworth	Tamworth City Council
Wagga Wagga	Wagga Wagga City Council

28.2.2 Regional Transfer Registers:

Transfer Register	Local Government Area
Blue Mountains	Blue Mountains City Council
Central Coast	Gosford City Council and Wyong Shire Council
Illawarra	Wollongong City Council and Shellharbour City Council
Maitland	Cessnock City Council, Maitland City Council and Port Stephens Council
Newcastle	Lake Macquarie City Council and Newcastle City Council
Northern Rivers	Tweed Shire Council, Lismore City Council, Byron Shire Council and Ballina Shire Council

28.2.3 The parties agree that where permanent firefighters are to be introduced in an area outside the GSA for which no Transfer Register exists, a new Transfer Register will be established. Where a new transfer register is to be established, the Department shall advertise the establishment of that register and invite initial applications for a period of six weeks. Any applications received within the six week period shall be deemed to have been received on the date of creation of the register and placed on that register in accordance with the following provisions:

28.2.3.1 Notwithstanding the provisions of subclause 28.4.2, an applicant who satisfies the provisions of subclause 28.4.3 and has done so for a period of 2 or more consecutive years leading up to the date of creation of a Transfer Register shall be placed at the top of that Residential Transfer Register. Where more than one applicant satisfies this provision, placement on that Residential Transfer Register shall be determined by a ballot conducted by the Manager Operational Personnel; and

- 28.2.3.2 Applicants who are unable to satisfy the provisions of subclause 28.2.3.1 shall be placed at the top of the relevant General Transfer Register. Where more than one such application is received, the order of placement shall be determined by way of a ballot conducted by the Manager Operational Personnel.

28.3 Operation of Transfer Registers

28.3.1 The Department shall establish and maintain a General Transfer Register and a Residential Transfer Register for each category of Operational Firefighter employees as follows:

- 28.3.1.1 in the case of Firefighters, for each of the Country Transfer Register areas and Regional Transfer Register areas listed at subclauses 28.2.1 and 28.2.2;
- 28.3.1.2 in the case of Officers, for each of the Regional Transfer Register areas listed at subclause 28.2.2; and
- 28.3.1.3 in the case of Senior Officers, for each of the Regional Transfer Register areas listed at subclause 28.2.2. Provided that there shall not be a Blue Mountains Regional Transfer Register, a Maitland Transfer Register or a Northern Rivers Regional Transfer Register for Senior Officers, and that vacancies which occur within those areas shall be filled in accordance with subclause 28.7.

28.3.2

- 28.3.2.1 Each General Transfer Register shall detail each applicant's employee service number, their name, the date of their original application for transfer and, if applicable, the date their application for residential priority status was accepted, the date they were elevated to that area's Residential Transfer Register and/or the date of their eventual transfer to the area in question.
- 28.3.2.2 Each Residential Transfer Register shall detail each applicant's employee service number, their name, the date of their original application for transfer, the date their application for residential priority status was accepted, the date they were elevated to that area's Residential Transfer Register and, if applicable, the date of their eventual transfer to the area in question.

28.3.3 The order of placement of each employee upon each Transfer Register shall be determined:

- 28.3.3.1 in the case of General Transfer Registers, by order of the date upon which the employee made application for placement upon that Transfer Register. Where more than one application for the same Transfer Register is submitted on the same day, the Manager Operational Personnel shall determine the order of placement of those multiple applicants by way of ballot; and
- 28.3.3.2 in the case of Residential Transfer Registers, by order of the date upon which the employee was elevated to that Residential Transfer Register. Subject to the provisions of 28.4.3, 28.4.7.1 and 28.4.7.2, an employee's elevation to a Residential Transfer Register shall be subject to: firstly, the employee having held a position on the relevant General Transfer Register for at least two years; and secondly, the employee having been recognised as having met and maintained residential priority status for that Transfer Register's area for at least two years.

28.3.4 Upon the occurrence of a vacancy, transfers shall be offered to employees in the following order:

- 28.3.4.1 Firstly, by reference to the relevant Residential Transfer Register, with the first offer to be made to the highest placed employee on that Register and, if declined, to the next highest placed employee and so on until such time as the vacancy is filled.

- 28.3.4.2 In the event that no employee exists on the relevant Residential Transfer Register, or that all employees on that Residential Transfer Register decline the offer of transfer, the vacancy shall then be offered to all employees on the relevant General Transfer Register, with the first offer to be made to the highest placed employee on that Register and, if declined, to the next highest placed employee and so on until such time as the vacancy is filled.
- 28.3.4.3 In the event that no employee exists on the relevant General Transfer Register and/or all employees on that General Transfer Register decline the offer of transfer, the vacancy shall then be advertised for and open to all eligible employees.
- 28.3.5 Declining an offer of transfer shall not affect an employee's position on the relevant Transfer Register, provided that employees who decline three successive offers of transfer shall be removed from that Transfer Register.
- 28.3.6 The Department shall make available copies of all Transfer Registers to employees in the manner agreed between the Department and the Union.
- 28.4 Residential Priority
- 28.4.1 All employees seeking residential priority for any Transfer Register area shall be required to submit a report to the Manager Operational Personnel setting out the grounds for their claim. Such employees shall be required to provide evidence of their claim for primary residence prior to being placed on the Transfer Register with Statutory Declarations, electoral enrolment forms, rates notices, bills and/or such other documentation or evidence which it would be reasonable for the Department to request of the employee in order to verify their claim. Vacant blocks of land, Post Office boxes, investment properties, holiday homes or the addresses of relatives or friends, when in fact the employee has primarily resided elsewhere, shall therefore be unacceptable. This report may be either the same report as that of the employee's original application made pursuant to subclause 28.1.1, or a subsequent report which is submitted due to an employee's transfer or a change of primary residence.
- 28.4.2 An employee shall not be entitled to recognition of residential priority on any Transfer Register prior to the date of their report making application for that recognition pursuant to subclause 28.4.1.
- 28.4.3 In order to recognise an employee's claim for residential priority for a particular Transfer Register, the Manager Operational Personnel must first be satisfied that the primary residence in question is located either:
- 28.4.3.1 within the Transfer Register area in question, or
- 28.4.3.2 in such a location that any permanently staffed fire station within the Transfer Register area for which the applicant is claiming residential priority is closer to their primary residence than any permanently staffed fire station within the GSA or Transfer Register area, as the case may be, to which the applicant is currently attached. For the purposes of this subclause, distances shall be determined by drawing a straight line between both locations and calculating that distance, i.e. in a straight line.
- 28.4.4 Employees holding residential priority status on any Transfer Register must submit a further report pursuant to subclause 28.4.1 immediately upon their:
- 28.4.4.1 change of address, meaning a change in the location of their primary residence; or
- 28.4.4.2 transfer from the GSA to a Transfer Register area; or
- 28.4.4.3 transfer from one Transfer Register area to another Transfer Register area.

28.4.5 The Manager Operational Personnel shall acknowledge and review all reports submitted pursuant to subclause 28.4.4. If an employee's transfer or revised primary residence location means that the employee no longer satisfies the residential priority requirements of subclause 28.4.3, then the employee's records upon the relevant Transfer Register(s) shall be adjusted accordingly. It shall remain the responsibility of employees to apply for any additional residential priority status which may arise as a result of their transfer or revised primary residence.

28.4.6 Subject to the provisions of subclause 28.4.7, an employee who has held and continually maintained residential priority status upon a General Transfer Register for two years shall then be elevated to the relevant Residential Transfer Register in accordance with subclause 28.3.3.2. Provided that employees who are elevated to a Residential Transfer Register and who are later found to no longer meet the criteria for residential priority shall be returned to and placed upon the relevant General Transfer Register by order of the date of their original application.

28.4.7 In the case of Leading Firefighters who are promoted to Station Officer, or Station Officers who are promoted to Inspector:

28.4.7.1 if stationed within a Regional Transfer Register area at the time of their promotion, then such employees shall be transferred to the GSA. Provided that employees so transferred who make application pursuant to subclause 28.1 for return transfer within three months of the date of their promotion shall be placed on the corresponding Residential Transfer Register for their new classification as of the date of that promotion;

28.4.7.2 if holding a position on a Regional area's Residential Transfer Register at the time of their promotion then such employees shall be entitled within three months of the date of their promotion to submit a further report pursuant to subclause 28.1, following which they shall be placed on the corresponding Residential Transfer Register for their new classification as of the date of that promotion;

28.4.7.3 if holding a position on a Regional area's General Transfer Register at the time of their promotion, and holding residential priority status for that area, then such employees shall be entitled within three months of the date of their promotion to submit a further report pursuant to subclause 28.1, following which they shall be placed on the corresponding General Transfer Register for their new classification as of the date of that promotion and recognised for the purposes of subclause 28.4.6 for that period of residential qualification already accrued.

28.4.7.4 if holding a position on a Regional area's General Transfer Register at the time of their promotion, but without holding residential priority status for that area, then such employees shall be entitled within three months of the date of their promotion to submit a further report pursuant to subclause 28.1, following which they shall then be placed on the corresponding General Transfer Register for their new classification as of the date of that promotion.

28.4.8 Employees who are stationed within a Transfer Register area at the time of their appointment to an Operational Support position and who make application pursuant to subclause 28.1 within three months of the date of their appointment shall be placed on that area's Residential Transfer Register as of the date of that appointment.

28.5 Appeals concerning Residential Priority

28.5.1 An employee seeking to challenge either the Department's determination of their residential priority status, or the Department's determination of the residential priority status of another employee may appeal in the first instance by way of report to the Assistant Director Operational Personnel. Such reports shall provide all relevant details and may be supported by any documentation or evidence which the employee considers relevant to their claim. An anonymous appeal against an employee shall not be investigated.

- 28.5.2 Where an appeal concerns the employee's own residential status, the Assistant Director Operational Personnel shall provide the employee with a written determination of that appeal, setting out the reasons for same, within 14 days of receipt of the employee's report.
- 28.5.3 Where an appeal concerns the residential status of another employee, the Assistant Director Operational Personnel shall forward a copy of the said report to the employee who is the subject of the challenge. The employee under challenge shall be allowed no less than 28 days to reply by way of report to the Assistant Director Operational Personnel who shall thereafter provide both employees with a written determination of the appeal, setting out the reasons for same, within 14 days of receipt of the second employee's report.
- 28.5.4 An employee may appeal a determination of the Assistant Director Operational Personnel by way of report to the Commissioner. The Commissioner shall consider all previous reports and documentation relating to the matter, together with any additional information which the employee or employees concerned may supply, following which the Commissioner shall provide the employee or employees concerned with a written and final determination of the matter.

28.6 Regional Communications and BA/Hazmat

This subclause prescribes the transfer arrangements which shall apply for all firefighter or Station Officer vacancies which occur within Regional Communication Centres and Regional BA/Hazmat Sections.

- 28.6.1 Upon the occurrence of a vacancy, transfers shall be advertised and offered in the following order:
- 28.6.1.1 Firstly, to all employees who are stationed within the Regional Transfer Register area in which the vacancy exists. Where there are more suitable applicants than positions available, interviews shall be held to determine the successful applicant.
- 28.6.1.2 In the event that no applications are received at subclause 28.6.1.1, or that none of the local applicants meet the essential criteria, as agreed between the Department and the Union, the vacancy shall then be offered to all employees on the relevant Residential Transfer Register, with the first offer to be made to the highest placed applicant who meets the essential criteria and, if declined, to the next highest placed applicant who meets the essential criteria and so on until such time as the vacancy is filled.
- 28.6.1.3 In the event that all employees on that area's Residential Transfer Register decline the offer of transfer, or that none of the Residential Transfer Register applicants meet the essential criteria, as agreed between the Department and the Union, the vacancy shall then be offered to all employees on the relevant General Transfer Register, with the first offer to be made to the highest placed applicant who meets the essential criteria and, if declined, to the next highest placed applicant who meets the essential criteria and so on until such time as the vacancy is filled.
- 28.6.1.4 In the event that all employees on that area's General Transfer Register decline the offer of transfer, or that none of the General Transfer Register applicants meet the essential criteria, as agreed between the Department and the Union, the vacancy shall then be advertised by way of internal memorandum to all Communication Centre or BA/Hazmat employees (as the case may be). Where there are more suitable applicants than positions, interviews shall be held to determine the successful applicant.
- 28.6.1.5 In the event that all Communication Centre or BA/Hazmat employees (as the case may be) decline the offer of transfer, the vacancy shall then be advertised for and open to all eligible employees through In Orders.

- 28.6.1.6 Successful applicants will be required to successfully complete the required training, and on appointment, to serve in the relevant Centre/Section for a minimum period of three years. Provided that if the transfer is made in accordance with subclause 28.6.1.4 then the cumulative total service will be a minimum period of three years.

28.7 Country Officers, Country Senior Officers and Operational Support Staff

28.7.1 Vacancies which occur amongst any of the positions listed at subclause 28.7.2 shall be advertised through In Orders and filled on the basis of competitive merit selection. Selection Committees shall be constituted in accordance with the Recruitment and Selection Guidelines of the NSW Public Service.

28.7.2

- 28.7.2.1 Country Officers, being all Station Officer positions located in areas outside of the GSA and the Regional areas listed at subclause 28.2.2; and
- 28.7.2.2 Country Senior Officers, being all Inspector positions located outside the GSA and the Newcastle, Central Coast and Illawarra Transfer Register areas; and
- 28.7.2.3 Operational Support staff, being all positions defined as such by Clause 14 of this Award.

29. Transferred Employee's Compensation

29.1 When an employee has been given notice of transfer to work in a new location and the Commissioner requires that the employee move to new accommodation, and the transfer is not subject to the exceptions set out below, the employee shall be eligible for leave or credit of leave, reimbursement of costs, and to be paid allowances set out herein.

29.2 Exceptions

29.2.1 Unless special and exceptional circumstances exist, the exceptions exclude from the benefit of this clause employees who are transferred:

at their own request;

under an arrangement between employees to exchange positions;

on account of the employee's breach of discipline;

within the Metropolitan Area or the same Zone.

29.2.2 For purposes of this clause, Metropolitan Area means and includes the Sydney Region as defined by the Department of Planning but also including the area referred to as the Central Coast on the Northern Line as far as Gosford, the area on the Western Line as far as Mt. Victoria and on the Illawarra Line as far as Wollongong.

29.2.3 Employees who are transferred as a result of inclusion in a transfer list established in accordance with Clause 28 of this Award shall, for the purposes of this Clause, be deemed to have been transferred "at their own request" and shall not be eligible for the entitlements set out in this Clause.

29.2.4 Notwithstanding the provisions of subclause 29.2.1, employees who are transferred by way of a merit based selection process, including employees promoted to a rank that necessitates a transfer, shall attract the relevant entitlements of this Clause.

29.2.5 Notwithstanding the provisions of subclause 29.2.1, employees who received compensation for transferring to a particular station/location shall, after a period of not less than 2 years service at that location, be entitled to the provisions of this Clause upon transfer to the GSA.

29.3 This clause does not alter the transfer procedures, as at the date of making of this Award, set out in Standing Orders. Any variation to those procedures shall be by agreement between the Department and Union.

29.4 Leave

When an employee has been given notice of transfer and is required to move to new accommodation the employee shall be eligible for leave and/or to apply for payment at the ordinary rate of pay in lieu of the granting of leave or the Commissioner may credit such leave as consolidated leave as follows to a maximum of:

29.4.1 Sixteen (16) working hours to visit the new location with a view to obtaining accommodation,

29.4.2 Sixteen (16) working hours to prepare and pack personal and household effects prior to removal or for the purpose of arranging storage,

29.4.3 Such leave as is necessary to travel to the new location for the purposes of obtaining suitable accommodation and/or to commence duty,

29.4.4 Eight (8) hours for the combined purpose of cleaning the premises being vacated and/or occupying and settling into the new premises.

Where an employee is eligible for, and takes leave, for part of a shift the Commissioner may direct the employee to take consolidated leave to credit for the remainder of the shift and if the employee does not have sufficient leave to credit, the shortfall may be taken as an advance against consolidated leave that may accrue or as leave without pay.

29.4.5 Provided suitable arrangements can be made for a performance of duties, an employee working a special roster who has been unable to secure accommodation for the family at the new location is entitled to sufficient special leave to permit a return home on weekends once each month to spend two consecutive days and nights with the family, together with an additional day and night in respect of each public holiday occurring in conjunction with the weekend and on which the employee would not normally be rostered for duty. This leave is limited to the time necessarily required in travelling on the day preceding and the day following such weekend.

29.4.6 Where a transferred employee working a special roster is located in a district where a return home once each month is not possible, such employee, after four weeks at the new location, will be entitled to sufficient leave to allow the transferred employee two consecutive days and nights at a weekend with the family. Following that four weeks, the employee will be allowed to accumulate special leave at the rate of sixteen (16) working hours per month until sufficient leave is available to allow the return home at a weekend for a similar period.

29.4.7 Special Roster is the roster specified at subclause 8.6 of this Award.

29.5 Cost of Temporary Accommodation

For the purposes of this subclause, temporary accommodation does not include a house or a flat, whether owned by the Government or privately owned, but relates to what is commonly termed board and lodging.

29.5.1 Transferred employees maintaining dependant relatives at home who are required to vacate the existing residence prior to departure for the new location and/or finds it necessary to secure board and lodging for themselves and dependant relatives at the new location pending permanent accommodation (a residence) becoming available, the employee shall be allowed up to the

amount set at Item 12 of Table 4 of Part C, per week calculated as the actual cost of the temporary accommodation less an excess contribution calculated as per Table 5 of Part C.

29.5.2 Where a transferred employee maintaining dependant relatives moves to the new location ahead of dependants, and permanent accommodation is not available, necessary board and lodging expenses in excess of the amount set at Item 13 of Table 4 of Part C, per week to a maximum allowance of the amount set at Item 12 of Table 4 of Part C, per week shall be payable.

29.5.3 Where a transferred employee not maintaining dependant relatives in the home is unable to secure permanent accommodation at the new location, the employee is to be paid an allowance of up to 50% of the total cost of board and lodging for a maximum period of four (4) weeks subject to a maximum the amount set at Item 12 of Table 4 of Part C, per week. Where the period of four (4) weeks is not sufficient for the employee to find suitable permanent accommodation, full particulars should be provided to allow the DPE to consider the extension of this provision.

29.5.4 An employee receiving an allowance for temporary accommodation as set out above is entitled to a laundry (not dry cleaning) allowance as set out at:

29.5.4.1 Item 14 of Table 4 of Part C, per week if the employee only is in temporary accommodation;

29.5.4.2 Actual expenses to a maximum as set at Item 15 of Table 4 of Part C, per week if the employee and dependants are in temporary accommodation.

29.5.5 Where an employee, together with dependants are in temporary accommodation the allowances may be paid until either

29.5.5.1 a suitable residence becomes available; or

29.5.5.2 up to twenty six (26) weeks if the transfer is to the country; or

29.5.5.3 up to thirteen (13) weeks if the transfer is to the Sydney Metropolitan Area, whichever is the sooner. The payment of allowances in all cases is subject to:

29.5.5.4 the production of receipts;

29.5.5.5 a written undertaking that any reasonable offer of accommodation will be accepted;

29.5.5.6 evidence that the employee is taking all reasonable steps to secure a residence.

When the Commissioner considers that a transferred employee has refused to accept reasonable accommodation and as a result the payment of an allowance has been discontinued, the matter may be referred by the employee or the Union to a Committee comprising two representatives of the Union and two representatives of the DPE. If no mutual decision is arrived at by the Committee the matter may be referred to the Industrial Relations Commission of NSW.

29.5.6 Extension of assistance beyond the twenty six (26)/thirteen (13) week period may be approved only if the application for assistance is supported by acceptable evidence of unsuccessful attempts to obtain accommodation which constitutes reasonably suitable accommodation.

29.6 Removal Costs

29.6.1 A transferred employee is entitled to reimbursement for the costs actually and necessarily incurred in removing personal and household effects to the new location. Provided that the journey is travelled by the shortest practicable route and completed within a reasonable time,

these costs will include the actual and reasonable expenses incurred by the employee and dependants for meals and accommodation during the course of the journey.

29.6.2 Removal expenses allowed under this clause includes the costs of insuring furniture and effects whilst in transit up to an amount set at Item 16 of Table 4 of Part C. Where the insured value exceeds amount, the case should be referred to the DPE for consideration. They should be provided with an inventory of items to be transferred together with a declaration that all items included in that policy are being removed or stored, or, a certificate of valuation from a registered valuer certifying the value of furniture and effects being removed or stored.

Where, due to circumstances beyond the control of the transferred employee, the furniture and effects of the employee arrive late at the new location or are moved before the employee's departure from the previous location, reimbursement of expenses for meals and accommodation properly and reasonably incurred by the employee and any dependants shall be paid.

29.6.3

29.6.3.1 A transferred employee shall be entitled to compensation for the accelerated depreciation of personal and/or household effects removed to a new location.

29.6.3.2 This entitlement is the amount set at Item 17 of Table 4 of Part C, where the Commissioner is satisfied that the employee has removed a substantial portion of what is normal household furniture, furnishing and fittings of not less value than the amount set at Item 18 of Table 4 of Part C. If the value is less than this amount, a pro rata amount is payable.

29.6.4 Where a transferred employee is required to remove the employee's furniture from temporary accommodation the employee is entitled to be reimbursed removal costs and the compensation for depreciation and disturbance in respect of each such move, notwithstanding that the employee may not be changing the location of work.

29.6.5 When an employee uses a private vehicle for the purposes of official business and finds it necessary to transport another private vehicle, normally used by a dependant relative maintained in the household, the cost of transporting or driving that second vehicle to the employee's new location shall be part of the removal costs and the employee may be paid either the cost of transportation by road or rail or, if the vehicle is driven to the new location, a car allowance at the specified journey rate set at Item 1 of Table 4 of Part C.

29.6.6 The reimbursement for the costs actually and necessarily incurred in removing personal and household effects to the new location shall be the equivalent to the lowest of three competitive quotes where practicable.

29.6.7 An advance to cover the whole or part of removal expenses allowed under this subclause is available. The amount of the advance is to be adjusted by the employee within one month of the expenditure being incurred.

29.7 Storage of Furniture

Where an employee is unable to secure suitable accommodation at the new location and is required to store the furniture while waiting to secure a residence, the cost of storage and cartage to the store, and from the store to the new residence shall be reimbursed. The employee shall also be reimbursed the cost of insurance for furniture and effects while in storage on the same basis as for insuring whilst in transit.

The maximum period of storage under this Clause is twenty six (26) weeks in the country and thirteen (13) weeks in the Metropolitan Area.

29.8 Costs of Personal Transport

- 29.8.1 The transferred employee and one member of the household, when proceeding on leave for the purpose of visiting the new location with a view to obtaining suitable accommodation, shall be entitled to the option of return rail fares, or if a first class rail service is reasonably available, first-class return rail fares, or reimbursement at the specified journey rate as set at Item 1 of Table 4 of Part C, for the use of a private vehicle up to the cost of rail fares.
- 29.8.2 The transferred employee and all members of the household, when travelling to the new location for the purpose of commencing duty, shall be entitled to rail fares or reimbursement for the use of the private vehicle, as set out in subclause 29.8.1, provided that, where the members of the employee's household do not travel on the same occasion as the employee, the entitlement for their personal transport shall be deferred until such time as travel to take up residence at the employee's new location occurs.
- 29.8.3 A transferred employee working the special roster specified at subclause 8.6, who has been unable to secure accommodation for the family at the new location, who is entitled to special leave to permit a return home at weekends, shall be entitled to the option of rail fares or reimbursement for the use of a private vehicle as set out in subclause 29.8.1 when proceeding on leave.
- 29.8.4 Car allowance in respect of travel by the employee involved in taking up duty at the new location shall be at the official business rate as set at Item 11 of Table 4 of Part C.
- 29.8.5 When an overall saving to the Department would eventuate, an employee and one member of the household, when proceeding to visit the new location with a view to obtaining suitable accommodation, shall be entitled to economy class air fares in lieu of rail fares or reimbursement of the use of a private motor vehicle.
- 29.8.6 When an employee travels to the new location with a view to obtaining suitable accommodation and incurs expenses in relation to overnight accommodation, the employee shall be reimbursed the reasonable and actual cost of accommodation and meals for self and a member of the household provided the amount to be reimbursed does not exceed sustenance allowances allowed under Clause 26, Travelling Compensation.

29.9 Education of Children

- 29.9.1 A transferred employee who has dependant children will be entitled to the cost of essential school clothing that is required to be replaced or purchased as a direct result of the employee's transfer to a new location requiring the changing of schools. No provision is made for reimbursement of additional school fees, text books or other similar items. The basic list of school clothing is as follows:

Basic Items	
Male winter uniforms	Summer Uniforms
1 Suit coat	3 shirts
2 pairs of winter trousers	3 pairs of trousers (short)
1 tie	3 pairs of long socks
3 shirts	
1 jumper/cardigan	
3 pairs of socks	
1 pair of shoes	
1 track suit/sports uniform	
(but not both)	
1 pair of sandshoes	
Female winter uniforms	Summer uniforms
1 hat	3 blouses
2 tunics	2 tunics

1 blazer	3 pairs stockings/socks
3 blouses	
1 tie	
3 pairs stockings/socks	
1 pair of gloves	
1 pair of shoes	
1 track suit/sports uniform (but not both)	
1 pair of sandshoes	
1 jumper/cardigan	

When an item of clothing required at the new school is not included in the basic list the DPE will consider reimbursing the cost of same but will require full particulars and circumstances surrounding the requirement to purchase.

29.9.2 In respect of dependant children undergoing secondary education in Year 12 at a school in the employee's old location, where the elected subjects are not available at a school in the employee's new location, the cost of board and lodging for these children may be reimbursed to the transferred employee. In such case the employee, on production of receipts for payment and a certificate from the Department of School Education that the elected subjects are not available at the school at the employee's new location, shall be granted the allowance. In these cases the parent/guardian will be required to pay the first amount as set at Item 19 of Table 4 of Part C, of the board and lodging expenses and the Department will reimburse further costs up to a maximum of the amount as set at Item 20 of Table 4 of Part C, per week for each child.

29.10 Conveyancing and Other Costs

A transferred employee who, as a consequence of the transfer to a new location, sells a residence at the former location and buys a residence or land upon which to erect a residence at the new location shall be entitled to reimbursement of expenses incurred in such transactions subject to the following:

- 29.10.1 Where a solicitor or a registered conveyancing company has been engaged to act on behalf of the employee in those transactions, the professional costs and disbursements by the solicitor or a registered conveyancing company in respect of such transactions.
- 29.10.2 Where an employee is entitled to reimbursement, the following expenses shall be covered:
- 29.10.2.1 Stamp Duty;
- 29.10.2.2 Where the employee has engaged a Real Estate Agent to sell the residence at the former location, the commission due to the Estate Agent.
- 29.10.3 Reimbursement of expenses shall be made where the sale of the employee's former residence and the purchase of either a residence or land is effected within a period commencing not earlier than six (6) months prior to the employee's transfer and ending not more than four (4) years after such transfer. The Department will be prepared to consider individual cases where the four (4) year period has been exceeded but will require full details of why sale and/or purchase of the transferred employee's residence could not be completed in the four (4) year period.
- 29.10.4 Where a transferred employee owns a residence at a former location and has taken up rented accommodation on transfer, the employee shall be regarded as covered by these provisions relating to the reimbursement of conveyancing and incidental costs on the current transfer or on a subsequent transfer provided the period of not more than four (4) years has elapsed since the employee's immediately preceding transfer.
- 29.10.5 Where it is not practicable for the transferred employee to purchase residence in the new location and such employee has disposed of the former residence, such employee is not to

be excluded from the benefit of this clause when subsequently purchasing a residence in the new location on a current or subsequent transfer within the four (4) year period.

- 29.10.6 There is an upper ceiling, as set at Item 21 of Table 4 of Part C, on prices of the properties involved in either the sale or the purchase. This limit applies where employees are relocated from a Metropolitan Area to the country irrespective of the size, the value and the commerciality of the property being purchased provided transferred employees are not entitled to the reimbursement of costs involved in transactions where the sale or purchase of a large rural property or commercial premises might be involved.
- 29.10.7 Where a transferred employee dies before completion of either or both the sale or purchase transactions, the expenses incurred in such transactions, up to and including the finalisation of such transactions shall be payable by the Department and the family of the deceased employee is not required to reimburse the Department such expenses.

29.11 Stamp Duty and Other Charges

A transferred employee, who, as a consequence of the transfer, sells a residence at the former location and buys a residence or land upon which to erect a residence at the new location is entitled to be reimbursed:

- 29.11.1 Stamp Duty in respect of the purchase of the residence or the land and the house erected thereon at the new location;
- 29.11.2 Stamp Duty paid in respect of any mortgage entered into or the discharge of a mortgage in connection with the sale or purchase;
- 29.11.3 Registration fees on transfers and mortgages on the residence or the land and the house erected on the land on the following basis -
- 29.11.3.1 where the purchase is completed and the employee enters into occupation of the residence within 15 months of transfer, the reimbursement of Stamp Duty in full;
- 29.11.3.2 where the occupation of the residence purchased or erected is not completed within fifteen (15) months but is completed within four years of transfer, reimbursement of Stamp Duty is not to exceed the amount which would have been payable had the sale and purchase prices of the properties been the amount set at Item 21 of Table 4 of Part C, in each case.
- 29.11.4 A transferred employee who, as a consequence of the transfer to a new location, does not sell a residence at the former location but buys a residence or land upon which to erect a residence at a new location, is entitled to be reimbursed:
- 29.11.4.1 Stamp Duty in respect of the purchase of the residence or the land and a house erected on that land;
- 29.11.4.2 Stamp Duty paid on any mortgage entered into in connection with the purchase; and
- 29.11.4.3 Registration fees on transfer and mortgages on the residence or the land and a house erected on the land,
- provided the employee enters into occupation of the residence within fifteen (15) months of transfer to the new location.

29.12 Incidental Costs

- 29.12.1 A transferred employee who is entitled to the reimbursement of conveyancing and other costs for a purchase at the new location prior to the sale of the former residence is entitled

to the reimbursement of any Council or any other Local Government rates levied in respect of the former residence while such former residence remains untenanted provided the employee can furnish acceptable evidence that reasonable efforts are being made to sell the former residence at a fair market price.

29.12.2 A transferred employee will be entitled to reimbursement of non-refundable costs in respect of the connection of gas and electricity supplies and of telephone installation at the new residence provided that:

29.12.2.1 the connection of gas and electricity supplies were available to the land at the time of purchase and/or

29.12.2.2 the cost of the telephone installation is to be reimbursed only where a telephone was installed at the former residence.

29.12.3 A transferred employee entitled to the reimbursement of conveyancing and other costs is entitled to reimbursement of the cost of survey certificates, pest certificates and/or Building Society registration fees reasonably incurred in seeking financial accommodation to purchase the new residence or the land upon which to erect a new residence and the fees associated with discharging the mortgage on the former residence.

29.12.4 A transferred employee shall be entitled to reimbursement for the fees charged by Australia Post for re-direction of mail for the first month following vacation of the former residence.

29.13 Relocation on Retirement

29.13.1 Upon retirement at a place other than the place of original recruitment to the Department, an employee is entitled to be reimbursed the costs actually and necessarily incurred in removing personal household effects to a location of the employee's choice together with the cost of insuring the same against damage in transit provided -

29.13.1.1 the maximum amount of such reimbursement shall be limited to that payable had the employee moved to the place of original recruitment; and

29.13.1.2 the employee's relocation is effected within twelve (12) months following retirement.

29.13.2 The above provision shall apply to any claims made by the widow or widower within a period of twelve (12) months of the transferred employee's death. In such cases the Commissioner will also be prepared to consider claims made by children or dependent relatives of the deceased in similar circumstances but will require full particulars as to the reasons.

29.14 Additional Provisions

29.14.1 Nothing contained in the provisions of this clause pertaining to leave shall deprive the employee of compensation for time spent in travelling.

29.14.2 Where the spouse of a transferred employee is also employed in the NSW Public Service and is also transferred, the assistance payable under this clause or under the Crown Employee's general provisions is to be paid to one partner only. This does not operate to restrict the leave entitlement of the transferred employee.

29.14.3 An employee whose appointment to a position may be subject to appeals action shall not move to the new location until the period during which appeals may be lodged has expired or all appeals action has been finalised. An employee may be directed to take up duty in the new location before appeals action is finalised but will be entitled to the leave provisions set out in this clause, in which case the following will apply:

- 29.14.3.1 Where the employee has dependants they may claim sustenance allowance under Clause 26, Travelling Compensation, until appeals action has been finalised;
- 29.14.3.2 Employees with dependants have a further period of up to twenty one (21) days immediately after all appeals action has been finalised to find suitable accommodation before such travelling compensation entitlements cease. Such period may be extended by the Commissioner if the Commissioner is satisfied that twenty one (21) days is insufficient time to find such accommodation.
- 29.14.3.3 The Commissioner shall not approve the movement of the employee's dependants or furniture and effects before all appeals action has been finalised unless exceptional or particularly difficult circumstances exist.
- 29.14.3.4 Employees without dependants may be given assistance with temporary accommodation pending the completion of any appeals action but are not to move their furniture and effects until appeals action has been finalised.

29.15 Adjustment of Entitlements

- 29.15.1 The entitlements provided by this clause, shall be adjusted in line with, and from the same effective dates, as the corresponding entitlements prescribed in the Crown Employees (Transferred Officers' Compensation) Award.

30. Rental of Premises

30.1 For the purpose of this clause only:

- 30.1.1 "accommodation" means quarters or premises, including a fire station, owned or leased by the Department.
- 30.1.2 "employee" means a Station Officer or an Inspector.
- 30.1.3 "market rental" means the market rental of the property as determined by the Commissioner in accordance with the Guidelines issued by the DPE.

30.2 Except as provided for in subclauses 30.3, 30.4 and 30.5, where an employee is required to and does occupy accommodation, the Department shall deduct from the rate of pay of the employee concerned an amount per week equal to 4% of the employee's total weekly rate per week as prescribed in Tables 1.1 to 1.3, Rates of Pay, or 50% of the market rental of the accommodation, whichever is the lesser.

30.3 Where an employee was, on 19 August 1994, entitled to and occupying subsidised accommodation:

- 30.3.1 Such employee, subject to subclause 30.3.2, shall continue to pay the amount set at Item 18 of Table 3 of Part C (as adjusted from time to time in accordance with 30.4) per week unless the employee subsequently elects to move from that accommodation to different accommodation. If such an employee so elects, then the Department shall deduct from the rate of pay of the employee concerned an amount per week as prescribed in sub-clause 30.2.
- 30.3.2 And has exercised, or who has, a right of return transfer pursuant to Clause 30 (i) of the Fire Brigade Employees' (State) Award as published in NSW Industrial Gazette Volume 263 of 1991, such employee shall retain the right of return transfer. Provided that the continued entitlement to subsidised accommodation shall expire after a period of 2.5 years from the date of return transfer.
- 30.3.3 And is transferred by the Department from one country location to another country location, such employee shall retain the benefits of the provisions of sub-clause 30.3 as if the employee had not been so transferred.

- 30.4 The amount set at Item 18 of Table 3 of Part C, shall be increased from the same date and by the same percentage of any increase to the rate of pay prescribed for a Station Officer, Level 1. All such increases shall be rounded off to the nearest 10 cents.
- 30.5 Firefighters or employees who have entered into, or subsequently entered into, private tenancy arrangements with the Department are not entitled to the provisions of this clause.

Executive Officers

- 30.6 Except as provided for in subclause 30.8, where an Executive Officer is required to and does occupy accommodation, the Department shall deduct from the rate of pay of the Executive Officer an amount per week equal to 4% of the weekly equivalent of the Executive Officer's annual salary as prescribed in Tables 1.1 to 1.3 of Part C or 50% of the market rental of the accommodation, whichever is the lesser.
- 30.7 The weekly equivalent referred to in subclause 30.6 shall be derived by multiplying the annual salary by 7 and dividing the result by 365.25.
- 30.8 An Executive Officer who has entered into, or subsequently enters into private tenancy arrangements with the Department is not entitled to the provisions of this clause.

31. Protective Clothing and Uniforms

- 31.1 The Department shall supply to all employees appropriate protective clothing for operational duties which shall meet relevant national and/or international Standards or as otherwise agreed to with the Union.
- 31.2 Employees supplied with the above clothing shall wear it in accordance with Departmental instructions.
- 31.3 The provision of wet weather gear shall be in accordance with existing practice, or as otherwise agreed between the parties.

32. Clothes Drying Facility

- 32.1 A drying closet for artificially drying clothing shall be provided by the Department at all fire stations to which employees are attached.

33. Cleaning of Clothes

- 33.1 For the purposes of this clause:
- 33.1.1 "Personal Protective Equipment" means external clothing designed for personal protection at an incident.
- 33.1.2 "Duty wear" means duty wear trousers and duty wear shirt.
- 33.1.3 "Dress uniform" is limited to Dress Trousers, Galatea and Pullover.
- 33.2 Where any Personal Protective Equipment or Duty wear is supplied by the Department and is required to be worn by its employees, and such Personal Protective Equipment or Duty wear becomes soiled or damaged in the execution of duty as to require cleaning or repairs, such cleaning or repairs shall be done at the expense of the Department. Provided that the above Dress Uniform items shall also be cleaned or repaired at the expense of the Department. .

34. Safety Belts

- 34.1 Safety belts shall be fitted to all seats on all vehicles operated by the Department which employees are called upon to drive or to ride upon on a public road. Employees are required to wear safety belts at all times while driving or a passenger in a vehicle operated by the Department.

35. Disputes Avoidance Procedures

- 35.1 Subject to the provisions of the *Industrial Relations Act* 1996, and Clause 36.2, and to enable claims, issues and disputes to be resolved while work proceeds normally, the following procedures are to apply.
- 35.2 Employee(s) and/or Union representatives will place the matter before the immediate supervisor. The immediate supervisor will take all reasonable steps to reply to the employee(s) and/or Union representatives as soon as possible, and will at least provide a progress report before the close of ordinary business on the next working day.
- 35.3 Failing agreement, employee(s) and/or Union representatives will place the claim, issue or dispute before the next higher officer in charge of the relevant zone or region. That officer will take all reasonable steps to reply to the employee(s) and/or Union representatives as soon as possible, and will at least provide a progress report before the close of ordinary business on the next working day.
- 35.4 Failing agreement, employee(s) and/or Union representatives will place the claim, issue or dispute before the Director Human Resources. The Director Human Resources will take all reasonable steps to reply to the employee(s) and/or Union representatives as soon as possible, and will at least provide a progress report before the close of ordinary business on the next working day.
- 35.5 Failing agreement, employee(s) and/or Union representatives will place the claim, issue or dispute before the Commissioner. The claim, issue or dispute and all relevant circumstances relating to it will be fully reviewed by the Commissioner and the Union and all reasonable steps shall be taken in an attempt to resolve the matter.
- 35.6 No action is to be taken by the Union which would affect the Department's operations whilst a dispute is under investigation.
- 35.7 Failing agreement the claim, issue or dispute may be referred to the appropriate Industrial Tribunal.

36. Organisational Change under Subclause 36.2

- 36.1. This clause recognises the capacity of the Commissioner to make decisions to effect change within the Department.
- 36.2. This clause applies to consultation and decisions regarding clauses 4 (Definitions), clause 8 (Hours of Work), clause 13 (Progression and Promotion Provisions), clause 19 (Examination and Assessment Leave) and clause 39 (Drug and Alcohol Protocol), to the exclusion of the procedures under clause 35.
- 36.3 Prior to making any decision to effect change under the specified clauses the Commissioner must consult with the Union.
- 36.4 Consultation will commence with a written notification to the Union regarding the proposed change(s). Thereafter there will be a reasonable opportunity for the Union to present its views in relation to the proposed changes.
- 36.5 If, during the consultation process, there is a reasonable basis for the Commissioner to conclude that the consultation process has been exhausted, the Commissioner shall advise the Union accordingly and the following procedures shall then operate.
- 36.6. The Commissioner will notify the Union and the workforce affected by the proposed change of his/her decision in relation to the subject of the proposed change as well as the process and timetable for its implementation.
- 36.7 If the Matter Remains in Dispute and is Referred By the Union to the Industrial Relations Commission Within 7 Days of the Notification of the Decision under Clause 36.6, There Will be No Implementation of the Change Until the Industrial Relations Commission Determines the Matter Or Orders Otherwise.

- 36.8 The Union and the Commissioner shall be bound by any order or determination of the Industrial Relations Commission in relation to the dispute.
- 36.9 If Industrial action is engaged in at any stage in the operation of the process under this clause, then the prohibition on implementation under clause 36.7 ceases to operate.
- 36.10 The operation of this clause shall be reviewed at the end of one year from the date of its commencement, for the purpose of considering whether any amendments are appropriate.

37. Acknowledgment of Applications and Reports

- 37.1 When an employee makes an application or a report in writing, to the proper officer, the employee shall be sent an acknowledgment of its receipt, noting the matter contained therein.
- 37.2 The result of an application shall be communicated to the employee no later than fourteen days after a decision has been reached. In cases where no decision has been reached within one month the reason for the delay shall be communicated in writing, to the employee.
- 37.3 The provisions of this clause shall not apply in cases where other procedures are specifically stipulated (eg, in Standing Orders or In Orders).

38. Procedures Regarding Reports and Charges

- 38.1 When an employee is summoned to appear before the employee's Senior Officer or before the Department on a charge, appeal or formal inquiry, the employee shall be given particulars in writing of the charge or allegation, if any, against the employee, at least forty-eight hours before the hearing of the charge or appeal or the opening of the said inquiry. The employee shall be allowed access personally or by a representative duly authorised in writing by the employee, to all or any of the official papers, correspondence or reports of the Department relating to the charge, appeal, or subject of the said inquiry.
- 38.2 The employee also shall be allowed to give and to call evidence on the employee's own behalf and to hear all evidence given.
- 38.3 If an employee so requests the employee may be represented by an officer of the Union before the employee's Senior Officer or the Department on all such occasions.
- 38.4
- 38.4.1 No report about an employee shall be placed on the records or papers relating to that employee unless the employee concerned has been shown the said report.
- 38.4.2 If the employee disagrees with the report, the employee shall be entitled to make such a notation on the report.
- 38.4.3 Evidence that the employee has been shown the report will be by either the employee's signature thereon, or in accordance with subclause 38.4.4.
- 38.4.4 Where an employee refuses to sign the report, such refusal shall immediately be noted upon the report by the Senior Officer handling the report, in such cases, the Senior Officer will advise the employee that the refusal to sign will be noted on the report and that the report, together with such notation, will be placed on the records or papers relating to that employee.
- 38.4.5 Further to subclause 38.4.4, in such circumstances, the Department will notify the Union, in writing, within seven days of such refusal and the Union shall be given an opportunity of replying to the report.
- 38.4.6 If the employee so desires, any written response from either the employee or the Union shall also be placed amongst the records or papers relating to the employee or noted thereon.

- 38.5 Where the Department has, for its own purposes, arranged for a transcript to be taken of proceedings on a charge, appeal or formal inquiry, a copy of such transcript shall be supplied, free of cost, to the employee concerned if, during the hearing or at the termination of the proceedings, a request therefore, in writing, is made by the employee.
- 38.6 After the Senior Officer has announced the recommendation or when the Department has made its decision as the result of a charge or an appeal, the employee concerned shall be informed thereof, in writing, within seven days after such announcement or decision has been made or has been given, as the case may be.
- 38.7 For the purposes of this clause "Senior Officer" means the employee's Senior Officer or an Officer of a higher rank.

39. Drug and Alcohol Protocol

- 39.1 The joint Protocol on Drug and Alcohol Safety and Rehabilitation in the Workplace, signed by the Department and the Union on 18 March 1998, shall apply to all employees covered by this Award.
- 39.2 The Department may develop a new Protocol following consultation between the Department and the Union.

40. Salary Packaging Arrangements, Including Salary Sacrifice to Superannuation

- 40.1 The entitlement to salary package in accordance with this clause is available to permanent full-time employees.
- 40.2 For the purposes of this clause:
- 40.2.1 "salary" means the salary or rate of pay prescribed for the employee's classification by clause 6, Rates of Pay and Allowances, Part C of this Award, and any other payment that can be salary packaged in accordance with Australian taxation law.
- 40.2.2 "post compulsory deduction salary" means the amount of salary available to be packaged after payroll deductions required by legislation or order have been taken into account. Such payroll deductions may include, but are not limited to, taxes, compulsory superannuation payments, HECS payments, child support payments, and judgement debtor/garnishee orders.
- 40.3 By mutual agreement with the Commissioner, an employee may elect to package a part or all of their post compulsory deduction salary in order to obtain:
- 40.3.1 a benefit or benefits selected from those approved by the DPE; and
- 40.3.2 an amount equal to the difference between the employee's salary, and the amount specified by the DPE for the benefit provided to or in respect of the employee in accordance with such agreement.
- 40.4 An election to salary package must be made prior to the commencement of the period of service to which the earnings relate.
- 40.5 The agreement shall be known as a Salary Packaging Agreement.
- 40.6 Except in accordance with subclause 40.7, a Salary Packaging Agreement shall be recorded in writing and shall be for a period of time as mutually agreed between the employee and the Commissioner at the time of signing the Salary Packaging Agreement.
- 40.7 Where an employee makes an election to sacrifice a part or all of their post compulsory deduction salary as additional employer superannuation contributions, the employee may elect to have the amount sacrificed:

- 40.7.1 paid into the superannuation fund established under the First State Superannuation Act 1992; or
- 40.7.2 where the Department is making compulsory employer superannuation contributions to another complying superannuation fund, paid into the same complying fund; or
- 40.7.3 subject to the Department's agreement, paid into another complying superannuation fund.
- 40.8 Where the employee makes an election to salary sacrifice, the Department shall pay the amount of post compulsory deduction salary, the subject of election, to the relevant superannuation fund.
- 40.9 Where the employee makes an election to salary package and where the employee is a member of a superannuation scheme established under the:
- 40.9.1 *Police Regulation (Superannuation) Act 1906*;
- 40.9.2 *Superannuation Act 1916*;
- 40.9.3 *State Authorities Superannuation Act 1987*; or
- 40.9.4 *State Authorities Non-contributory Superannuation Act 1987*, the Department must ensure that the employee's superable salary for the purposes of the above Acts, as notified to the SAS Trustee Corporation, is calculated as if the Salary Packaging Agreement had not been entered into.
- 40.10 Where the employee makes an election to salary package, and where the employee is a member of a superannuation fund other than a fund established under legislation listed in subclause 40.9 of this clause, the Department must continue to base contributions to that fund on the salary payable as if the Salary Packaging Agreement had not been entered into. This clause applies even though the superannuation contributions made by the Department may be in excess of superannuation guarantee requirements after the salary packaging is implemented.
- 40.11 Where the employee makes an election to salary package:
- 40.11.1 subject to Australian Taxation law, the amount of salary packaged will reduce the salary subject to appropriate PAYG taxation deductions by the amount packaged; and
- 40.11.2 any allowance, penalty rate, payment for unused leave entitlements, weekly worker's compensation or other payment, other than any payments for leave taken in service, to which an employee is entitled under this Award or any applicable Award, Act or statute which is expressed to be determined by reference to the employee's rate of pay, shall be calculated by reference to the rate of pay which would have applied to the employee under clause 6, Rates of Pay and Allowances, or Part C of this Award if the Salary Packaging Agreement had not been entered into.
- 40.12 The DPE may vary the range and type of benefits available from time to time following discussion with the Union. Such variations shall apply to any existing or future Salary Packaging Agreement from date of such variation.
- 40.13 The DPE will determine from time to time the value of the benefits provided following discussion with the Union. Such variations shall apply to any existing or future Salary Packaging Agreement from the date of such variation. In this circumstance, the employee may elect to terminate the Salary Packaging Agreement.

41. Anti-Discrimination

- 41.1 It is the intention of the parties bound by this Award to seek to achieve the object in 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.

- 41.2 It follows that in fulfilling their obligations under the Disputes Avoidance Procedures prescribed by Clause 35 of 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.
- 41.3 Under the *Anti-Discrimination Act 1977*, it is unlawful to victimise an employee because the employee has made or may make or has been involved in a complaint of unlawful discrimination or harassment.
- 41.4 Nothing in this Clause is taken to affect:
- 41.4.1 any conduct or act which is specifically exempted from anti-discrimination legislation;
- 41.4.2 offering or providing junior rates of pay to persons under 21 years of age;
- 41.4.3 any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*;
- 41.4.4 a party to this Award from pursuing matters of unlawful discrimination in any State or Federal jurisdiction.
- 41.5 This Clause does not create legal rights or obligations in addition to those imposed upon the parties by legislation referred to in this Clause.

42. Employees' Duties

- 42.1 An Employee may be directed to carry out duties which are within the limits of his or her skills, competence, and training, in such a manner, as may be required by the Department, provided that:
- 42.1.1 the direction is reasonable, and
- 42.1.2 the direction is not otherwise inconsistent with a provision of this Award.
- 42.2 Any direction issued by the Department pursuant to subclause 42.1 shall be consistent with:
- 42.2.1 the provision of a safe and health working environment,
- 42.2.2 ensuring that the Department responds to relevant technological changes and changes in its operating environment in a timely and effective manner.
- 42.3 The parties to this Award shall work collaboratively to ensure the effective and reasonable operation of this clause.

43. Leave Reserved

- 43.1 Leave is reserved to the Union to make application during the life of this Award for increased employer superannuation contributions.
- 43.2 Leave is reserved to either party to make application during the life of this Award regarding the Annual Leave Conversion trial, and the rights of both parties are reserved regarding its continuation and/or variation and/or termination.

44. Area, Incidence and Duration

- 44.1 This Award rescinds and replaces the Crown Employees (NSW Fire Brigades Permanent Firefighting Staff) Award 2008 published 27 March 2009 (367 I.G. 585).
- 44.2 This Award shall apply to all employees as defined in Clause 4, Definitions, of this Award and shall take effect on and from 17 June 2011, and shall remain in force until 20 February 2014.

PART C
MONETARY RATES

Table 1.1 - Rates of Pay effective on and from 17 June 2011 (2.5% Increase)

Classification	Rate of Pay	Roster Allowance	Total Weekly Rate
Recruit Firefighter	\$1,017.88	\$00.00	\$1,017.88
Firefighter Level 1	\$1,130.99	\$49.48	\$1,180.47
Firefighter Level 2	\$1,193.83	\$52.23	\$1,246.06
Qualified Firefighter	\$1,256.65	\$54.98	\$1,311.63
Senior Firefighter	\$1,306.94	\$57.18	\$1,364.11
Leading Firefighter	\$1,407.47	\$61.58	\$1,469.05
Station Officer Level 1	\$1,507.93	\$65.97	\$1,573.90
Station Officer Level 2	\$1,570.85	\$68.72	\$1,639.58
Inspector	\$1,884.99	\$82.47	\$1,967.45
Superintendent		\$127,697 per annum	
Chief Superintendent		\$137,970 per annum	

Table 1.2 - Rates of Pay effective on and from 24 February 2012 (2.5% Increase)

Classification	Rate of Pay	Roster Allowance	Total Weekly Rate
Recruit Firefighter	\$1,043.32	\$00.00	\$1,043.32
Firefighter Level 1	\$1,159.26	\$50.72	\$1,209.98
Firefighter Level 2	\$1,223.67	\$53.54	\$1,277.21
Qualified Firefighter	\$1,288.07	\$56.35	\$1,344.42
Senior Firefighter	\$1,339.61	\$58.61	\$1,398.22
Leading Firefighter	\$1,442.66	\$63.12	\$1,505.77
Station Officer Level 1	\$1,545.63	\$67.62	\$1,613.25
Station Officer Level 2	\$1,610.12	\$70.44	\$1,680.57
Inspector	\$1,932.11	\$84.53	\$2,016.64
Superintendent		\$130,889 per annum	
Chief Superintendent		\$141,419 per annum	

Table 1.3 - Rates of Pay effective on and from 22 February 2013 (2.5% Increase)

Classification	Rate of Pay	Roster Allowance	Total Weekly Rate
Recruit Firefighter	\$1,069.41	\$00.00	\$1,069.41
Firefighter Level 1	\$1,188.24	\$51.99	\$1,240.23
Firefighter Level 2	\$1,254.27	\$54.87	\$1,309.14
Qualified Firefighter	\$1,320.27	\$57.76	\$1,378.03
Senior Firefighter	\$1,373.10	\$60.07	\$1,433.17
Leading Firefighter	\$1,478.72	\$64.69	\$1,543.42
Station Officer Level 1	\$1,584.27	\$69.31	\$1,653.58
Station Officer Level 2	\$1,650.38	\$72.20	\$1,722.58
Inspector	\$1,980.41	\$86.64	\$2,067.06
Superintendent		\$134,161 per annum	
Chief Superintendent		\$144,955 per annum	

Table 2.1 - Rates of Pay effective on and from 17 June 2011 (2.5% Increase)

Classification	Rate
Operational Support Level 1	\$1,488.23 per week
Operational Support Level 2	\$1,759.25 per week
Operational Support Level 3	\$2,138.42 per week

Table 2.2 - Rates of Pay effective on and from 24 February 2012 (2.5% Increase)

Classification	Rate
Operational Support Level 1	\$1,525.43 per week
Operational Support Level 2	\$1,803.23 per week
Operational Support Level 3	\$2,191.88 per week

Table 2.3 - Rates of Pay effective on and from 22 February 2013 (2.5% Increase)

Classification	Rate
Operational Support Level 1	\$1,563.57 per week
Operational Support Level 2	\$1,848.31 per week
Operational Support Level 3	\$2,246.67 per week

Table 2.4 - Rates of Pay effective on and from the dates below

Classification	17/06/11	24/02/12	22/02/13
Operational Support Level 4	\$128,475	\$131,686	\$134,979

Table 3 - Allowances

The following allowances are effective on and from the date shown.

Item No.	Clause No.	Description	Unit	Amount 17/06/11	Amount 24/02/12	Amount 22/02/13
1	6.6.1	Laundry expenses	\$ per week	33.23	34.06	34.91
2	6.6.2 9.7 12.7 12.15.4 12.16	Kilometre Allowance	\$ per km	1.08	1.10	1.13
3	6.6.3	Major Aerial Allowance	\$ per week	50.16	51.42	52.70
4	6.6.4	Minor Aerial Allowance	\$ per week	18.82	19.29	19.77
5	6.6.5	Hazmat Allowance	\$ per week	100.35	102.86	105.43
6	6.6.6	Communications Allowance, Firefighters	\$ per week	156.01	159.91	163.90
7	6.6.7	Communications Allowance, Officers	\$ per week	169.17	173.40	177.73
8	6.6.8	Communications Allowance, Senior Officers	\$ per week	197.23	202.16	207.22
9	6.6.9	Country Allowance	\$ per week	6.81	6.98	7.15
10	6.6.10	Remote Area Allowance	\$ per week	26.07	26.72	27.39
11	6.6.11	Rescue Allowance	\$ per week	43.60	44.69	45.81
12	6.6.12	Service Allowance	\$ per week	4.04	4.14	4.24
		- 5 years or more, but less than 10 years		8.08	8.28	8.49
		- 10 years or more, but less than 15 years		12.12	12.42	12.73
		- 15 years or more				
13	6.6.13	Marine Allowance	\$ per week	50.16	51.42	52.70

14	10.2-10.4	Meal Allowance	\$ per meal	25.80	25.80	25.80
15	10.2-10.4	Refreshment Allowance	\$ per meal	12.90	12.90	12.90
16	12.6	Relieving Allowance	\$ per rostered shift	28.85	29.58	30.31
17	25.2.8.4	Court Attendance Stand-By Rate - Periods of less than 24 hours - Periods of 24 hours	\$	13.49 20.21	13.83 20.72	14.17 21.24
18	30.3.1	Accommodation Contribution	\$ per week	34.40	35.30	36.20

Note: The amounts specified per rostered shift in Table 3 are based on the 10/14 Roster and use an average of 12 hours per shift. In cases where employees work an 8 hour shift, the rates shall be correspondingly reduced by dividing the figures shown by 1.5.

Table 4 - Travelling / Transferred Employees Compensation Allowances

Item No	Clause No.	Description	Unit	On and from 1 July 2010	
1	16.5.2 25.2.3 26.6.4 29.6.5& 29.8.1	Specified (Casual) Journey Rate (Dependent on Engine Capacity) 2601cc & over 1601 to 2600cc Under 1600cc	Per km	32.3 cents 30.1 cents 25.3 cents	
2	25.2.8.4	Stand By Rate - see Item 17 in Table 3			
3	26.1.3	Hourly Rate - Travelling Compensation	\$ per hour	39.27	
4	26.3.1.1	Breakfast	Per meal	## 23.10	^^ 20.65
5	26.3.1.2	Lunch	Per meal	## 25.90	^^ 23.60
6	26.3.1.3	Dinner	Per meal	## 44.50	^^ 40.65
7	26.4.1	Accommodation first 35 days (includes all meals) - Capital Cities - High Cost Country Centres - Tier 2 Country Centres	Per day	\$293.35 Sydney \$267.34 Adelaide \$311.35 Brisbane \$255.35 Canberra \$282.35 Darwin \$227.35 Hobart \$283.35 Melbourne \$274.35 Perth \$221.85 Maitland \$242.85 Newcastle \$225.35 Port Macquarie \$221.35 Tamworth \$227.85 Wagga Wagga \$208.75 Armidale \$208.75 Bathurst \$208.75 Broken Hill \$208.75 Coffs Harbour \$208.75 Cooma	

		- Other Country Centres		\$208.75 Dubbo \$208.75 Gosford \$208.75 Goulburn \$208.75 Mudgee \$208.75 Muswellbrook \$208.75 Orange \$208.75 Wollongong \$193.75
8	26.4.2	Actual Necessary Expenses - all locations	Per day	\$16.85
9	26.4.3	Accommodation - after first 35 days and up to 6 mths	Per day	50% of the appropriate location rate
10	26.5	Government Accommodation - Incidental Expenses - all locations	Per day	\$16.85
11	26.6.5.4 & 29.8.4	Official Business Rate (Dependant on Engine Capacity) Over 2601cc 1601 to 2600cc under 1600 cc	Cents per km	90.9 84.7 60.7
12	29.5.1 - 29.5.3	Temporary Accommodation	\$ per week (up to a maximum of)	254.00
13	29.5.2	Board & Lodging expenses to be covered by Employee	\$ per week	51.00
14	29.5.4.1	Laundry Allowance - Employee only rate	\$ per week	4.50
15	29.5.4.2	Laundry Allowance - Employee and Dependants rate	\$ per week (actual expenses to maximum)	13.00
16	29.6.2	Cost of Insurance of Furniture and Effects in transit and in Storage	\$ (up to a maximum of)	38,000
17	29.6.3.2	Accelerated depreciation of personal/household effects in transit	\$ (up to a maximum of)	1,126
18	29.6.3.2	Value of furnishings and fittings	\$ (up to a maximum of)	7,037
19	29.9.2	Board & Lodging to be covered by parent/guardian	\$ per week	27.00
20	29.9.2	Board & Lodging cost for Dependent staying in initial location due to Year 12 subjects	\$ per week	56.00
21	29.10.6 & 29.11.3.2	Relocation - City to Country for sale of property	\$ (up to a maximum of)	520,000

Legend:

Effective Dates are with effect from the first pay period to commence on or after the date.

= Capital Cities & High Cost Country Centres.

^^ = Tier 2 Country Centres & Other Country Centres.

Table 5 - Temporary Accommodation Contribution Allowances

Clause	Salary of Officer and Spouse Rate of Pay	Per Week	Each Dependent Child 6 years of age and over (Max. contribution \$54 per week) Per Week
29.5.1	\$453.62 and over	\$164	\$11

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

Printed by the authority of the Industrial Registrar.

CROWN EMPLOYEES (FIRE AND RESCUE NSW RETAINED FIREFIGHTING STAFF) AWARD 2011

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by NSW Fire Brigades.

(No. IRC 145 of 2011)

Before The Honourable Justice Walton, Vice-President

3 March 2011

AWARD

PART A

1. Introduction

- 1.1 This Award shall be known as the Crown Employees (Fire and Rescue NSW Retained Firefighting Staff) Award 2011.
- 1.2 This Award regulates the rates of pay and conditions of employment for employees covered by this Award.

2. Index

PART A

Clause No.	Subject Matter
1.	Introduction
2.	Index
3.	Basic Wage
4.	Definitions
5.	Intentions and Commitments
6.	Rates of Pay and Allowances
7.	Higher Duties
8.	Meals and Refreshments
9.	Use of Personal Transport
10.	Annual Leave
11.	Compassionate Leave
12.	Long Service Leave
13.	Military Leave
14.	Parental Leave
15.	Personal/Carer's Leave
16.	Sick Leave
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18.	Court Attendance Entitlements
19.	Training Course Attendance Entitlements
20.	Travelling Compensation
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22.	Procedures Regarding Reports and Charges
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25.	Protective Clothing and Uniforms
26.	Disputes Avoidance Procedures
27.	Organisational Change under clause 27.2

28. Attendance Requirements at Incidents and Drills
29. Attendance at Major Emergencies
30. Drug and Alcohol Protocol
31. Salary Packaging Arrangements, including Salary Sacrifice to Superannuation
32. Employees' Duties
33. Anti-Discrimination
34. Area, Incidence and Duration
35. Leave Reserved

PART B

MONETARY RATES

Table 1 - Payment Entitlement Codes

Table 2 - Travelling Compensation Allowances

Table 3 - Authorised Duties

3. Basic Wage

- 3.1 This Award, in so far as it fixes rates of pay, is made by reference and in relation to a basic wage for adults of \$121.40 per week.
- 3.2 The said basic wage may be varied by the Commission under subclause 2 of Clause 15 of Division 4 of Part 2 of Schedule 4, Savings, Transitional and other provisions, of the *Industrial Relations Act 1996*.
- 3.3 A reference in this Award to the adult basic wage is to be read as a reference to the adult basic wage currently in force under the said clause 15.

4. Definitions

"Brigade" for the purposes of this Award means any individual brigade of Fire and Rescue NSW constituted under the *Fire Brigades Act 1989*.

"Commissioner" means Commissioner of the Department holding office as such under the *Public Sector Employment and Management Act 2002*.

"Department" means Fire and Rescue NSW established by the *Fire Brigades Act 1989* and as a Department under Schedule 1 of the *Public Sector Employment and Management Act 2002*.

"DPE" means the Director of Public Employment, as established under the *Public Sector Employment and Management Act 2002*.

"Employee" means a person classified by the Department as a Retained Firefighter and appointed as a Volunteer Firefighter pursuant to the provisions of the *Fire Brigades Act 1989*.

"Fire District" has the same meaning as in the *Fire Brigades Act 1989*.

"GSA" (Greater Sydney Area) means within the area bounded by the Local Government areas of Pittwater, Hornsby, Baulkham Hills, Hawkesbury, Penrith, Liverpool, Wollondilly, Campbelltown and Sutherland.

"Incident" means a fire call or any other emergency incident attended by Fire and Rescue NSW.

"Retainer" means the relevant amount set out at Entitlement Codes A, B, C, D, E or F paid per fortnight to employees in accordance with their classification, less the fortnightly equivalent of any contribution required pursuant to the Crown Employees (NSW Fire Brigades Firefighting Staff Death and Disability) Award 2009.

"Service" for the purposes of determining leave entitlements, means continuous service.

"Special Leave Without Pay" means a period of approved unpaid leave during which the employee's retainer shall be unaffected.

"Substantial Meal" means a meal similar in standard to that provided by domestic airlines to inflight passengers travelling interstate economy class.

"Union" means the New South Wales Fire Brigade Employees' Union.

5. Intentions and Commitments

- 5.1 The intention of this Award is to regulate the rates of pay and conditions of employment for employees covered by this Award.
- 5.2 The specific commitment in relation to this Award is for the parties to jointly investigate the underlying causes of, and possible solutions for, retained availability shortages.

6. Rates of Pay and Allowances

6.1 Rates of pay and retainers shall be paid in accordance with the Entitlement Codes for an employee's classification, as prescribed in subclause 6.3.1. The monetary amounts corresponding to the Entitlement Codes are as set out in Table 1 - Payment Entitlement Codes, of Part B, Monetary Rates.

6.2 The retainers include a loading in compensation for:

6.2.1 Annual leave loading.

6.2.2 The driving and operating of all vehicles operated by appropriately qualified employees as at 30 September 1999 and rescue and hazmat vehicles outside the GSA and the Newcastle, Lake Macquarie, Wollongong, Shellharbour, Gosford, Wyong and Blue Mountains Local Government Areas. The operation of any other vehicles shall be by agreement between the Union and the Department.

6.2.3 Rescue, Cordage, Hazmat & Unit Trainer capabilities and CBT qualifications required to be held under subclause 6.3.

6.3 Rates of Pay and Classifications

6.3.1 Entitlement Codes

Classification	Type of Payment and Entitlement Code		
	Retainer per month	Rate of Pay 1st Hour	Each subsequent half-hour or part thereof
Captain A	A	G	I
Captain B	B	G	I
Deputy Captain A	B	H	J
Deputy Captain B	C	H	J
Firefighter A	D	H	J
Firefighter B	E	H	J
Firefighter C	F	H	J

6.3.2 All employees shall commence employment in the classification of Retained Firefighter and shall be paid the Level C retainer rate.

6.3.3 Progression of Retained Firefighters from Level C retainer payment to Level B retainer payment shall be subject to the satisfactory completion of:

6.3.3.1 12 months service from the date of commencement of employment as a retained firefighter; and

- 6.3.3.2 the training and/or training competencies specified, by the Commissioner on the advice of the Training Review Committee, for such progression.
- 6.3.4 Progression of Retained Firefighters from Level B retainer payment to Level A retainer payment shall be subject to the satisfactory completion of:
 - 6.3.4.1 24 months service from the date of commencement of employment as a retained firefighter; and
 - 6.3.4.2 the training and/or training competencies specified, by the Commissioner on the advice of the Training Review Committee, for such progression.
- 6.3.5 Progression from Retained Firefighter to Deputy Captain or Captain, or from Deputy Captain to Captain shall in each case be subject to a vacancy and shall be determined solely on the basis of competitive merit selection. Selection Committees shall be constituted in accordance with the Recruitment and Employment Guidelines and Procedures of the NSW. Public Service.
- 6.3.6 Progression of Deputy Captains from Level B retainer payment to Level A retainer payment shall be subject to the satisfactory completion of:
 - 6.3.6.1 12 months service from the date of appointment as Deputy Captain; and
 - 6.3.6.2 the training and/or training competencies specified, by the Commissioner on the advice of the Training Review Committee, for such progression.
- 6.3.7 Progression of Captains from Level B retainer payment to Level A retainer payment shall be subject to the satisfactory completion of:
 - 6.3.7.1 12 months service from the date of appointment as Captain; and
 - 6.3.7.2 the training and/or training competencies specified, by the Commissioner on the advice of the Training Review Committee, for such progression.
- 6.4 Employees appointed as Unit Trainers shall receive payment at the rates prescribed at Items G and I when delivering training at normal station drills, for the duration of the drill.
- 6.5 Calculation of Payment for Duties Performed
 - 6.5.1 Employees shall be paid, subject to the provisions of subclause 6.5.2, for the total period of time spent performing duties, which shall be calculated as follows:
 - 6.5.1.1 Attendance at Scheduled Weekend Training courses - the period of attendance shall be equivalent to the scheduled training hours.
 - 6.5.1.2 Major Emergencies - Periods of attendance for the purpose of calculating payment shall be calculated having regard to the provisions of subclause 29.5.
 - 6.5.1.3 Attendance at Zone Conferences - the period of attendance shall be equivalent to the scheduled hours of the conference.
 - 6.5.1.4 Royal Easter Show - periods of attendance for the purpose of calculating payment shall be calculated having regard to the provisions of subclause 6.8.
 - 6.5.1.5 In all other instances - employees shall be paid for the period that elapses from the time the employee signed on in the occurrence book at the employee's station, until the time such employee signs off in the occurrence book at the employee's station.
 - 6.5.2 The minimum periods of payment shall be as follows:

- 6.5.2.1 Attendance at an incident, hazard reduction, and unit training - a minimum payment of one hour. All subsequent time thereafter shall be paid to the half hour.
- 6.5.2.2 Regular drills - a minimum payment of two hours.
- 6.5.2.3 All other authorised duties (excepting Travelling Time) - a minimum payment of one hour. All subsequent time to be paid to the minute.
- 6.5.2.4 Travelling time - where an employee is entitled to travelling time in terms of this Award, all such time shall be paid to the minute.
- 6.5.2.5 Standing By - where an employee performs stand by duties in accordance with subclause 6.7, such employee shall receive a minimum payment of one hour. All subsequent time thereafter shall be paid to the minute.
- 6.5.2.6 Attendance at scheduled weekend training courses and zone conferences - a minimum payment of eight hours per day spent in attendance.

6.6 Attendance at Authorised Meetings and Other Duties

- 6.6.1 Where an employee is required to attend meetings or to perform other authorised duties, payment shall be made at the appropriate rate of pay for the employee's classification for the time spent in attendance. Such authorised duties include, but are not limited to, those duties that are set out in Table 3 - Authorised Duties, of Part B, Monetary Rates.
- 6.6.2 Employees seeking to attend meetings and/or perform duties in accordance with subclause 6.6.1 which are not referred to in the said Table 3 must receive authorisation from the relevant Captain, Inspector or higher ranking officer prior to the performance of such duties.

6.7 Standing By for Non-Available Staff

- 6.7.1 Where an employee is required to stand by with a brigade to fill a vacancy created through the non-availability of firefighting staff, retained or permanent, such employee shall be paid at the rate prescribed at Entitlement Code L of Table 1 of Part B of this Award for the period which elapses from the time the employee signed on in the occurrence book of the stand by station, until the time such employee signs off in the occurrence book of the stand by station. Provided that employees who perform stand by duties in accordance with this subclause shall not attract additional payment under this Clause for attendance at incidents or performing authorised duties or drills during the period of the stand by.
- 6.7.2 Employees who stand by at a station other than their own shall be paid the appropriate rate per hour prescribed for the employee's classification for the duration of the forward and return journeys between the employee's station and the location of the stand-by. All such time shall be paid to the minute.
- 6.7.3 Where it is necessary for an employee to use the employee's private vehicle to perform stand by duties, such employee shall be paid the rate per kilometre prescribed at Entitlement Code "K" of Table 1 of Part B for the forward and return journeys between their residence and their station, and the forward and return journeys between their station and the location of the stand-by.

6.8 Attendance at the Royal Easter Show

- 6.8.1 The following hourly rates shall be paid to employees working at the Royal Easter Show:
 - 6.8.1.1 For Captain the rate prescribed at Entitlement Code O of Table 1 of Part B of this Award.
 - 6.8.1.2 For Deputy Captain, and Firefighter Levels A, B & C the rate prescribed at Entitlement Code P of Table 1 of Part B of this Award.

- 6.8.2 The rates prescribed in 6.8.1 above are all incidence of employment rates and, standing anything else prescribed in this Award, employees receiving such rates shall:
- 6.8.2.1 only be entitled to be paid for the hours actually worked at the Royal Easter Show. Provided that, if an employee cannot attend for duty due to illness or incapacity and provides a medical certificate pursuant to subclause 16.3 then the employee shall be entitled to be paid for the hours that would have otherwise been worked.
 - 6.8.2.2 not be entitled to any payment or compensation for travelling time or travelling costs in connection with attendance at the Royal Easter Show;
 - 6.8.2.3 not be entitled to any payment or compensation with respect to either meals (except as provided for 6.8.4) and/or accommodation in connection with attendance at the Royal Easter Show;
 - 6.8.2.4 not be entitled to the payment of overtime or downtime in connection with attendance at the Royal Easter Show.
- 6.8.3 All payments made under this subclause shall count for the purpose of any paid leave.
- 6.8.4 In the event that the employees attend an incident while working at the Royal Easter Show such employees shall be entitled to the provisions of Clause 8 - Meals and Refreshments.
- 6.8.5 Attendance at the Royal Easter Show shall be treated as a period of authorised absence for the purposes of subclause 28.2.
- 6.9 Overtime
- 6.9.1 Where an employee works in excess of ten (10) consecutive hours, such employee shall be paid at overtime rates for the hours worked in excess of ten (10). Provided that the provisions of this subclause shall not apply to employees receiving payment under either Clause 29, Attendance at Major Emergencies, subclause 6.7, Standing By for Non-Available Staff or subclause 6.8, Attendance at the Royal Easter Show.
- 6.9.2 Overtime shall be paid for at the rate of time and one half for the first two (2) hours and at the rate of double time thereafter, for the rate(s) prescribed for the employee's classification, provided that all overtime shall be paid to the half hour in accordance with subclause 6.5.2.1.
- 6.10 Overpayments
- 6.10.1 In cases where an employee has been overpaid, the Department shall be entitled to recover such overpayment in full. Unless the employee agrees otherwise, the maximum rate at which the overpayment can be recovered is an amount calculated on a per fortnight basis, equivalent to 10% of the employee's gross fortnightly remuneration.
- 6.10.2 In all cases where overpayments have occurred, the Department shall as soon as possible advise the employee concerned of both the circumstances surrounding the overpayment and the amount involved. The Department will also advise the employee of the pay period from which the recovery of the overpayment is to commence.
- 6.10.3 The recovery rate of 10% of an employee's gross fortnightly remuneration referred to in subclause 6.10.1, may be reduced by approval of the Commissioner if the Commissioner is satisfied that such a rate of recovery would cause undue hardship to the employee concerned.
- 6.10.4 Where an employee's remaining period of service does not permit the full recovery of any overpayment to be achieved on the fortnightly basis prescribed in subclause 6.10.1, the Department shall have the right to deduct any balance of such overpayment from any monies owing to the employee on the employee's date of termination, resignation or retirement, as the case may be.

6.11 Payment of Monies

6.11.1 Employees shall be paid fortnightly.

6.11.2 Payments shall be made into a bank account specified by the employee, or other financial institutions acceptable to the Department and Union.

6.12 Payroll Deductions

6.12.1 Except as provided for in subclause 6.12.2, all salary deductions shall be made in accordance with Treasury Guidelines.

6.12.2 Upon application by an employee, the Department shall make deductions from the employee's pay for Union subscriptions.

6.13 Method of Calculation of any Future Adjustment

6.13.1 In the event of any future adjustment which is to be applied to the rates for Retainers, or Rates of Pay, then subject to subclause 6.13.2, the formulae in the following table shall be applied:

Type of Payment	Method of Calculation of Future Adjustment
Retainer	Add increase then round off to the nearest ten cents
Rate of Pay - 1st Hour	Multiply by 38, add the increase, round off to the nearest 10 cents, then divide by 38 and round off to the nearest cent
Each subsequent Half-hour or part thereof	Divide the "1st hour" rate by 2 and round off to the nearest cent.

6.13.2 The formulae prescribed in subclause 6.13.1 are not applicable in cases where a future adjustment is a flat dollar amount per week. In the event of such a flat increase occurring, any adjustments are to be made in accordance with the provisions prescribed for the application of that increase.

7. Higher Duties

7.1 Except in the case of a Deputy Captain performing Higher Duties as a Captain, the provisions and procedures of this clause shall apply when an employee acts up and performs Higher Duties. Provided that when a Deputy Captain performs Higher Duties as a Captain, the Deputy Captain shall be paid for such duties in terms of subclause 7.3.

7.2 An employee shall not be entitled to perform Higher Duties unless the employee is qualified to perform such duties.

7.3 An employee performing Higher Duties shall be paid for the period of relief, the difference between the employee's usual rate of pay and the minimum rate of pay for the classification in which the Higher Duties are performed. Provided that the difference between the employee's retainer and the retainer for the classification in which the Higher Duties are performed shall not be paid unless the Higher Duties are performed for a continuous period of seven days or more.

7.4 In selecting employees to perform Higher Duties the following procedures shall apply:

7.4.1 Where the period of relief is to be less than one month, a merit based selection process need not be applied. However, the Department shall have regard to the principles of equitably sharing career development opportunities.

7.4.2 Where the period of relief is to be more than one month and the need for the relief is known in advance, expressions of interest shall be called for and selection made on the basis of merit.

7.4.3 Where the need for the relief is not known in advance, but it subsequently becomes known that the duration of the relief is anticipated to be for two months or more, the initial appointment shall

be made in accordance with subclause 7.4.1. However, immediately following that initial appointment expressions of interest are to be called for and selection made on the basis of merit.

7.4.4 For the purposes of this clause, merit shall be determined consistent with the principles and processes underlying merit based selection in the NSW Public Service.

7.5 Attendance at an Incident

7.5.1 Any Higher Duties entitlement in terms of this clause which was actually being paid, or which should have been paid, during a period immediately prior to an incident, shall not be diminished as a consequence of the incident.

7.5.2 Except as provided for in 7.5.1, the only other circumstances under which a Higher Duties payment is to be made during an incident is in a case where the Captain of that Brigade does not attend the incident. In such cases, only one employee shall be entitled to a Higher Duties payment in terms of this clause and that employee shall be the employee who was in charge of the incident for the majority of the time. To avoid doubt, in the case of attendance by multiple Retained Brigades, a Higher Duties payment shall be made to the relevant employee from each Brigade whose Captain does not attend the incident.

7.5.3 For the purposes of 7.5.2, the term "Captain" shall also mean "Acting Captain" in cases where an employee was, during the period immediately prior to the incident, the Acting Captain in terms of this clause.

8. Meals and Refreshments

8.1 Attendance at an Incident

8.1.1 For the purposes of this clause, an "incident" also includes hazard reduction.

8.1.2 Where an employee attends an incident which extends for two hours or more:

8.1.2.1 In the GSA, Newcastle, Broken Hill, Wollongong, Gosford and Wyong Fire Districts, refreshments shall be provided no later than two hours after the start of the incident.

8.1.2.2 In all other Fire Districts, refreshments shall be provided as soon as possible after two hours but no later than three hours after the start of the incident.

8.1.3 Where such an incident extends for four hours or more, the employee shall be provided with a substantial meal. After every subsequent four hours of attendance at such an incident, a further substantial meal shall be provided.

8.2 Payment in Lieu of the Provision of Refreshments/Meals

8.2.1 Where refreshments are not provided in terms of subclause 8.1.2, the Refreshment Allowance set at Entitlement Code "N" of Table 1 of Part B, shall be paid.

8.2.2 Where meals are not provided in terms of subclause 8.1.3, the Meal Allowance set at Entitlement Code "M" of Table 1 of Part B, shall be paid.

8.3 Method of Payment of Allowances in Lieu of Refreshments/Meals

8.3.1 The payments referred to in this clause shall, subject to 8.3.1.1, be made prior to or at the cessation of duty.

8.3.1.1 In cases where the Officer-in-Charge is not, or due to circumstances beyond his or her control does not have sufficient funds available to make payment, the employee shall be paid at the earliest practicable opportunity after the cessation of duty.

8.4 Calculation of Future Adjustments to Refreshments/Meal Allowances

8.4.1 The allowances referred to in this clause shall be calculated as follows:

- 8.4.1.1 The Meal Allowance at Entitlement Code "M" of Table 1 of Part B, is the average, rounded to the nearest five cents, of the amounts prescribed for the overtime meal allowances for breakfast, lunch and dinner at Item 19 of Table 1 Part B of the Crown Employees (Public Service Conditions of Employment) Award 2002.
- 8.4.1.2 The Refreshment Allowance at Entitlement Code "N" of Table 1 of Part B, is half, rounded to the nearest five cents, of the amount at Entitlement Code "M" of Table 1 of Part B.
- 8.4.1.3 The amounts specified in subclauses 8.4.1.1 and 8.4.1.2 shall be re-calculated and shall take effect from the same date, as any adjustments made to the overtime meal allowances for breakfast, lunch and dinner allowances in the Crown Employees (Public Service Conditions of Employment) Award 2002.

9. Use of Personal Transport

9.1 Attendance at an incident

9.1.1 Where it is necessary for an employee to use the employee's private vehicle to attend an incident, the employee shall be paid at the rate prescribed at Entitlement Code "K" of Table 1 of Part B, per kilometre, as follows:

- 9.1.1.1 The return distance from the employee's residence to the station or the distance actually travelled on the forward and return journeys to the station, which ever is the lesser; and
- 9.1.1.2 The return distance from the station to the incident, if it is necessary for the employee to use the employee's private vehicle to travel from the station to the incident.

9.2 Attendance at Authorised Meetings and Other Duties

9.2.1 Where an employee is required to use the employee's private vehicle to attend such meetings or to perform such other authorised duties as prescribed in subclause 6.6, the employee shall be paid the rate prescribed at Entitlement Code "K" of Table 1 of Part B, of this Award per kilometre for the actual distance necessarily and reasonably travelled for that purpose.

9.2.1.1 Provided that where an employee is authorised to, and does, use his or her own private vehicle and the principal purpose of the journey is, or is as a consequence of, the transportation of the Department's equipment and/or appliances from one location to another, then such employee shall be paid the appropriate rate per hour prescribed for the employee's classification in addition to the rate per kilometre prescribed at Entitlement Code "K" of Table 1 of Part B. Provided further that, for the purposes of this subclause:

- 9.2.1.1.1 An employee's turnout gear shall not be regarded as equipment.
- 9.2.1.1.2 The hourly rate shall be paid on a basis similar to travelling time. That is, no minimum period of payment and all time to be paid to the minute.
- 9.2.1.1.3 Where the reason for the journey is to attend an incident, the normal provisions of this Award shall apply in lieu of the provisions of this subclause.

9.2.2 The provisions of this clause shall not apply where transport is provided by the Department.

9.2.3 Employees who are required to attend such meetings or perform such authorised duties, but do not use their private vehicle and are therefore not entitled to claim the rate prescribed at Entitlement Code "K" of Table 1 of Part B, shall be entitled to claim travelling time and/or travelling expenses in accordance with clause 20, Travelling Compensation.

10. Annual Leave

- 10.1 On each anniversary of an employee's appointment to the Brigade, an employee shall be entitled to annual leave. Such annual leave shall accrue at the rate of four weeks for each completed year of service and shall be taken in multiple periods of not less than 3 consecutive days.
- 10.2 An employee with less than twelve months service may, subject to approval by the Department and the requirements of subclause 10.1, take in advance leave which has accrued.
- 10.3 Wherever possible, annual leave shall be taken within six months of the date on which the leave becomes due. Provided that, in all cases, annual leave must be granted and taken within twelve months of the date on which it becomes due.
- 10.4 As far as possible, annual leave shall be granted to coincide with the employee's leave period from the employee's primary form of employment.
- 10.5 Payment for annual leave shall be calculated on the weekly average of the total amount paid by the Department to the employee for the twelve months immediately prior to the date on which leave is commenced excluding any periods of Special Leave Without Pay, unpaid leave and/or suspension. For the purposes of this subclause, "total amount" shall include all payments made to the employee by the Department, excluding payments made as compensation or reimbursement for expenses (eg. payments for meals, accommodation and for kilometres travelled).
- 10.6 An employee who is directed to return to duty in the case of an emergency whilst on annual leave, shall have any day or part thereof recredited.
- 10.7 An employee shall be paid in advance for a period of approved annual leave, providing such employee has given a minimum of six weeks written notice of the date on which the leave is to commence.

11. Compassionate Leave

- 11.1 An employee, other than a casual employee, shall be entitled to up to two days compassionate leave without deduction of pay, on each occasion of the death of a person as prescribed in subclause 11.3 of this clause.
- 11.2 The employee must notify the employer as soon as practicable of the intention to take compassionate leave and will, if required by the employer, provide to the satisfaction of the employer proof of death.
- 11.3 Compassionate leave shall be available to the employee in respect to the death of a person prescribed for the purposes of personal/carer's leave as set out in subparagraph 15.1.3.2 of clause 15, Personal/Carer's Leave, provided that, for the purpose of compassionate leave, the employee need not have been responsible for the care of the person concerned.
- 11.4 An employee shall not be entitled to compassionate leave under this clause during any period in respect of which the employee has been granted other leave.
- 11.5 Compassionate leave may be taken in conjunction with other leave available under subclauses 15.2 and 15.3 of clause 15. In determining such a request, the employer will give consideration to the circumstances of the employee and the reasonable operational requirements of the Department.

12. Long Service Leave

- 12.1 Subject also to the provisions of subclause 12.9, an employee shall be entitled to long service leave calculated on the following bases:
- 12.1.1 For all continuous service prior to 1 April 1963, and provided that such previous service is also continuous with the employee's current service, at the rate of three months, for twenty years of service.
- 12.1.2 For all continuous service on and subsequent to 1 April 1963, in the case of an employee who has completed ten years service, two months long service leave and for each five years completed service thereafter, a further one month long service leave.
- 12.2 On termination of services, in respect of the number of years service with the Department since the employee last became entitled to an amount of long service leave, a proportionate amount on the basis of two months for ten years service.
- 12.3 In the case of an employee who has completed at least ten years service and whose services are terminated or cease for any reason, such employee shall be paid a proportionate amount calculated at the rate of two months for ten years service.
- 12.4 In the case of an employee who has completed at least five years but less than seven years service and whose services are terminated by the Department for any reason, other than serious and wilful misconduct, or by the employee on account of illness, incapacity or domestic or other pressing necessity, or by reason of the death of the employee, such employee (or in the event of the death of the employee, the employee's estate) shall be paid a proportionate amount calculated at the rate of two months for ten years service.
- 12.5 Long service leave shall be granted subject to the convenience of the Department, as and when such leave becomes due (i.e. after seven (7) years) or any time thereafter. Provided that an employee shall give at least twenty (20) days notice in writing of the intention to take such leave.
- 12.6 Long service leave shall be paid at the rate of full pay which, for the purposes of this clause, shall mean the greater average monthly remuneration received by the employee calculated over either the preceding twelve months or five years excluding any periods of Special Leave Without Pay, unpaid leave and/or suspension. The averages referred to in this subclause shall be calculated up to and including the end of the month immediately prior to the month during which the long service leave is taken or commences, as the case may be.
- 12.7 The term "remuneration" referred to in subclause 12.6 shall include all payments made to the employee by the Department, excluding payments made as compensation or reimbursement for expenses (e.g., payments for meals, accommodation and for kilometres travelled).
- 12.8 An employee who is directed to return to duty in the case of an emergency while on long service leave shall have any day or part thereof recredited.
- 12.9 Notwithstanding anything elsewhere provided by this clause, effective on and from the date of operation of this Award:
- 12.9.1 employees may apply to take pro-rata Long Service leave after the completion of seven (7) years of service. Additionally employees with such service shall be entitled to pro-rata Long Service leave on resignation or termination.
- 12.9.2 employees may apply to take a period of Long Service leave at double pay provided that:
- 12.9.2.1 The additional payment will be made as a non-superable taxable allowance payable for the period of the absence from work.

- 12.9.2.2 The employee's leave balance will be debited for the actual period of the absence from work and an equivalent number of days as are necessary to pay the allowance.
 - 12.9.2.3 Other leave entitlements, e.g., recreation leave, sick leave and Long Service leave will accrue at the single time rate where an employee takes Long Service leave at double time.
 - 12.9.2.4 Superannuation contributions will only be made on the basis of the actual absence from work, i.e., at the single time rate.
 - 12.9.2.5 Where an employee elects to take Long Service leave at double pay, the minimum period of actual absence should be not less than one (1) week.
- 12.9.3 where a public holiday falls during a period of Long Service leave the employee shall be paid for that day and additionally it shall not be deducted from the period of the leave.
- 12.9.3.1 In respect of public holidays that fall during a period of double pay Long Service leave an employee will not be debited in respect of the leave on a public holiday. The employees leave balance will however be reduced by an additional day to fund the non-superable taxable allowance.

13. Military Leave

- 13.1 Military leave may be granted to employees who are volunteer part-time members of the Defence Forces Reserves.
- 13.2 Such leave shall be available in accordance with the following provisions on a twelve month to twelve month basis, commencing on 1 July each year:
 - 13.2.1 For members of the Navy Reserve - thirteen calendar days for the purpose of annual training and thirteen calendar days for the purposes of attending a school, class or course of instruction, including in a teaching capacity.
 - 13.2.2 For members of the Army Reserve - fourteen calendar days for the purpose of annual training and fourteen calendar days for the purposes of attending a school, class or course of instruction, including in a teaching capacity.
 - 13.2.3 For members of the Air Force Reserve - sixteen calendar days for the purpose of annual training and sixteen calendar days for the purposes of attending a school, class or course of instruction, including in a teaching capacity.
- 13.3 Where a Commanding Officer certifies in writing that it is obligatory for a member of the Reserves to attend training for a period that exceeds the leave granted under subclause 13.2, the Commissioner may grant further Military Leave up to four calendar days in any one Military Leave year.
- 13.4 Periods of approved Military Leave shall be regarded as Special Leave without Pay.

14. Parental Leave

- 14.1 Definition of Parental Leave
 - 14.1.1 For the purposes of this clause, Parental Leave is Maternity Leave, Paternity Leave or Adoption Leave.
 - 14.1.2 Maternity Leave is leave taken by a female employee in connection with the pregnancy or the birth of a child of the employee. Maternity Leave consists of an unbroken period of leave.

14.1.3 Paternity Leave is leave taken by a male employee who becomes a parent but is ineligible to be granted either Maternity Leave or Adoption Leave, but is to be the primary care giver of a child or who wishes to share the child caring duties with their partner.

14.1.4 Adoption Leave is leave taken by a female or male employee in connection with the adoption by the employee of a child under the age of five years (other than a child who has previously lived continuously with the employee for a period of at least six months or who is a child or step-child of the employee or of the employee's spouse).

14.1.5 For the purposes of this clause, "spouse" includes a de facto spouse and a former spouse.

14.2 Entitlement to Parental Leave

14.2.1 An employee is entitled to parental leave, as provided by this clause, in connection with the birth or adoption of a child.

14.2.2 Maternity Leave - all female employees who do not have the necessary service as prescribed in subclause 14.3.1 for paid Maternity Leave, shall be entitled to unpaid Maternity Leave of up to fourteen (14) weeks before the expected date of birth of the child.

14.2.3 Paid Maternity Leave may be granted to a female employee subject to the following conditions:

14.2.3.1 The female employee has applied for Maternity Leave within such time and in such manner as herein set out.

14.2.3.2 Before the expected date of birth has completed not less than forty weeks' continuous service. Paid Maternity Leave shall be for a period of fourteen (14) weeks at full pay or twenty-eight (28) weeks at half pay from the date Maternity Leave commences.

14.2.3.3 In addition to the unpaid or paid Maternity leave referred to in 14.2.2 & 14.2.3.2 respectively, all female employees shall be entitled to a further period of unpaid Maternity leave, provided that the total period of absence on Maternity leave shall not exceed sixty-one (61) weeks.

14.2.3.4 The period over which Annual and/or Long Service Leave combined with unpaid Maternity Leave, shall not exceed a total period of two years from the date of birth of the child.

14.2.4 Short Adoption Leave is an unbroken period of fourteen (14) weeks of unpaid leave, taken by an employee who does not have the necessary service for paid Adoption Leave as prescribed in subclause 14.3.1, from the time of placement of the child.

14.2.5 Paid Adoption Leave may be granted to an employee adopting a child subject to the following conditions:

14.2.5.1 The employee has applied for Adoption Leave within such time and in such manner as herein set out.

14.2.5.2 Before the commencement of Adoption Leave the employee has completed not less than forty weeks' continuous service.

14.2.5.3 The employee is to be the primary care giver of the child.

14.2.5.4 Paid Adoption Leave shall be for a period of fourteen (14) weeks at full pay or twenty-eight (28) weeks at half pay of Adoption Leave or the period of Adoption Leave taken, whichever is the lesser period.

14.2.5.5 In addition to the unpaid or paid Adoption leave referred to in 14.2.4 & 14.2.5.4 of this subclause respectively, all employees shall be entitled to a further period of unpaid Adoption leave, provided that the total period of absence on Adoption leave shall not exceed sixty-one (61) weeks.

14.2.6 Paternity Leave is a period of up to a maximum of fifty-two (52) weeks of either unpaid or a combination of paid and unpaid parental leave taken from the date of birth of the child, or other termination of the pregnancy. Application for such leave must be made within such time and in such manner as herein set out. Paternity leave shall consist of:

14.2.6.1 an unbroken period of up to one (1) week unpaid leave at the time of the birth of the child, or other termination of the pregnancy (short paternity leave) an unbroken period of up to one (1) week on full pay or two (2) weeks on half pay at the time of the birth of the child, or other termination of the pregnancy provided that at such time the employee has completed not less than forty (40) weeks continuous service

14.2.6.2 In addition to the unpaid or paid Paternity leave referred to in 14.2.6.1, all male employees shall be entitled to a further period of unpaid Paternity leave in order to be the primary care-giver of the child (extended paternity leave), provided that the total period of absence on Paternity leave shall not exceed fifty-two (52) weeks.

14.2.7 Except as provided for in subclause 14.2.3 and 14.2.5, Parental Leave shall not extend beyond a period of one year after the child was born or adopted.

14.3 Length of Service for Eligibility

14.3.1 A female employee is entitled to paid Maternity Leave or, in the case of both male and female employees, paid Paternity or Adoption Leave only if the employee has had at least forty weeks' continuous service.

14.3.2 There is no minimum period of employment for eligibility for unpaid Parental Leave.

14.3.3 Continuous service is service under one or more unbroken contracts of employment, including:

14.3.3.1 Any period of authorised leave or absence.

14.3.3.2 Any period of part-time work.

14.3.3.3 Full or part-time service within the Public Service or within a Public Sector organisation listed in the schedules attached to the *Transferred Officers Extended Leave Act 1961*, and in Appendices A and B contained in the Personnel Handbook published by the DPE.

14.4 Notices and Documents required to be given to the Commissioner

14.4.1 Maternity Leave - The notices and documents to be given to the Commissioner for the purposes of taking Maternity Leave are as follows:

14.4.1.1 The female employee should give at least eight weeks' written or oral notice of the intention to take the leave (unless it is not reasonably practicable to do so in the circumstances).

14.4.1.2 The female employee must, at least four weeks before proceeding on leave, give written notice of the dates on which the employee proposes to start and end the period of leave.

14.4.1.3 The female employee must, before the start of leave, provide a certificate from a medical practitioner confirming that the employee is pregnant and the expected date of birth.

14.4.2 Paternity Leave - The notices and documents to be given to the Commissioner for the purposes of taking Paternity Leave are as follows:

14.4.2.1 In the case of extended Paternity Leave, the employee should give at least ten weeks written or oral notice of the intention to take the leave (unless it is not reasonably practicable to do so in the circumstances).

14.4.2.2 The employee must, at least four weeks before proceeding on leave, give notice of the dates on which the employee proposes to start and end the period of leave.

14.4.2.3 The employee must, before the start of leave, provide a certificate from a medical practitioner confirming that the employee's spouse is pregnant and the expected date of birth.

14.4.2.4 In the case of extended paternity leave, the employee must, before the start of leave, provide a statutory declaration by the employee stating:

14.4.2.4.1 Any period of Maternity Leave sought or taken by his spouse.

14.4.2.4.2 That he is seeking that period of extended Paternity Leave to become the primary care-giver of the child.

14.4.3 Adoption Leave - The notices and documents to be given to the Commissioner for the purposes of taking Adoption Leave are as follows:

14.4.3.1 In the case of extended Adoption Leave, the employee should give written or oral notice of any approval or other decision to adopt a child at least ten weeks before the expected date of placement (unless it is not reasonably practicable to do so in the circumstances).

14.4.3.2 The employee must give written notice of the dates on which the employee proposes to start and end the period of leave, as soon as practicable after the employee is notified of the expected date of placement of the child but at least fourteen days before proceeding on such leave.

14.4.3.3 The employee must, before the start of leave, provide a statement from an adoption agency or another appropriate body of the expected date of placement of the child with the employee for adoption purposes.

14.4.3.4 In the case of extended Adoption Leave, the employee must, before the start of such leave, provide a statutory declaration by the employee stating:

14.4.3.4.1 Any period of Adoption Leave sought or taken by his or her spouse.

14.4.3.4.2 The employee is seeking that period of extended Adoption Leave to become the primary care-giver of the child.

14.4.4 An employee does not fail to comply with this clause if the failure was caused by:

14.4.4.1 The child being born (or the pregnancy otherwise terminating) before the expected date of birth.

14.4.4.2 The child being placed for adoption before the expected date of placement.

14.4.4.3 Other compelling circumstances.

14.4.5 In the case of the birth of a living child, notice of the period of leave is to be given within two weeks after the birth and the certificate of the medical practitioner is to state that the child was

born and the date of birth. In the case of the adoption of a child, notice of the period of leave is to be given within two weeks after the placement of the child.

14.4.6 An employee must notify the Commissioner of any change in the information provided under this clause within two weeks after the change.

14.4.7 If required by the Commissioner, an employee who applies for Parental Leave is to give the Commissioner a statutory declaration, or enter into an agreement with the Commissioner, that for the period of the leave the employee will not engage in any conduct inconsistent with the employee's contract of employment.

14.5 Continuity of Service

Parental leave does not break an employee's continuity of service, but subject to subclauses 14.5.1, 14.5.2 and 14.5.3 is not to be taken into account in calculating an employee's period of service for any other purposes.

14.5.1 Any period of paid Adoption, paid Maternity or paid Paternity Leave shall count as full service for the purposes of determining progression either within a classification or from one classification to another. However, unpaid Parental Leave shall not count as service for determining such progression.

14.5.2 Adoption Leave on full pay, Maternity Leave at full pay and Paternity Leave at full pay shall count as full service for the purposes of determining all forms of leave.

14.5.3 Unpaid Parental Leave shall not count as service for determining any form of leave entitlement, except for Long Service Leave in cases where at least ten years of service has been completed and unpaid Parental Leave does not exceed six months.

14.6 Simultaneous taking of Parental Leave

Subject to subclause 14.20.1.1, Parental Leave is to be available to only one parent at a time, in a single unbroken period, except that both parents may simultaneously take:

14.6.1 For maternity and paternity leave, an unbroken period of up to one week at the time of the birth of the child;

14.6.2 For adoption leave, an unbroken period of up to three weeks at the time of the placement of the child.

14.7 Cancellation of Parental Leave

14.7.1 Before starting leave - Parental leave applied for but not commenced is automatically cancelled if:

14.7.1.1 The employee withdraws the application for leave by written notice to the Commissioner.

14.7.1.2 The pregnancy concerned terminates other than by the birth of a living child or the placement of the child concerned does not proceed.

14.7.2 After starting leave -

If:

14.7.2.1 The pregnancy of the employee or the employee's spouse terminates other than by the birth of a living child while the employee or spouse is on parental leave, provided:

- 14.7.2.1.1 If a child is still-born the female employee may elect to take available Sick Leave or Maternity Leave.
- 14.7.2.1.2 In the event of a miscarriage any absence from work is to be covered by the current Sick Leave provisions.
- 14.7.2.2 The child in respect of whom an employee is then on Parental Leave dies, or
- 14.7.2.3 The placement of a child for adoption purposes with an employee then on adoption leave does not proceed or continue, the employee is entitled to resume work at a time nominated by the Commissioner within two weeks after the date on which the employee gives the Commissioner a notice in writing stating that the employee intends to resume work and the reason for the intended resumption.
- 14.7.3 The provisions of subclause 14.7 do not affect an employee's entitlement to special maternity leave or special adoption leave.
- 14.8 Parental Leave and other Leave
- 14.8.1 An employee may take any annual leave or long service leave to which the employee is entitled instead of, or in conjunction with parental leave.
- 14.8.2 However, the total period of leave cannot be so extended beyond the maximum period of Parental Leave authorised by this clause.
- 14.8.3 The maximum period of Parental Leave authorised by this clause is reduced by any period of paid sick leave taken by the employee while on Maternity Leave.
- 14.8.4 Any paid absence authorised by law or by an award, enterprise agreement or contract of employment is not available to an employee on Parental Leave, except if the paid absence is:
- 14.8.4.1 Annual Leave or Long Service Leave.
- 14.8.4.2 In the case of Maternity Leave - Sick Leave.
- 14.9 Employee and Commissioner may agree to interruption of Parental Leave by return to work -
- 14.9.1 An employee on Parental Leave may, with the agreement of the Commissioner, break the period of leave by returning to work for the Department, provided that:
- 14.9.1.1 A female employee who gives birth to a living child shall not resume duty until six weeks after the birth of the child, unless special arrangements for early return are made at the request of the female employee and supported by a certificate from a qualified medical practitioner.
- 14.9.1.2 A female employee who has returned to full-time duty after less than her full entitlement to maternity leave, shall be entitled to revert to maternity leave either on a full-time or part-time basis if she so elects. This election may be exercised only once and a minimum of four weeks notice (or less if acceptable to the Commissioner) of her intention to resume maternity leave must be given.
- 14.9.2 The period of leave cannot be extended by such a return to work beyond the maximum period of leave authorised by this clause.
- 14.10 Extension of period of Parental Leave
- 14.10.1 An employee may extend the period of parental leave once only, by giving the Commissioner notice in writing of the extended period at least fourteen days before the

start of the extended period. The period of leave cannot be extended by such a notice beyond the maximum period of leave authorised by this clause.

14.10.2 Subject to the provisions of subclause 14.20, an employee may extend the period of parental leave at any time with the agreement of the Commissioner. The period of leave can be extended by such an agreement beyond the maximum period of leave authorised by this clause.

14.10.3 This subclause applies to an extension of leave whilst the employee is on leave or before the employee commences leave.

14.11 Shortening of period of Parental Leave

14.11.1 An employee may shorten the period of Parental Leave with the agreement of the Commissioner and by giving the Commissioner notice in writing of the shortened period at least fourteen days before the leave is to come to an end.

14.12 Return to work after Parental Leave

14.12.1 An employee returning to work after a period of Parental Leave is entitled to be employed in:

14.12.1.1 The classification (if possible, at the same location) held by the employee immediately before proceeding on that leave.

14.12.1.2 If the employee was transferred to a safe job before proceeding on Maternity Leave - the classification (if possible, at the same location) held immediately before the transfer.

14.12.2 If the classification no longer exists but there are other classifications available that the employee is qualified for and is capable of performing, the employee is entitled to be employed in a classification as comparable as possible in status and pay to that of the employee's former classification.

14.12.3 The provisions of subclause 14.12 extend to a female employee returning to work after a period of Special Maternity Leave and Sick Leave.

14.13 Payment

14.13.1 Payment for the fourteen (14) weeks on full pay or twenty-eight (28) weeks on half pay paid Maternity Leave may be made:

14.13.1.1 In advance in a lump sum.

14.13.1.2 On a normal fortnightly basis.

14.13.1.3 Payment for such period of leave shall be calculated on the weekly average of the total amount paid by the Department to the employee for the twelve months immediately prior to the date on which leave is commenced excluding any periods of Special Leave Without Pay, unpaid leave and/or suspension. For the purposes of this subclause, "total amount" shall include all payments made to the employee by the Department excluding payments made as compensation or reimbursement for expenses (eg. payments for meals, accommodation and for kilometres travelled).

14.13.2 Payment to eligible employees for the fourteen (14) weeks on full pay or twenty-eight (28) weeks on half pay paid Adoption Leave may be made:

14.13.2.1 In advance in a lump sum.

- 14.13.2.2 On a normal fortnightly basis.
- 14.13.2.3 Payment for such period of leave shall be calculated on the weekly average of the total amount paid by the Department to the employee for the twelve months immediately prior to the date on which leave is commenced excluding any periods of Special Leave Without Pay, unpaid leave and/or suspension. For the purposes of this subclause "total amount" shall include all payments made to the employee by the Department excluding payments made as compensation or reimbursement for expenses (eg. payments for meals, accommodation and for kilometres travelled).

14.14 Commissioner's Obligations

- 14.14.1 Information to Employees - On becoming aware that an employee (or an employee's spouse) is pregnant, or that an employee is adopting a child, the Commissioner must inform the employee of:
 - 14.14.1.1 The employee's entitlements to Parental Leave under this clause.
 - 14.14.1.2 The employee's obligations to notify the Commissioner of any matter under this clause.
- 14.14.2 Records - The Commissioner must keep for at least six years, a record of Parental Leave granted under this clause to employees and all notices and documents given under this clause by employees or the Commissioner.

14.15 Termination of Employment because of Pregnancy etc

- 14.15.1 The Commissioner must not terminate the employment of an employee because:
 - 14.15.1.1 The employee is pregnant or has applied to adopt a child.
 - 14.15.1.2 The employee has given birth to a child or has adopted a child.
 - 14.15.1.3 The employee has applied for, or is absent on Parental Leave, but otherwise the rights of the Commissioner in relation to termination of employment are not affected by this clause.
- 14.15.2 For the purposes of establishing such a termination of employment, it is sufficient if it is established that the alleged reason for termination was a substantial and operative reason for termination.
- 14.15.3 This clause does not affect any other rights of a dismissed employee.

14.16 Replacement Employees

- 14.16.1 A replacement employee is a person who is specifically employed as a result of an employee proceeding on Parental Leave (including as a replacement for an employee who has been temporarily promoted or transferred in order to replace the employee proceeding on parental leave).
- 14.16.2 Before a replacement employee is employed, the Commissioner must inform the person of the temporary nature of the employment and of the rights of the employee on Parental Leave to return to work.
- 14.16.3 A reference in this clause to an employee proceeding on leave includes a reference to a pregnant employee exercising a right to be transferred to a safe job.

14.17 Transfer to a Safe Job

- 14.17.1 This subclause applies whenever the present work of a female employee is, because of her pregnancy or breastfeeding, a risk to the health or safety of the employee or of her unborn or new born child. The assessment of such a risk is to be made on the basis of a medical certificate supplied by the employee and of the obligations of the Commissioner under the *Occupational Health and Safety Act 2000*.
- 14.17.2 The Commissioner is to temporarily adjust the employee's working conditions or hours of work to avoid exposure to risk as follows:
- 14.17.2.1 Where a female employee is confirmed pregnant she is to notify the Regional Commander or Officer-in-Charge as soon as possible who will, in turn, direct that she be withdrawn from operational firefighting duties.
- 14.17.2.2
- 14.17.2.2.1 The standard issue uniform is to be worn by members until the pregnancy becomes apparent prior to the birth and from the tenth week, if practicable, following the birth.
- 14.17.2.2.2 Employees will be provided with a maternity uniform for use when appropriate.
- 14.17.2.3 An employee on maternity leave who gives birth to a living child shall not resume operational firefighting duties until thirteen weeks have elapsed after the birth of the child, unless a special request for early return is made by the employee supported by a medical certificate from a qualified medical practitioner, subsequently endorsed by the Department's Occupational Health Physician.
- 14.17.2.4 Duties other than fire fighting may be undertaken after six weeks following the birth of the child, if endorsed by the Occupational Health Physician.
- 14.17.2.5
- 14.17.2.5.1 Upon withdrawal from operational firefighting duties alternate work of a suitable nature is to be provided.
- 14.17.2.5.2 Allocation of duties will be determined by the Department following consultation between the Department's Occupational Health Physician, the employee's Officer-in-Charge and the employee.
- 14.17.3 If such an adjustment is not feasible or cannot reasonably be required to be made, the Commissioner is to transfer the employee to other work where she will not be exposed to that risk.
- 14.17.4 If such a transfer is not feasible or cannot reasonably be required to be made, the Commissioner is to grant the employee Maternity Leave under this clause (or any available paid Sick Leave) for as long as is necessary to avoid exposure to that risk, as certified by a medical practitioner.

14.18 Special Maternity Leave and Sick Leave

- 14.18.1 If the pregnancy of an employee not then on maternity leave terminates before the expected date of birth (other than by the birth of a living child) or she suffers illness related to her pregnancy:

- 14.18.1.1 The employee is entitled to such period of unpaid leave (to be known as special Maternity Leave) as a medical practitioner certifies to be necessary before her return to work.
- 14.18.1.2 The employee is entitled to such paid sick leave (either instead of or in addition to special Maternity Leave) as she is then entitled to and as a medical practitioner certifies to be necessary before her return to work.

14.19 Special Adoption Leave

- 14.19.1 An employee who is seeking to adopt a child is entitled to up to two days unpaid leave if the employee requires that leave to attend compulsory interviews or examinations as part of the adoption procedure.

14.20 Right to request

- 14.20.1 An employee entitled to parental leave may request the employer to allow the employee:
 - 14.20.1.1 to extend the period of simultaneous parental leave up to a maximum of eight weeks;
 - 14.20.1.2 to extend the period of unpaid parental leave for a further continuous period of leave not exceeding 12 months;to assist the employee in reconciling work and parental responsibilities.
- 14.20.2 The employer shall consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the employer's business.
- 14.20.3 Employee's request and the employer's decision to be in writing:

The employee's request and the employer's decision made under 14.20.1 and 14.20.2 must be recorded in writing.

14.21 Communication during parental leave

- 14.21.1 Where an employee is on parental leave and a definite decision has been made to introduce significant change at the workplace, the employer shall take reasonable steps to:
 - 14.21.1.1 make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave; and
 - 14.21.1.2 provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave.
- 14.21.2 The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken and whether the employee intends to return to work.
- 14.21.3 The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with paragraph 14.21.1.

15. Personal/Carer's Leave

15.1 Use of Sick Leave

15.1.1 An employee, other than a casual employee, with responsibilities in relation to a class of person set out in subclause 15.1.3.2, who needs the employee's care and support shall be entitled to use, in accordance with this clause, any current or accrued Sick Leave entitlement, provided for at clause 15, for absences to provide care and support for such persons when they are ill. Such leave may be taken for part of a single day.

15.1.2 The employee shall, if required, establish by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person. In normal circumstances an employee must not take carer's leave under this clause where another person has taken leave to care for the same person.

15.1.3 The entitlement to use Sick Leave in accordance with this clause is subject to:

15.1.3.1 The employee being responsible for the care of the person concerned.

15.1.3.2 The person concerned being:

15.1.3.2.1 A spouse of the employee.

15.1.3.2.2 A de facto spouse who, in relation to a person, is a person of the opposite sex to the first mentioned person and who lives with the first mentioned person as the husband or wife of that person on a bona fide domestic basis, although not legally married to that person.

15.1.3.2.3 A child or an adult child (including an adopted child, a stepchild, a foster child or an ex-nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the employee or spouse or de facto spouse of the employee.

15.1.3.2.4 A same sex partner who lives with the employee as the de facto partner of that employee on a bona fide domestic basis.

15.1.3.2.5 A relative of the employee who is a member of the same household where, for the purposes of this subclause:

15.1.3.2.5.1 "Relative" means a person related by blood, marriage or affinity.

15.1.3.2.5.2 "Affinity" means a relationship that one spouse, because of marriage, has to blood relatives of the other.

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

15.1.4 An employee shall, wherever practicable, give the Department notice, prior to the absence, of the intention to take leave, the name of the person requiring care and their relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the employee to give prior notice of absence, the employee shall notify the Department by telephone of such absence at the first opportunity on the day of absence.

15.2 Unpaid Leave for Family Purpose

15.2.1 An employee may elect, with the consent of the Department, to take unpaid leave for the purpose of providing care and support to a class of person, as set out in subclause 15.1.3.2, who is ill.

15.3 Annual Leave

15.3.1 An employee may elect, with the consent of the employer to take annual leave not exceeding ten days in single-day periods, or part thereof, in any calendar year at a time or times agreed by the parties.

15.3.2 An employee may elect with the employers agreement to take annual leave at any time within a period of 24 months from the date at which it falls due.

16. Sick Leave

16.1 In every case of illness or incapacity sustained by an employee whilst off duty, the following conditions shall apply.

16.2 Such employee shall, as soon as practicable, inform their immediate supervisor of such inability to attend for duty and as far as possible, shall state the estimated duration of their absence.

16.3 Such employee shall forward to the Officer-in-Charge of the station to which the employee is attached, a medical certificate or such other documentation as the Department determines to be sufficient stating the nature of the illness or incapacity. Before being entitled to resume duty, the employee must furnish a further medical certificate to the effect that the employee has recovered from the illness or incapacity and is fit for duty, unless a person authorised by the Commissioner dispenses with this requirement.

16.4 If so required, such employee shall submit to an examination by, or arranged by, the Department's medical officer.

16.5 Every employee who is absent from duty for a period of more than twenty-eight days will have their case reviewed by the Department's medical officer, or a medical officer nominated by the Department, and must be certified by such medical officer as fit for duty prior to being permitted to resume duty. An employee who is required to attend the Department's medical officer or nominated medical officer shall be reimbursed any out of pocket expenses reasonably and necessarily incurred. The Department shall meet the cost of any such consultation.

16.6 The granting of Sick Leave, the duration thereof and the pay, if any, for the same shall be on the following basis:

16.6.1 One week paid sick leave for each year of service, cumulative, less any paid Sick Leave taken, to a maximum of twenty six weeks.

16.6.2 Sick Leave beyond that provided for in subclause 16.6.1 shall be Sick Leave without pay.

16.6.3 Payment for Sick Leave shall be calculated on the weekly average of the total amount paid by the Department to the employee for the twelve months immediately prior to the date on which leave is commenced excluding any periods of Special Leave Without Pay, unpaid leave and/or suspension. For the purposes of this subclause, "total amount" shall include all payments made to the employee by the Department excluding payments made as compensation or reimbursement for expenses (eg. payments for meals, accommodation and for kilometres travelled).

16.7 Where payment has been made for sick leave, under this clause, to an employee whose sick leave entitlement has already been exhausted, or whose right to sick leave is not established, the Department may deduct the amount overpaid from any future payments made to the employee concerned in accordance with the provisions of subclause 6.10.

17. Special Leave for Union Activities

17.1 Attendance at Union Conferences/Meetings

17.1.1 Employees who are members of the Union and accredited by the Union as a delegate are entitled to special leave with pay to attend the following:

- 17.1.1.1 Annual or bi-annual conferences of the Union.
 - 17.1.1.2 Annual conferences of the United Firefighters Union of Australia; and
 - 17.1.1.3 Meetings of the Union's Executive/Committee of Management.
 - 17.1.1.4 Annual conference of Unions NSW.
 - 17.1.1.5 Bi-annual conference of the Australian Council of Trade Unions.
- 17.1.2 While there is no limit on special leave for Union activities, such leave is to be kept to a minimum and is subject to the employee:
- 17.1.2.1 Establishing accreditation as a delegate with the Union.
 - 17.1.2.2 Providing sufficient notice of absence to the Department.
 - 17.1.2.3 Lodging a formal application for special leave.
- 17.1.3 Such leave is also subject to the Union:
- 17.1.3.1 Providing documentary evidence to the Department about an accredited delegate in sufficient time to enable the Department to make arrangements for performance of duties.
 - 17.1.3.2 Meeting all travelling, accommodation and any other costs incurred for the accredited delegate.
 - 17.1.3.3 Providing the Department with confirmation of attendance of the accredited delegate.
- 17.1.4 Providing the provisions of this clause are satisfied by both the employee and the Union, the Department shall:
- 17.1.4.1 Release the accredited delegate for the duration of the conference or meeting.
 - 17.1.4.2 Grant special leave (with pay).
 - 17.1.4.3 Ensure that the duties of the absent delegate are performed in his/her absence, if appropriate.
- 17.1.5 Period of Notice -
- 17.1.5.1 Generally, dates of conferences or meetings are known well in advance and it is expected that the Department would be notified as soon as accreditation has been given to a delegate, or at least two weeks before the date of attendance.
 - 17.1.5.2 Where extraordinary meetings are called at short notice, a shorter period of notice would be acceptable, provided such notice is given to the Department as soon as advice of the meeting is received by the accredited delegate.
- 17.1.6 Travel Time -
- 17.1.6.1 Where a delegate has to travel to Sydney, inter or intra State, to attend a conference or meeting, special leave will also apply to reasonable travelling time to and from the venue of the conference or meeting.

17.1.7 Payment

- 17.1.7.1 An employee entitled to Special Leave in terms of this clause shall, for the period of such Special Leave, be deemed to have attended any incident, drill or other authorised duties which occurred at the employee's Brigade during such leave, and be paid accordingly.

17.1.8 Special Leave in terms of this clause shall count as service for all purposes.

17.1.9 Availability of Special Leave -

- 17.1.9.1 Special Leave shall not be available to employees whilst they are on any period of other leave.

17.2 Attendance at Courses/Seminars Conducted or Supported by Trade Union Education Foundation (TUEF).

17.2.1 Except where inconsistent with the provisions of subclause 17.2, the provisions of subclause 17.1 of this clause shall also apply to attendance at courses or seminars conducted or supported by TUEF.

17.2.2 Up to a maximum of twelve days in any period of two years may be granted to employees who are members of the Union.

17.2.3 The grant of leave to attend courses or seminars conducted or supported by TUEF, is subject to the following conditions:

17.2.3.1 Departmental operating requirements permit the grant of leave and the absence does not result in working of overtime by other employees.

17.2.3.2 Expenses associated with attendance at such courses or seminars, eg. fares, accommodation, meal costs, etc., will be required to be met by the employee concerned but, subject to the maximum prescribed in subclause 17.2.2., special leave may include travelling time necessarily required to attend courses or seminars.

17.2.3.3 Applications for leave must be accompanied by a statement from the Union that it has nominated the employee concerned for such a course or seminar and supports the application.

18. Court Attendance Entitlements

18.1 The provisions of this clause shall apply to employees attending Court (which term shall include any related conferences) as a:

18.1.1 Result of the duties performed by the employee in the employee's position with the Department, including attendance at an incident.

18.1.2 Witness for the Crown but not as a result of the duties performed by the employee in the employee's position with the Department.

18.1.3 Witness in a private capacity.

18.2 Attendance at Court as a result of the duties performed by an employee in the employee's position with the Department, including attendance at an incident.

18.2.1 Such attendance shall be regarded as attendance in an official capacity and uniform must be worn.

18.2.2 Other than monies paid as reimbursement for loss of income as an employee of the Department, employees may retain all monies paid in connection with their attendance as a witness.

18.2.3 In addition to any monies to which an employee may be entitled pursuant to subclause 18.2.2, employees shall be paid at the rate applicable to the employee's classification, from the time the employee is required to attend Court to the time on that day that the employee is no longer required by the Court.

18.2.4 Travelling time and travel expenses in excess of any compensation therefor paid by the Court or other party shall be compensated in accordance with clause 20, Travelling Compensation.

18.2.5 Where the employee is recalled to duty to attend Court while on Annual or Long Service Leave, such employee shall be recredited with a full days leave, for each day or part thereof.

18.2.6 Where an employee is subpoenaed to attend Court while on Sick Leave it is the responsibility of the employee to ensure that the circumstances are communicated to the Court. If the employee is still required to and does attend Court, the sick leave debited for that period shall be recredited and the entitlements provided for in subclauses 18.2.2, 18.2.3 and 18.2.4 shall apply.

18.3 Where an Employee Attends Court

18.3.1 As a Witness for the Crown but not as a result of the duties performed by the employee in the employee's position with the Department; or as a witness in a Private Capacity, (i.e., not subpoenaed by the Crown):

18.3.1.1 The employee shall only be entitled to Special Leave Without Pay from the Department to attend Court.

18.3.1.2 Any claim for reimbursement of expenses, compensation for travelling time, lost income etc. is to be made by the employee to the Court and/or the party issuing the subpoena. The employee may retain all monies paid as a consequence of such claims.

19. Training Course Attendance Entitlements

19.1 The provisions of this clause shall apply to attendance at training programs (other than regular drills) delivered by, on behalf of, or approved by the Department.

19.2 Accommodation

19.2.1 The Commissioner (or delegate) shall approve appropriate accommodation for an employee, if it can be demonstrated that an unreasonable amount of travelling time and/or distance is involved when travelling to and from the employee's residence to the training venue.

19.2.2 Where Departmental accommodation is not provided to an employee with an entitlement to accommodation, the relevant accommodation provisions prescribed by clause 20, Travelling Compensation, shall be paid.

19.2.3 Where it is not possible for an employee to travel to the training venue on the first day of the course or where the travelling time would be unreasonable to travel on the first day of the course, the employee shall be entitled to appropriate accommodation on the evening prior to the start of the course. If it is not possible for an employee to travel from the training venue to his or her residence at the conclusion of the course or if the travelling time would be unreasonable, the employee shall be entitled to appropriate accommodation on the evening of the last day of the course. Approval must be obtained from the Commissioner (or delegate) prior to bookings being made.

19.2.4 Notwithstanding the provisions of this subclause, any employee who considers that these criteria would cause undue hardship etc. may make application for special consideration. All such

applications will be considered on their individual merits according to the program content and the starting and completion times, on a daily basis.

19.3 Meals

19.3.1 All employees attending training programs which extend for a whole day shall be provided with morning/afternoon tea and lunch.

19.3.2 Where employees have been granted approval for overnight accommodation and when such accommodation is provided by the Department, expenses reasonably and properly incurred shall be reimbursed in accordance with clause 20, Travelling Compensation.

19.3.3 Employees who are not required to accommodate themselves overnight shall, where appropriate, be paid the relevant meal allowances prescribed by clause 20, Travelling Compensation.

19.3.4 Meal allowances are not payable during times at which an accommodation allowance (as prescribed in subclause 19.2.2) has been paid. A component of the accommodation allowance compensates for the costs associated with breakfast, lunch and evening meals.

19.4 Incidentals

19.4.1 Employees who are provided with Departmental accommodation shall be entitled to claim the appropriate incidental allowance as prescribed by clause 20, Travelling Compensation.

19.4.2 The incidental allowance cannot be claimed for any day during which an accommodation allowance referred to in subclause 19.2.2, is paid. The incidental allowance forms a component of the accommodation allowance and amongst other things, recognises the cost associated with personal telephone calls, etc.

19.5 Travelling Time

19.5.1 Compensation shall be in accordance with Clause 20, Travelling Compensation.

20. Travelling Compensation

20.1 Travelling Time - When an employee is required to travel for purposes other than attending regular drills or incidents, the employee may apply for payment, at the rate applicable to the employees' classification, for time spent travelling subject to the following:

20.1.1 Where the employee has travelled overnight but has been provided with sleeping facilities, the travelling time shall not include travel between 2300 hours on one day and 0730 hours on the next day.

20.1.2 Travelling time does not include time spent taking a meal when the employee stops a journey to take the meal.

20.1.3 Travelling time shall be calculated by reference to the use of the most practical and economic means of transport.

20.1.4 Payment will not be made or allowed for more than eight hours in any period of twenty-four hours.

20.1.5 Where an employee is in receipt of the kilometre allowance prescribed at Entitlement Code "K" of Table 1 of Part B, such employee shall not be entitled to claim compensation for travelling time.

20.2 Meal Allowances - When an employee is required to perform official duty at a temporary work location, other than attendance at incidents or regular drills, and is not required to reside away from home (a one

day journey), the employee shall be eligible to be paid the following meal allowances, subject to the following conditions:

20.2.1 For breakfast when required to commence travel at/or before 0600 hours, the amount set at Item 1 of Table 2 of Part B.

20.2.2 For lunch when, by reason of the journey, an employee is unable to take lunch at the place or in the manner in which the employee ordinarily takes lunch and is put to additional expense, the amount set at Item 2 of Table 2 of Part B, or an amount equivalent to the additional expense, whichever is the lesser.

20.2.3 For an evening meal when required to work or travel until or beyond 1830 hours, an amount set at Item 3 of Table 2 of Part B.

20.2.4 Meal Allowances shall not be paid where the employee is provided with an adequate meal.

20.3 Accommodation Allowances - When an employee is required to perform official duty at a temporary work location, other than attendance at incidents or regular drills, which requires the employee to reside away from home and the employee is not provided with accommodation by the Government, the employee shall be eligible to be paid the following accommodation (sustenance) allowances subject to the conditions set out below:

20.3.1 For the first thirty five calendar days, the appropriate amounts set at Item 4 of Table 2 of Part B.

20.3.2 The actual necessary expenses for meals and accommodation (actuals), together with incidental expenses as appropriate, set at Item 5 of Table 2 of Part B. The necessary expenses do not include morning and afternoon tea.

20.3.3 After the first thirty five calendar days and for up to six months an employee shall be paid an allowance at the rate set at Item 6 of Table 2 of Part B provided the allowance paid to an employee, temporarily located in Broken Hill shall be increased by 20%. The allowance is not payable in respect of:

20.3.3.1 Any period during which the employee returns home on weekends or public holidays, commencing with the time of arrival at the residence and ending at the time of departure from the residence.

20.3.3.2 Any other period during which the employee is absent from the temporary work location (including leave) otherwise than on official duty, unless approved by the Commissioner.

20.3.4 The capital city rate shall apply to Sydney in respect of the Sydney telephone district only as defined by Telstra Corporation Ltd.

20.3.5

20.3.5.1 Where an employee proceeds directly to a temporary work location in a Capital city and returns direct, the Capital city rate applies to the whole absence.

20.3.5.2 Where an employee breaks the journey, other than for a meal, in a centre that is not a Capital city, the Capital city rate applies only in respect of the time spent in the Capital city, the elsewhere rate applies to the remainder of the absence.

20.4 Incidental Expenses Allowances - Government Provided Accommodation - When an employee is required to perform official duty at a temporary work location which requires that the employee reside away from home and is provided with accommodation by the Government, the employee shall be eligible to be reimbursed expenses properly and reasonably incurred during the time actually spent away from the employee's residence in order to perform that duty and in addition be paid an allowance at the rate set at Item 7 of Table 2, of Part B as appropriate. Such expenses are limited to costs in relation to

food, laundry and accommodation that exceed what would normally have been incurred at home. Any meal taken at a Government establishment is to be paid for and appropriate reimbursement sought.

20.5 Additional Provisions

20.5.1 Unless specifically provided for in Clause 19, Training Course Attendance Entitlements or Clause 18, Court Attendance Entitlements, the provisions of this clause shall not apply in the circumstances provided for by those clauses.

20.5.2 When an employee is required to travel to a temporary work location or to attend a training course or conference on what would normally be regarded as a one day journey and the total time of absence will exceed 13 hours, the employee may be directed or may request that the employee reside temporarily at a place other than the employee's residence. In such cases, employees shall be entitled to the accommodation allowances or reimbursement of expenses, as appropriate.

20.5.3 The claim for an accommodation allowance or reimbursement of expenses shall be for the whole of the period of absence and cannot be dissected into part of the time of the absence by way of allowance and part of the absence being compensated by reimbursement.

20.5.4 When an employee in receipt of an accommodation allowance is granted special leave to return home from a temporary work location, the employee shall be reimbursed for the cost of the return rail fare or, if a first class rail service is reasonably available, the cost of a first class return rail fare. No taxi fares or other incidental expenses are payable.

20.5.5 Employees shall be entitled, subject to Departmental approval, to use either their private vehicle or public transport on the following basis:

20.5.5.1 Reimbursement is not to be paid for a journey if an official motor vehicle is used for the journey.

20.5.5.2 Where employees are granted approval to use their private vehicles, such employees shall receive the kilometre rate, set at Entitlement Code "K" of Table 1 of Part B, for the actual distance necessarily and reasonably travelled. Employees in receipt of the rate set at Entitlement Code "K" of Table 1 of Part B, shall not be entitled to the provisions of subclause 20.1, Travelling Time.

20.5.5.3 Employees who are required to utilise public transport shall be reimbursed the necessary costs incurred.

20.5.5.4 The Commissioner is to consider the convenience of the employee when an employee is required to travel to a temporary work location.

20.5.5.5 Unless special circumstances exist, the employee's work, the mode of transport used and the employee's travel itineraries are to be organised and approved in advance so that compensation for travel time and payment of allowances is reasonably minimised.

20.5.6 Where a meal allowance or an accommodation allowance is insufficient to adequately reimburse the employee for expenses properly and reasonably incurred, a further amount may be paid so as to reimburse the employee for the additional expenses incurred, subject to the following:

20.5.6.1 The Commissioner may require the production of receipts or other proof that expenditure was incurred.

20.5.6.2 If any expense in respect of which an allowance is payable was not properly and reasonably incurred by the employee in the performance of official duties, payment of the allowance may be refused or the amount of the allowance may be reduced.

20.5.6.3 If any purported expense was not incurred by the employee, payment of the allowance may be refused or the amount of the allowance may be reduced.

- 20.6 Claims - Claims should be submitted promptly, i.e., within one month from the completion of the work or within such time as the Commissioner determines.
- 20.6.1 The Commissioner may approve applications for advance payments of travelling and sustenance allowances. Such applications should detail the appropriate expenditure anticipated and be in accordance with In Orders 1982/34.
- 20.6.2 In assessing claims for travelling time and payment of allowances, reference should be made to the time that might reasonably have been taken by the particular mode of transport used. Provided that where an employee can demonstrate that the use of the means of transport proposed by the Department is unreasonable in the circumstances, the employee may apply to the Commissioner for a review of the Department's decision. Where an employee does not wish to use the means of transport proposed by the Department, eg. air travel as against train or car travel, travelling time and allowances should be assessed on the basis that the most practical and economical means of transport is used.
- 20.6.3 Where an allowance is payable at a daily rate and a claim is made for a portion of the day, the amount to be paid is to be calculated to the nearest half hour.
- 20.7 The amounts set at Items 1 to 7 in Table 2 of Part B, shall be adjusted on 1 July in line with the corresponding reasonable allowance amounts for the appropriate financial year as published by the Australian Taxation Office (ATO).

21. Transfers

- 21.1 Subject to satisfactory attendance and service and the employee meeting Departmental residential guidelines, an employee may apply for a transfer from one Volunteer Brigade to another Volunteer Brigade.
- 21.2 In the event that the station to which the transfer is sought does not have a vacancy, the Department may appoint such employee as a supernumerary. Where an employee is not appointed as a supernumerary, such employee shall be placed on an eligibility list for appointment at the station when a vacancy arises.
- 21.3 Where a transfer does not result in a break in service, the employee's service shall be regarded as continuous.
- 21.4 Any employee transferred from one Volunteer Brigade to another Volunteer Brigade shall not be entitled to compensation or reimbursement of expenses in relation to that transfer.

22. Procedures Regarding Reports and Charges

- 22.1 When an employee is summoned to appear before the employee's Senior Officer or before the Department on a charge, appeal or formal inquiry, the employee shall be given particulars in writing of the charge or allegation, if any, against the employee, at least 48 hours before the hearing of the charge or appeal or the opening of the said inquiry. The employee shall be allowed access personally or by a representative duly authorised in writing by the employee, to all or any of the official papers, correspondence or reports of the Department relating to the charge, appeal, or subject of the said inquiry.
- 22.2 The employee also shall be allowed to give and to call evidence on the employee's own behalf and to hear all evidence given.
- 22.3 If an employee so requests, the employee may be represented by an officer of the Union before the employee's Senior Officer or the Department on all such occasions.
- 22.4
- 22.4.1 No report about an employee shall be placed on the records or papers relating to that employee unless the employee concerned has been shown the said report.

- 22.4.2 If the employee disagrees with the report, the employee shall be entitled to make such a notation on the report.
- 22.4.3 Evidence that the employee has been shown the report will be by either the employee's signature thereon, or in accordance with subclause 22.4.4.
- 22.4.4 Where an employee refuses to sign the report, such refusal shall immediately be noted upon the report by the Senior Officer handling the report. In such cases, the Senior Officer will advise the employee that the refusal to sign will be noted on the report and that the report, together with such notation, will be placed on the records or papers relating to that employee.
- 22.4.5 Further to subclause 22.4.4, in such circumstances, the Department will notify the Union in writing, within seven days of such refusal and the Union shall be given an opportunity of replying to the report.
- 22.4.6 If the employee so desires, any written response from either the employee or the Union shall also be placed amongst the records or papers relating to the employee or noted thereon.
- 22.5 Where the Department has for its own purposes, arranged for a transcript to be taken of proceedings on a charge, appeal or formal inquiry, a copy of such transcript shall be supplied free of cost to the employee concerned if, during the hearing or at the termination of the proceedings, a request therefor, in writing, is made by the employee.
- 22.6 After the Senior Officer has announced the recommendation or when the Department has made its decision as the result of a charge or an appeal, the employee concerned shall be informed thereof, in writing, within seven days after such announcement or decision has been made or has been given, as the case may be.
- 22.7 For the purposes of this clause "Senior Officer" means the employee's Senior Officer or an Officer of a higher rank.

23. Acknowledgment of Applications and Reports

- 23.1 When an employee makes an application or a report in writing to the proper officer, the employee shall be sent an acknowledgment of its receipt, noting the matter contained therein.
- 23.2 The result of an application shall be communicated to the employee no later than fourteen days after a decision has been reached. In cases where no decision has been reached within one month, the reason for the delay shall be communicated in writing to the employee.
- 23.3 The provisions of this clause shall not apply in cases where other procedures are specifically stipulated (eg. in Standing Orders or In Orders).

24. Training and Staff Development

- 24.1 The parties confirm their commitment to training and staff development for employees of the Department.
- 24.2 Employees covered by this Award shall be required to complete appropriate training to improve the productivity and efficiency of the Department's operations.
- 24.3 Employees shall be required to complete training in accordance with competency requirements as determined by the Commissioner.
- 24.4 An employee may be directed to carry out any duties appropriate to the employee's classification that are within the employee's level of skill, competence and training, provided that such direction does not promote deskilling.

Training Review Committee (TRC)

- 24.5 The TRC shall provide advice to the Commissioner on an effective and equitable system of training in Fire and Rescue NSW using the principles of Competency Based Training.
- 24.6 The structure of the TRC will consist of 3 representatives of the Department and 3 representatives of the Union.
- 24.7 The Chairperson of the Committee will alternate every 12 months between a nominee of the Department and the Union.
- 24.8 The role of the TRC will include (but not be limited to):
- 24.8.1 advising the Commissioner on the further development of training throughout Fire and Rescue NSW;
 - 24.8.2 overseeing the implementation of a Competency Based Training regime throughout Fire and Rescue NSW;
 - 24.8.3 considering Recognised Prior Learning (RPL) policy generally and in particular, it will consider individual applications for RPL.
- 24.9 Procedure
- 24.9.1 The TRC will meet at least once every four weeks.
 - 24.9.2 Members of the TRC shall be released from day to day operations, except in the event of an incident or other emergency circumstances, for the purposes of fulfilling the above roles.
 - 24.9.3 The TRC will be adequately resourced by the Department so that it can effectively fulfil the above roles.
 - 24.9.4 The Commissioner is not bound to accept the advice of the TRC and may act independently of the TRC to implement changes to training within Fire and Rescue NSW provided that notice of any such decision to implement change is notified in accordance with clause 27.6, in which case clauses 27.7 to 27.9 inclusive shall apply.

25. Protective Clothing and Uniforms

- 25.1 For the purpose of this Clause:
- 25.1.1 "Personal Protective Equipment" means external clothing designed for personal protection at an incident.
 - 25.1.2 "Duty Wear" means duty wear trousers and duty wear shirt.
 - 25.1.3 "Dress Uniform" is limited to Dress Trousers, Galatea and Pullover.
- 25.2 The Department shall supply to all employees two sets of appropriate Personal Protective Equipment and Duty Wear which shall meet relevant National and/or International Standards, or as otherwise agreed to with the Union.
- 25.3 Employees supplied with the above clothing shall wear it in accordance with Departmental instructions.
- 25.4 The provision of wet weather gear shall be in accordance with existing practice.
- 25.5 Where any Personal Protective Equipment or Duty Wear is supplied by the Department and is required to be worn by its employees, and such Personal Protective Equipment or Duty Wear becomes soiled or damaged in the execution of duty as to require cleaning or repairs, such cleaning or repairs shall be done at the expense of the Department. Provided that the above Dress Uniform items shall also be cleaned or repaired at the expense of the Department.

- 26.6 When an employee retires, resigns or is terminated, the Personal Protective Equipment issued to that employee shall be returned to the station to which the employee was attached. As much of that returned Personal Protective Equipment shall be retained at the station as is necessary to maintain a reasonable supply of spare Personal Protective Equipment.

26. Disputes Avoidance Procedures

- 26.1 Subject to the provisions of the *Industrial Relations Act 1996*, and Clause 27.2, and to enable claims, issues and disputes to be resolved while work proceeds normally, the following procedures are to apply.
- 26.2 Employee(s) and/or Union representatives will place the matter before the immediate supervisor. The immediate supervisor will take all reasonable steps to reply to the employee(s) and/or Union representatives as soon as possible, and will at least provide a progress report before the close of ordinary business on the next working day.
- 26.3 Failing agreement, employee(s) and/or Union representatives will place the claim, issue or dispute before the next higher officer in charge of the relevant zone or region. That officer will take all reasonable steps to reply to the employee(s) and/or Union representatives as soon as possible, and will at least provide a progress report before the close of ordinary business on the next working day.
- 26.4 Failing agreement, employee(s) and/or Union representatives will place the claim, issue or dispute before the Director Human Resources. The Director Human Resources will take all reasonable steps to reply to the employee(s) and/or Union representatives as soon as possible, and will at least provide a progress report before the close of ordinary business on the next working day.
- 26.5 Failing agreement, employee(s) and/or Union representatives will place the claim, issue or dispute before the Commissioner. The claim, issue or dispute and all relevant circumstances relating to it will be fully reviewed by the Commissioner and the Union and all reasonable steps shall be taken in an attempt to resolve the matter.
- 26.6 No action is to be taken by the Union which would affect the Department's operations whilst a dispute is under investigation.
- 26.7 Failing agreement the claim, issue or dispute may be referred to the appropriate Industrial Tribunal.

27. Organisational Change under Subclause 27.2

- 27.1 This clause recognises the capacity of the Commissioner to make decisions to effect change within the Department.
- 27.2 This clause applies to consultation and decisions regarding clause 6 (Rates of Pay and Allowances), clause 24 (Training and Staff Development) and clause 30 (Drug and Alcohol Protocol), to the exclusion of the procedures under clause 26.
- 27.3 Prior to making any decision to effect change under the specified clauses the Commissioner must consult with the Union.
- 27.4 Consultation will commence with a written notification to the Union regarding the proposed change(s). Thereafter there will be a reasonable opportunity for the Union to present its views in relation to the proposed changes.
- 27.5 If, during the consultation process, there is a reasonable basis for the Commissioner to conclude that the consultation process has been exhausted, the Commissioner shall advise the Union accordingly and the following procedures shall then operate.
- 27.6 The Commissioner will notify the Union and the workforce affected by the proposed change of his/her decision in relation to the subject of the proposed change as well as the process and timetable for its implementation.

- 27.7 If the matter remains in dispute and is referred by the Union to the Industrial Relations Commission within 7 days of the notification of the decision under clause 27.6, there will be no implementation of the change until the Industrial Relations Commission determines the matter or orders otherwise.
- 27.8 The Union and the Commissioner shall be bound by any order or determination of the Industrial Relations Commission in relation to the dispute.
- 27.9 If Industrial action is engaged in at any stage in the operation of the process under this clause, then the prohibition on implementation under clause 27.7 ceases to operate.
- 27.10 The operation of this clause shall be reviewed at the end of one year from the date of its commencement, for the purpose of considering whether any amendments are appropriate.

28. Attendance Requirements at Incidents and Drills

- 28.1 The following attendance guidelines shall apply to employees covered by this Award:
- 28.1.1 Attendance at Incidents -
- 28.1.1.1 Employees who, by virtue of their primary form of employment, are day workers are required to attend a minimum of 50% of all night and weekend calls received by the employee's brigade in any six month period.
- 28.1.1.2 Employees who, by virtue of their primary form of employment, are shift workers are required to attend a minimum of 33% of all calls received by the employee's brigade in any six month period.
- 28.1.2 Attendance at Drills - Employees are required to attend a minimum of 75% of all regular drills conducted at their brigade in any six month period.
- 28.2 Any period of approved leave or authorised absence shall be excluded when determining an employee's levels of attendance.
- 28.3 In cases where an employee's attendance falls below the requirements prescribed by subclause 28.1, the following procedures are to apply:
- 28.3.1 The Officer in Charge of the station to which the employee is attached, shall discuss the matter with the employee concerned. The employee may be informed that his/her attendance will be monitored over the next 3 months.
- 28.3.2 If the employee's attendance does not meet the required levels for the 3 month period outlined in 28.3.1, the employee's Regional Commander shall notify the employee in writing of such deficiency. The employee shall be given a further 3 month period to improve his/her attendance levels, before any further action may be taken.
- 28.4 Employees who have been notified in terms of 28.3.1 and/or 28.3.2 may make application to the Commissioner for special consideration.
- 28.5 The attendance requirements referred to in subclause 28.1 may be altered by agreement between the Department and the Union.
- 28.6 "Day worker" means for the purposes of this clause, a worker who consistently works his/her ordinary hours from Monday to Friday inclusive and who commences work on such days at or after 6:00 am and before 10:00 am.
- 28.7 "Shift worker" means for the purposes of this clause, a worker who is not a day worker as defined in subclause 28.6.

29. Attendance at Major Emergencies

- 29.1 The provisions of this clause shall apply to those employees who attend a Major Emergency which has, following specification as such by the Commissioner, been deemed to attract such entitlements.
- 29.2 Travel Entitlements
- 29.2.1 Employees who are required to collect their firefighting uniform from the station shall be paid in accordance with subclause 9.1.1.1.
- 29.2.2 Employees who are required to use their private vehicle to attend the incident or a "pick up point" that is not at their station, shall be paid at the rate prescribed at Entitlement Code "K" of Table 1 of Part B, for the return distance from the station to the incident or pick up point.
- 29.2.3 Employees who are provided with transport for any part of the forward and return journeys between their residence and the incident shall be entitled to be paid travelling time at the appropriate rate of pay for the employee's classification for the time spent travelling, provided that:
- 29.2.3.1 Travelling Time shall not be paid for any part of a journey where the employee received payment under subclauses 27.2.1 or 27.2.2 of this Award; and
- 29.2.3.2 Travelling Time for the forward journey shall be calculated as being the total time between departure from the station or pick up point to arrival at the incident; and
- 29.2.3.3 Travelling Time for the return journey shall be calculated as being the total time between departure from the incident to arrival at the pick up point or station.
- 29.3 Accommodation Entitlements
- 29.3.1 Employees who reside further than 50 kilometres from the scene of the major emergency shall be entitled to be provided with appropriate accommodation where their attendance at the emergency extends beyond a single day or in such cases where it would be unreasonable to travel at the conclusion of duty.
- 29.3.2 Notwithstanding the provisions of subclause 29.3.1, the Commissioner may grant approval to provide appropriate accommodation to employees who reside within 50 kilometres of the scene of a major emergency.
- 29.3.3 Employees who are provided with accommodation shall be entitled to claim the incidental allowance prescribed at Item 7 of Table 2 of Part B, for each day of attendance.
- 29.3.4 Employees who have an entitlement to accommodation but are not provided with appropriate accommodation shall be entitled to claim an accommodation allowance in accordance with subclause 20.3.
- 29.4 Meals
- 29.4.1 Employees shall be provided with substantial meals for breakfast, lunch and dinner throughout the period of attendance at a major emergency.
- 29.4.2 Where meals are not provided to employees in accordance with subclause 29.4.1, an allowance set at Entitlement Code "M" of Table 1 of Part B shall be paid.
- 29.4.3 Where employees are required to work between the meals provided for in subclause 29.4.1, such employees shall be entitled to the refreshments and meals prescribed by subclause 8.1.

29.5 Payment for time spent in Attendance

29.5.1 Where an employee's period of attendance at a major emergency is less than 48 hours, such employee shall be paid at the appropriate rate of pay for the employee's classification for the entire period of attendance.

29.5.2 Where an employee's period of attendance at a major emergency is greater than 48 hours, such employee shall be paid at the appropriate rate of pay for the employee's classification for the following periods:

29.5.2.1 on the day of departure from the employees' residence, the period from the time of departure to 2400 Hrs; and

29.5.2.2 on the day of arrival at the employees' residence following attendance at the major emergency, the period from 0000 Hrs to the time of arrival; and

29.5.2.3 for the period between the day of departure to and the day of return from attendance at a major emergency, all time less any periods of down time, provided that employees will receive payment of a minimum of 16 hours per day.

29.5.3 For the purposes of this subclause the "period of attendance at a major emergency" shall mean the entire period from the time of departure from the employee's residence until the time of return to the employee's residence following attendance at the emergency.

29.5.4 For the purposes of this subclause "periods of down time" shall mean periods of not less than 8 consecutive hours where employees are neither performing operational duties nor on stand by to perform such duties.

30. Drug and Alcohol Protocol

30.1 The joint Protocol on Drug and Alcohol Safety and Rehabilitation in the Workplace, signed by the Department and the Union on 18 March 1998, shall apply to all employees covered by this Award.

30.2 The Department may develop a new Protocol following consultation between the Department and the Union.

31. Salary Packaging Arrangements, Including Salary Sacrifice to Superannuation

31.1 The entitlement to salary package in accordance with this clause is available to permanent part-time employees.

31.2 For the purposes of this clause:

31.2.1 "salary" means the salary or rate of pay prescribed for the employee's classification by clause 6, Rates of Pay and Allowances, Part B of this Award, and any other payment that can be salary packaged in accordance with Australian taxation law.

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

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

31.3.1 a benefit or benefits selected from those approved by the DPE; and

- 31.3.2 an amount equal to the difference between the employee's salary, and the amount specified by the DPE for the benefit provided to or in respect of the employee in accordance with such agreement.
- 31.4 An election to salary package must be made prior to the commencement of the period of service to which the earnings relate.
- 31.5 The agreement shall be known as a Salary Packaging Agreement.
- 31.6 Except in accordance with subclause 31.7, a Salary Packaging Agreement shall be recorded in writing and shall be for a period of time as mutually agreed between the employee and the Commissioner at the time of signing the Salary Packaging Agreement.
- 31.7 Where an employee makes an election to sacrifice a part or all of their post compulsory deduction salary as additional employer superannuation contributions, the employee may elect to have the amount sacrificed:
- 31.7.1 paid into the superannuation fund established under the First State Superannuation Act 1992; or
- 31.7.2 where the Department is making compulsory employer superannuation contributions to another complying superannuation fund, paid into the same complying fund; or
- 31.7.3 subject to the Department's agreement, paid into another complying superannuation fund.
- 31.8 Where the employee makes an election to salary sacrifice, the Department shall pay the amount of post compulsory deduction salary, the subject of election, to the relevant superannuation fund.
- 31.9 Where the employee makes an election to salary package and where the employee is a member of a superannuation scheme established under the:
- 31.9.1 *Police Regulation (Superannuation) Act 1906*;
- 31.9.2 *Superannuation Act 1916*;
- 31.9.3 *State Authorities Superannuation Act 1987*; or
- 31.9.4 *State Authorities Non-contributory Superannuation Act 1987*,
- the Department must ensure that the employee's superable salary for the purposes of the above Acts, as notified to the SAS Trustee Corporation, is calculated as if the Salary Packaging Agreement had not been entered into.
- 31.10 Where the employee makes an election to salary package, and where the employee is a member of a superannuation fund other than a fund established under legislation listed in subclause 31.9 of this clause, the Department must continue to base contributions to that fund on the salary payable as if the Salary Packaging Agreement had not been entered into. This clause applies even though the superannuation contributions made by the Department may be in excess of superannuation guarantee requirements after the salary packaging is implemented.
- 31.11 Where the employee makes an election to salary package:
- 31.11.1 subject to Australian Taxation law, the amount of salary packaged will reduce the salary subject to appropriate PAYG taxation deductions by the amount packaged; and
- 31.11.2 any allowance, penalty rate, payment for unused leave entitlements, weekly worker's compensation or other payment, other than any payments for leave taken in service, to which an employee is entitled under this Award or any applicable Award, Act or statute which is expressed to be determined by reference to the employee's rate of pay, shall be calculated by reference to the rate of pay which would have applied to the employee under

clause 6, Rates of Pay and Allowances, or Part B of this Award if the Salary Packaging Agreement had not been entered into.

- 31.12 The DPE may vary the range and type of benefits available from time to time following discussion with the Union. Such variations shall apply to any existing or future Salary Packaging Agreement from date of such variation.
- 31.13 The DPE will determine from time to time the value of the benefits provided following discussion with the Union. Such variations shall apply to any existing or future Salary Packaging Agreement from the date of such variation. In this circumstance, the employee may elect to terminate the Salary Packaging Agreement.

32. Employees' Duties

- 32.1 An Employee may be directed to carry out duties which are within the limits of his or her skills, competence, and training, in such a manner, as may be required by the Department, provided that:
- 32.1.1 the direction is reasonable, and
- 32.1.2 the direction is not otherwise inconsistent with a provision of this Award.
- 32.2 Any direction issued by the Department pursuant to subclause 32.1 shall be consistent with:
- 32.2.1 the provision of a safe and health working environment,
- 32.2.2 ensuring that the Department responds to relevant technological changes and changes in its operating environment in a timely and effective manner.
- 32.3 The parties to this Award shall work collaboratively to ensure the effective and reasonable operation of this clause.

33. Anti-Discrimination

- 33.1 It is the intention of the parties bound by this Award to seek to achieve the object in 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.
- 33.2 It follows that in fulfilling their obligations under the Disputes Avoidance Procedures prescribed by Clause 26, 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.
- 33.3 Under the *Anti-Discrimination Act 1977*, it is unlawful to victimise an employee because the employee has made or may make or has been involved in a complaint of unlawful discrimination or harassment.
- 33.4 Nothing in this Clause is taken to affect:
- 33.4.1 any conduct or act which is specifically exempted from anti-discrimination legislation;
- 33.4.2 offering or providing junior rates of pay to persons under 21 years of age;
- 33.4.3 any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*;
- 33.4.4 a party to this Award from pursuing matters of unlawful discrimination in any State or Federal jurisdiction.

33.5 This Clause does not create legal rights or obligations in addition to those imposed upon the parties by legislation referred to in this Clause.

34. Area, Incidence and Duration

34.1 This Award rescinds and replaces the Crown Employees (NSW Fire Brigades Retained Firefighting Staff) Award 2008 published 27 March 2009 (367 I.G. 667) as varied.

34.2 This Award shall take effect on and from 17 June 2011 and shall remain in force until 21 February 2013.

35. Leave Reserved

Leave is reserved to the Union to make application in respect of those employees who may be allocated a designated Community First Responder role.

PART B

MONETARY RATES

Table 1 - Payment Entitlement Codes

The following rates of pay are effective from the beginning of the first pay period to commence on or after the date shown.

Clause No.	Description	Code	17 June 2011 \$	24 February 2012 \$
6.3	Fortnightly Retainer Captain A	A	109.80	112.50
6.3	Fortnightly Retainer Captain B Deputy Captain A	B	98.90	101.40
6.3	Fortnightly Retainer Deputy Captain B	C	74.30	76.20
6.3	Fortnightly Retainer Firefighter A	D	56.40	57.80
6.3	Fortnightly Retainer Firefighter B	E	42.20	43.30
6.3	Fortnightly Retainer Firefighter C	F	28.30	29.0
6.3	1st Hour Captain	G	32.62	33.44
6.3	1st Hour Deputy Capt. Firefighter Levels A, B, C	H	28.26	28.97
6.3	Each Subsequent half hour or part Captain	I	16.31	16.72
6.3	Each Subsequent half hour or part Deputy Capt. Firefighter Levels A, B, C	J	14.13	14.48
6.7.3, 9.1.1, 9.2.1, 9.2.3, 9.3.1, 20.1, 20.5.5 & 29.2	Kilometre Allowance	K	1.08	1.10
6.7.1	Stand By Rate per hour	L	62.83	64.40

8.2.2 & 29.4.2	Meal Allowance	M	25.80	25.80
8.2.1	Refreshment Allowance	N	12.90	12.90
6.8.1.1	Royal Easter Show Captain per hour	O	50.18	51.44
6.8.1.2	Royal Easter Show Deputy Capt, Firefighter Levels A, B, C, per hour	P	43.47	44.56

Table 2 - Travelling Compensation Allowances

Item No.	Clause No.	Brief Description	Unit	On and from 1 July 2010	
1	20.2.1	Breakfast	Per meal	## 23.10	^^ 20.65
2	20.2.2	Lunch	Per meal	## 25.90	^^ 23.60
3	20.2.3	Dinner	Per meal	## 44.50	^^ 40.65
4	20.3.1	Accommodation first 35 days (includes all meals) - Capital Cities - High Cost Country Centres - Tier 2 Country Centres - Other Country Centres	Per day	\$293.35 Sydney \$267.34 Adelaide \$311.35 Brisbane \$255.35 Canberra \$282.35 Darwin \$227.35 Hobart \$283.35 Melbourne \$274.35 Perth \$221.85 Maitland \$242.85 Newcastle \$225.35 Port Macquarie \$221.35 Tamworth \$227.85 Wagga Wagga \$208.75 Armidale \$208.75 Bathurst \$208.75 Broken Hill \$208.75 Coffs Harbour \$208.75 Cooma \$208.75 Dubbo \$208.75 Gosford \$208.75 Goulburn \$208.75 Mudgee \$208.75 Muswellbrook \$208.75 Orange \$208.75 Wollongong \$193.75	
5	20.3.2 & 29.3.3	Actual Necessary Expenses - all locations	Per day	\$16.85	
6	20.3.3	Accommodation- after first 35 days and up to 6 months	Per day	50% of the appropriate location rate	
7	20.4	Incidental Expenses	Per day	\$16.85	

Legend:

Effective Dates are with effect from the first pay period to commence on or after the date.

= Capital Cities & High Cost Country Centres.

^^ = Tier 2 Country Centres & Other Country Centres.

Table 3 - Authorised Duties

Attendance at:

Bushfire Management Committee Meetings

Local/District Emergency Management Committee Meetings

Local Government Meetings

Zone/Regional conferences and information days

Other such meetings as authorised by the Dept.

Completion of Fire Reports where insufficient time available at the conclusion of calls

Testing of Fire Alarms

Attendance at station to enable service and maintenance work to be carried out

Station maintenance (i.e. lawn mowing, cleaning, BA and equipment checks)

Performance of Engine Keeper duties

Transporting NSWFB equipment in private vehicle

Restowing of Firefighter vehicles

Hose Repairs

Transporting a Firefighting Vehicle for servicing and/or repairs from the Station to another location

Recharging of BA cylinders

Participation in selection committees

Attendance at PR activities (i.e. open days, fetes, career markets, information displays, etc.)

Attendance at Public Education activities (i.e. sessions in schools/community groups, smoke alarm campaigns)

Participation in joint training sessions/exercises with other emergency services

Attendance at training exercises/schools additional to the normal drill program

Hydrant Inspections

Pre-incident planning exercises

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

CROWN EMPLOYEES (PUBLIC SERVICE CONDITIONS OF EMPLOYMENT) AWARD 2009

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Director of Public Employment.

(No. IRC 166 of 2011)

Before The Honourable Mr Justice Staff

28 February 2011

VARIATION

1. Insert in numerical order in clause 1, Arrangement of the award published 31 July 2009 (368 I.G.884), the following new clause number and subject matter:

84A. Leave for Matters Arising from Domestic Violence

2. Insert after subclause 3.70 of clause 3, Definitions the following new subclause.

- 3.71 Domestic Violence means domestic violence as defined in the *Crimes (Domestic and Personal Violence) Act 2007*.

3. Insert after subclause 84.10 of clause 84, Special Leave the following new subclause:

- 84.11 Matters arising from domestic violence situations.

When the leave entitlements referred to in clause 84A, Leave for Matters Arising From Domestic Violence, have been exhausted, the Department Head shall grant up to five days per calendar year to be used for absences from the workplace to attend to matters arising from domestic violence situations.

4. Insert after clause 84, Special Leave, the following new clause:

84A. Leave for Matters Arising from Domestic Violence

84A.1 The definition of domestic violence is found in clause 3.71 of this award.

84A.2 Leave entitlements provided for in clause 71, Family and Community Service Leave, clause 79, Sick Leave and clause 81, Sick Leave to Care for a Family Member, may be used by staff members experiencing domestic violence.

84A.3 Where the leave entitlements referred to in subclause 84A.2 are exhausted, Department Heads shall grant Special Leave as per clause 84.11.

84A.4 The Department Head will need to be satisfied, on reasonable grounds, that domestic violence has occurred and may require proof presented in the form of an agreed document issued by the Police Force, a Court, a Doctor, a Domestic Violence Support Service or Lawyer.

84A.5 Personal information concerning domestic violence will be kept confidential by the agency.

84A.6 The Department Head, where appropriate, may facilitate flexible working arrangements subject to operational requirements, including changes to working times and changes to work location, telephone number and email address.

5. This variation is effective from 15 February 2011.

C.G. STAFF *J*

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(1901)

SERIAL C7549

CROWN EMPLOYEES (SAS TRUSTEE CORPORATION) AWARD 2010

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

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

(No. IRC 119 of 2011)

Before The Honourable Mr Justice Staff

21 February 2011

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Clause No.	Subject Matter
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2. Title

This award shall be known as the Crown Employees (SAS Trustee Corporation) Award 2010.

3. Definitions

- 3.1 Act means the *Public Sector Employment and Management Act 2002* (NSW).
- 3.2 Accumulation means the accrual of leave or time. In respect of weekly study time accumulation means the aggregation of short periods of weekly study time which is granted for private study purposes.
- 3.3 Agreement means an agreement referred to in section 131 of the Act or an agreement as defined in the *Industrial Relations Act 1996* (NSW).
- 3.3 Association means the Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales.
- 3.4 At the convenience of means the operational requirements permit the 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.
- 3.5 Award means an award as defined in the *Industrial Relations Act 1996*.

- 3.6 Birth means the birth of a child and includes stillbirth.
- 3.7 Capital City means the area set out as the area for the Sydney Telephone District Directory coded N00 in the Sydney White Pages or within a corresponding area in the Capital City of another State or Territory.
- 3.8 Casual Employee means any employee engaged in terms of Chapter 2, Part 2.6 Casual Employees, of the Act and any guidelines issued thereof or as amended from time to time.
- 3.9 Chief Executive Officer means the Chief Executive of SAS Trustee Corporation as defined in the *Superannuation Administration Act 1996* (NSW) or any acting Chief Executive Officer.
- 3.10 Contract hours, for the day for a full time staff member, means one fifth of the full time contract hours, as defined in this award. For a part time staff member, contract hours for the day means the hours usually worked on the day.
- 3.11 Corporation means the SAS Trustee Corporation, a statutory corporation under Section 4B(3) of the Act.
- 3.12 Daily rate or Rate per day means the rate payable for 24 hours, unless otherwise specified.
- 3.13 Day worker means a staff member who works the ordinary hours from Monday to Friday inclusive between the hours of 7.30 a.m. and 6.00 p.m. or as negotiated under a local arrangement.
- 3.14 Director of Public Employment or DPE means the position of Director of Public Employment established under Chapter 6 of the Act.
- 3.15 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.
- 3.16 Extended leave means extended (long service) leave to which a staff member is entitled under the provisions of Schedule 3 to the Act, as amended from time to time.
- 3.17 Flexible working hours credit means the time exceeding the contract hours for a settlement period and includes any time carried over from a previous settlement period or periods.
- 3.18 Flexible working hours debit means the contract hours not worked by 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.
- 3.19 Flexible working hours scheme means the scheme outlined in clause 21, Flexible Working Hours of this award which enables staff members, subject to operational requirements, to select their starting and finishing times and which replaces the Flexible Working Hours Agreement No 2275 of 1980.
- 3.20 Flexible Work Practices, Policy and Guidelines means the document negotiated between the Director of Public Employment, Unions NSW and affiliated unions which enables staff members to rearrange their work pattern.
- 3.21 Flex leave means a period of leave available to be taken by a staff member as specified in subclause 21.16 of clause 21, Flexible Working Hours of this award.
- 3.22 Full day means the standard full time contract hours for the day, i.e. seven hours.
- 3.23 Full pay or half pay means the staff member's ordinary rate of pay or half the ordinary rate of pay respectively.
- 3.24 Full-time contract hours means the standard weekly hours, that is, 35 hours per week required to be worked.

- 3.25 Full-time 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.
- 3.26 Half day means half the standard contract hours for the day.
- 3.27 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.
- 3.28 Industrial action means industrial action as defined in the Industrial Relations Act 1996 (NSW).
- 3.29 Local Arrangement means an agreement reached at the organisational level between the Chief Executive Officer and the Association.
- 3.30 Local holiday means a holiday which applies to a particular township or district of the State and which is not a public holiday throughout the State.
- 3.31 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 - the hours of duty the Chief Executive Officer requires a staff member to work within the bandwidth specified under the flexible working hours scheme or local arrangement.
- 3.32 Normal work means, for the purposes of subclause 9.10 of clause 9, Grievance and Dispute Settling Procedures of this award, the work carried out in accordance with the 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.
- 3.33 On duty means the time required to be worked for the Corporation. For the purposes of clause 42, Trade Union Activities Regarded as On Duty of this award, on duty means the time off with pay given by the Corporation to the accredited Association delegate to enable the Association delegate to carry out legitimate Association activities during ordinary work hours without being required to lodge an application for leave.
- 3.34 On loan means an arrangement between the Corporation and the Association where a staff member is given leave of absence from the workplace to take up employment with the staff member's Association for a specified period of time during which the Association is required to reimburse the Corporation for the staff member's salary and associated on-costs.
- 3.35 Ordinary hourly rate of pay means the hourly equivalent of the annual rate of pay of the classification as set out in Table 2 - Salary Rates of Part B Monetary Rates of this award calculated using the formula set out in clause 12, Casual Employment of this award.
- 3.36 Overtime means all time worked, whether before or after the ordinary daily hours of duty, at the direction of the Chief Executive Officer, which, due to its character or special circumstances, cannot be performed during the staff members' ordinary hours of duty.
- 3.37 Part-time position means a designated part-time position and, unless otherwise specified, includes any position which is filled on a part-time basis.
- 3.38 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.
- 3.39 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.
- 3.40 Public holiday means a day proclaimed under the *Banks and Bank Holidays Act 1912*, as a bank or a public holiday. This definition does not include a Saturday which is such a holiday by virtue of section 15A of that Act, and 1 August or such other day that is a bank holiday instead of 1 August.
- 3.41 Relief staff means staff employed on a temporary basis to provide relief in a position until the return from authorised leave of the substantive occupant or in a vacant position until it is filled substantively.
- 3.42 Residence, in relation to a staff member, means the ordinary and permanent place of abode of the staff member.
- 3.43 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.
- 3.44 Staff members means persons employed by the Corporation under Section 4B(3) of the Act whose positions and rates of pay are set out in Table 2 - Salary Rates of Part B Monetary Rates of this award. For the purposes of maternity leave, as set out in clause 64, Parental Leave of this award, staff member means a female staff member.
- 3.45 Standard hours are set and regular hours of operation as determined by the DPE, or by the Chief Executive Officer in accordance with any direction of the DPE. Standard hours are generally the hours which were in operation prior to the introduction of flexible working hours or have been determined as standard hours for the organisation since the introduction of flexible working hours.
- 3.46 Study leave means leave without pay granted for courses at any level or for study tours during which financial assistance may be approved by the Chief Executive Officer, if the activities to be undertaken are considered to be of relevance or value to the Corporation and/or the public service.
- 3.47 Study Time means the time allowed off from normal duties on full pay to a staff member who is studying in a part-time course which is of relevance to the Corporation and/or the public service, as defined in the Act.
- 3.48 Supervisor means the immediate supervisor or manager of the area in which a staff member is employed or any other staff member authorised by the Chief Executive Officer to fulfil the role of a supervisor or manager, other than a person engaged as a consultant or contractor.
- 3.49 Temporary work location means the place at or from which a staff member temporarily performs official duty if required to work away from headquarters.
- 3.50 Trade Union or Union means a registered trade union, as defined in the Industrial Relations Act 1996.
- 3.51 Trade Union Delegate means an accredited Association delegate responsible for his/her workplace; and/or a person who is elected by the Association as its representative, an executive member or a member of the Association's Council.
- 3.52 Workplace means the whole of the organisation or, as the case may be, a branch or section of the organisation in which the staff member is employed.
- 3.53 Workplace Management means the Chief Executive Officer or any other person authorised by the Chief Executive Officer to assume responsibility for the conduct and effective, efficient and economical management of the functions and activities of the Corporation or part of the Corporation.

4. Parties to the Award

The parties to this award are:

SAS Trustee Corporation, a statutory corporation under Part 2 of Schedule 1 (Divisions of the Government Service) *Public Sector Employment and Management Act 2002*, and

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

5. Conditions of Employment

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

6. Coverage

The provisions of this award shall apply to staff members employed by the SAS Trustee Corporation under Section 4B(3) of the Act.

7. Statement of Intent

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

8. Work Environment

- 8.1 Occupational Health and Safety - The parties to this award are committed to achieving and maintaining accident-free and healthy workplaces covered by this award by:
- 8.1.1 the development of policies and guidelines for the Corporation and, as and when appropriate for individual organisations, on Occupational Health, Safety and Rehabilitation;
 - 8.1.2 assisting to achieve the objectives of the *Occupational Health and Safety Act 2000* and the Occupational Health and Safety Regulation 2001 by establishing agreed Occupational Health and Safety consultative arrangements; and to identify and implement safe systems of work, safe work practices, working environments and appropriate risk management strategies.
 - 8.1.3 identifying training strategies for staff members, as appropriate, to assist in the recognition, elimination or control of workplace hazards and the prevention of work related injury and illness;
 - 8.1.4 developing strategies to assist the rehabilitation of injured staff members;
 - 8.1.5 directly involving the Chief Executive Officer in the provisions of paragraphs 8.1.1 to 8.1.4 inclusive of this subclause.
- 8.2 Equality in employment - The Corporation is committed to the achievement of equality in employment and the Award has been drafted to reflect this commitment.
- 8.3 Harassment-free Workplace - Harassment on the grounds of sex, race, marital status, physical or mental disability, sexual preference, transgender, age or responsibilities as a carer is unlawful in terms of the *Anti-Discrimination Act 1977*. Management and staff of Corporations are required to refrain from, or being party to, any form of harassment in the workplace.

9. Grievance and Dispute Settling Procedures

- 9.1 All grievances and disputes relating to the provisions of this award shall initially be dealt with as close to the source as possible, with graduated steps for further attempts at resolution at higher levels of authority if required.

- 9.2 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.
- 9.3 Where the grievance or dispute involves confidential or other sensitive material (including issues of harassment or discrimination under the *Anti Discrimination Act 1977*) that makes it impractical for the staff member to advise their immediate manager the notification may occur to the next appropriate level of management, including where required, to the Chief Executive Officer or delegate.
- 9.4 The immediate manager, or other appropriate officer, shall convene a meeting in order to resolve the grievance, dispute or difficulty within two (2) working days, or as soon as practicable, of the matter being brought to attention.
- 9.5 If the matter remains unresolved with the immediate manager, the staff member may request to meet the appropriate person at the next level of management in order to resolve the matter. This manager shall respond within two (2) working days, or as soon as practicable. The staff member may pursue the sequence of reference to successive levels of management until the matter is referred to the Chief Executive Officer.
- 9.6 If the matter remains unresolved, the Chief Executive Officer shall provide a written response to the 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.
- 9.7 A staff member, at any stage, may request to be represented by the Association.
- 9.8 The staff member or the Association on their behalf or the Chief Executive Officer may refer the matter to the New South Wales Industrial Relations Commission if the matter is unresolved following the use of these procedures.
- 9.9 The staff member, the Association, and the Corporation shall agree to be bound by any order or determination by the New South Wales Industrial Relations Commission in relation to the dispute.
- 9.10 Whilst the procedures outlined in subclauses 9.1 to 9.9 of this clause are being followed, normal work undertaken prior to notification of the dispute or difficulty shall continue unless otherwise agreed between the parties, or, in the case involving occupational health and safety, if practicable, normal work shall proceed in a manner which avoids any risk to the health and safety of any staff member or member of the public.

10. Salaries and Grades

- 10.1 The salaries payable to the staff members are prescribed in Table 2 - Salary Rates of Part B, Monetary Rates, of this award.
- 10.2 The grades for the positions under this award (as set out in Table 2 - Salary Rates of Part B, Monetary Rates, of this award) are consistent with those in the Crown Employees (Administrative and Clerical Officers) Award 2007 or any variation or replacement award.
- 10.3 The salary rates set out in Table 2 - Salary Rates of Part B, Monetary Rates, of this award are consistent with those set in accordance with the Crown Employees (Public Sector - Salaries 2008) Award and any variation or replacement award.
- 10.4 The Corporation and staff member(s) can agree to salary sacrifice arrangements consistent with the arrangements under the Crown Employees (Public Sector - Salaries 2008) Award or any variation or replacement award.

SECTION 2 - ATTENDANCE/HOURS OF WORK**11. Working Hours**

- 11.1 Ordinary hours of work are 35 hours per week.
- 11.2 Where staff members work under a flexitime arrangement work hours are averaged over a 4 week period.
- 11.3 The Chief Executive Officer may require a staff member to perform duty beyond the hours determined under subclause 11.1 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:
- 11.3.1 the staff member's prior commitments outside the workplace, particularly the staff member's family and carer responsibilities, community obligations or study arrangements,
- 11.3.2 any risk to staff member's health and safety,
- 11.3.3 the urgency of the work required to be performed during additional hours, the impact on the operational commitments of the organisation and the effect on client services,
- 11.3.4 the notice (if any) given by the Chief Executive Officer regarding the working of the additional hours, and by the staff member of their intention to refuse the working of additional hours, or
- 11.3.5 any other relevant matter.
- 11.4 The ordinary hours may be standard or flexible and may be worked on a full time or part-time basis.

12. Casual Employment

- 12.1 This clause will only apply to those employees whose conditions of employment are not otherwise included in another industrial instrument.
- 12.2 Hours of Work
- 12.2.1 A casual employee is engaged and paid on an hourly basis.
- 12.2.2 A casual employee will be engaged and paid for a minimum of 3 consecutive hours for each day worked.
- 12.2.3 A casual employee shall not work more than 9 consecutive hours per day (exclusive of meal breaks) without the payment of overtime for such time in excess of 9 hours, except where longer periods are permitted under another award or local arrangement covering the particular class of work or are required by the usual work pattern of the position.
- 12.3 Rate of Pay
- 12.3.1 Casual employees shall be paid the ordinary hourly rate of pay calculated by the following formula for the hours worked per day:
- Annual salary divided by 52.17857 divided by the ordinary weekly hours.
- 12.3.2 Casual employees shall be paid a loading on the appropriate ordinary hourly rate of pay of:
- 15% for work performed on Mondays to Fridays (inclusive)
- 50% for work performed on Saturdays

75% for work performed on Sundays

150% for work performed on public holidays.

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

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

12.4 Overtime

12.4.1 Casual employees shall be paid overtime for work performed:

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

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

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

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

12.5 Leave

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

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

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

12.5.4 Casual employees are entitled to unpaid parental leave under Chapter 2, Part 4, Division 1, section 54, Entitlement to Unpaid Parental Leave, in accordance with the *Industrial Relations Act 1996*. In addition to the provisions set out in the *Industrial Relations Act 1996* (NSW), the Chief Executive Officer must not fail to re-engage a regular casual employee (see section 53(2) of the *Industrial Relations Act 1996*) because:

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

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

12.6 Personal Carers entitlement for casual employees

12.6.1 Casual employees are entitled to not be available to attend work, or to leave work if they need to care for a family member described in paragraph 70.4.2 of clause 70, Sick Leave to Care for a

Family Member of this award who is sick and requires care and support, or who requires care due to an unexpected emergency, or the birth of a child. This entitlement is subject to the evidentiary requirements set out in paragraph 12.6.4, and the notice requirements set out in paragraph 12.6.5 of this clause.

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

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

12.6.4 The casual employee shall, if required,

- (a) establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person, or
- (b) establish by production of documentation acceptable to the Corporation or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee.

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

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

12.7 Bereavement entitlements for casual employees

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

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

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

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

12.8 Application of other clauses of this Award to casual employees

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

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

13. Part-Time Employment

13.1 General

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

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

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

13.1.4 Unless otherwise specified in the 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.

13.1.5 Before commencing part-time work, the Chief Executive Officer 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 the work to be performed;

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

13.2 Additional hours

13.2.1 The Chief Executive Officer may request, but not require, a part-time staff member to work additional hours. For the time worked in excess of the staff member's usual hours 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 4/48ths in lieu of recreation leave; or

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

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

14. Morning and Afternoon Breaks

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.

15. Meal Breaks and Lactation Breaks

15.1 General meal breaks

15.1.1 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 Chief Executive Officer and the Association to provide for payment of a penalty.

15.2 Lactation Breaks

15.2.1 This clause 15.2 applies to 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.

15.2.2 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.

15.2.3 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.

15.2.4 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.....?. When giving consideration to any such requests for flexibility, a manager needs to balance the operation requirements of the organisation with the lactating needs of the staff member.

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

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

15.2.7 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.

15.2.8 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 70, Sick Leave to care for a Family Member, of this Award, or access to the flexible working hours scheme provided in clause 21, Flexible Working Hours, of this Award, where applicable.

16. Variation of Hours

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

16.1.1 the variation does not adversely affect the operational requirements;

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

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

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

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

16.1.6 ongoing arrangements are documented; and

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

17. Natural Emergencies and Major Transport Disruptions

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

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

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

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

18. Notification of Absence from Duty

18.1 If 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.

18.2 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 Chief Executive Officer, the amount representing the period of absence shall be deducted from the staff member's pay.

19. Public Holidays

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

- 19.1.1 a public holiday throughout the State; or
 - 19.1.2 a local holiday in that part of the State at or from which the staff member performs duty; or
 - 19.1.3 a day between Boxing Day and New Year's Day determined by the Chief Executive Officer as a public service holiday.
- 19.2 A staff member required by the Chief Executive Officer to work on a local holiday may be granted time off in lieu on an hour for hour basis for the time worked on a local holiday.
- 19.3 If a local holiday falls during a staff member's absence on leave, the staff member is not to be credited with the holiday.

20. Standard Working Hours

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

21. Flexible Working Hours

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

- 21.8 Lunch break - The standard lunch period shall be 1 hour. With the approval of the supervisor, the lunch period may be extended by the staff member up to 2 and 1/2 hours or reduced to not less than 30 minutes within the span of hours determined by the Chief Executive Officer.
- 21.9 Settlement period - Unless a local arrangement has been negotiated, the settlement period shall be four weeks.
- 21.9.1 For time recording purposes the settlement period and flex leave must coincide.
- 21.9.2 Where exceptional circumstances apply, eg prolonged transport strikes, adverse weather conditions and the like, the Chief Executive Officer may extend the affected settlement period by a further 4 weeks.
- 21.10 Contract hours - The contract hours for a settlement period shall be calculated by multiplying the staff member's weekly contract hours by the number of weeks in a settlement period.
- 21.11 Flexible working hours credit - a staff member may carry a maximum of 10 hours credit into the next settlement period.
- 21.12 Weekly hours worked during the settlement period are to be monitored by the 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.
- 21.13 Flexible Working Hours Debit - The following provisions shall apply to the carry over of flexible working hours debits:
- 21.13.1 A debit of up to 10 hours at the end of a settlement period may be carried over into the next period;
- 21.13.2 Where the debit exceeds 10 hours, the excess will be debited as leave without pay, unless the staff member elects to be granted available recreation or extended leave to offset the excess.
- 21.13.3 Any debit of hours outstanding on a staff member's last day of duty is to be deducted from any unpaid salary or the monetary value of accrued recreation/extended leave. If applicable, the debit of hours may be transferred to the next NSW public sector organisation under the Public Sector Staff Mobility policy.
- 21.14 Cessation of duty - A staff member may receive payment for a flex day accrued and remaining untaken on the last day of service:
- 21.14.1 Where the staff member's services terminate without a period of notice for reasons other than misconduct; or
- 21.14.2 Where an application for flex leave which would have eliminated the accumulated day or days was made during the period of notice of retirement or resignation and was refused or could not be granted or
- 21.14.3 In such other circumstances as have been negotiated between the Chief Executive Officer and the Association.
- 21.14.4 Prior to a staff member's last day of service the staff member and supervisor shall ensure that the staff member does not forfeit any credit hours accumulated. Strategies to reduce accumulated credit hours may include those outlined in paragraph 21.16.2 of this clause.

- 21.15 Where a staff member ceases duty in the Corporation in order to take up employment in another public service or public sector organisation, the same provisions as apply to recreation leave under the Public Sector Staff Mobility policy shall apply to the accrued but untaken or not forfeited flex leave.
- 21.16 Flex leave - Subject to operational requirements:
- 21.16.1 A staff member may take off one full day or two half days in a settlement period of 4 weeks.
 - 21.16.2 Where it appears a staff member may exceed a 10 hour credit, as per subclause 21.12 of this clause strategies to reduce this credit may include the granting of additional full days, consecutive days, half days, or any combination of days and half days.
 - 21.16.3 Flex leave may be taken on consecutive working days.
 - 21.16.4 Absences on flex leave may be combined with other periods of authorised leave.
- 21.17 Absence during coretime - Where a staff member needs to take a short period of authorised leave within coretime, other than flex leave, the quantum of leave to be granted shall be determined according to the provisions contained in clause 57, Absence from Work of this award.
- 21.18 Standard hours - Notwithstanding the provisions of this clause, the Chief Executive Officer may direct the staff member to work standard hours and not flexible hours:
- 21.18.1 where the Chief Executive Officer decides that the working of flexible hours by a staff member or members does not suit the operational requirements of the Corporation or section of the Corporation, the Association shall be consulted, where appropriate; or
 - 21.18.2 as remedial action in respect of a staff member who has been found to have deliberately and persistently breached the flexible working hours scheme.
- 21.19 Easter concession - Staff members who work under a flexible working hours scheme may be granted, subject to the convenience of the Corporation, an additional half day's flex leave on the Thursday preceding the Good Friday public holiday or, if directed to work, an additional half day's flex leave on another day within that settlement period.

22. Non-Compliance

In the event of any persistent failure by a staff member to comply with the hours of duty required to be worked, the Chief Executive Officer shall investigate such non compliance as soon as it comes to notice and shall take appropriate remedial action according to the Commentary and Guidelines on Conduct and Performance Provisions - Part 7 of the Act.

23. Flexible Work Practices

- 23.1 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 the Flexible Work Practices, Policy and Guidelines.
- 23.2 Flexible working hours agreements negotiated in terms of the NSW Government Flexible Work Practices, Policy and Guidelines after 28 October 1997 shall be subject to the conditions specified in this award and in consultation with the Association.

24. Existing Hours of Work Determinations

Any existing Determinations, pursuant to section 130 (1) of the Act on local arrangements in respect of the hours of work which operated in the Corporation or part of the Corporation as at the effective date of this award, shall continue to apply until renegotiated.

SECTION 3 - TRAVEL ARRANGEMENTS**25. Travelling Compensation**

- 25.1 Any authorised official travel and associated expenses, properly and reasonably incurred by a staff member required to perform duty at a location other than their normal headquarters shall be met by the Corporation.
- 25.2 The Chief Executive Officer shall require staff members to obtain an authorisation for all official travel prior to incurring any travel expense.
- 25.3 Where available at a particular centre or location, the overnight accommodation to be occupied by 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.
- 25.4 Where payment of a proportionate amount of an allowance applies in terms of this clause, the amount payable shall be the appropriate proportion of the daily rate. Any fraction of an hour shall be rounded off to the nearest half-hour.
- 25.5 The Corporation will elect whether to pay the accommodation directly or whether 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.
- 25.6 Subject to subclause 25.11 of this clause, a staff member who is required by the Chief Executive Officer to work from a temporary work location shall be compensated for accommodation, meal and incidental expenses properly and reasonably incurred during the time actually spent away from the staff member's residence in order to perform the work.
- 25.7 If meals are provided by the Corporation at the temporary work location, the staff member shall not be entitled to claim the meal allowance.
- 25.8 The payment shall be:
- 25.8.1 where the Corporation elects to pay the accommodation provider the staff member shall receive:
- (a) the appropriate meal allowance in accordance with Item 1 of Table 1 - Allowances of Part B Monetary Rates or
 - (b) incidentals as set out in Item 3 of Table 1 - Allowances of Part B Monetary Rates, or
 - (c) actual meal expenses properly and reasonably incurred (excluding morning and afternoon teas) for any residual part day travel;
- 25.8.2 where the Corporation elects not to pay the accommodation provider the 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, and actual meal expenses properly and reasonably incurred (excluding morning and afternoon teas) for any residual part day travel; OR
 - (b) in lieu of subparagraph (a) of this paragraph, payment of the actual expenses properly and reasonably incurred for the whole trip on official business (excluding morning and afternoon teas) together with an incidental expenses allowance set out in Item 2 of Table 1 - Allowances of Part B Monetary Rates.
- 25.9 Payment of the appropriate allowance for an absence of less than 24 hours may be made only where the staff member satisfies the Chief Executive Officer that, despite the period of absence being of less than 24 hours duration, expenditure for accommodation and three meals has been incurred.

- 25.10 Where a staff member is unable to so satisfy the Chief Executive Officer, the allowance payable for part days of travel shall be limited to the expenses incurred during such part day travel.
- 25.11 This clause does not apply to staff members who are on an employee-initiated secondment in accordance with section 86 of the Act and described in the Commentary and Guidelines on Staff Mobility (temporary staff transfers - section 86 and temporary assignment - section 88) and Cross-Agency Employment (section 100) of the Act.

26. Assistance With Public Transport Tickets for Travel to Work

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

27. Excess Travelling Time

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

27.3.8 Time within the flex time bandwidth;

27.3.9 Travel overseas.

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

Annual salary	X	5	X	1
1		260.89		Normal hours of work

27.5 The rate of payment for travel or waiting time on a non-working day shall be the same as that applying to a working day.

27.6 Staff members whose salary is in excess of the maximum rate for Clerk, Grade 5 (as set out in the Crown Employees (Public Sector - Salaries 2008) Award and any variation or replacement award) shall be paid travelling time or waiting time calculated at the maximum rate for Clerk, Grade 5 plus \$1.00 per annum, as adjusted from time to time.

27.7 Time off in lieu or payment for excess travelling time or waiting time will not be granted or made for more than eight hours in any period of 24 consecutive hours.

28. Waiting Time

When a staff member travelling on official business is required to wait for transport in order to commence a journey to another location or to return home or headquarters and such time is outside the normal hours of duty, the waiting time shall be treated and compensated for in the same manner as excess travelling time pursuant to clause 27, Excess Travelling Time of this Award

29. Meal Expenses on One-Day Journeys

29.1 A staff member who is authorised by the Chief Executive Officer to undertake a one-day journey on official business which does not require the staff member to obtain overnight accommodation, shall be reimbursed actual meal expenses properly and reasonably incurred for:-

29.1.1 Breakfast when required to commence travel at or before 6.00 a.m. and at least 1 hour before the prescribed starting time;

29.1.2 An evening meal when required to travel until or beyond 6.30 p.m.; and

29.1.3 Lunch when required to travel a total distance on the day of at least 100 kilometres and, as a result, is located at a distance of at least 50 kilometres from the staff member's normal headquarters at the time of taking the normal lunch break.

30. Restrictions on Payment of Travelling Allowances

30.1 An allowance under clause 26, Travelling Compensation of this award is not payable in respect of:

30.1.1 Any period during which the 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;

30.1.2 Any period of leave, except with the approval of the Chief Executive Officer or as otherwise provided by this clause; or

30.1.3 Any other period during which the staff member is absent from the staff member's temporary work location otherwise than on official duty.

30.2 A staff member who is in receipt of an allowance under clause 25, Travelling Compensation shall be entitled to reimbursement of incidental expenses properly and reasonably incurred in the following circumstances:

30.2.1 When granted special leave to return to their residence at a weekend, for the necessary period of travel for the journey from the temporary work location to the staff member's residence; and for the return journey from the staff member's residence to the temporary work location, or

30.2.2 When leaving a temporary work location on ceasing to perform duty at or from a temporary work location, for the necessary period of travel to return to the 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.

31. Production of Receipts

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

32. Travelling Distance

The need to obtain overnight accommodation shall be determined by the Chief Executive Officer having regard to the safety of the 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 Chief Executive Officer.

SECTION 4 - ALLOWANCES AND OTHER MATTERS

33. Allowance Payable for Use of Private Motor Vehicle

33.1 The Chief Executive Officer may authorise a staff member to use a private motor vehicle for work where:

33.1.1 Such use will result in greater efficiency or involve the Corporation in less expense than if travel were undertaken by other means; or

33.1.2 Where the staff member is unable to use other means of transport due to a disability.

33.2 A staff member who, with the approval of the Chief Executive Officer, uses a private motor vehicle for work shall be paid an appropriate rate of allowance specified in Item 4 of Table 1 of Part B Monetary 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 33.4 of this clause.

33.3 Different levels of allowance are payable for the use of a private motor vehicle for work depending on the circumstances and the purpose for which the vehicle is used.

33.3.1 The casual rate is payable if a staff member elects, with the approval of the Chief Executive Officer, to use their vehicle for occasional travel for work. This is subject to the allowance paid for the travel not exceeding the cost of travel by public or other available transport.

33.3.2 The official business rate is payable if 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.

33.4 Deduction from allowance

33.4.1 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 and for any distance travelled in a private capacity. A deduction will be made from any motor vehicle allowance paid, in respect of such travel.

33.4.2 In this subclause "headquarters" means the administrative headquarters to which the staff member is attached or from which the employee is required to operate on a long term basis or the designated headquarters per paragraph 33.4.3 of this subclause.

33.4.3 Designated headquarters

- (a) Where the administrative headquarters of the staff member to which they are attached is not within the typical work area 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.

33.4.4 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.

33.4.5 Where a headquarters has been designated per paragraph 33.4.3 of this subclause 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.

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

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

- 33.5 The staff member must have in force, in respect of a motor vehicle used for work, in addition to any policy required to be effected or maintained under the *Motor Vehicles (Third Party Insurance) Act, 1942*, a comprehensive motor vehicle insurance policy to an amount and in a form approved by the Chief Executive Officer.
- 33.6 Expenses such as tolls etc. shall be refunded to staff members where the charge was incurred during approved work related travel.

34. Damage to Private Motor Vehicle Used for Work

- 34.1 Where a private vehicle is damaged while being used for work, any normal excess insurance charges prescribed by the insurer shall be reimbursed by the Corporation, provided:
- 34.1.1 The damage is not due to gross negligence by the staff member; and
- 34.1.2 The charges claimed by the staff member are not the charges prescribed by the insurer as punitive excess charges.
- 34.2 Provided the damage is not the fault of the staff member, the Corporation shall reimburse to a staff member the costs of repairs to a broken windscreen, if the staff member can demonstrate that:
- 34.2.1 The damage was sustained on approved work activities; and
- 34.2.2 The costs cannot be met under the insurance policy due to excess clauses.

35. Overseas Travel

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

36. Exchanges

- 36.1 The Chief Executive Officer may arrange two way or one way exchanges with other organisations both public and private, if the Corporation or the staff member will benefit from additional training and development which is intended to be used in the carrying out of the Corporation's business.
- 36.2 The conditions applicable to those staff members who participate in exchanges will be determined by the Chief Executive Officer according to the individual circumstances in each case (Item 5 of Table 1 - Allowances of Part B Monetary Rates).
- 36.3 The provisions of this subclause do not apply to the loan of services of staff members to the Association. The provisions of clause 45, Conditions Applying to On Loan Arrangements of this award apply to staff members who are loaned to the Association.

37. Room at Home Used as Office

- 37.1 Where no Corporation office is provided in a particular location - Where it is impractical to provide an office in a particular location, staff members stationed in such a location may be required to use a spare room at their home as an office. In such cases, the Corporation will be responsible for providing furniture, telephone and other equipment, as required. In addition, an allowance as specified in Item 6 of Table 1 - Allowances of Part B Monetary Rates is payable for the use of a room at home as an office.
- 37.2 Where an office exists in a particular location - Where a Corporation office or offices already exist in a particular location but the staff member and the Chief Executive Officer agree that the staff member could work from home on a short term or longer term basis, the arrangement shall be negotiated in accordance with the provisions of the Flexible Work Practices, Policy and Guidelines. The allowance set out in subclause 37.1 of this clause shall not apply in these circumstances.

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

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

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

38. Semi-Official Telephones

38.1 Reimbursement of expenses associated with a private telephone service installed at the residence of a staff member shall be made as specified in this clause 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 Corporation, as and when required.

38.2 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.

38.3 The semi-official telephone allowance applies to staff members who are required, as part of their duties to:

38.3.1 Give decisions, supply information or provide emergency services; and/or

38.3.2 Be available for reasons of safety or security for contact by the public outside of normal office hours.

38.4 Unless Better Provisions Already Apply to 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:

38.4.1 The connection fee for a telephone service, if the service is not already available at the staff member's principal place of residence;

38.4.2 The full annual base rental charged for the telephone service regardless of whether any official calls have been made during the period; and

38.4.3 The full cost of official local, STD and ISD calls.

38.5 To be eligible for reimbursement, a staff member must submit their telephone account and a statement showing details of all official calls, including:

38.5.1 Date, time, length of call and estimated cost;

38.5.2 Name and phone number of the person to whom call was made; and

38.5.3 Reason for the call.

39. Compensation for Damage to Or Loss of Staff Member's Personal Property

39.1 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 Corporation covering the damage to or loss of the personal property of the staff member.

39.2 If a claim under subclause 39.1 of this clause is rejected by the insurer, the Chief Executive Officer may compensate a staff member for the damage to or loss of personal property, if such damage or loss:

39.2.1 Is due to the negligence of the Corporation, another staff member, or both, in the performance of their duties; or

- 39.2.2 Is caused by a defect in a staff member's material or equipment; or
- 39.2.3 Results from a staff member's protection of or attempt to protect Corporation property from loss or damage.
- 39.3 Compensation in terms of subclause 39.2 of this clause shall be limited to the amount necessary to repair the damaged item. Where the item cannot be repaired or is lost, the Chief Executive Officer may pay the cost of a replacement item, provided the item is identical to or only marginally different from the damaged or lost item and the claim is supported by satisfactory evidence as to the price of the replacement item.
- 39.4 For the purpose of this clause, personal property means 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.
- 39.5 Compensation for the damage sustained shall be made by the Corporation where, in the course of work, clothing or items such as spectacles, hearing aids, etc, are damaged or destroyed by natural disasters or by theft or vandalism.

40. First Aid Allowance

- 40.1 A staff member appointed as a First Aid Officer shall be paid a first aid allowance at the rate specified in Item 7 of Table 1 - Allowances of Part B Monetary Rates.
- 40.2 The First Aid Allowance 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 Civil Defence or the Red Cross Society's First Aid Certificates) issued within the previous three years.
- 40.3 The First Aid Allowance shall not be paid during leave of one week or more.
- 40.4 When the First Aid Officer is absent on leave for one week or more and another qualified 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.
- 40.5 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 who need to be trained to meet Corporation needs, and the cost of retraining First Aid Officers, are to be met by the Corporation.

41. Review of Allowances Payable in Terms of This Award

- 41.1 Adjustment of Allowances - Allowances contained in this award shall be reviewed as follows:
- 41.1.1 Allowances listed in this paragraph will be determined at a level consistent with the reasonable allowances amounts for the appropriate income year as published by the Australian Taxation Office (ATO):
- (a) Clause 25, Travelling Compensation;
 - (b) Clause 29, Meal Expenses on One Day Journeys;
 - (c) Clause 79, Overtime Meal Allowances, for breakfast, lunch and dinner.
- 41.1.2 Allowances listed in this paragraph will be determined and become effective from 1 July each year at a level consistent with the reasonable allowances amounts as published at or before that time by the Australian Taxation Office (ATO):
- (a) Clause 33, Allowances Payable for the Use of Private Motor Vehicle.

41.1.3 Allowances payable in terms of clauses listed in this paragraph shall be adjusted on 1 July each year in line with the increases in the Consumer Price Index for Sydney during the preceding year (March quarter figures):

- (a) Clause 37, Room at Home Used as Office;
- (b) Clause 79, Overtime Meal Allowances, for supper.

41.1.4 Allowances payable in terms of clauses listed in this paragraph shall continue to be subject to a percentage increase under an Award, Agreement or Determination and shall be adjusted on and from the date or pay period the percentage increase takes effect:

Clause 40, First-Aid Allowance;

SECTION 5 - UNION CONSULTATION, ACCESS AND ACTIVITIES

42. Trade Union Activities Regarded as on Duty

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

42.1.1 Attendance at meetings of the workplace's Occupational Health and Safety Committee and participation in all official activities relating to the functions and responsibilities of elected Occupational Health and Safety Committee members at a place of work as provided for in the *Occupational Health and Safety Act 2000* and the Occupational Health and Safety Regulation 2001.

42.1.2 Attendance at meetings with workplace management or workplace management representatives;

42.1.3 A reasonable period of preparation time, before-

- (a) meetings with management;
- (b) disciplinary or grievance meetings when an Association member requires the presence of an Association delegate; and
- (c) any other meeting with management,
by agreement with management, where operational requirements allow the taking of such time;

42.1.4 Giving evidence in court on behalf of the Corporation;

42.1.5 Appearing as a witness before the Government and Related Employees Appeal Tribunal;

42.1.6 Representing the Association at the Government and Related Employees Appeal Tribunal as an advocate or as a Tribunal Member;

42.1.7 Presenting information on the Association and Association activities at induction sessions for new staff of the Corporation; and

42.1.8 Distributing official Association publications or other authorised material at the workplace, provided that a minimum of 24 hours notice is given to workplace management, unless otherwise agreed between the parties. Distribution time is to be kept to a minimum and is to be undertaken at a time convenient to the workplace.

43. Trade Union Activities Regarded as Special Leave

- 43.1 The granting of special leave with pay will apply to the following activities undertaken by an Association delegate, as specified below:
- 43.1.1 Attendance at annual or biennial conferences of the Association;
 - 43.1.2 Attendance at meetings of the Association's Executive, Committee of Management or Councils;
 - 43.1.3 Attendance at annual conference of the Unions NSW and the biennial Congress of the Australian Council of Trade Unions;
 - 43.1.4 Attendance at meetings called by the Unions NSW involving the Association which requires attendance of a delegate;
 - 43.1.5 Attendance at meetings called by the DPE, as the employer for industrial purposes, as and when required;
 - 43.1.6 Giving evidence before an Industrial Tribunal as a witness for the Association;
 - 43.1.7 Reasonable travelling time to and from conferences or meetings to which the provisions of clauses 42, 43 and 44 apply.

44. Trade Union Training Courses

- 44.1 The following training courses will attract the grant of special leave as specified below:-
- 44.1.1 Accredited Occupational Health and Safety (OH&S) courses and any other accredited OH&S training for OH&S Committee members. The provider(s) of accredited OH&S training courses and the conditions on which special leave for such courses will be granted, shall be negotiated between the Chief Executive Officer and the Association.
 - 44.1.2 Courses organised and conducted by the Trade Union Education Foundation or by the Association or a training provider nominated by the Association. A maximum of 12 working days in any period of 2 years applies to this training and is subject to:
 - (a) The operating requirements of the workplace permitting the grant of leave and the absence not requiring employment of relief staff;
 - (b) Payment being at the base rate, i.e. excluding extraneous payments such as shift allowances/penalty rates, overtime, etc;
 - (c) All travelling and associated expenses being met by the staff member or the Association;
 - (d) Attendance being confirmed in writing by the Association or a nominated training provider.

45. Conditions Applying to on Loan Arrangements

- 45.1 Subject to the operational requirements of the workplace, on loan arrangements will apply to the following activities:
- 45.1.1 Meetings interstate or in NSW of a Federal nature to which an Association member has been nominated or elected by the Association:-
 - (a) As an Executive Member; or
 - (b) A member of a Federal Council; or

- (c) to a vocational or industry committee.
- 45.1.2 Briefing counsel on behalf of the Association;
- 45.1.3 Assisting Association officials with preparation of cases or any other activity outside their normal workplace at which the delegate is required to represent the interests of the Association;
- 45.1.4 Country tours undertaken by a member of the executive or Council of the Association;
- 45.1.5 Taking up of full time duties with the Association if elected to the office of President, General Secretary or to another full time position with the Association.
- 45.1.6 Financial Arrangements - The following financial arrangements apply to the occasions when a staff member is placed "on loan" to the Association:-
- (a) The Corporation will continue to pay the delegate or an authorised Association representative whose services are on loan to the Association;
 - (b) The Corporation will seek reimbursement from the Association at regular intervals of all salary and associated on costs, including superannuation, as specified by the NSW Treasury from time to time.
 - (c) Agreement with the Association on the financial arrangements must be reached before the on loan arrangement commences and must be documented in a manner negotiated between the Chief Executive Officer and the Association.
- 45.1.7 Recognition of "on loan" arrangement as service - On loan arrangements negotiated in terms of this clause are to be regarded as service for the accrual of all leave and for incremental progression.
- 45.1.8 Limitation - On loan arrangements may apply to full-time or part-time staff and are to be kept to the minimum time required. Where the Association needs to extend an on loan arrangement, the Association shall approach the Chief Executive Officer in writing for an extension of time well in advance of the expiration of the current period of on loan arrangement.
- 45.1.9 Where the Chief Executive Officer and the Association cannot agree on the on loan arrangement, the matter is to be referred to the DPE for determination after consultation with the Chief Executive Officer and the Association.

46. Period of Notice for Trade Union Activities

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

47. Access to Facilities By Trade Union Delegates

- 47.1 The workplace shall provide accredited delegates with reasonable access to the following facilities for authorised Association activities:
- 47.1.1 Telephone, facsimile and, where available, E-mail facilities;
 - 47.1.2 A notice board for material authorised by the Association or access to staff notice boards for material authorised by the Association;
 - 47.1.3 Workplace conference or meeting facilities, where available, for meetings with member(s), as negotiated between local management and the Association.

48. Responsibilities of the Trade Union Delegate

- 48.1 Responsibilities of the Association delegate are to:
- 48.1.1 Establish accreditation as a delegate with the Association and provide proof of accreditation to the workplace;
 - 48.1.2 Participate in the workplace consultative processes, as appropriate;
 - 48.1.3 Follow the dispute settling procedure applicable in the workplace;
 - 48.1.4 Provide sufficient notice to the immediate supervisor of any proposed absence on authorised Association business;
 - 48.1.5 Account for all time spent on authorised Association business;
 - 48.1.6 When special leave is required, to apply for special leave in advance;
 - 48.1.7 Distribute Association literature/membership forms, under local arrangements negotiated between the Chief Executive Officer and the Association; and
 - 48.1.8 Use any facilities provided by the workplace properly and reasonably as negotiated at organisational level.

49. Responsibilities of the Trade Union

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

50. Responsibilities of Workplace Management

- 50.1 Where time is required for Association activities in accordance with this clause the responsibilities of the workplace management are to:
- 50.1.1 Release the accredited delegate from duty for the duration of the Association activity, as appropriate, and, where necessary, allow for sufficient travelling time during the ordinary working hours;

- 50.1.2 Advise the workplace delegate of the date of the next induction session for new staff members in sufficient time to enable the Association to arrange representation at the session;
- 50.1.3 Meet the travel and/or accommodation costs properly and reasonably incurred in respect of meetings called by the workplace management;
- 50.1.4 Where possible, provide relief in the position occupied by the delegate in the workplace, while the delegate is undertaking Association responsibilities to assist with the business of workplace management;
- 50.1.5 Re-credit any other leave applied for on the day to which special leave or release from duty subsequently applies;
- 50.1.6 Where an Association activity provided under this clause needs to be undertaken during an approved period of flexi leave, apply the provisions of paragraph 61.1.5 of this clause;
- 50.1.7 Continue to pay salary during an "on loan" arrangement negotiated with the Association and to obtain reimbursement of salary and on-costs from the Association at regular intervals, or as otherwise agreed between the parties if long term arrangements apply;
- 50.1.8 Verify with the Association the time spent by an Association delegate or delegates on Association business, if required; and
- 50.1.9 If the time and/or the facilities allowed for Association activities are thought to be used unreasonably and/or improperly, consult with the Association before taking any remedial action.

51. Right of Entry Provisions

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

52. Travelling and Other Costs of Trade Union Delegates

- 52.1 Except as specified in paragraph 50.1.3 of clause 50, Responsibilities of Workplace Management of this award, all travel and other costs incurred by accredited Association delegates in the course of Association activities will be paid by the Association.
- 52.2 In respect of meetings called by the workplace management in terms of paragraph 50.1.3 of clause 50, Responsibilities of Workplace Management of this award, the payment of travel and/or accommodation costs, properly and reasonably incurred, is to be made, as appropriate, on the same conditions as apply under clauses 25, Travelling Compensation, 29, Meal Expenses on One-Day Journeys, or 30, Restrictions on Payment of Travelling Allowances of this award.
- 52.3 No overtime, leave in lieu or any other additional costs will be claimable by a staff member from the Corporation or the DPE, in respect of Association activities covered by special leave or on duty activities provided for in this clause.
- 52.4 The on loan arrangements shall apply strictly as negotiated and no extra claims in respect of the period of on loan shall be made on the Corporation by the Association or the staff member.

53. Industrial Action

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

54. Consultation and Technological Change

- 54.1 There shall be effective means of consultation, as set out in the Consultative Arrangements Policy and Guidelines document, on matters of mutual interest and concern, both formal and informal, between the Corporation and Association.
- 54.2 The Corporation's management shall consult with the Association prior to the introduction of any technological change.

55. Deduction of Trade Union Membership Fees

- 55.1 The Association shall provide the Corporation with a schedule setting out Association fortnightly membership fees payable by members of the Association in accordance with the Association's rules.
- 55.2 The Association shall advise the Corporation of any change to the amount of fortnightly membership fees made under its rules. Any variation to the schedule of Association fortnightly membership fees payable shall be provided to the Corporation at least one month in advance of the variation taking effect.
- 55.3 Subject to 55.1 and 55.2 of this clause, the Corporation shall arrange for the deduction of Association fortnightly membership fees from the pay of any staff member who is a member of the Association in accordance with the Association's rules, provided that the staff member has authorised the Corporation to make such deductions.
- 55.4 Monies so deducted from a staff member's pay shall be forwarded regularly to the Association together with all necessary information to enable the Association to reconcile and credit subscriptions to staff members' Association membership accounts.
- 55.5 Unless other arrangements are agreed to by the Corporation and the Association, all Association membership fees shall be deducted on a fortnightly basis.
- 55.6 Where a staff member has already authorised the deduction of Association membership fees from his or her pay prior to this clause taking effect, nothing in this clause shall be read as requiring the staff member to make a fresh authorisation in order for such deduction to continue.

SECTION 6 - LEAVE

56. Leave - General Provisions

- 56.1 The leave provisions contained in this Award apply to all staff members other than those to whom arrangements apply under another industrial instrument or under a local arrangement negotiated between the Chief Executive Officer and the Association.
- 56.2 Unless otherwise specified, part-time staff members will receive the paid leave provisions of this award on a pro rata basis, calculated according to the number of hours worked per week.
- 56.3 Unless otherwise specified in this award a temporary employee employed under Section 27 of the Act is eligible to take a period of approved leave during the current period of employment and may continue such leave during a subsequent period or periods of employment in the Public Service, if such period or periods of employment commence immediately on termination of a previous period or periods of employment.
- 56.4 Where paid and unpaid leave is available to be granted in terms of this award, paid leave shall be taken before unpaid leave.

57. Absence from Work

- 57.1 A staff member must not be absent from work unless reasonable cause is shown.

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

58. Applying for Leave

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

59. Extended Leave

Extended leave shall accrue and shall be granted to staff members in accordance with the provisions of Schedule 3 of the Act.

60. Family and Community Service Leave

- 60.1 The Chief Executive Officer 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 as described in subclause 60.2 of this clause. The Chief Executive Officer may also grant leave for the purposes in subclause 60.3 of this clause. Non-emergency appointments or duties shall be scheduled or performed outside of normal working hours or through approved use of flexible working arrangements or other appropriate leave.
- 60.2 Such unplanned and emergency situations may include, but not be limited to, the following:-
- 60.2.1 Compassionate grounds - such as the death or illness of a close member of the family or a member of the staff member's household;
 - 60.2.2 Emergency accommodation matters up to one day, such as attendance at court as defendant in an eviction action, arranging accommodation, or when required to remove furniture and effects;
 - 60.2.3 Emergency or weather conditions; such as when flood, fire, snow or disruption to utility services etc, threatens a staff member's property and/or prevents a staff member from reporting for duty;
 - 60.2.4 Attending to unplanned or unforeseen family responsibilities, such as attending child's school for an emergency reason or emergency cancellations by child care providers;
 - 60.2.5 Attendance at court by a staff member to answer a charge for a criminal offence, only if the Chief Executive Officer considers the granting of family and community service leave to be appropriate in a particular case.
- 60.3 Family and community service leave may also be granted for:
- 60.3.1 An absence during normal working hours to attend meetings, conferences or to perform other duties, for staff members holding office 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

- 60.3.2 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.
- 60.4 The definition of "family" or "relative" in this clause is the same as that provided in paragraph 70.4.2 of clause 70, Sick Leave to Care for a Family Member of this award.
- 60.5 Family and community service leave shall accrue as follows:
- 60.5.1 two and a half days in the staff member's first year of service;
- 60.5.2 two and a half days in the staff member's second year of service; and
- 60.5.3 one day per year thereafter.
- 60.6 If available family and community service leave is exhausted as a result of natural disasters, the Chief Executive Officer shall consider applications for additional family and community service leave, if some other emergency arises.
- 60.7 If available family and community service leave is exhausted on the death of a family member or relative, additional paid family and community service leave of up to 2 days may be granted on a discrete, per occasion basis to a staff member.
- 60.8 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 70, Sick Leave to Care for a Sick Family Member of this award shall be granted when paid family and community service leave has been exhausted or is unavailable.
- 60.9 A Chief Executive Officer may also grant 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.

61. Leave Without Pay

- 61.1 The Chief Executive Officer may grant leave without pay to a staff member if good and sufficient reason is shown.
- 61.2 Leave without pay may be granted on a full-time or a part-time basis.
- 61.3 Where 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.
- 61.4 Where a staff member is granted leave without pay which, when aggregated, does not exceed 5 working days in a period of twelve (12) months, such leave shall count as service for incremental progression and accrual of recreation leave.
- 61.5 A staff member who has been granted leave without pay shall not engage in employment of any kind during the period of leave without pay, unless prior approval has been obtained from the Chief Executive Officer.
- 61.6 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.
- 61.7 No paid leave shall be granted during a period of leave without pay.
- 61.8 A permanent appointment may be made to the staff member's position if:

- 61.8.1 the leave without pay has continued or is likely to continue beyond the original period of approval and is for a total period of more than 12 months; and
- 61.8.2 the staff member is advised of the Corporation's proposal to permanently backfill their position; and
- 61.8.3 the staff member is given a reasonable opportunity to end the leave without pay and return to their position; and
- 61.8.4 the Corporation 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.
- 61.9 The position cannot be filled permanently unless the above criteria are satisfied.
- 61.10 The staff member does not cease to be employed by the Corporation if their position is permanently backfilled.
- 61.11 Subclause 61.8 of this clause does not apply to full-time unpaid parental leave granted in accordance with subparagraph 64.9.1(a) of clause 64, Parental Leave or to military leave.

62. Military Leave

- 62.1 During the period of 12 months commencing on 1 July each year, the Chief Executive Officer may grant to a staff member who is a volunteer part-time member of the Defence Force, military leave on full pay to undertake compulsory annual training and to attend schools, classes or courses of instruction or compulsory parades conducted by the staff member's unit.
- 62.2 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.
- 62.3 Up to 24 working days military leave per financial year may be granted by the Chief Executive Officer to members of the Naval and Military Reserves and up to 28 working days per financial year to members of the Air Force Reserve for the activities specified in subclause 62.1 of this clause.
- 62.4 The Chief Executive Officer may grant 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 Force.
- 62.5 A staff member who is requested by the Australian Defence Force to provide additional military services requiring leave in excess of the entitlement specified in subclause 62.3 of this clause may be granted Military Leave Top up Pay by the Chief Executive Officer.
- 62.6 Military Leave Top up Pay is calculated as the difference between 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.
- 62.7 During a period of Military Leave Top up Pay, a staff member will continue to accrue sick leave, recreation and extended leave entitlements, and Corporations are to continue to make superannuation contributions at the normal rate.
- 62.8 At the expiration of military leave in accordance with subclause 62.3 or 62.4 of this clause, the staff member shall furnish to the Chief Executive Officer a certificate of attendance and details of the staff members reservist pay signed by the commanding officer or other responsible officer.

63. Observance of Essential Religious Or Cultural Obligations

- 63.1 A staff member of:

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

64. Parental Leave

- 64.1 Parental leave includes maternity, adoption and "other parent" leave.
- 64.2 Maternity leave shall apply to a staff member who is pregnant and, subject to this clause the staff member shall be entitled to be granted maternity leave as follows:
- 64.2.1 For a period up to 9 weeks prior to the expected date of birth; and
- 64.2.2 For a further period of up to 12 months after the actual date of birth.
- 64.2.3 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.
- 64.3 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:
- 64.3.1 For a period of up to 12 months if the child has not commenced school at the date of the taking of custody; or
- 64.3.2 For such period, not exceeding 12 months on a full-time basis, as the Chief Executive Officer may determine, if the child has commenced school at the date of the taking of custody.
- 64.3.3 Special Adoption Leave - A staff member shall be entitled to special adoption leave (without pay) for up to 2 days to attend interviews or examinations for the purposes of adoption. Special adoption leave may be taken as a charge against recreation leave, extended leave, flexitime or family and community service leave.
- 64.4 Where maternity or adoption leave does not apply, "other parent" leave is available to male and female staff who apply for leave to look after his/her child or children. Other parent leave applies as follows:
- 64.4.1 Short other parent leave - an unbroken period of up to 8 weeks at the time of the birth of the child or other termination of the spouse's or partner's pregnancy or, in the case of adoption, from the date of taking custody of the child or children;

- 64.4.2 Extended other parent leave - for a period not exceeding 12 months, less any short other parental leave already taken by the staff member as provided for in paragraph 64.4.1 of this subclause. Extended other parental leave may commence at any time up to 2 years from the date of birth of the child or the taking of custody of the child.
- 64.5 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:
- 64.5.1 applied for parental leave within the time and in the manner determined set out in subclause 64.10 of this clause; and
- 64.5.2 prior to the commencement of parental leave, completed not less than 40 weeks' continuous service.
- 64.5.3 Payment for the maternity, adoption or short other parent leave may be made as follows:
- (a) in advance as a lump sum; or
 - (b) fortnightly as normal; or
 - (c) fortnightly at half pay; or
 - (d) a combination of full-pay and half pay.
- 64.6 Payment for parental leave is at the rate applicable when the leave is taken. A staff member holding a full time position who is on part time leave without pay when they start parental leave is paid:
- 64.6.1 at the full time rate if they began part time leave 40 weeks or less before starting parental leave;
- 64.6.2 at the part time rate if they began part time leave more than 40 weeks before starting parental leave and have not changed their part time work arrangements for the 40 weeks;
- 64.6.3 at the rate based on the average number of weekly hours worked during the 40 week period if they have been on part time leave for more than 40 weeks but have changed their part time work arrangements during that period.
- 64.7 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:
- 64.7.1 at the rate (full time or part time) they were paid before commencing the initial leave if they have not returned to work; or
- 64.7.2 at a rate based on the hours worked before the initial leave was taken, where the staff member has returned to work and reduced their hours during the 24 month period; or
- 64.7.3 at a rate based on the hours worked prior to the subsequent period of leave where the staff member has not reduced their hours.
- 64.8 Except as provided in subclauses 64.5, 64.6 and 64.7 of this clause parental leave shall be granted without pay.
- 64.9 Right to request
- 64.9.1 A staff member who has been granted parental leave in accordance with subclause 64.2, 64.3 or 64.4 of this clause may make a request to the Chief Executive Officer to:
- (a) extend the period of unpaid parental leave for a further continuous period of leave not exceeding 12 months;

- (b) return from a period of full time parental leave on a part time basis until the child reaches school age (Note: returning to work from parental leave on a part time basis includes the option of returning to work on part time leave without pay);

to assist the staff member in reconciling work and parental responsibilities.

64.9.2 The Chief Executive Officer 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 Chief Executive Officer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.

64.10 Notification Requirements

64.10.1 When the Corporation is made aware that a staff member or their spouse is pregnant or is adopting a child, the Corporation must inform the staff member of their entitlements and their obligations under the award.

64.10.2 A staff member who wishes to take parental leave must notify the Chief Executive Officer in writing at least 8 weeks (or as soon as practicable) before the expected commencement of parental leave:

- (a) that she/he intends to take parental leave, and
- (b) the expected date of birth or the expected date of placement, and
- (c) if she/he is likely to make a request under subclause 64.9 of this clause.

64.10.3 At least 4 weeks before a staff member's expected date of commencing parental leave they must advise:

- (a) the date on which the parental leave is intended to start, and
- (b) the period of leave to be taken.

64.10.4 The staff member's request and the Chief Executive Officer's decision are to be in writing.

The staff member's request under paragraph 64.9.1 and the Chief Executive Officer's decision made under paragraph 64.9.2 must be recorded in writing.

64.10.5 A 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 Chief Executive Officer in writing as soon as practicable and preferably before beginning parental leave. If the notification is not given before commencing such leave, it may be given at any time up to 4 weeks before the proposed return on a part time basis, or later if the Chief Executive Officer agrees.

64.10.6 A staff member on maternity leave is to notify the Corporation of the date on which she gave birth as soon as she can conveniently do so.

64.10.7 A staff member must notify the Corporation as soon as practicable of any change in her intentions as a result of premature delivery or miscarriage.

64.10.8 A staff member on maternity or adoption leave may change the period of leave or arrangement, once without the consent of the Corporation and any number of times with the consent of the Corporation. In each case she/he must give the Corporation at least 14 days notice of the change unless the Chief Executive Officer decides otherwise.

- 64.11 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 64.9 of this clause, and she/he resumes duty immediately after the approved leave or work on a part time basis.
- 64.12 If the position occupied by the 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.
- 64.13 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 Chief Executive Officer Approves a Return to Work on a Part Time Basis then the Position Occupied is to be at the Same Classification and Grade as the Former Position.
- 64.14 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 Corporation) must be given.
- 64.15 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.
- 64.16 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.
- 64.17 A staff member may elect to take available recreation leave at half pay in conjunction with parental leave provided that:
- 64.17.1 accrued recreation leave at the date leave commences is exhausted within the period of parental leave;
 - 64.17.2 the total period of parental leave is not extended by the taking of recreation leave at half pay;
 - 64.17.3 when calculating other leave accruing during the period of recreation leave at half pay, the recreation leave at half pay shall be converted to the full time equivalent and treated as full pay leave for accrual of further recreation, extended and other leave at the full time rate.
- 64.18 If, for any reason, a pregnant 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 Chief Executive Officer, should, in consultation with the staff member, take all reasonable measures to arrange for safer alternative duties. This may include, but is not limited to greater flexibility in when and where duties are carried out, a temporary change in duties, retraining, multi-skilling, teleworking and job redesign.
- 64.19 If such adjustments cannot reasonably be made, the Chief Executive Officer must grant the 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.
- 64.20 Communication during parental leave
- 64.20.1 Where a staff member is on parental leave and a definite decision has been made to introduce significant change at the workplace, the Corporation shall take reasonable steps to:

- (a) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the staff member held before commencing parental leave; and
 - (b) 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.
- 64.20.2 The staff member shall take reasonable steps to inform the Chief Executive Officer 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.
- 64.20.3 The staff member shall also notify the Chief Executive Officer of changes of address or other contact details which might affect the Corporation's capacity to comply with paragraph 64.20.1 of this subclause.

65. Purchased Leave

- 65.1 A staff member may apply to enter into an agreement with the Chief Executive Officer to purchase either 10 days (2 weeks) or 20 days (4 weeks) additional leave in a 12 month period.
- 65.1.1 Each application will be considered subject to operational requirements and personal needs and will take into account Corporation business needs and work demands.
- 65.1.2 The leave must be taken in the 12 month period specified in the Purchased Leave Agreement and will not attract any leave loading.
- 65.1.3 The leave will count as service for all purposes.
- 65.2 The purchased leave will be funded through the reduction in the staff member's ordinary rate of pay.
- 65.2.1 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.
- 65.2.2 To calculate the purchased leave rate of pay, the staff member's ordinary salary rate will be reduced by the number of weeks of purchased leave and then annualised at a pro rata rate over the 12 month period.
- 65.3 Purchased leave is subject to the following provisions:
- 65.3.1 The purchased leave cannot be accrued and will be refunded where it has not been taken in the 12 month period.
- 65.3.2 Other leave taken during the 12 month purchased leave agreement period i.e. sick leave, recreation leave, extended leave or leave in lieu will be paid at the purchased leave rate of pay.
- 65.3.3 Sick leave cannot be taken during a period of purchased leave.
- 65.3.4 The purchased leave rate of pay will be the salary for all purposes including superannuation and shift loadings.
- 65.3.5 Overtime and salary related allowances not paid during periods of recreation leave will be calculated using the staff member's hourly rate based on the ordinary rate of pay.
- 65.3.6 Higher Duties Allowance will not be paid when a period of purchased leave is taken.

- 65.4 Specific conditions governing purchased leave may be amended from time to time by the DPE in consultation with the Association. The Corporation may make adjustments relating to their salary administration arrangements.

66. Recreation Leave

66.1 Accrual

66.1.1 Except where stated otherwise in this award, paid recreation leave for full time staff members and recreation leave for staff members working part time, accrues at the rate of 20 working days per year. 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.

66.1.2 Recreation leave accrues from day to day.

66.2 Limits on Accumulation and Direction to Take Leave

66.2.1 At least two (2) consecutive weeks of recreation leave shall be taken by a staff member every 12 months, except by agreement with the Chief Executive Officer in special circumstances.

66.2.2 Where the operational requirements permit, the application for leave shall be dealt with by the Chief Executive Officer according to the wishes of the staff member.

66.2.3 The Chief Executive Officer shall notify the staff member in writing when accrued recreation leave reaches 6 weeks or its hourly equivalent and at the same time may direct a staff member to take at least 2 weeks recreation leave within 3 months of the notification at a time convenient to the Corporation.

66.2.4 The Chief Executive Officer shall notify the staff member in writing when accrued recreation leave reaches 8 weeks or its hourly equivalent and direct the staff member to take at least 2 weeks recreation leave within 6 weeks of the notification. Such leave is to be taken at a time convenient to the Corporation.

66.2.5 A staff member must take their recreation leave to reduce all balances below 8 weeks or its hourly equivalent, and the Corporation must cooperate in this process. The Corporation may direct a staff member with more than 8 weeks to take their recreation leave so that it is reduced to below 8 weeks by the beginning of February of the following year.

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

66.3.1 Specify in writing the period of time during which the excess leave shall be conserved; and

66.3.2 On the expiration of the period during which conservation of leave applies, grant sufficient leave to the staff member at a mutually convenient time to enable the accrued leave to be reduced to an acceptable level below the 8 week limit.

66.3.3 The Chief Executive Officer will inform a staff member in writing on a regular basis of the staff member's recreation leave accrual.

66.4 Miscellaneous

66.4.1 Unless a local arrangement has been negotiated between the Chief Executive Officer and the Association, recreation leave is not to be granted for a period less than a quarter-day or in other than multiples of a quarter day.

- 66.4.2 Recreation leave for which a staff member is eligible on cessation of employment is to be calculated to a quarter day (fractions less than a quarter being rounded up).
- 66.4.3 Recreation leave does not accrue to a staff member in respect of any period of absence from duty without leave or without pay, except as specified in paragraph 66.4.4 of this subclause.
- 66.4.4 Recreation leave accrues during any period of leave without pay granted on account of incapacity for which compensation has been authorised to be paid under the *Workers Compensation Act 1987*; or any period of sick leave without pay or any other approved leave without pay, not exceeding 5 full time working days, or their part time equivalent, in any period of 12 months.
- 66.4.5 The proportionate deduction to be made in respect of the accrual of recreation leave on account of any period of absence referred to in paragraph 66.4.4 of this subclause shall be calculated to an exact quarter-day (fractions less than a quarter being rounded down).
- 66.4.6 Recreation leave accrues at half its normal accrual rate during periods of extended leave on half pay or recreation leave taken on half pay.
- 66.4.7 Recreation leave may be taken on half pay in conjunction with and subject to the provisions applying to adoption, maternity or parental leave - see clause 64, Parental Leave of this award.
- 66.4.8 On cessation of employment, a staff member is entitled to be paid the money value of accrued recreation leave which remains untaken.
- 66.4.9 A staff member to whom paragraph 66.4.8 of this subclause applies may elect to take all or part of accrued recreation leave which remains untaken at cessation of active duty as leave or as a lump sum payment; or as a combination of leave and lump sum payment.
- 66.5 Death - Where 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.
- 66.6 Where no beneficiary has been nominated, the monetary value of recreation leave is to be paid as follows:-
- 66.6.1 To the widow or widower of the staff member; or
- 66.6.2 If there is no widow or widower, to the children of the staff member or, if there is a guardian of any children entitled under this subclause, to that guardian for the children's maintenance, education and advancement; or
- 66.6.3 If there is no such widow, widower or children, to the person who, in the opinion of the Chief Executive Officer was, at the time of the staff member's death, a dependent relative of the staff member; or
- 66.6.4 If there is no person entitled under paragraphs 66.6.1, 66.6.2 or 66.6.3 of this subclause to receive the money value of any leave not taken or not completed by 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.
- 66.7 Recreation leave does not accrue during leave without pay other than
- 66.7.1 military leave taken without pay when paid military leave entitlements are exhausted;
- 66.7.2 absences due to natural emergencies or major transport disruptions, when all other paid leave is exhausted;
- 66.7.3 any continuous period of sick leave taken without pay when paid sick leave is exhausted;

66.7.4 incapacity for which compensation has been authorised under the *Workplace Injury Management and Workers Compensation Act 1998*; or

66.7.5 periods which when aggregated, do not exceed 5 working days in any period of 12 months.

67. Annual Leave Loading

67.1 General - Unless more favourable conditions apply to a staff member under another industrial instrument, a staff member, other than a trainee who is paid by allowance, is entitled to be paid an annual leave loading as set out in this subclause. Subject to the provisions set out in subclauses 67.2 to 67.4 of this clause, the annual leave loading shall be 17½% on the monetary value of up to 4 weeks recreation leave accrued in a leave year.

67.2 Maximum Loading - Unless otherwise provided in an Award or Agreement under which the 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.

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

67.4 Payment of annual leave loading - Payment of the annual leave loading shall be made on the recreation leave accrued during the previous leave year and shall be subject to the following conditions:

67.4.1 Annual leave loading shall be paid on the first occasion in a leave year, other than the first leave year of employment, when a staff member takes at least two (2) consecutive weeks recreation leave. Where a staff member does not have at least 2 weeks recreation leave available, the staff member may use a combination of recreation leave and any of the following: public holidays, flex leave, extended leave, leave without pay, time off in lieu, rostered day off. The staff member shall be paid the annual leave loading for such period, provided the absence is at least 2 weeks.

67.4.2 If at least two weeks leave, as set out in paragraph 67.4.1 of this subclause, is not taken in a leave year, then the payment of the annual leave loading entitlement for the previous leave year shall be made to the staff member as at 30 November of the current year.

67.4.3 While annual leave loading shall not be paid in the first leave year of employment, it shall be paid on the first occasion in the second leave year of employment when at least two weeks leave, as specified in paragraph 67.4.1 of this subclause, is taken.

67.4.4 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 Corporation for any reason other than the staff member's serious and intentional misconduct.

67.4.5 Except in cases of voluntary redundancy, proportionate leave loading is not payable on cessation of employment.

68. Sick Leave

68.1 Illness in this clause and in clauses 69 and 70 of this award means physical or psychological illness or injury, medical treatment and the period of recovery or rehabilitation from an illness or injury.

68.2 Payment for sick leave is subject to the staff member:

68.2.1 Informing their manager as soon as reasonably practicable that they are unable to perform duty because of illness. This must be done as close to the staff member's starting time as possible; and

68.2.2 Providing evidence of illness as soon as practicable if required by clause 69, Sick Leave - Requirements for Evidence of Illness of this award.

- 68.3 If the Chief Executive Officer is satisfied that a staff member is unable to perform duty because of the staff member's illness or the illness of his/her family member, the Chief Executive Officer:
- 68.3.1 Shall grant to the staff member sick leave on full pay; and
 - 68.3.2 May grant to the staff member, sick leave without pay if the absence of the staff member exceeds the entitlement of the staff member under this award to sick leave on full pay.
- 68.4 The Chief Executive Officer may direct a staff member to take sick leave if they are satisfied that, due to the staff member's illness, the staff member:
- 68.4.1 is unable to carry out their duties without distress; or
 - 68.4.2 risks further impairment of their health by reporting for duty; or
 - 68.4.3 is a risk to the health, wellbeing or safety of other staff members, Corporational clients or members of the public.
- 68.5 The Chief Executive Officer 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.
- 68.6 Entitlements. Existing staff members at 13 November 2008 commenced accruing sick leave in accordance with this clause from 1 January 2009 onwards.
- 68.6.1 At the commencement of employment with the Public Service, a full-time staff member is granted an accrual of 5 days sick leave.
 - 68.6.2 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.
 - 68.6.3 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.
 - 68.6.4 All continuous service as a staff member in the NSW public service shall be taken into account for the purpose of calculating sick leave due. Where the service in the NSW public service is not continuous, previous periods of public service shall be taken into account for the purpose of calculating sick leave due if the previous sick leave records are available.
 - 68.6.5 Notwithstanding the provisions of paragraph 68.6.4 of this subclause, sick leave accrued and not taken in the service of a public sector employer may be accessed in terms of the Public Sector Staff Mobility Policy.
 - 68.6.6 Sick leave without pay shall count as service for the accrual of recreation leave and paid sick leave. In all other respects sick leave without pay shall be treated in the same manner as leave without pay.
 - 68.6.7 When determining the amount of sick leave accrued, sick leave granted on less than full pay, shall be converted to its full pay equivalent.
 - 68.6.8 Paid sick leave shall not be granted during a period of unpaid leave.
- 68.7 Payment during the initial 3 months of service - Paid sick leave which may be granted to a staff member, other than a seasonal or relief staff member, in the first 3 months of service shall be limited to 5 days paid sick leave, unless the Chief Executive Officer approves otherwise. Paid sick leave in excess of 5 days granted in the first 3 months of service shall be supported by a satisfactory medical certificate.
- 68.8 Seasonal or relief staff - No paid sick leave shall be granted to temporary employees who are employed as seasonal or relief staff for a period of less than 3 months.

69. Sick Leave - Requirements for Evidence of Illness

- 69.1 A staff member absent from duty for more than 2 consecutive working days because of illness must furnish evidence of illness to the Chief Executive Officer in respect of the absence.
- 69.2 In addition to the requirements under subclause 68.2 of clause 68, Sick Leave of this award, a staff member may absent themselves for a total of 5 working days per annum due to illness without the provision of evidence of illness to the Chief Executive Officer. Staff members who absent themselves in excess of 5 working days in a year may be required to furnish evidence of illness to the Chief Executive Officer for each occasion absent for the balance of the calendar year.
- 69.3 As a general practice backdated medical certificates will not be accepted. However if 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 Chief Executive Officer is satisfied that the reason for the absence is genuine.
- 69.4 If a staff member is required to provide evidence of illness for an absence of 2 consecutive working days or less, the Chief Executive Officer will advise them in advance.
- 69.5 If the Chief Executive Officer is concerned about the diagnosis described in the evidence of illness produced by the staff member, after discussion with the staff member, the evidence provided and the staff member's application for leave can be referred to the Department of Health for advice.
- 69.5.1 The type of leave granted to the staff member will be determined by the Chief Executive Officer based on Department of Health advice.
- 69.5.2 If sick leave is not granted, the Chief Executive Officer will, as far as practicable, take into account the wishes of the staff member when determining the type of leave granted.
- 69.6 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 confidentially by an alternate manager or the human resources section of the Corporation.
- 69.7 The reference in this clause to evidence of illness shall apply, as appropriate:
- 69.7.1 up to one week may be provided by a registered dentist, optometrist, chiropractor, osteopath, physiotherapist, oral and maxillo facial surgeon or, at the Chief Executive Officer's discretion, another registered health services provider, or
- 69.7.2 where the absence exceeds one week, and unless the health provider listed in paragraph 69.7.1 of this subclause is also a registered medical practitioner, applications for any further sick leave must be supported by evidence of illness from a registered medical practitioner, or
- 69.7.3 at the Chief Executive Officer's discretion, other forms of evidence that satisfy that a staff member had a genuine illness.
- 69.8 If a staff member who is absent on recreation leave or extended leave, furnishes to the Chief Executive Officer satisfactory evidence of illness in respect of an illness which occurred during the leave, the Chief Executive Officer may, subject to the provisions of this clause, grant sick leave to the staff member as follows:
- 69.8.1 In respect of recreation leave, the period set out in the evidence of illness;
- 69.8.2 In respect of extended leave, the period set out in the evidence of illness if such period is 5 working days or more.
- 69.9 Subclause 69.8 of this clause applies to all 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.

70. Sick Leave to Care for a Family Member

- 70.1 Where family and community service leave provided for in clause 60 of this award is exhausted or unavailable, a staff member with responsibilities in relation to a category of person set out in subclause 70.4 of this clause who needs the staff member's care and support, may elect to use available paid sick leave, subject to the conditions specified in this clause, to provide such care and support when a family member is ill.
- 70.2 The sick leave shall initially be taken from the sick leave accumulated over the previous 3 years. In special circumstances, the Chief Executive Officer may grant additional sick leave from the sick leave accumulated during the staff member's eligible service.
- 70.3 If required by the Chief Executive Officer to establish the illness of the person concerned, the staff member must provide evidence consistent with subclause 69.6 of clause 69, Sick Leave - Requirements for Evidence of Illness of this award.
- 70.4 The entitlement to use sick leave in accordance with this clause is subject to:
- 70.4.1 The staff member being responsible for the care and support of the person concerned; and
- 70.4.2 The person concerned being:
- (a) a spouse of the staff member; or
 - (b) a de facto spouse being a person of the opposite sex to the staff member who lives with the staff member as her husband or his wife on a bona fide domestic basis although not legally married to that staff member; or
 - (c) a child or an adult child (including an adopted child, a step child, a foster child or an ex-nuptial child), parent (including a foster parent or legal guardian), grandparent, grandchild or sibling of the staff member or of the spouse or de facto spouse of the staff member; or
 - (d) a same sex partner who lives with the staff member as the de facto partner of that staff member on a bona fide domestic basis; or
 - (e) 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.

71. Sick Leave - Workers Compensation

- 71.1 The Chief Executive Officer shall advise each staff member of the rights under the *Workers Compensation Act 1987*, as amended from time to time, and shall give such assistance and advice, as necessary, in the lodging of any claim.
- 71.2 A staff member who is or becomes unable to attend for duty or to continue on duty in circumstances which may give the staff member a right to claim compensation under the *Workers Compensation Act 1987* shall be required to lodge a claim for any such compensation.

- 71.3 Where, due to the illness or injury, the staff member is unable to lodge such a claim in person, the Chief Executive Officer shall assist the staff member or the representative of the staff member, as required, to lodge a claim for any such compensation.
- 71.4 The Chief Executive Officer will ensure that, once received by the Corporation, a staff member's workers compensation claim is lodged by the Corporation with the workers compensation insurer within the statutory period prescribed in the *Workers Compensation Act 1987*.
- 71.5 Pending the determination of that claim and on production of an acceptable medical certificate, the Chief Executive Officer shall grant sick leave on full pay for which the 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.
- 71.6 If liability for the workers compensation claim is accepted, then an equivalent period of any sick leave taken by the staff member pending acceptance of the claim shall be restored to the credit of the staff member.
- 71.7 A staff member who continues to receive compensation after the completion of the period of 26 weeks referred to in section 36 of the *Workers Compensation Act 1987* may use any accrued and untaken sick leave to make up the difference between the amount of compensation payable under that Act and the staff member's ordinary rate of pay. Sick leave utilised in this way shall be debited against the staff member.
- 71.8 If a staff member notifies the Chief Executive Officer that he or she does not intend to make a claim for any such compensation, the Chief Executive Officer shall consider the reasons for the staff member's decision and shall determine whether, in the circumstances, it is appropriate to grant sick leave in respect of any such absence.
- 71.9 A staff member may be required to submit to a medical examination under the *Workers Compensation Act 1987* in relation to a claim for compensation under that Act. If a staff member refuses to submit to a medical examination without an acceptable reason, the staff member shall not be granted available sick leave on full pay until the examination has occurred and a medical certificate is issued indicating that the staff member is not fit to resume employment.
- 71.10 If the Chief Executive Officer provides the staff member with employment which meets the terms and conditions specified in the medical certificate issued under the *Workers Compensation Act 1987* and the *Workplace Injury Management and Workers Compensation Act 1998* and, without good reason, the staff member fails, to resume or perform such duties, the staff member shall be ineligible for all payments in accordance with this clause from the date of the refusal or failure.
- 71.11 No further sick leave shall be granted on full pay if there is a commutation of weekly payments of compensation by the payment of a lump sum pursuant to section 51 of the *Workers Compensation Act 1987*.
- 71.12 Nothing in this clause prevents a staff member from appealing a decision or taking action under other legislation made in respect of:
- 71.12.1 The staff member's claim for workers compensation;
 - 71.12.2 The conduct of a medical examination by a Government or other Medical Officer;
 - 71.12.3 A medical certificate issued by the examining Government or other Medical Officer; or
 - 71.12.4 Action taken by the Chief Executive Officer either under the *Workers Compensation Act 1987* or any other relevant legislation in relation to a claim for workers compensation, medical examination or medical certificate.

72. Sick Leave - Claims Other Than Workers Compensation

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

73. Special Leave

- 73.1 Special Leave - Jury Service
- 73.1.1 A staff member shall, as soon as possible, notify the Chief Executive Officer of the details of any jury summons served on the staff member.
- 73.1.2 A staff member who, during any period when required to be on duty, attends a court in answer to a jury summons shall, upon return to duty after discharge from jury service, furnish to the Chief Executive Officer a certificate of attendance issued by the Sheriff or by the Registrar of the court giving particulars of attendances by the staff member during any such period and the details of any payment or payments made to the staff member under section 72 of the *Jury Act 1977* in respect of any such period.
- 73.1.3 When a certificate of attendance on jury service is received in respect of any period during which a staff member was required to be on duty, the Chief Executive Officer shall grant, in respect of any such period for which the staff member has been paid out-of-pocket expenses only, special leave on full pay. In any other case, the Chief Executive Officer shall grant, at the sole election of the staff member, available recreation leave on full pay, flex leave or leave without pay.
- 73.2 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. Salary and any expenses properly and reasonably incurred by the staff member in connection with the staff member's appearance at court as a witness in an official capacity shall be paid by the Corporation.
- 73.3 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:
- 73.3.1 Be granted, for the whole of the period necessary to attend as such a witness, special leave on full pay; and
- 73.3.2 Pay into the Treasury of the State of New South Wales all money paid to the 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.

- 73.3.3 Association Witness - a staff member called by the Association to give evidence before an Industrial Tribunal or in another jurisdiction shall be granted special leave by the Corporation for the required period.
- 73.4 Called as a witness in a private capacity - A staff member who is subpoenaed or called as a witness in a private capacity shall, for the whole of the period necessary to attend as such a witness, be granted at the staff member's election, available recreation leave on full pay or leave without pay.
- 73.5 Special Leave - Examinations -
- 73.5.1 Special leave on full pay up to a maximum of 5 days in any one year shall be granted to staff members for the purpose of attending at any examination approved by the Chief Executive Officer.
- 73.5.2 Special leave granted to attend examinations shall include leave for any necessary travel to or from the place at which the examination is held.
- 73.5.3 If an examination for a course of study is held during term or semester within the normal class timetable and study time has been granted to the staff member, no further leave is granted for any examination.
- 73.6 Special Leave - Union Activities - Special leave on full pay may be granted to staff members who are accredited Association delegates to undertake Association activities as provided for in clause 43, Trade Union Activities Regarded as Special Leave of this award.
- 73.7 A staff member who identifies as an Indigenous Australian shall be granted up to one day special leave per year to enable the staff member to participate in the National Aborigines and Islander Day of Commemoration Celebrations. Leave can be taken at any time during NAIDOC week, or in the weeks leading up to and after NAIDOC week as negotiated between the supervisor and staff member.
- 73.8 Special Leave - Other Purposes - Special leave on full pay may be granted to staff members by the Chief Executive Officer for such other purposes, subject to the conditions specified in the Personnel Handbook at the time the leave is taken.

SECTION 7 - TRAINING AND PROFESSIONAL DEVELOPMENT

74. Staff Development and Training Activities

- 74.1 For the purpose of this clause, the following shall be regarded as staff development and training activities:
- 74.1.1 All staff development courses conducted by a NSW Public Sector organisation;
- 74.1.2 Short educational and training courses conducted by generally recognised public or private educational bodies; and
- 74.1.3 Conferences, conventions, seminars, or similar activities conducted by professional, learned or other generally recognised societies, including Federal or State Government bodies.
- 74.2 For the purposes of this clause, the following shall not be regarded as staff development and training activities:
- 74.2.1 Activities for which study assistance is appropriate;
- 74.2.2 Activities to which other provisions of this award apply (e.g. courses conducted by the Association); and
- 74.2.3 Activities which are of no specific relevance to the NSW Public Sector.

- 74.3 Attendance of a staff member at activities considered by the Chief Executive Officer to be:
- 74.3.1 Essential for the efficient operation of the Corporation; or
 - 74.3.2 Developmental and of benefit to the NSW public sector
- shall be regarded as on duty for the purpose of payment of salary if a staff member attends such an activity during normal working hours.
- 74.4 The following provisions shall apply, as appropriate, to the activities considered to be essential for the efficient operation of the Corporation:
- 74.4.1 Recognition that the staff members are performing normal duties during the course;
 - 74.4.2 Adjustment for the hours so worked under flexible working hours;
 - 74.4.3 Payment of course fees;
 - 74.4.4 Payment of all actual necessary expenses or payment of allowances in accordance with this award, provided that the expenses involved do not form part of the course and have not been included in the course fees; and
 - 74.4.5 Payment of overtime where the activity could not be conducted during the staff member's normal hours and the Chief Executive Officer is satisfied that the approval to attend constitutes a direction to work overtime under clause 76, Overtime - General of this award.
- 74.5 The following provisions shall apply, as appropriate, to the activities considered to be developmental and of benefit to the Corporation:
- 74.5.1 Recognition of the staff member as being on duty during normal working hours whilst attending the activity;
 - 74.5.2 Payment of course fees;
 - 74.5.3 Reimbursement of any actual necessary expenses incurred by the staff member for travel costs, meals and accommodation, provided that the expenses have not been paid as part of the course fee; and
 - 74.5.4 Such other conditions as may be considered appropriate by the Chief Executive Officer given the circumstances of attending at the activity, such as compensatory leave for excess travel or payment of travelling expenses.
- 74.6 Where the training activities are considered to be principally of benefit to the staff member and of indirect benefit to the public service, special leave of up to 10 days per year shall be granted to a staff member. If additional leave is required and the Chief Executive Officer 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.
- 74.7 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 clause.

75. Study Assistance

- 75.1 The Chief Executive Officer shall have the power to grant or refuse study time for a staff member.
- 75.2 Where the Chief Executive Officer approves the grant of study time for a staff member, the grant shall be subject to:

- 75.2.1 The course undertaken by the staff member being a course relevant to the Corporation and/or the public service and approved by the Chief Executive Officer;
- 75.2.2 The time being taken at the convenience of the Corporation; and
- 75.2.3 Paid study time not exceeding a maximum of 4 hours per week, to accrue on the basis of half an hour for each hour of class attendance.
- 75.3 Study time may be granted to both full and part-time staff members. Part-time staff members however shall be entitled to a pro-rata allocation of study time to that of a full-time staff member.
- 75.4 Study time may be used for:
- 75.4.1 Attending compulsory lectures, tutorials, residential schools, field days etc., where these are held during working hours; and/or
- 75.4.2 Necessary travel during working hours to attend lectures, tutorials etc., held during or outside working hours; and/or
- 75.4.3 Private study; and/or
- 75.4.4 Accumulation, subject to the conditions specified in subclauses 75.6 to 75.9 of this clause.
- 75.5 Staff members requiring study time must nominate the type(s) of study time preferred at the time of application and prior to the proposed commencement of the academic period. The types of study time are as follows:-
- 75.5.1 Face-to-Face - Staff members may elect to take weekly and/or accrued study time, subject to the provisions for its grant.
- 75.5.2 Correspondence - Staff members may elect to take weekly and/or accrued study time, or time off to attend compulsory residential schools.
- 75.5.3 Accumulation - Staff members may choose to accumulate part or all of their study time as provided in subclauses 75.6 to 75.9 of this clause.
- 75.6 Accumulated study time may be taken in any manner or at any time, subject to operational requirements of the Corporation.
- 75.7 Where at the commencement of an academic year/semester a staff member elects to accrue study time and that staff member has consequently foregone the opportunity of taking weekly study time, the accrued period of time off must be granted even if changed work circumstances mean absence from duty would be inconvenient.
- 75.8 Staff members attempting courses which provide for annual examinations, may vary the election as to accrual, made at the commencement of an academic year, effective from 1st July in that year.
- 75.9 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.
- 75.10 Staff members studying in semester based courses may vary their election as to accrual or otherwise from semester to semester.
- 75.11 Correspondence Courses - Study time for staff members studying by correspondence accrues on the basis of half an hour for each hour of lecture/tutorial attendance involved in the corresponding face-to-face course, up to a maximum grant of 4 hours per week. Where there is no corresponding face-to-face course, the training institution should be asked to indicate what the attendance requirements would be if such a course existed.

- 75.12 Correspondence students may elect to take weekly study time and/or may accrue study time and take such accrued time when required to attend compulsory residential schools.
- 75.13 Repeated subjects - Study time shall not be granted for repeated subjects.
- 75.14 Expendable grant - Study time if not taken at the nominated time shall be forfeited. If the inability to take study time occurs as a result of a genuine emergency at work, study time for that week may be granted on another day during the same week.
- 75.15 Examination Leave - Examination leave shall be granted as special leave for all courses of study approved in accordance with this clause.
- 75.16 The period granted as examination leave shall include:
- 75.16.1 Time actually involved in the examination;
- 75.16.2 Necessary travelling time, in addition to examination leave,
- but is limited to a maximum of 5 days in any one year. Examination leave is not available where an examination is conducted within the normal class timetable during the term/semester and study time has been granted to the staff member.
- 75.17 The examination leave shall be granted for deferred examinations and in respect of repeat studies.
- 75.18 Study Leave - Study leave for full-time study is granted to assist those 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.
- 75.19 All staff members are eligible to apply and no prior service requirements are necessary.
- 75.20 Study leave shall be granted without pay, except where the Chief Executive Officer approves financial assistance. The extent of financial assistance to be provided shall be determined by the Chief Executive Officer according to the relevance of the study to the workplace and may be granted up to the amount equal to full salary.
- 75.21 Where financial assistance is approved by the Chief Executive Officer for all or part of the study leave period, the period shall count as service for all purposes in the same proportion as the quantum of financial assistance bears to full salary of the staff member.
- 75.22 Scholarships for Part-Time Study - In addition to the study time/study leave provisions under this clause, the Corporation may choose to identify courses or educational programmes of particular relevance or value and establish a Corporation scholarship to encourage participation in these courses or programmes. The conditions under which such scholarships are provided should be consistent with the provisions of this clause.

SECTION 8 - OVERTIME

76. Overtime - General

- 76.1 A staff member may be directed by the Chief Executive Officer 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:
- 76.1.1 The staff member's prior commitments outside the workplace, particularly the staff member's family and carer responsibilities, community obligations or study arrangements,
- 76.1.2 Any risk to staff member health and safety,

- 76.1.3 The urgency of the work required to be performed during overtime, the impact on the operational commitments of the organisation and the effect on client services,
- 76.1.4 The notice (if any) given by the Chief Executive Officer regarding the working of the overtime, and by the staff member of their intention to refuse overtime, or
- 76.1.5 Any other relevant matter.
- 76.2 Payment for overtime shall be made only where the staff member works directed overtime.
- 76.3 Where a flexible working hours scheme is in operation, overtime shall be deemed as the hours directed to be worked before or after bandwidth or before or after the time specified in a local arrangement provided that, on the day when overtime is required to be performed, the staff member shall not be required by the Chief Executive Officer to work more than 7 hours after finishing overtime or before commencing overtime.
- 76.4 Payment for overtime worked shall not be made under this clause if the staff member is eligible, under any other industrial instrument, to:
- 76.4.1 Compensation specifically provided for overtime; or
- 76.4.2 Be paid an allowance for overtime; or
- 76.4.3 A rate of salary which has been determined as inclusive of overtime.

77. Overtime Worked By Day Workers

- 77.1 The provisions of this clause shall not apply to:
- 77.1.1 Staff members covered by formal local arrangements in respect of overtime negotiated between the Chief Executive Officer and the Association;
- 77.1.2 Staff members to whom overtime provisions apply under another industrial instrument;
- 77.1.3 Staff members whose salary includes compensation for overtime; and
- 77.1.4 Staff members who receive an allowance in lieu of overtime.
- 77.2 Rates - Overtime shall be paid at the following rates:
- 77.2.1 Weekdays (Monday to Friday inclusive) - at the rate of time and one-half for the first two hours and at the rate of double time thereafter for all directed overtime worked outside the 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 apply;
- 77.2.2 Saturday - All overtime worked on a Saturday at the rate of time and one-half for the first two hours and at the rate of double time thereafter;
- 77.2.3 Sundays - All overtime worked on a Sunday at the rate of double time;
- 77.2.4 Public Holidays - All overtime worked on a public holiday at the rate of double time and one half.
- 77.3 If 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.

77.4 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.

77.5 Rest Periods

77.5.1 A staff member who works overtime shall be entitled to be absent until eight (8) consecutive hours have elapsed.

77.5.2 Where a staff member, at the direction of the supervisor, resumes or continues work without having had eight (8) consecutive hours off duty then such staff member shall be paid at the appropriate overtime rate until released from duty. 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.

78. Overtime Meal Breaks

78.1 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.

78.2 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.

78.3 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.

79. Overtime Meal Allowances

79.1 If an adequate meal is not provided by the Corporation, a meal allowance shall be paid by the Corporation at the appropriate rate specified in Item 8 of Table 1 - Allowances of Part B, Monetary Rates, provided the Chief Executive Officer is satisfied that:

79.1.1 the time worked is directed overtime;

79.1.2 the staff member properly and reasonably incurred expenditure in obtaining the meal in respect of which the allowance is sought;

79.1.3 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

79.1.4 overtime is not being paid in respect of the time taken for a meal break.

79.2 Where an allowance payable under this clause is insufficient to reimburse the staff member the cost of a meal, properly and reasonably incurred, the Chief Executive Officer shall approve payment of actual expenses.

79.3 Where a meal was not purchased, payment of a meal allowance shall not be made.

79.4 Receipts shall be provided to the Chief Executive Officer or his/her delegate in support of any claims for additional expenses or when the staff member is required to substantiate the claim.

79.5 Notwithstanding the above provisions, nothing in this clause shall prevent the Chief Executive Officer and the Association from negotiating different meal provisions under a local arrangement.

80. Rate of Payment for Overtime

A staff member whose salary, or salary and allowance in the nature of salary, exceeds the maximum rate for Clerk Grade 8 (as set out in the Crown Employees (Public Sector - Salaries 2008) Award and any variation or replacement award), as varied from time to time, shall be paid for working directed overtime at the maximum rate for Clerk, Grade 8 plus \$1.00, unless the Chief Executive Officer approves payment for directed overtime at the staff member’s salary or, where applicable, salary and allowance in the nature of salary.

81. Payment for Overtime Or Leave in Lieu

81.1 The Chief Executive Officer shall grant compensation for directed overtime worked either by payment at the appropriate rate or, if the staff member so elects, by the grant of leave in lieu in accordance with subclause 81.2 of this clause.

81.2 The following provisions shall apply to the leave in lieu:-

81.2.1 The 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.

81.2.2 The leave shall be calculated at the same rate as would have applied to the payment of overtime in terms of this clause.

81.2.3 The leave must be taken at the convenience of the Corporation, except when leave in lieu is being taken to look after a sick family member. In such cases, the conditions set out in clause 70, Sick Leave to Care for a Sick Family Member of this award apply.

81.2.4 The leave shall be taken in multiples of a quarter day, unless debiting of leave in hours or in fractions of an hour has been approved in the staff member’s Corporation or section;

81.2.5 Leave in lieu accrued in respect of overtime shall be given by the Corporation and taken by the staff member within three months of accrual unless alternate local arrangements have been negotiated between the Chief Executive Officer and the Association.

81.2.6 A staff member shall be paid for the balance of any overtime entitlement not taken as leave in lieu.

82. Calculation of Overtime

82.1 Unless a minimum payment in terms of subclause 77.4 of clause 77, Overtime Worked by Day Workers of this award applies, overtime shall not be paid if the total period of overtime worked is less than a quarter of an hour.

82.2 The formula for the calculation of overtime at ordinary rates for staff members employed on a five (5) day basis shall be:

$$\frac{\text{Annual salary}}{1} \times \frac{5}{260.89} \times \frac{1}{\text{No of ordinary hours of work per week}}$$

82.3 To determine time and one half, double time or double time and one half, the hourly rate at ordinary time shall be multiplied by 3/2, 2/1 or 5/2 respectively, calculated to the nearest cent.

82.4 Overtime is not payable for time spent travelling.

83. Provision of Transport in Conjunction With Working of Overtime

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

Departure or arrival after 8.00 p.m. of a staff member on overtime does not in itself warrant the provision of transport. It needs to be demonstrated that the normal means of transport, public or otherwise, is not reasonably available and/or that travel by such means of transport places the safety of the 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 Corporations where knowledge of each particular situation will enable appropriate judgements to be made.

83.2 Arrangement of Overtime

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

83.3 Provision of Taxis

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

SECTION 9 - MISCELLANEOUS

84. Anti-Discrimination

84.1 It is the intention of the parties bound by this award to seek to achieve the object in section 3(f) of the *Industrial Relations Act* 1996 to prevent and eliminate discrimination in the workplace. This includes discrimination on the grounds of race, sex, marital status, disability, homosexuality, transgender identity, age and responsibilities as a carer.

84.2 It follows that in fulfilling their obligations under the dispute resolution procedure prescribed by this award the parties have obligations to take all reasonable steps to ensure that the operation of the provisions of this award are not directly or indirectly discriminatory in their effects. It will be consistent with the fulfilment of these obligations for the parties to make application to vary any provision of the award which, by its terms or operation, has a direct or indirect discriminatory effect.

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

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

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

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

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

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

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

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

84.5.2 Section 56(d) of the *Anti-Discrimination Act* 1977 provides:

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

85. Secure Employment

85.1 Objective of this Clause

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

85.2 Casual Conversion

85.2.1 A casual employee engaged by the Corporation on a regular and systematic basis for a sequence of periods of employment under this award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.

85.2.2 Where the Corporation employs such a casual employee, the Corporation shall give the employee notice in writing of the provisions of this subclause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the Corporation fails to comply with this notice requirement.

85.2.3 Any casual employee who has a right to elect under paragraph 85.2.1, upon receiving notice under paragraph 85.2.2 or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the Chief Executive Officer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the Chief Executive Officer shall consent to or refuse the election, but shall not unreasonably so refuse. Where the Chief Executive Officer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

85.2.4 Any casual employee who does not, within four weeks of receiving written notice from the Chief Executive Officer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.

85.2.5 Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the Chief Executive Officer.

85.2.6 If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph 85.2.3, the Chief Executive Officer and employee shall, in accordance with this paragraph, and subject to paragraph 85.2.3, discuss and agree upon:

- (a) whether the employee will convert to full-time or part-time employment; and
- (b) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

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

85.2.7 Following an agreement being reached pursuant to paragraph 85.2.6, the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

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

85.3 Occupational Health and Safety

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

- (a) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
- (b) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.

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

- (a) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
- (b) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
- (c) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
- (d) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.

85.3.3 Nothing in this subclause is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.

85.4 Disputes Regarding the Application of this Clause

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

85.5 This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.

86. Existing Entitlements

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

87. Incidence and Duration

87.1 This award removes any doubt that the provisions of the Crown Employees (Public Service Conditions of Employment) Award 2009 published 31 July 2009 (368 I.G. 884) and all variations thereof do not apply to the staff members who are now covered under this award. For the avoidance of doubt, staff members covered under this award are those persons employed by the Corporation under section 4B(3) of the Act whose positions are identified in Table 2 - Salary Rates of Part B Monetary Rates of this award.

87.2 This award will be operative from 21 February 2011 and will remain in force until 30 June 2013.

88. No Extra Claims

The parties of this award agree that the pay increases under this award are provided on the basis that there shall be no further claims for changes to salary rates, conditions or any other provisions of this award during the nominal term of the award.

PART B

MONETARY RATES

Table 1 - Allowances

Effective 1 July 2010¹

Item No.	Clause No	Description	Amount \$
1		Meal expenses on one day journeys	
		Capital cities and high cost country centres	
		(see list in item 2)	
	29.1.1	Breakfast	\$23.10
	29.1.2	Dinner	\$44.50
	29.1.3	Lunch	\$25.90
		Tier 2 and other country centres (see list in item 2)	
	29.1.1	Breakfast	\$20.65
	29.1.2	Dinner	\$40.65
	29.1.3	Lunch	\$23.60
2	25.8.2	Travelling allowances	
		Capital cities	Per day
		Adelaide	\$267.35
		Brisbane	\$311.35
		Canberra	\$255.35
		Darwin	\$282.35
		Hobart	\$227.35
		Melbourne	\$283.35
		Perth	\$274.35
		Sydney	\$293.35

25.8.2	High cost country centres	Per day
	Albany (WA)	\$228.55
	Alice Springs (NT)	\$223.35
	Ballarat (VIC)	\$232.85
	Bendigo (VIC)	\$232.35
	Bright (VIC)	\$223.35
	Broome (WA)	\$324.35
	Bunbury (WA)	\$232.85
	Burnie (TAS)	\$235.35
	Cairns (QLD)	\$233.35
	Carnarvon (WA)	\$256.65
	Christmas Island (WA)	\$260.35
	Cocos (Keeling) Island	\$220.35
	Dalby (QLD)	\$220.35
	Dampier (WA)	\$284.75
	Derby (WA)	\$291.85
	Devon port (TAS)	\$238.85
	Echuca (VIC)	\$232.65
	Emerald (QLD)	\$229.85
	Esperance (WA)	\$228.35
	Exmouth (WA)	\$300.35
	Geelong (VIC)	\$231.35
	Geraldton (WA)	\$243.85
	Gladstone (QLD)	\$228.85
	Gold Coast (QLD)	\$245.35
	Halls Creek (WA)	\$257.85
	Hervey Bay (QLD)	\$229.35
	Horn Island (QLD)	\$279.35

¹ NB: In adjusting expense related and salary related allowances, annual rates are adjusted to the nearest dollar, weekly and daily rates are rounded to the nearest 5 cents, and hourly rates are moved to the nearest cent (except for the flying allowance which is moved to the nearest 10 cents).

	Horsham (VIC)	\$223.35
	Jabiru (NT)	\$308.35
	Kalgoorlie (WA)	\$248.85
	Karratha (WA)	\$395.35
	Katherine (NT)	\$230.85
	Kununurra (WA)	\$292.35
	Launceston (TAS)	\$225.85
	Mackay (QLD)	\$242.85
	Maitland (NSW)	\$221.85
	Mount Isa (QLD)	\$268.85
	Newcastle (NSW)	\$242.85
	Newman (WA)	\$305.35
	Norfolk Island	\$242.85
	Port Hedland (WA)	\$380.35
	Port Lincoln (SA)	\$222.35
	Port Macquarie (NSW)	\$225.35
	Queanbeyan (NSW)	\$223.85
	Tamworth (NSW)	\$221.35
	Thursday Island (QLD)	\$290.35
	Townsville (QLD)	\$234.35
	Wagga Wagga (NSW)	\$227.85
	Warrnambool (VIC)	\$224.55
	Weipa (QLD)	\$248.35
	Whyalla (SA)	\$228.35
	Wilpena-Pound (SA)	\$252.35

		Wonthaggi (VIC)	\$232.35
		Yulara (NT)	\$441.35
	25.8.2	Tier 2 country centres	Per day
		Ararat (VIC)	\$208.75
		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)	\$208.75
		Rockhampton (QLD)	\$208.75
		Roma (QLD)	\$208.75
		Seymour (VIC)	\$208.75
		Swan Hill (VIC)	\$208.75
		Toowoomba (QLD)	\$208.75
		Wollongong (NSW)	\$208.75
	25.8.2	Other country centres	\$193.75
	25.8.2	Incidental expenses when claiming actual expenses - all locations	\$16.85
3	25.8.1	Incidental expenses	\$16.85
4		Use of private motor vehicle	Cents per kilometre
	33.2	Official business	
		Engine capacity-	
		2601cc and over	75.0
		1601cc-2600cc	74.0
		1600cc or less	63.0
	33.2	Casual rate (40% of official business rate)	
		Engine capacity-	
		2601cc and over	30.0
		1601cc-2600cc	29.6
		1600cc or less	25.2

		Motor cycle allowance (50% of the 1600cc or less official business rate)	31.5
5	36.2	Exchanges	Actual cost
6	37.1	Room at home used as office	\$797 pa
7	40.1	First aid allowance (effective ffpp on or after 1 July 2010)	Per annum
		- Holders of basic qualifications	\$750 pa
8	79.1	Overtime meal allowances	Eff. 1 July 2010
		Breakfast	\$25.80
		Lunch	\$25.80
		Dinner	\$25.80
		Supper	\$9.50

Table 2 - Salary Rates

Clauses 3.44, 6 and 87.2

Position Title	Grade	Salary Rate from first full pay period on or after 1 July 2009 \$	Salary Rate from first full pay period on or after 1 July 2010 \$	Salary Rate from first full pay period on or after 1 July 2011 \$	Salary Rate from first full pay period on or after 1 July 2012 \$
Personal Assistant	Grade 4	61,328	63,781	66,332	68,986
Policy Specialist	Grade 7	77,384	80,479	83,698	87,046
Disputes Officer	Grade 8	83,171	86,498	89,958	93,556
Technical Services Specialist	Grade 9	88,058	91,580	95,243	99,053

C.G. STAFF J

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CROWN EMPLOYEES NURSES' (STATE) AWARD 2011

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by New South Wales Nurses' Association, Industrial Organisation of Employees.

(No. IRC 208 of 2011)

Before The Honourable Justice Walton, Acting President

8 March 2011

AWARD**1. Arrangement****PART A**

Clause No.	Subject Matter
1.	Arrangement
2.	Definitions
3.	General Conditions of Employment
4.	Salary Rates
5.	Overtime
6.	Penalty Payments for Shift Work and Weekend Work
7.	Public Holidays
8.	Annual Leave
9.	Grading of Nurse/Midwife Manager
10.	Dispute Resolution Procedures
11.	Anti-Discrimination
12.	Personal Carer's Leave
13.	Area, Incidence and Duration
14.	No Extra Claims
15.	Savings Clause
16.	Career Break Scheme
17.	Commitments During the Life of this Award

PART B**MONETARY RATES**

Table 1 - Salaries

PART A**2. Definitions**

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

The "Association" means the New South Wales Nurses' Association of 43 Australia Street, Camperdown, New South Wales.

"Career Break Scheme" means a scheme where employees may apply for an option to defer twenty percent of their salary for four years, and be paid this deferred salary in the fifth year.

"Consultation" means that the employer must notify the Association of the proposal or issue in question, give the Association adequate time to consider the matter and respond to the employer, and the Association's views (where expressed) must be taken into account by the employer in arriving at a decision.

"Day Worker" means a worker who works her/his ordinary hours from Monday to Friday inclusive and who commences work on such days at or after 6.00a.m. and before 10.00a.m. otherwise than as part of the shift system.

"Employee" means for the purpose of this award, a person who holds a position for which a nursing qualification is an essential requirement and is employed as a public servant within the NSW Department of Health or in a Division of the Government Service as per Schedule 1 of the Public Sector Employment and Management Act where the Director General of the Department of Health is the Division Head.

Registered Nurse/Midwife, Nurse/Midwife Educator, Nurse/Midwife Manager, Nursing/Midwifery Unit Manager, Clinical Nurse/Midwife Educator, Clinical Nurse/Midwife Specialist, Clinical Nurse/Midwife Consultant and Nurse/Midwife Practitioner shall all have the same meaning as defined in the Public Health System Nurses' and Midwives' (State) Award 2011.

"Employer" for the purposes of this award, in respect of nurses employed pursuant to the *Public Sector Employment and Management Act 2002*, is a reference to the NSW Department of Health and, in respect of public servants, is a reference to the Director of Public Employment - and any person authorised to exercise the functions of the employer on behalf of the Director of Public Employment.

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

3. General Conditions of Employment

Except as otherwise provided in this award:

- (a) Employees shall be entitled to, and shall observe, the conditions of employment applicable to public servants, i.e. the conditions of employment covering officers employed in organisations listed in Schedule 1 and Schedule 2 of the Public Sector Employment and Management Act 2002 and the Regulations as contained from time to time in the Public Service Handbook and/or the Crown Employees (Public Service Conditions of Employment) Award 2009 as varied from time to time.

4. Salary Rates

The minimum salaries per week to be paid to employees shall be as set out in Table 1 - Salaries of Part B, Monetary Rates.

5. Overtime

- (a) Subject to subclause (b) an employer may require an employee to work reasonable overtime.
- (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 purpose of subclause (b) what is unreasonable or otherwise will be determined having regard to:
 - (i) the risk to the employee's health and safety;
 - (ii) the employee's personal circumstances including any family and carer responsibilities;
 - (iii) the needs of the facility;
 - (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.

- (d) This clause shall not apply to Nurse Managers classified at Grade 4 or above.
- (e) Overtime shall be paid for time worked in excess of 152 hours over each four weekly period provided that the performance of such overtime is authorised by the employer.
- (f) In assessing payment for authorised time worked in excess of 152 hours over each four weekly period, time should stand alone in excess of each normal shift and be calculated in accordance with subclause (g) of this clause.
- (g) Authorised overtime shall be paid at the rate of time and one half for the first two hours and double time thereafter. Provided that all authorised overtime worked on Sundays shall be paid at the rate of double time and on public holidays at the rate of double time and one half.

6. Penalty Payments for Shift Work and Weekend Work

- (a) This clause shall not apply to Nurse Managers classified at Grade 4 or above.
- (b) In addition to the rates prescribed by this award, officers authorised by the employer to perform work on a shift basis and/or weekends and public holidays shall be paid for all time other than overtime worked at the following prescribed penalty:
 - (i)
 - (1) On afternoon shift, commencing at or after 10.00 a.m. and before 1.00 p.m. at the rate of ten per cent extra.
 - (2) On afternoon shift, commencing at or after 1.00 p.m. and before 4.00 p.m. at the rate of 12 ½ per cent extra.
 - (3) On night shift, commencing at or after 4.00 p.m. and before 4.00 a.m. at the rate of 15 per cent extra.
 - (4) On night shift, commencing at or after 4.00 a.m. and before 6.00 a.m. at the rate of ten per cent extra.
 - (ii)
 - (1) Between midnight Friday and midnight Saturday at the rate of half-time extra.
 - (2) Between midnight Saturday and midnight Sunday at the rate of three-quarter time extra.
 - (3) Provided that these weekend rates in this subclause shall be in substitution for and not cumulative upon the shift penalties prescribed in subclause (i) of this clause.
 - (iii) Between midnight to the following midnight on a public holiday at the rate of half time extra in substitution for and not cumulative upon the shift premiums prescribed in subclause (i) and (ii) of this clause.

7. Public Holidays

- (a) Public holidays shall be allowed to employees on full pay. An employee who is required to and does work on a public holiday shall be paid for the time actually worked at the rate of time and one half in addition to his/her ordinary weekly rate. Such payment shall be in lieu of any additional rate for shift work or weekend work which would otherwise be payable had the day not been a public holiday. Provided that, if an employee so elects, he/she may have one day or one half day, as appropriate, added to his/her period of annual leave and be paid at the rate of one half time extra for the time actually worked.

- (b) Where a public holiday occurs on a shift worker's rostered day off, he or she shall be paid one day's pay in addition to the weekly rate or, if the employee so elects, have one day added to his or her period of annual leave.

8. Annual Leave

Nurse Managers classified at Grade 4 or above are entitled to annual leave as set out in subclause (a) to (d) of this clause. All other employees are entitled to annual leave in accordance with the provisions of the Crown Employees (Public Service Conditions of Employment) Award 2009, as varied from time to time.

- (a) Twenty ordinary working days' annual leave per annum; and,
- (b) If they work on a public holiday as defined in the Crown Employees (Public Service Conditions of Employment) Award 2009, as varied from time to time:
- (i) the provisions of clause 7, Public Holidays; or
 - (ii) by agreement between the employee and the employer, time in lieu of each public holiday or half public holiday so worked, to be taken at a time agreed between the employee and the employer.
- (c) The benefits of the Crown Employees (Public Service Conditions of Employment) Award 2009, as varied from time to time, shall not apply to Nurse Managers classified at Grade 4 or above.
- (d) The employer must pay to all employees annual leave loading in accordance with the provisions of the Crown Employees (Public Service Conditions of Employment) Award 2009, as varied from time to time.

9. Grading of Nurse/Midwife Manager

Grading provisions of the Public Health System Nurses' and Midwives' (State) Award 2011 apply to all positions of Nurse / Midwife Manager covered by this award.

10. Dispute Resolution Procedures

- (a) All parties must use their best endeavours to cooperate in order to avoid any grievances and/or disputes.
- (b) Where a dispute arises, regardless of whether it relates to an individual employee or to a group of employees, the matter must be discussed in the first instance by the employee(s) or the Association on behalf of the employee(s) if the employee(s) so requests and the immediate supervisor of that employee(s).
- (c) If the matter is not resolved within a reasonable time it must be referred by the employees immediate supervisor to the Chief Executive Officer of the employer (or his or her nominee) and may be referred by the employee(s) to the Association's head office. Discussions at this level must take place and be concluded within two working days of referral or such extended periods as may be agreed.
- (d) If the matter remains unresolved, the Association must then confer with the appropriate level of management, depending on the nature and extent of the matter. 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 these procedures are exhausted without the matter being resolved, or if any of the time limits as set out in this clause are not met, either the Association or the employer 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.
- (f) During these procedures normal work must continue and there must be no stoppages of work, lockouts, or any other bans or limitations on the performance of work.

- (g) 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 employer must ensure that all practices applied during the operation of these procedures are in accordance with safe working practices.
- (h) Throughout all stages of these procedures, adequate records must be kept of all discussions.
- (i) These procedures will 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.

11. Anti-Discrimination

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

NOTES -

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

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

12. Personal Carer's Leave

The provisions of Clause 85, Sick Leave to Care for a Family member, of the Crown Employees (Public Service Conditions of Employment) Award 2009, shall apply.

13. Area, Incidence and Duration

- (a) This award applies to all employees as defined in clause 2, Definitions employed as a public servant within the NSW Department of Health or in a Division of the Government Service as per Schedule 1 of the Public Sector Employment and Management Act where the Director General of the Department of Health is the Division Head.
- (b) This Award rescinds and replaces the Crown Employees Nurses' (State) Award published 26 December 2008 (366 I.G. 1534) and all variations thereof.
- (c) It shall take effect from 8 March 2011 and shall remain in force thereafter until 30 June 2013.

14. No Extra Claims

There shall be no further salary or conditions claims made during the term of this Award, that is, to 30 June 2013.

15. Savings Clause

It is the intention of the parties that this award be a consolidation of the industrial instruments applicable immediately prior to the making of this Award. Unless otherwise agreed, it is not the intention of the parties that any existing conditions of employment be removed. This does not preclude any regrading of positions that may arise from job evaluation exercises.

16. Career Break Scheme

- (i) The career break scheme allows employees to defer twenty percent of their salary for four years, and be paid this deferred salary in the fifth year.
- (ii) Employees who apply and are approved to participate in the career break scheme will receive 100% of their normal salary for the first four years with a deduction equivalent to 20% of net salary (gross less tax). The 20% of net salary is deposited into an account in the employee's name each pay period for payment in the fifth year (the deferred salary leave year) and subject to applicable taxation as required by law. The employer and employee will agree in writing prior to the commencement of the career break on the specific method and conditions under which the deferred salary will be withheld.
- (iii) All full time and permanent part time employees are eligible to participate in the career break scheme. Casual and temporary employees are excluded from participation in career break scheme. If a permanent employee is placed into another position by way of temporary engagement or secondment during the four years when salary is being deferred, this will not of itself affect their continued participation in the career break scheme.
- (iv) The NSW Department of Health will call for expressions of interest from employees seeking to participate in the career break scheme once each calendar year. The timing of the invitation of applications is to be determined by the public health organisation but in any event will not be later than 31st December 2007 for the initial commencement year.
- (v) The NSW Department of Health will determine the number of employees that may participate in the career break scheme having regard to service delivery and staffing levels and reserves the right to approve or not approve requests after considering workforce needs. This will be done in consultation with employees. The NSW Department of Health will not unreasonably refuse any application by an employee to participate in the career break scheme.

- (vi) For members of the State Superannuation Scheme (SSS) the NSW Department of Health will maintain the participant's employer contributions for the full five year period at the rate applicable to a person earning full salary for each of the five years. Any required personal superannuation contributions of participants are payable at the rate applicable to 100% of salary for each of the five years.
- (vii) For members of the State Authorities Superannuation Scheme (SASS) the NSW Department of Health will maintain the participant's employer contributions for the full five year period at the rate applicable to a person earning full salary for each of the five years. Any required personal superannuation contributions of participants are payable at the rate applicable to their full salary for each of the five years.
- (viii) For members of other complying funds (eg First State Superannuation, HESTA, HIP) the NSW Department of Health will cease making employer contributions during the deferred salary leave year. The superable salary is deemed to be 100% of the participant's normal salary (both deferred and the remaining 80% paid) for each of the first four years, and superannuation employer contributions are calculated on this basis. In the deferred salary leave year no employer contributions to superannuation are payable for members of these funds.
- (ix) Employees will continue to pay all personal employee superannuation contributions whilst participating in the career break scheme. The amount of such employee contributions is determined by the superannuation scheme/fund to which the employee is contributing and personal contributions during the deferred salary leave year are payable at the rate applicable to the employee's full salary.
- (x) In the deferred salary leave year, salary packaging and payroll deductions will not be available.
- (xi) The five years of the career break scheme will count as service for the accrual of long service leave, sick leave, annual leave, salary increments and other statutory entitlements. Any leave without pay taken by an employee whilst participating in the career break scheme will not count for the purpose of accrual of any leave. For the purpose of determining the leave accrued in the fifth year of the career break scheme (i.e. the deferred salary leave year) for permanent part-time employees, the average of all hours worked (excluding overtime) in the first four years of the career break scheme and including paid leave taken will be used for the basis of making this calculation.
- (xii) If any leave without pay is taken by an employee during the first four years of the career break scheme, the commencement of the deferred salary leave year will be postponed by the time the employee was absent from duty i.e. by the number of days leave without pay taken by the employee.
- (xiii) Employees are entitled to take paid leave during the first four years of the career break scheme, subject to normal approval processes at the public health organisation. Whilst on any paid leave the employee will be paid in accordance with subclause (ii) of this clause.
- (xiv) Employees are not entitled to take any form of leave during the deferred salary leave year, with the exception of Maternity and Adoption leave. In respect to Maternity or Adoption leave, if the deferred salary year has not yet commenced, the employee may elect to postpone the deferred salary leave year until after the completion of such leave (up to 52 weeks). If the employee elects not to postpone the deferred salary leave year, they are entitled to a lump sum payment of their normal salary for the period of paid maternity/adoption leave. The paid maternity/adoption leave does not extend the deferred salary leave year.
- (xv) There will be no access to the deferred salary until the fifth year unless the employee chooses to withdraw from the career break scheme.
- (xvi) An employee may elect to withdraw from the career break scheme at any time by giving reasonable notice to the employer, and will be paid all monies in the account.
- (xvii) It is the responsibility of the employee participating in the career break scheme to declare the interest earned on the deferred salary to the Taxation Office. Normal government statutory charges attributed to an individual's deferred salary account will be paid by the employee.

- (xviii) Subject to approval by the NSW Department of Health an employee may undertake outside employment in the deferred salary leave year. During the deferred salary leave year employees are not permitted to undertake work in the NSW Department of Health in positions covered by the Award. However, this does not prevent work in the NSW Department of Health in another position not covered by the Award.
- (xix) Upon return to work after the deferred salary leave year an employee will resume employment in their substantive NSW Department of Health position at the conclusion of their participation in the career break scheme, being the anniversary date of commencing the deferred salary leave year.
- (xx) Employees are advised to seek independent financial advice about participating in the career break scheme and the effect on superannuation. Comprehensive details regarding the operation of the career break will be recorded in a written agreement between the employee and the employer, to be signed prior to the commencement of the five year period.
- (xxi) A review of the operation of this clause will occur by a date agreed between the parties. That review will be undertaken by the Department of Health and the Nurses' Association and will consider any recommendations to vary the Scheme.

17. Commitments During the Life of This Award

- (i) The Association commits to continuing co-operation with and, where requested, participation in, NSW Health efficiency and productivity improvement initiatives, including those set out below:
 - (a) better demand management through Medical Assessment Units, Community Service Packages, and Community Acute/Post Acute Care;
 - (b) improved Severe Chronic Disease Management (SCDM);
 - (c) implementation of Electronic Medical Records, Electronic Medication Management, and Computerised Physician Order Entry;
 - (d) enhanced Healthcare Associated Infections (HAI) control;
 - (e) improved clinical hand-over procedures;
 - (f) reduction in medication errors;
 - (g) increased utilisation of Telehealth, enabling rural and remote hospitals to access advice and specialised skills to minimise treatment delays and reduce patient transfers;
 - (h) improved Nursing/Midwifery Unit Manager capabilities;
 - (i) improved Drug & Alcohol Consultation liaison;
 - (j) improved Management of Patient Deterioration;
 - (k) management of ambulatory care sensitive conditions;
 - (l) implementing the new rostering system, in particular co-operating in learning and applying the new system; and
 - (m) continuation of changes to ensure consistency in approach to skill mix and classifications, including use of nurse practitioners, senior clinical nurses, enrolled nurses and assistants in nursing. One of the clinical areas to be reviewed to ensure appropriate skill mix is in operating theatres.
- (ii) The Association commits to continuing co-operation with and, where requested by the Department, participation in, the following initiatives:

- (a) better discharge management planning to facilitate earlier discharges and other improved patient flow strategies;
- (b) trialling and/or implementation of new models of care, such as Urgent Care Centres and the Surgery Futures project, which includes establishment of high volume short stay surgery centres and improved separation of emergency from planned surgery;
- (c) operating theatre redesign to move procedures not needing a full operating theatre environment to procedure rooms and ambulatory care centres;
- (d) implementation of programs to facilitate rapid assessment of patients from residential aged care facilities;
- (e) the Pharmacy Reform program, in particular the review of nursing roles in medication management (including transition to home and general business processes) and implementation of any recommended changes; and
- (f) operationalising Supervision for Safety principles within existing staffing.

PART B

MONETARY RATES

Table 1 - Salaries

Classification	FFPP 1/07/2010 3.9%	FFPP 1/07/2011 3%	FFPP 1/07/2012 2.5%
Registered Nurse/Midwife			
1st year	984.50	1014.00	1039.40
2nd year	1038.10	1069.20	1095.90
3rd year	1091.60	1124.30	1152.40
4th year	1149.10	1183.60	1213.20
5th year	1206.10	1242.30	1273.40
6th year	1262.90	1300.80	1333.30
7th year	1327.90	1367.70	1401.90
8th year and Thereafter	1382.50	1424.00	1459.60
Clinical Nurse/Midwifery Specialist			
Grade 1, Year 1 and Thereafter	1438.70	1481.90	1518.90
Grade 2, Year 1	1545.50	1591.90	1631.70
Grade 2, Year 2 and Thereafter	1596.10	1644.00	1685.10
Clinical Nurse/Midwife Educator			
Year 1	1496.90	1541.80	1580.30
Year 2 and Thereafter	1545.50	1591.90	1631.70
Nurse/Midwife Educator			
Grade 1, Year 1	1681.40	1731.80	1775.10
Grade 1, Year 2 and Thereafter	1729.40	1781.30	1825.80
Employees at N/ME 4th year as at 1/7/08	1769.10	1822.20	1867.80
Grade 2, Year 1	1799.80	1853.80	1900.10
Grade 2, Year 2 and Thereafter	1835.40	1890.50	1937.80
Grade 3, Year 1	1905.90	1963.10	2012.20
Grade 3, Year 2 and Thereafter	1941.40	1999.60	2049.60

Nursing/Midwifery Unit Manager			
Level I	1734.30	1786.30	1831.00
Level II	1816.60	1871.10	1917.90
Level III	1865.50	1921.50	1969.50
Clinical Nurse/Midwife Consultant (appointed prior to 31/12/99)	1769.10	1822.20	1867.80
Clinical Nurse/Midwife Consultant			
Grade 1			
1st year	1729.40	1781.30	1825.80
2nd year and Thereafter	1764.80	1817.70	1863.10
Clinical Nurse/Midwife Consultant			
Grade 2			
1st year	1799.80	1853.80	1900.10
2nd year and Thereafter	1835.40	1890.50	1937.80
Clinical Nurse/Midwife Consultant			
Grade 3			
1st year	1905.90	1963.10	2012.20
2nd year and Thereafter	1941.40	1999.60	2049.60
Nurse/Midwife Practitioners			
1st year	1905.90	1963.10	2012.20
2nd year	1941.40	1999.60	2049.60
3rd year	1990.90	2050.60	2101.90
4th year and Thereafter	2040.80	2102.00	2154.60
Nurse/Midwife Managers			
Grade 1 - 1st year	1729.40	1781.30	1825.80
Grade 1 - 2nd year and Thereafter	1764.80	1817.70	1863.10
Grade 2 - 1st year	1799.80	1853.80	1900.10
Grade 2 - 2nd year and Thereafter	1835.40	1890.50	1937.80
Grade 3 - 1st year	1905.90	1963.10	2012.20
Grade 3 - 2nd year and Thereafter	1941.40	1999.60	2049.60
Grade 4 - 1st year	2011.90	2072.30	2124.10
Grade 4 - 2nd year and Thereafter	2047.10	2108.50	2161.20
Grade 5 - 1st year	2117.40	2180.90	2235.40
Grade 5 - 2nd year and Thereafter	2153.20	2217.80	2273.20
Grade 6 - 1st year	2223.70	2290.40	2347.70
Grade 6 - 2nd year and Thereafter	2259.20	2327.00	2385.20
Grade 7 - 1st year	2399.90	2471.90	2533.70
Grade 7 - 2nd year and Thereafter	2435.60	2508.70	2571.40
Grade 8 - 1st year	2576.70	2654.00	2720.40
Grade 8 - 2nd year and Thereafter	2611.80	2690.20	2757.50
Grade 9 - 1st year	2752.90	2835.50	2906.40
Grade 9 - 2nd year and Thereafter	2788.40	2872.10	2943.90

M. J. WALTON J, *Acting President*

(4008)

SERIAL C7556

NEWCASTLE CITY COUNCIL AWARD 2006

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Newcastle City Council.

(No. IRC 517 of 2010)

Before The Honourable Mr Deputy President Harrison

20 July 2010

ORDER OF RESCISSION

The Industrial Relations Commission of New South Wales orders that the Newcastle City Council Award 2006 published 30 June 2006 (359 I.G. 1158) as varied, be rescinded on and from 20 July 2010.

R. W. HARRISON *D.P.*

Printed by the authority of the Industrial Registrar.

PUBLIC HEALTH SYSTEM NURSES' AND MIDWIVES' (STATE) AWARD 2011

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by NSW Department of Health.

(No. IRC 1382 of 2010)

Before The Honourable Justice Walton, Acting President

23 February 2011

AWARD

PART A

1. Arrangement

Clause No.	Subject Matter
38.	Accommodation and Board
30.	Annual Leave
31.	Annual Leave Loading
49.	Anti-discrimination
59.	Area, Incidence and Duration
1.	Arrangement
21.	Car Allowance
56.	Career Break Scheme
14.	Climatic and Isolation Allowances
58.	Commitments During Life of this Award
13.	Continuing Education Allowance
52.	Deduction of Union Membership Fees
3.	Definitions
41.	Deputy Directors of Nursing, Assistant Directors of Nursing
48.	Disputes
44.	Domestic Work
26.	Escort Duty
50.	Exemptions
32.	Family and Community Services Leave and Personal/Carers' Leave
16.	Fares and Expenses
39.	Grading Committee
40.	Grading of Nurse/Midwife Manager Positions
24.	Higher Grade Duty
7.	Hours of Work and Free Time of Directors of Nursing and Area Managers, Nurse Education
4.	Hours of Work and Free Time of Employees Other Than Directors of Nursing and Area Managers, Nurse Education
6.	Introduction of Change
46.	Labour Flexibility
55.	Learning and Development Leave
33.	Long Service Leave
34.	Maternity, Adoption and Parental Leave
43.	Medical Examination of Nurses
35.	Military Leave

- 20. Mobility, Excess Fares & Travelling
- 2. No Extra Claims
- 57. Occupational Health and Safety for Employees of Contractors and Labour Hire Businesses
- 25. Overtime
- 29. Part-time, Casual and Temporary Employees
- 27. Payment and Particulars of Salaries
- 15. Penalty Rates for Shift Work and Weekend Work
- 5. Pilot Roster Projects
- 42. Proportion
- 22. Provision of Communication Device
- 53. Staffing Arrangements
- 28. Registration Pending
- 36. Repatriation Leave
- 47. Right of Entry
- 8. Rosters
- 9. Salaries
- 51. Salary Packaging
- 10. Salary Sacrifice to Superannuation
- 37. Sick Leave
- 12. Special Allowances
- 17. Special Rates and Conditions
- 18. Telephone Allowance
- 45. Termination of Employment
- 54. Trade Union Activities
- 19. Trainee Enrolled Nurses
- 23. Uniform and Laundry Allowances

PART B

MONETARY RATES

Table 1 - Salaries

Table 2 - Other Rates and Allowances

2. No Extra Claims

There shall be no further salary or conditions claims made during the term of this Award, that is, to 30 June 2013.

3. Definitions

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

"ADA" means the adjusted daily average of occupied beds, calculated in accordance with the following formula:

$$\text{ADA} = \text{Daily Average} + \text{Neo-natal Adjustment} + \text{Non-inpatient Adjustment}$$

Where:

$$\text{Daily Average} = \frac{\text{Total Occupied Bed Days for the Period Less Unqualified Baby Bed Days}}{\text{Number of Days in the Period}}$$

$$\text{Neo-natal Adjustment} = \frac{\text{Total Bed Days of Unqualified Babies for the Period}}{2 \times \text{Number of Days in the Period}}$$

$$\text{Non-inpatient} = \frac{\text{Total NIOOS Equivalents for the Period}}{10 \times \text{Number of Days in the Period}}$$

Note: Total NIOOS Equivalents for the Period equals the individual NIOOS plus the equivalent number of Group NIOOS (Non-inpatient Group Sessions * 1.3) plus the equivalent number of Dental NIOOS (Non-inpatient Dental Flow * 3.8).

"AHPRA" means the Australian Health Practitioner Regulation Agency.

"Ambulance Service" means the Ambulance Service of NSW.

"Area Manager, Nurse/Midwife Education" - refer to Schedule 1, Nurse Managers.

"Assistant in Nursing/Midwifery" means a person, other than a registered nurse, trainee enrolled nurse, Enrolled Nurse or Enrolled Nurse without medication qualification who is employed in nursing/midwifery duties in a public hospital or public health organisation.

"Assistant Director of Nursing/Midwifery" - refer to Schedule 1, Nurse Managers.

"Association" means the New South Wales Nurses' Association.

"Association delegate" means a trade union delegate accredited by the Association including but not limited to a Branch Official, Councillor or workplace representative of the Association.

"Board" means the Nursing and Midwifery Board of Australia and shall also be taken to mean a reference to AHPRA as appropriate/applicable.

"Career Break Scheme" means a scheme where employees may apply for an option to defer twenty percent of their salary for four years, and be paid this deferred salary in the fifth year.

"Clinical Nurse Educator/Clinical Midwife Educator" means a Registered Nurse/ Midwife appointed to a position classified as such and who holds relevant clinical or education post registration qualifications or such education and clinical experience deemed appropriate by the employer.

The Clinical Nurse Educator/Clinical Midwife Educator is required to deliver and evaluate clinical education programs at the ward/unit level.

The Clinical Nurse Educator/Clinical Midwife Educator shall provide for the delivery of clinical nurse/midwife education in the ward/unit level, and performs the following functions at that level:

- Delivers competent nursing education in the ward/unit;
- Contributes to the development of colleagues;
- Supports less experienced staff and acts as preceptor for new staff;
- Acts as the preceptor in orientations to the ward/unit;
- Provides day to day clinical education support in the ward/unit;
- Provides one on one informal education;
- Provides support for skill development in clinical procedures;
- Provides support for professional development;
- Provides support for clinical policy development;
- Provides a ward/unit based in-service program.

The provision of direct clinical care by Clinical Nurse Educator/Clinical Midwife Educator should be for the purpose of providing clinical education to other employees. Direct clinical care shall be limited to emergency circumstances only.

Incremental progression to the 2nd year and thereafter rate shall be upon completion of 12 months satisfactory full-time service.

"Clinical Nurse Specialist/Clinical Midwife Specialist Grade 1" means: a Registered Nurse/Midwife who applies a high level of clinical nursing knowledge, experience and skills in providing complex nursing/midwifery care directed towards a specific area of practice, a defined population or defined service area, with minimum direct supervision.

A Clinical Nurse Specialist/Clinical Midwife Specialist Grade 1 shall satisfy the following minimum criteria:

Relevant post-registration qualifications and at least 12 months experience working in the relevant clinical area of their post-registration qualification; or four years post- registration experience, including three years experience in the relevant specialist field.

A Clinical Nurse Specialist/Clinical Midwife Specialist Grade 1 is distinguished from an 8th Year Registered Nurse/Midwife by being required to satisfy the following criteria:

- (a) actively contributes to the development of clinical practice in the ward/unit/service;
- (b) acts as a resource and mentor to others in relation to clinical practice; and
- (c) actively contributes to their own professional development.

Clinical Nurse Specialist/Clinical Midwife Specialist Grade 1 is a personal grading.

"Clinical Nurse Specialist/Clinical Midwife Specialist Grade 2" means: a Registered Nurse/Midwife appointed to a position classified as such with relevant post-registration qualifications and at least 3 years experience working in the clinical area of their specified post-graduate qualification.

The Clinical Nurse Specialist/Clinical Midwife Specialist Grade 2 classification encompasses the Clinical Nurse Specialist/Clinical Midwife Specialist Grade 1 role criteria and is distinguished from a Clinical Nurse Specialist/Clinical Midwife Specialist Grade 1 by the following additional role characteristics:

Exercises extended autonomy of decision making;

Exercises professional knowledge and judgement in providing complex care requiring advanced clinical skills and undertakes one of the following roles:

leadership in the development of nursing specialty clinical practice and service delivery in the ward/unit/service; or

specialist clinical practice across a small or medium sized health facility/sector/service; or

primary case management of a complete episode of care; or

primary case management of a continuum of specialty care involving both inpatient and community based services; or

an authorised extended role within the scope of Registered Nurse/Midwifery practice.

Incremental progression to the second year and thereafter rate shall be upon completion of 12 months satisfactory full-time service (or pro rata part time service).

"Clinical Nurse Consultant/Clinical Midwife Consultant Grade 1" means: a registered nurse/midwife appointed as such to a position approved by the public hospital or public health organisation, who has at least 5 years full

time equivalent post registration experience and in addition who has approved post registration nursing/midwifery qualifications relevant to the field in which he/she is appointed, or such other qualifications or experience deemed appropriate by the public hospital or public health organisation.

"Clinical Nurse Consultant/Clinical Midwife Consultant Grade 2" means: a registered nurse/midwife appointed as such to a position approved by the public hospital or public health organisation, who has at least 5 years full time equivalent post registration experience, with at least 3 years full time equivalent experience in the specialty field. In addition the employee must have approved postgraduate nursing/midwifery qualifications relevant to the field in which he/she is appointed or such other qualifications or experience deemed appropriate by the public hospital or public health organisation. An employer may also require a higher qualification in the specialist nursing field where such a qualification is considered essential for the performance of the individual position.

"Clinical Nurse Consultant/Clinical Midwife Consultant Grade 3" means: a registered nurse/midwife appointed as such to a position approved by the public hospital or public health organisation, who has at least 7 years full time equivalent post registration experience, with at least 5 years full time equivalent experience in the specialty field. In addition the employee must have approved postgraduate nursing/midwifery qualifications relevant to the field in which he/she is appointed or such other qualifications or experience deemed appropriate by the public hospital or public health organisation. An employer may also require a higher qualification in the specialist nursing field where such a qualification is considered essential for the performance of the individual position.

"Day Worker" means a worker who works her/his ordinary hours from Monday to Friday inclusive and who commences work on such days at or after 6am and before 10am, otherwise than as part of the shift system.

"Deferred Salary Leave Year" means the fifth year of the career break scheme where the employee is absent from work and receives the deferred salary from the previous four years through participation in the Career Break Scheme. This year cannot be compressed into a period of less than twelve months.

"Department" means the NSW Department of Health.

"Deputy Director of Nursing" - refer to Schedule 1, Nurse/Midwife Managers.

"Enrolled Nurse without medication qualification" means a person registered by the Board as an enrolled nurse with the notation "does not hold a Board approved qualification in medicines administration".

"Enrolled Nurse means a person registered by the Board as an enrolled nurse.

"Enrolled Nurse without medication qualification - Special Grade" means an Enrolled Nurse without medication qualification, with an Advanced Certificate qualification and a minimum of six years full time equivalent post enrolment experience, including three years full time equivalent experience in the relevant clinical area. Such a nurse is appointed to a position established by a public hospital or public health organisation which satisfies the criteria as agreed between the Association and the Department from time to time.

"Enrolled Nurse - Special Grade means an Enrolled Nurse with an Advanced Certificate qualification and a minimum of six years full time equivalent post enrolment experience, including three years full time equivalent experience in the relevant clinical area. Such a nurse is appointed to a position established by a public hospital or public health organisation which satisfies the criteria as agreed between the Association and the Department from time to time.

"Experience" in relation to a trainee enrolled nurse or assistant in nursing, means experience both before and/or after the commencement of this Award, whether within New South Wales or elsewhere and, in the case of a trainee enrolled nurse, an Enrolled nurse, an Enrolled Nurse without medication qualification or assistant in nursing who was formerly a student nurse, includes experience as such student nurse.

"Flight Nurse" means a registered nurse employed by the Ambulance Service who is engaged in nursing duties with the Ambulance Service of New South Wales.

"Flight Hours" means all time spent whilst in flight on an aircraft transporting patients or in transit to pick up patients.

"Ground Hours" for Flight Nurses means all time spent at an airport preparing for a flight or a series of flights, and includes generally preparing and restocking aircraft on return to home base; attending to clerical work pertaining to flights and other general duties normally undertaken by a Flight Nurse, including but not limited to the sterilisation of stock, maintenance and care of special nursing equipment, cleaning the nursing sections of the aircraft; caring of patients at terminals until the patient is transferred to hospital or at the commencement of a flight; supervising and assisting in loading and unloading of patients; escorting seriously ill patients to hospital in a road ambulance.

"Health service" means any of the following:

- (a) any hospital service
- (b) any medical service
- (c) any paramedical service
- (d) any community health service,
- (e) any environmental health service,
- (f) any other service (including any service of a class or description prescribed by the Regulations of the *Health Service Act 1997*) relating to the maintenance or improvement of the health, or the restoration to health, of persons or the prevention of disease in or injury to persons.

"Industry of nursing" means the industry of persons engaged in New South Wales in the profession or occupation of nursing including midwifery and employed in or in connection with the New South Wales Health Service as defined in section 115 of the *Health Services Act 1997* or its successors, assignees or transmittes.

"Local Health Network" includes Specialist and Additional Networks and means a public health organisation established pursuant to the provisions of the *Health Services Act of 1997* including all public hospitals, facilities and other establishments and health services under the control and management thereof and, for the purposes of this Award, a Clinical Support Cluster.

"Manager, Nurse/Midwife Education" - refer to Schedule 1, Nurse/Midwife Managers.

"Nurse Educator/Midwife Educator Grade 1" means a Registered Nurse/Midwife holding post registration nursing/midwifery clinical or education qualifications relevant to the clinical area in which he/she is appointed; and who is appointed to a position of Nurse Educator/Midwife Educator Grade 1.

A Nurse Educator/Midwife Educator Grade 1 shall be responsible for the development and delivery of nursing education courses/programs at the public hospital, or the community based service level.

Nurse/Midwife education courses/programs shall mean courses/programs such as:

Post-registration certificates;

Continuing nurse/midwife education;

Transition programs for newly registered nurses and midwives and newly enrolled nurses;

Trainee enrolled nurse programs;

Post-enrolment enrolled nurses' courses; and,

General staff development courses (where applicable).

Incremental progression to the 2nd year and thereafter rate at this Grade shall be upon completion of 12 months satisfactory full-time service.

"Nurse Educator/Midwife Educator Grade 2" means a Registered Nurse/Midwife with post registration nursing/midwifery clinical or education qualifications relevant to the clinical area in which he/she is appointed, or qualifications deemed equivalent by the employer; and who is appointed to a position of Nurse Educator/Midwife Educator Grade 2.

A Nurse Educator/Midwife Educator Grade 2 shall be responsible for one of the following:

A nursing/midwifery education portfolio (including but not limited to a transition program, trainee enrolled nurse, enrolled nurse or registered nurse program) across a public hospital or affiliated health organisation;

A nursing/midwifery education program for a clinical division or divisions across a public hospital or affiliated health organisation; or

A nursing/midwifery education program for a community based health service such as community health or mental health services.

Incremental progression to the 2nd year and thereafter rate at this Grade shall be upon completion of 12 months satisfactory full-time service.

"Nurse Educator/Midwife Educator Grade 3" means a Registered Nurse/Midwife holding post registration nursing/midwifery clinical or education qualifications relevant to the clinical area or areas in which he/she is appointed, or qualifications deemed equivalent by the employer; and who is appointed to a position of Nurse Educator/Midwife Educator Grade 3.

A Nurse Educator/Midwife Educator Grade 3 shall be responsible for one of the following:

A comprehensive nursing/midwifery education program across a Local Health Network, a sector of a Local Health Network or in a tertiary referral public hospital or affiliated health organisation; or

The nurse education service of a public hospital or affiliated health organisation (excluding a tertiary referral hospital), group of hospitals or health facility.

Incremental progression to the 2nd year and thereafter rate at this Grade shall be upon completion of 12 months satisfactory full-time service.

"Nursing hours wards and units" refers to wards and units in Section II Nursing Hours Wards and Units of Clause 53 Staffing Arrangements that utilise nursing hours per patient day to determine the number of nursing hours required to provide direct clinical care.

"Nurse/Midwife Manager" means any employee who is allocated to a nurse manager grade in accordance with Clause 40 of this award.

"Nurse/Midwife Practitioner" means a registered nurse/midwife appointed as such to a position approved by the Director General and who is endorsed by the Board, to practise as a nurse/midwife practitioner.

"Nurse/Midwife Practitioner Year 3 and Thereafter" means a registered nurse/midwife appointed as such to a position approved by the Director-General and who is endorsed by the Board to practise as a Nurse/Midwife Practitioner; and who is working within clinical guidelines approved pursuant to section 78A of the *Nurses' Act* 1991.

Provided that a Nurse/Midwife Practitioner shall not progress or be appointed to Nurse/Midwife Practitioner Year 3 until completion of twelve months' service at the Year 2 rate, and to the Thereafter rate until completion of twelve months' service at the Year 3 rate. Accordingly, a Nurse/Midwife Practitioner cannot be appointed directly to Nurse/Midwife Practitioner Year 3 and Thereafter."

"Nursing/Midwifery Unit Manager" means a registered nurse in charge of a ward or unit or group of wards or units in a public hospital or health service or public health organisation and shall include:

"Nursing/Midwifery Unit Manager Level 1", whose responsibilities include:

- (a) CO-ORDINATION OF PATIENT SERVICES -
liaison with all health care disciplines for the provision of services to meet patient needs;
the orchestration of services to meet patient needs after discharge;
monitoring catering and transport services.
- (b) UNIT MANAGEMENT -
implementation of hospital/health service policy;
dissemination of information to all personnel;
ensuring environmental safety;
monitoring the use and maintenance of equipment;
monitoring the supply and use of stock and supplies;
monitoring cleaning services.
- (c) NURSING STAFF MANAGEMENT -
direction, co-ordination and supervision of nursing activities;
training, appraisal and counselling of nursing staff;
rostering and/or allocation of nursing staff;
development and/or implementation of new nursing practice according to patient need.

"Nursing/Midwifery Unit Manager Level 2", whose responsibilities in relation to patient services, ward or unit management and staff management are in excess of those of a Nursing/Midwifery Unit Manager Level 1.

"Nursing/Midwifery Unit Manager Level 3" whose responsibilities in relation to patient services, ward or unit management and staff management are in excess of those of a Nursing/Midwifery Unit Manager Level 2.

"Public Health Organisation" means:

- (a) a Local Health Network or;
- (b) a statutory health corporation, or;
- (c) an affiliated health organisation in respect of its recognised establishments and recognised services; or
- (d) a Clinical Support Cluster.

"Public Hospital" means:

- (a) a hospital controlled by a Local Health Network or;
- (b) a hospital controlled by a statutory health corporation, or;

- (c) a hospital that is a recognised establishment of an affiliated health organisation, or:
- (d) a hospital controlled by the Crown (including the Minister or the Director-General of Health).

"Registered Nurse" means a person registered by the Board as a Registered Nurse and/or Registered Midwife.

"Residential Care Nurse" means a person other than a Registered Nurse, Enrolled Nurse or an Enrolled Nurse without medication qualification, who is employed in the delivery of nursing care to clients in residential settings conducted by or on behalf of public hospitals or public health organisations, and which are located either in the general community or in the grounds of public hospitals, excepting any "off campus" or "satellite" group homes generated from the Weemala Unit of the Royal Rehabilitation Service. The duties performed by Residential Care Nurses shall comprise assisting with the care of residents which may include the supervision, training and assistance of residents in the performance of household tasks such as laundry, kitchen, general maintenance or other personal support tasks.

"Senior Nurse/Midwife Educator" - refer to Schedule 1, Nurse Managers.

"Service" for the purpose of clause 9, Salaries, means service before or after the commencement of this award in New South Wales or elsewhere as a registered nurse, provided that all service recognised prior to the commencement of this award shall continue to be recognised.

To the foregoing shall be added any actual periods on and from 1 January 1971 during which a nurse undertook a post basic course whilst an employee of and rendering service in an institution or hospital and such course is recognised by the Board or acceptable to the Department, or one of the following certificate or diploma courses:-

Associate Diploma in Community Health -

College of Nursing, Australia; N.S.W. College of Nursing;

Associate Diploma in Nursing Administration -

College of Nursing, Australia; N.S.W. College of Nursing;

Associate Diploma in Nursing Education -

College of Nursing, Australia; N.S.W. College of Nursing,

Newcastle College of Advanced Education;

Certificate in Operating Theatre Management -

N.S.W. College of Nursing;

Certificate in Operating Theatre Technique -

College of Nursing, Australia;

Certificate in Coronary Care -

N.S.W. College of Nursing;

Certificate in Orthopaedic Nursing -

N.S.W. College of Nursing;

Certificate in Ward Management -

N.S.W. College of Nursing;

Midwife Tutor Diploma -

College of Nursing, Australia, or Central Midwives Board, London;

Occupational Health Nursing Certificate -

N.S.W. College of Nursing;

provided that no more than three such courses shall count as service.

A reference to the New South Wales College of Nursing in this Award shall be deemed to be a reference also to the School of Nursing Studies, Cumberland College of Health Sciences.

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

"Tour of Duty" means the period between the time a Flight Nurse commences any duties associated with his or her employment prior to making a flight or series of flights and until he or she is finally relieved of all duties after termination of flights or series of flights, whether termination is at home base or otherwise away from home base.

"Trainee Enrolled Nurse": refer to definition of "Trainee" in subclause (ii) definitions of clause 19 Trainee Enrolled Nurses.

"Weekly rates" will be ascertained by dividing an annual amount by 52.17857 or a weekly rate can be multiplied by 52.17857 to obtain the annual amount.

4. Hours of Work and Free Time of Employees Other Than Directors of Nursing and Area Managers, Nurse Education

(i)

- (a) The ordinary hours of work for day workers, other than Directors of Nursing and Area Managers, Nurse Education, exclusive of meal times, shall be 152 hours per 28 calendar days to be worked Monday to Friday inclusive and to commence on such days at or after 6.00 am and before 10.00 am.
- (b) Flight Nurses shall not exceed 30 hours flying time in each period of seven days.

(ii)

- (a) The ordinary hours of work for shift workers, other than Directors of Nursing and Area Managers, Nurse Education, exclusive of meal times, shall not exceed an average of 38 hours per week in each roster cycle.
- (b) Flight Nurses shall not exceed 30 hours flying time in each period of seven days.

(iii)

- (a) The hours of work prescribed in subclauses (i) and (ii) of this clause shall, where possible, be arranged in such a manner that in each roster cycle of 28 calendar days each employee shall not work his/her ordinary hours of work on more than nineteen days in the cycle. Provided that employees who work 8 hour shifts are entitled to 12 additional days off duty per annum (per NSW Health Policy Directive No. PD2006_094); employees working 10 hour shifts are entitled to one additional day off duty each five weeks; and employees working other combinations of shifts are entitled to such number of additional days off duty per annum as will ensure that their ordinary hours of work do not exceed an average of 38 hours per week.

- (b) Notwithstanding the provisions of paragraph (a) of this subclause, employees may, with the agreement of the employer work shifts of less than 8 hours each over 20 days in each cycle of 28 days.
- (iv)
- (a) Each shift shall consist of no more than 10 hours on a day shift or 11 hours on a night shift with not less than 10 hours break between each rostered shift, unless agreed otherwise between an employee and local nursing management. An employee shall not work more than 7 consecutive shifts unless the employee so requests and local nursing management agrees but in no case shall an employee be permitted to work more than 10 consecutive shifts. In any fortnightly pay period an employee shall not be rostered for more than three quick shifts, ie. an evening shift followed by a morning shift, unless agreed otherwise between an employee and local nursing management.
- (b) Where 10 hour night shifts are in operation in any health facility, at the commencement date of this award or subsequent thereto, the length of these shifts must not be altered without the consent of the Head Office of the Association.
- (v)
- (a) The employee's additional day off duty prescribed in subclause (iii) of this clause (as a consequence of the implementation of the 38 hour week) shall be determined by mutual agreement between the employee and the employer having regard to the service requirements of the latter. Where practicable such additional day off duty shall be consecutive with the rostered days off duty prescribed in subclause (xvi) of this clause.
- (b) Employees shall not be entitled to the provisions of paragraph (a) of subclauses (iii) and (v) of this clause (i.e. an additional day off as a consequence of a 38 hour week) when undertaking block training.
- (vi) Once set, the additional day off duty may not be changed in a current cycle unless there are genuine unforeseen circumstances prevailing. Where such circumstances exist and the additional day off duty is changed, another day shall be substituted in the current cycle. Should this not be practicable the day must be given and taken in the next cycle immediately following.
- (vii)
- (a) Where an employee and her/his local nursing management agree, an employee's additional days off duty (ADOs) may be accumulated up to a total of three. This limit on accumulation means that any employee who has already accumulated three ADOs must take the next ADO accruing to her/him when it falls due in accordance with the roster.
- (b) Employers must not unreasonably refuse to agree with an employee's request to accumulate ADOs or to take them off subsequent to such accumulation.
- (c) Any ADOs accumulated but not taken as at the date of termination of the employee must be paid out at ordinary rates.
- (viii) Except for breaks for meals the hours of duty each day shall be continuous.
- (ix) Each employee who works in excess of five hours must have a break of not less than thirty minutes and not more than sixty minutes for each meal occurring on duty as follows:
- | | |
|--------------|--------------------------|
| Breakfast | -between 6am and 9am |
| Midday Meal | -between 12 noon and 2pm |
| Evening Meal | -between 5pm and 7pm |
| Night Meal | -between 10pm and 2am. |

Employees must not be required to work during meal breaks as a matter of routine practice unless mutually agreed at the local level. Provided that any time worked during such break shall count as working time and unless the employee is permitted to finish duty early on the same shift then overtime becomes payable once the total ordinary work time of the shift has elapsed. Provided further that where practicable an employee engaged to work for five hours or less in any one shift may elect not to take a meal break as otherwise provided for in this subclause without penalty to the employer. The term "where practicable" encompasses regard being paid to the service requirements of the employer.

(x)

- (a) One twenty minute interval (in addition to the meal break) shall be allowed each employee on duty for a tea break during each shift. Such interval shall count as working time. Part time and Casual employees who are engaged for less than a whole shift on any one day shall only be entitled to one tea break of 10 minutes.
- (b) Where it is not possible due to the nature of the work performed to have one twenty minute break, the employee may take one ten minute break and be permitted to proceed off duty ten minutes prior to the rostered finishing time of that shift.
- (c) Paragraph (b) of subclause (x) will only be exercised in special and exceptional circumstances and with the expressed approval of the employer in consultation with the employee.

(xi) Subclauses (ix) and (x) of this clause, shall not apply to an employee who is allowed two intervals of twenty minutes each during the period of night duty but such intervals shall count as working time and shall be paid for as such.

(xii) Changing time totalling ten minutes per shift to count as working time is to be allowed to nurses not permitted to travel in their work clothes.

(xiii) In addition to any other rest period and meal break, employees who are lactating shall be entitled to two paid breaks of 30 minutes per shift for the purpose of expressing their milk or breast feeding their child, and the employer shall provide access to suitable facilities for such purpose.

(xiv)

- (a) Except in cases of emergency, an employee shall not be employed on night duty for a longer period than four consecutive weeks, unless agreed otherwise between an employee and local nursing management.
- (b) Except in cases of emergency, after having served a period of night duty, an employee shall serve an equivalent period of time off night duty before again undertaking a period of night duty unless agreed otherwise between an employee and local nursing management.
- (c) Except in cases of emergency, an employee shall not be required to perform night duty against their wishes during a period of one week prior to any formal end-of-semester examination in any course of study which has been accepted by her/his employer as meeting the requirements for the grant of study time.
- (d) This subclause shall not apply to an Assistant Director of Nursing, a Nursing/Midwifery Unit Manager or to a registered nurse/midwife in charge as the case may be, who is employed permanently in charge at night.
- (e) Except in cases of emergency, a trainee enrolled nurse shall not be employed on night duty for more than 10 weeks in any one year of training.

(xv) Except in cases of emergency, an employee changing from night duty to day duty or from day duty to night duty shall be free from duty during the 20 hours immediately preceding the commencement of the changed duty.

(xvi)

- (a) Each employee shall be free from duty for not less than two full days in each week or four full days in each fortnight and no duties shall be performed by the employee on any of such free days except for overtime. Where practicable, days off shall be consecutive and shall not be preceded by any evening shift or a night shift unless the employee is rostered on the same shift, ie. evening shift or night shift, as the case may be, immediately upon his or her return to duty after days off, except by agreement between the employee and the local nursing management. An evening shift shall be one which commences at or after 1pm and before 4pm.
- (b) An employee at his or her request, may be given time free from duty in one or more periods but no period shall be less than one full day.
- (c) For the purpose of this subclause "full day" means from midnight to midnight or midday to midday.

(xvii)

- (a) Employees may be required to remain on call. Any such time on call shall not be counted as time worked (except in so far as an employee may take up actual duty in response to a call) but shall be paid for in accordance with clause 12, Special Allowances. Provided, however, no employee shall be required to remain on call whilst on leave or the day before entering upon leave.
- (b) Except as hereafter provided, no employee shall be required to remain on call whilst on a rostered day off or from the completion of the employees' shift on the day preceding a rostered day off.
- (c) Paragraph (b) shall not apply where in extreme circumstances (which shall be agreed between the employer and the Head Office of the Association) it is necessary for a public hospital or public health organisation in order to ensure the provision of services, to place staff on call on rostered days off.

(xviii) An employer shall not alter the period over which the ordinary hours of work of employees are balanced except upon giving one month's notice of his intention so to do to the Industrial Registrar and to the Association.

5. Pilot Roster Projects

- (i) Notwithstanding any other provision of this award, Pilot Roster Projects for the purposes of trialling flexible roster practices may be implemented on the following basis:
 - (a) The terms of the Pilot Roster Project shall be agreed in writing between the employer and the Association on behalf of the nurses participating in the project. Provided that the Association shall not unreasonably refuse to agree to, or unreasonably delay in responding to, a Pilot Roster Project proposed by an employer. Provided further that where a Pilot Roster Project is proposed by the Association or nurses and the employer does not agree to introduce a Pilot Roster Project in the terms proposed, the employer shall provide its reasons in writing to the Association or the nurses concerned.
 - (b) The terms shall include
 - (1) the duration of the project; and
 - (2) the conditions of the project; and
 - (3) the award provisions required to be overridden in order to implement the project; and
 - (4) review mechanisms to assess the effectiveness of the project.

- (c) Whilst the Pilot Roster Project is being conducted according to its terms, the employer shall not be deemed to be in breach of the award by reason alone of implementing the project.
- (d) Any purported Pilot Roster Project which does not comply with this clause is not a Pilot Roster Project for the purposes of this clause and in particular no employer shall be able to claim the benefit of subclause (c) when implementing such project.
- (ii) The Association agrees to participate in a review of the operation of this clause, if requested by the Department.
- (iii) Pilot 12 hour shift systems in place as at 1 July 2008 shall continue to operate in accordance with the provisions of the relevant pilot agreement.
- (iv) From 1 July 2008, new 12 hour shift systems may be implemented in a ward, unit or operational area according to the provisions of subclause (v) without the requirement for a pilot. The Association shall be advised in writing by the employer of the intention to introduce such new systems no later than four weeks prior to the proposed date of commencement, to enable consultation with all potentially affected employees.
- (v) The following provisions shall apply to new 12 hour shift systems commencing on or after 1 July 2008:
 - (a) Participation in a 12 hour shift system shall be voluntary. Alternative shift provisions must remain available for staff who do not agree to participate in a 12 hour shift system.
 - (b) The ordinary hours of work for each full time employee shall be 228 hours balanced over a six week period. The hours shall be worked as 19 x 12 hour shifts. The ordinary guaranteed hours of work for each part time employee shall be balanced over a six week period. The hours shall be worked as either 12, 10 or eight hour shifts as agreed between the employee and the employer; or

The ordinary hours of work for each full time employee shall be 152 hours balanced over a four week period. The hours shall be worked as 12 x 12 hour shifts and one x eight hour shift. The ordinary guaranteed hours of work for each part time employee shall be balanced over a four week period. The hours shall be worked as either 12, 10 or eight hour shifts as agreed between the employee and the employer.
 - (c) Payment for full time employees shall be for 76 hours per pay period at the appropriate hourly rate for each employee. Payment for part time employees shall be the actual number of hours worked per pay period.
 - (d) The day shift may have a span of up to 12.5 hours and shall include one half hour unpaid meal break and two x 20 minute paid tea breaks.
 - (e) The night shift may have a span of up to 12.5 hours and shall include one thirty minute unpaid meal break and a further one hour paid break or two x 30 minute paid breaks.
 - (f) The maximum number of consecutive shifts shall be three. Except that an employee may be rostered for four consecutive shifts once in each six week cycle at the request of the employee.
 - (g) Employees shall not be rostered on single days off unless it is at the request of the employee.
 - (h) The minimum break between shifts shall be 11.5 hours.
 - (i) Rosters should reflect an equitable distribution of day, night and weekend shifts among employees participating in the 12 hour shift system. No more than 50% of shifts in the roster cycle should be night shift unless otherwise agreed between the employee and the unit manager.
 - (j) No overtime shall be worked in conjunction with a 12 hour shift.

- (k) Any 12 hour shift being replaced by either casual or agency staff will cover the full span of the shift.
- (l) An individual employee shall have the right to withdraw from the 12 hour shift system. An employee wishing to withdraw from the 12 hour shift system shall provide a period of notice equivalent to the roster period. In the case of demonstrated pressing necessity, a minimum of two weeks' notice shall be required, or such lesser period of time as may be agreed to by the public health organisation.
- (m) Where a 12 hour shift system is in place management shall be entitled to consider whether continuation of the system in that ward, unit or operational area remains appropriate. Where management determines after consultation with affected employees to cease a 12 hour shift system, three months notice of the intended cessation shall be given to employees.

6. Introduction of Change

- (a) Where an employer has made a definite decision to introduce changes in organisation, structure, health service delivery, or technology that are likely to have significant effects on employees covered by this Award, the employer shall notify the Association and employees who may be affected by the proposed changes. Discussions shall commence as soon as practicable after such decision has been taken.
- (b) "Significant effects" includes:
 - i. termination of employment;
 - ii. major changes in the composition, operation or size of the employer's workforce or in the skills required;
 - iii. changes in employment and/or promotional opportunities or job tenure for a class or group of employees;
 - iv. the alteration of hours of work for a class or group of employees; or
 - v. the need for training or transfer of a class or group of employees to other work or location, and the restructuring of jobs.
- (c) The employer shall discuss with the employees affected and the Association, inter alia, the introduction of the changes referred to in paragraph (a) above, the effects the changes are likely to have on employees and any measures proposed by the employer to avert or mitigate the adverse effects of such changes on employees, and shall give prompt consideration to matters raised by the employees and/or the Association in relation to the changes.
- (d) For the purpose of such discussion, the employer shall provide to the employees concerned and the Association all relevant information about the changes including the nature of the changes proposed and the expected significant effects of the changes on employees. Provided that the employer shall not be required to disclose confidential information, the disclosure of which would adversely affect the employer, Department or Director-General of Health; or is an exempt matter under the *Freedom of Information Act 1989*.
- (e) The provision of communication during maternity, adoption or parental leave is in accordance with Part E Communication During Leave, of Clause 34 Maternity, Adoption and Parental Leave.
- (f) With respect to occupational health safety matters as referred to in the *Occupational Health and Safety Act 2000*, the provisions of that Act apply, and specifically the provisions under Division 2, "Duty to Consult", as varied from time to time

7. Hours of Work and Free Time of Directors of Nursing and Area Managers, Nurse Education

- (i) A Director of Nursing or Area Manager, Nurse Education shall be free from duty for not less than 9 days in each twenty-eight consecutive days and such days free from duty may be taken in one or more periods.
- (ii) If any of the days mentioned in subclause (i) of this clause cannot be taken by reason of emergency, such day or days shall be given and taken within 28 days of becoming due.
- (iii) A Director of Nursing or Area Manager, Nurse Education shall, where practicable, inform his or her employer giving not less than 7 days' notice of the days he or she proposes to be free from duty; provided that such days shall be subject to the approval of the employer, and such approval shall not be unreasonably withheld.

8. Rosters

- (i) The ordinary hours of work for each employee, other than the Director of Nursing, shall be displayed on a roster in a place conveniently accessible to employees.
- (ii) The roster shall be displayed at least two weeks prior to the commencing date of the first working period in the roster.
- (iii) Notwithstanding the foregoing provisions of this clause, a roster may be altered at any time to enable the nursing service of the public hospital or public health organisation to be carried on where another employee is absent from duty on account of illness or in an emergency: Provided that where any such alteration involves an employee working on a day which would otherwise have been such employee's day off, the day off in lieu thereof shall be as mutually arranged.
- (iv) Prior to the date of the changed shift, such change of roster shall be notified verbally or in writing to the employee concerned.
- (v) Where an employee is entitled to an additional day off duty in accordance with clause 4, Hours of Work and Free Time of Employees other than Directors of Nursing, such day is to be shown on the roster of hours for that employee.
- (vi) All rosters shall be retained for at least six years.

9. Salaries

- (i) The minimum salaries per week to be paid to employees shall be as set out in Table 1 of Part B.
- (ii) An Enrolled Nurse without medication qualification or Enrolled Nurse without medication qualification - Special Grade who has the notation "does not hold a Board approved qualification in medicines administration" removed from their registration will be classified and paid as an Enrolled Nurse or Enrolled Nurse Special Grade respectively from the commencement of the first full pay period following the removal of such notation.

Provided that an Enrolled Nurse 1st year shall not progress to Enrolled Nurse 2nd year until completion of twelve months' service at the 1st year rate (or for part time employees the full time equivalent of 1,982 hours), and to the 3rd year rate until completion of twelve months' service at the 2nd year rate (or for part time employees the full time equivalent of 1,982 hours), and so on throughout the scale.

10. Salary Sacrifice to Superannuation

- (i) Notwithstanding the salaries prescribed in Clause 9, 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 51, 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 per cent of the currently applicable superable salary, whichever is the lesser.

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

- (ii) Any pre-tax and post-tax payroll deductions must be taken into account prior to determining the amount of available salary to be packaged. Such payroll deductions may include but are not limited to superannuation payments, HECS payments, child support payments, judgment debtors/garnishee orders, union fees and private health fund membership fees.
- (iii) Where the employee has elected to sacrifice a part or all of the available payable salary to additional employer superannuation contributions:
 - (a) The employee shall be provided with a copy of the signed agreement. The salary sacrifice agreement shall be terminated at any time at the employee's election and shall cease upon termination of the employee's services with the employer.
 - (b) Subject to Australian Taxation Law, the amount of salary sacrificed will reduce the salary subject to appropriate PAYE taxation deductions by the amount sacrificed; and
 - (c) Any allowance, penalty rate, overtime, payment for unused leave entitlements, weekly worker's compensation, or other payment, other than any payment for leave taken in service, to which an employee is entitled under this award or any applicable award, act or statute which is expressed to be determined by reference to an employee's salary, shall be calculated by reference to the salary which would have applied to the employee under the salaries clause in the absence of any salary sacrifice to superannuation made under this award.
- (iv) The employee may elect to have the specified amount of payable salary which is sacrificed to additional employer superannuation contributions:
 - (a) paid into the superannuation scheme established under the First State Superannuation Act 1992 as optional employer contributions; or
 - (b) subject to the employers agreement, paid into private sector complying superannuation scheme as employer superannuation contributions.
- (v) Where an employee elects to salary sacrifice in terms of subclause (iv) above, the employer will pay the sacrificed amount into the relevant superannuation fund.
- (vi) Where the employee is a member of a superannuation scheme established under:
 - (a) the *Police Regulation (Superannuation) Act 1906*;
 - (b) the *Superannuation Act 1916*;
 - (c) the *State Authorities Superannuation Act 1987*;
 - (d) the *State Authorities Non-contributory Superannuation Act 1987*; or
 - (e) the *First State Superannuation Act 1992*

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

- (vii) Where, prior to electing to sacrifice a part or all of their salary to superannuation, an employee had entered into an agreement with their employer to have superannuation contributions made to a

superannuation fund other than a fund established under legislation listed in subclause (vi) above, the employer will continue to base contributions to that fund on the salary payable under Clause 9, 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.

11. Intentionally Left Blank

12. Special Allowances

- (i)
 - (a) A registered nurse in charge of a public hospital of not more than 100 beds during the day, evening or night in the absence of a senior nurse shall be paid, in addition to his or her appropriate salary, whilst so in charge, the sum as set out in Item 1, of Table 2 of Part B per shift.
 - (b) This subclause shall not apply to registered nurses holding positions of a higher grade than that of clinical nurse specialist.
- (ii)
 - (a) An employee required by his or her employer to be on call otherwise than as provided in (b) and (c) hereof shall be paid the sum as set out in Item 2 of Table 2 of Part B for each hour or part thereof with a minimum payment of eight hours at that rate.
 - (b) An employee required to be on call on rostered days off in accordance with paragraph (c) of subclause (xvii) of Clause 4, Hours of Work and Free Time of Employees Other Than Directors of Nursing, shall be paid the sum as set out in Item 3, of Table 2 of Part B for each hour or part thereof with a minimum payment of eight hours at that rate.
 - (c) An employee who is directed to remain on call during a meal break shall be paid an allowance as set out in Item 4, of Table 2 of Part B.
 - (d) Where an employee on call leaves the public hospital and is recalled to duty, he or she shall be reimbursed all reasonable fares and expenses actually incurred provided that where an employee uses a motor car in these circumstances, the allowance payable shall be the rate prescribed from time to time by the Department for a "casual" user. The provisions of this paragraph shall apply to all employees.
 - (e) This subclause shall not apply to Nurse Managers classified at Grade 4 or above provided that the allowances prescribed in subclauses (a) and (b) of this subclause shall be paid to Nurse Managers classified at Grade 4, Grade 5 and Grade 6 when required to remain on call for the purpose of the performance of clinical duties.
- (iii)
 - (a) Where a Director of Nursing is required by the public hospital to perform radiographic duties he/she shall be paid in addition to his/her appropriate salary an allowance as set out in Item 5, of Table 2 of Part B per week.
 - (b) The allowance prescribed by paragraph (a) of this subclause shall apply to an employee who relieves the Director of Nursing for a period of one week or more.
 - (c) An employee who is performing radiographic duties in the absence of the Director of Nursing for a period of less than one week shall be paid in addition to his or her appropriate salary a daily allowance as set out in Item 6, of Table 2 of Part B, provided that the maximum allowance per week payable in accordance with this paragraph shall not exceed the amount set in the said Item 6.

- (d) The allowance prescribed by this subclause shall be regarded as part of the salary for the purpose of this award.
- (iv) An employee required to wear a lead apron shall be paid an allowance as set out in Item 7, of Table 2 of Part B for each hour or part thereof that he/she is required to wear the said apron. No employee shall be required to wear a lead apron for more than one hour without being allowed a paid break of 10 minutes.
- (v) A registered nurse who is designated to be in charge of a ward or unit during day, evening or night shifts, when the Nursing/Midwifery Unit Manager is not rostered for duty, shall be paid an allowance as set out in Item 8, of Table 2 of Part B per shift. Provided that the allowance shall also be paid when the Nursing/Midwifery Unit Manager is rostered on duty if the day to day clinical management role for the shift is delegated to a designated registered nurse/midwife. Provided further that the allowance shall also be paid in the absence of a Nurse/Midwife Manager in facilities where the Nurse/Midwife Manager undertakes the functions usually carried out by a Nursing/Midwifery Unit Manager.
- (vi) A registered nurse/midwife who is designated to be in-charge of a ward or unit when the Nursing/Midwifery Unit Manager is not rostered for duty and who is also designated to be in-charge of a public hospital of less than 100 beds during the day, evening or night on the same shift shall be paid an allowance as set out in Item 9, of Table 2 of Part B per shift. Provided that this allowance shall also be paid in facilities where the Nurse/Midwife Manager undertakes the functions usually carried out by a Nursing/Midwifery Unit Manager.
- (vii)
- (a) An employee who makes their services available and participates in an approved roster to provide emergency telephone counselling outside their normal rostered ordinary hours shall receive the payments prescribed in paragraphs (b), (c) and (d) of this subclause.
- (b) An employee rostered to be on call shall be paid the sum as set in Item 2 of Table 2 of Part B for each hour or part thereof with a minimum payment of eight hours at that rate. Provided that an employee rostered on call on rostered days off shall be paid the sum as set in Item 3, of Table 2 of Part B for each hour or part thereof with a minimum payment of eight hours at that rate.
- (c) If during such an on call period prescribed in paragraph (b) of this subclause an employee is required to provide telephone counselling to a client, such employee shall be entitled to the following payment in addition to the payment in the said paragraph (b):
1. An employee on call for telephone counselling for up to 8 hours and is required to provide telephone counselling, such employee is to be paid one hour at ordinary rates (excluding penalties). If an employee receives more than one call to provide telephone counselling, no additional payment is to be made.
 2. An employee on call for telephone counselling for 8-16 hours and is required to provide telephone counselling, such employee is to be paid two hours at ordinary rates (excluding penalties). If an employee receives more than one call to provide telephone counselling, no additional payment is to be made.
 3. An employee on call for telephone counselling for 16-24 hours and is required to provide telephone counselling, such employee is to be paid three hours at ordinary rates (excluding penalties). If an employee receives more than one call to provide telephone counselling, no additional payment is to be made.
- (d) An employee called out during the period of on call shall be entitled to the prescriptions of clause 25, Overtime.
- (viii) An Enrolled Nurse or an Enrolled Nurse without medication qualification employed in the central sterile supply department of a public hospital, in possession of a Sterilising Technology Certificate issued by the Sterilising Research and Advisory Council of Australia shall be paid an allowance as set out in Item 18 of Table 2 of Part B.

- (ix) A registered nurse who is designated in-charge of a public hospital or facility of greater than 100 beds during an evening or night shift Monday to Friday or any Saturday or Sunday shift shall be paid an allowance per shift as set out in Item 9 (b), of Table 2 of Part B. This allowance shall not apply to registered nurses holding positions of a higher grade than Clinical Nurse/Midwife Specialist Grade 2. The employer shall not use this provision on a permanent basis in place of appointing a Nurse Manager.

13. Continuing Education Allowance

- (i) An employee employed in the classification of Registered Nurse /Midwife (years 1 to 8), Clinical Nurse Specialist/Clinical Midwife Specialist, Nursing/Midwifery Unit Manager, Nurse/Midwife Manager Grade 1, Nurse/Midwife Manager Grade 2 or Nurse/Midwife Manager Grade 3 and above (who satisfies the employer that she/he is engaged in clinical work for more than 50% of her/his time) who holds a continuing education qualification in a clinical field, in addition to the qualification leading to registration, shall be paid a continuing education allowance, subject to the following conditions set out below:
- (a) the allowance is only payable where the qualification is accepted by the employer to be directly relevant to the competency and skills used by the nurse/midwife in the duties of the position;
 - (b) an employee holding more than one relevant qualification is only entitled to one allowance, being the allowance of the highest monetary value;
 - (c) the employee claiming entitlement to a qualification allowance must provide evidence to the employer that they hold that qualification within three months of obtaining the qualification or within three months of commencing work in the relevant specialty, unless exceptional circumstances prevent this.
- (ii) Subject to the provisions in subclause (i) of this clause, an employee who holds a post-registration hospital certificate listed in Schedule 2 shall be paid an allowance of an amount set out in Item 20 of Table 2 - Other Rates and Allowances, of Part B, Monetary Rates.
- (iii) Subject to the provisions in subclause (i) of this clause, an employee who holds a post-graduate certificate shall be paid an allowance of an amount set out in Item 21 of Table 2 - Other Rates and Allowances, of Part B, Monetary Rates.
- (iv) Subject to the provisions in subclause (i) of this clause, an employee who holds a post-graduate diploma or degree (other than an undergraduate nursing degree) shall be paid an allowance of an amount set out in Item 22 of the said Table 2.
- (v) Subject to the provisions in subclause (i) of this clause, an employee who holds a masters degree or doctorate shall be paid an allowance of an amount set out in Item 23 of the said Table 2.
- (vi) An Enrolled Nurse or an Enrolled Nurse without medication qualification, who holds a relevant Certificate IV or equivalent continuing education qualification in a clinical field, or Advanced Diploma of Nursing (Enrolled/Division 2 Nursing) in addition to the qualification leading to enrolment, shall be paid a continuing education allowance, subject to the following conditions set out below:
- (a) the allowance is only payable where the qualification is accepted by the employer to be directly relevant to the competency and skills used by the Enrolled Nurse or an Enrolled Nurse without medication qualification in the duties of the position;
 - (b) an employee holding more than one relevant qualification is only entitled to one allowance, being the allowance of the highest monetary value;
 - (c) the employee claiming entitlement to a qualification allowance must provide evidence to the employer that they hold that qualification within three months of obtaining the qualification or within three months of commencing work in the relevant specialty, unless exceptional circumstances prevent this.

- (vii) Subject to the provisions in subclause (vi) of this clause, an Enrolled Nurse or an Enrolled Nurse without medication qualification who holds a Certificate 4 qualification shall be paid an allowance of an amount set out in Item 24 of the said Table 2.
- (viii) Subject to the provisions in subclause (vi) of this clause, an Enrolled Nurse or an Enrolled Nurse without medication qualification who holds an Advanced Diploma of Nursing (Enrolled/Division 2 Nursing) qualification shall be paid an allowance of an amount set out in Item 25 of the said Table 2.
- (ix) A Clinical Nurse Educator/Clinical Midwife Educator who holds a post graduate diploma, degree, Masters or Doctorate in education or a clinical field in addition to the qualification leading to registration, or a Clinical Nurse Specialist/Clinical Midwife Specialist Grade 2 who holds a post graduate diploma, degree, Masters or Doctorate in a clinical field in addition to the qualification leading to registration, shall be paid a continuing education allowance, subject to the following conditions set out below:
 - (a) the allowance is only payable where the qualification is accepted by the employer to be directly relevant to the competency and skills used by the registered nurse/midwife in the duties of the position;
 - (b) an employee holding more than one relevant qualification is only entitled to one allowance, being the allowance of the highest monetary value;
 - (c) the employee claiming entitlement to a qualification allowance must provide evidence to the employer that they hold that qualification within three months of obtaining the qualification or within three months of commencing work in the relevant specialty, unless exceptional circumstances prevent this.
- (x) Subject to the provisions in subclause (ix) of this clause, a Clinical Nurse Educator/Clinical Midwife Educator who holds a post graduate diploma, degree, Masters or Doctorate in education or a clinical field, or a Clinical Nurse Specialist/Clinical Midwife Specialist Grade 2 who holds a post graduate diploma, degree, Masters or Doctorate in a clinical field, shall be paid an allowance of the relevant amount set out at either Item 22 or 23 of the said Table 2.
- (xi) The above allowances are not to be included in the employee's ordinary rate of pay. The allowances are payable during periods of paid leave taken by an employee.
- (xii) The continuing education allowances shall be considered salary-related allowances for the purpose of salary and salary related allowance increases that may occur from the first full pay period commencing on or after 30 June 2009.
- (xiii) Where a dispute arises concerning the eligibility for payment of a Continuing Education Allowance that is not resolved by the process contained in subclauses (i) to (iv) of clause 48, Disputes, of this Award, negotiations between the NSW Health Department and the Association must occur prior to referral to the Industrial Relations Commission for determination.

14. Climatic and Isolation Allowances

- (i) Subject to subclause (ii) of this clause, persons employed in public hospitals or public health organisations in places situated upon or to the west of a line drawn as herein specified shall be paid an allowance as set out in Item 10, of Table 2 of Part B per week, in addition to the salary to which they are otherwise entitled. The line shall be drawn as follows: commencing at Tocumwal and thence to the following towns in the order stated - namely Lockhart, Narrandera, Leeton, Peak Hill, Gilgandra, Dunedoo, Coolah, Boggabri, Inverell and Bonshaw.
- (ii) Persons employed in public hospitals or public health organisations in places situated upon or to the west of a line drawn as herein specified shall be paid an allowance as set out in the said Item 10 per week, in addition to the salary to which they are otherwise entitled. The line shall be drawn as follows: commencing at a point on the right bank of the Murray River opposite Swan Hill (Victoria), and then to

the following towns in the order stated - namely, Hay, Hillston, Nyngan, Walgett, Collarenebri and Mungindi.

- (iii) Except for the computation of overtime the allowances prescribed by this clause shall be regarded as part of the salary for the purposes of this award.
- (iv) The allowances prescribed by this clause are not cumulative.
- (v) An employee who works less than 38 hours per week shall be entitled to the allowances prescribed by this clause in the same proportion as the average hours worked each week bears to thirty eight ordinary hours.

15. Penalty Rates for Shift Work and Weekend Work

- (i) Employees working afternoon or night shift shall be paid the following percentages in addition to the ordinary rate for such shift: Provided that employees who work less than 38 hours per week shall only be entitled to the additional rates where their shifts commence prior to 6am or finish subsequent to 6pm.

Afternoon shift commencing at 10am and before 1pm - 10%.

Afternoon shift commencing at 1pm and before 4pm - 12.5%.

Nightshift commencing at 4pm and before 4am - 15%.

Nightshift commencing at 4am and before 6am - 10%.

- (ii) "Ordinary rate" and "ordinary time" shall not include any percentage addition by reason of the fact that an employee works less than 38 hours per week.
- (iii) For the purpose of this clause day, afternoon and night shifts shall be defined as follows:

"Day shift" means a shift which commences at or after 6am and before 10am.

"Afternoon shift" means a shift which commences at or after 10am and before 4pm.

"Night shift" means a shift which commences at or after 4pm and before 6am on the day following.

- (iv) Employees whose ordinary working hours include work on a Saturday and/or Sunday, shall be paid for ordinary working hours worked between midnight on Friday and midnight on Saturday at the rate of time and one half and for ordinary hours worked between midnight on Saturday and midnight on Sunday at the rate of time and three quarters. These extra rates shall be in substitution for and not cumulative upon the shift premiums prescribed in the preceding subclause (i) of this clause.

The foregoing paragraph shall apply to employees who work less than 38 hours per week, but such employees shall not be entitled to be paid in addition any allowance prescribed by clause 29, Part-time, Casual and Temporary Employees, in respect of their employment between midnight on Friday and midnight on Sunday.

- (v) The additional payments prescribed by this clause shall not form part of the employee's ordinary pay for the purposes of this Award, except as provided in clause 30, Annual Leave.
- (vi) This clause shall not apply to Nurse/Midwife Managers classified Grade 4 or above.

16. Fares and Expenses

- (i) A trainee enrolled nurse sitting for an examination prescribed by the Board and required to travel from the home centre to an examination centre shall be paid by the employer all fares necessarily incurred in such travelling and, if it is reasonably necessary, for each student nurse or trainee enrolled nurse to sleep away from such home centre, the travelling allowance prescribed in Table 1 of the Department of

Premier and Cabinet Circular C2010-28 Review of Meal, Travelling and Other Allowances (as amended or replaced). "Home Centre" means the town in which is situated the public hospital at which such trainee enrolled nurse is employed.

- (ii) An employee required to travel in the performance of duty shall be reimbursed first-class fares (including sleeper accommodation) and all reasonable out-of-pocket expenses.
- (iii)
 - (a) An employee who is engaged for an indefinite period and who remains in the employment for at least six months shall be reimbursed forward fares from the place of engagement; provided that the distance of normal travel therefrom to the employment exceeds 40 kilometres.
 - (b) An employee who is engaged for an indefinite period and who is dismissed within six months for any reason, other than misconduct or inefficiency shall be reimbursed forward fares from the place of engagement; provided that the distance of normal travel there from to the employment exceeds 40 kilometres and shall also be reimbursed return fares to such place of engagement or the employee's immediate destination whichever is the cheaper.
- (iv) An employee who is engaged for a definite period and who completes the period of engagement or who is dismissed before completing such period for any reason other than misconduct or inefficiency, shall be reimbursed forward fares from the place of engagement provided that the distance of normal travel therefrom to the employment exceeds 40 kilometres and shall be reimbursed return fares to such place of engagement or to the employee's immediate destination, whichever is the cheaper.
- (v) Subclauses (iii) and (iv) of this clause shall not apply to trainee enrolled nurses or to nurses travelling to a midwifery training school to enter upon midwifery training or to nurses travelling to a public hospital for post-graduate training.
- (vi) Fares within the meaning of this clause shall include only fares incurred in respect of travel within New South Wales.
- (vii) An employee who claims reimbursement of fares, pursuant to this clause, shall furnish to the employer, if so required, satisfactory proof that she or he has not received from another employer reimbursement in respect to those fares.

17. Special Rates and Conditions

- (i) In addition to the rates prescribed by clause 9, Salaries, the additional rates as set in Item 11, of Table 2 of Part B shall be payable to the undermentioned employees of the Tibooburra and Ivanhoe District Hospitals:

Registered Nurses/Midwives;
All Enrolled Nurse classifications;
Trainee Enrolled Nurses; or
Assistants in Nursing.

(NOTE: These additional rates are compensation for overtime and adverse conditions.)

- (ii) In addition to the annual leave prescribed by clause 30, Annual Leave, the Director of Nursing and registered nurses at the Tibooburra District Hospital and Ivanhoe District Hospital shall be allowed seven days leave of absence annually on full pay.
- (iii) All nurses employed by the Justice Health Service, nurses working in the Kestrel Unit, Morisset and Court Liaison Nurses employed by a Local Health Network shall be paid a special environmental allowance as set out in item 11A of Table 2 of Part B. Such allowance shall be adjusted from time to time in accordance with any State Wage Case increase covering work-related allowances. Part time and Casual employees shall be paid this allowance on a pro rata basis. This allowance shall be considered as salary for all purposes of this award (including the calculation of overtime and penalty rates).

- (iv) All nurses employed by the Justice Health Service shall be paid a productivity allowance as set out in item 11B of Table 2 of Part B. Such allowance shall be considered as salary for all purposes of this award (including the calculation of overtime and penalty rates), and shall be adjusted from time to time in accordance with any general wage movements in this award. Part time and Casual employees shall be paid this allowance on a pro rata basis.

Air Ambulance Service

- (v) In addition to the weekly rate of pay prescribed by Clause 9, Salaries, Flight Nurses shall receive the sum in Item 19 of Table 2 of Part B as an industry allowance. This allowance shall not form part of the normal wages in respect of overtime, shift penalties or penalties for weekends and public holidays. This allowance shall not be payable on annual leave, long service leave or sick leave.
- (vi) Reserve Duty Allowance - A Flight Nurse required to stand by at a country centre outside normal rostered hours shall be paid one-third of the normal hourly rate while so doing and while not engaged in actual duties.
- (vii) Unscheduled Stopovers - A Flight Nurse required to remain away from home overnight shall be provided with accommodation and full board of a reasonable standard which will be paid for by the Ambulance Service.
- (viii) Each five hours during a tour of duty only, a meal allowance, as set out in subclause (ix) below shall be paid unless a meal is provided.
- (ix) The allowance per meal shall be the average of the allowances for breakfast, lunch and dinner as determined by Item 19 of Table 1 of the Department of Premier and Cabinet Circular C2010-28 Review of Meal, Travelling and Other Allowances (as amended or replaced).

Team Leader

- (x) Payment of the Team Leader allowance provided for in the Health Professionals and Medical Salaries Award ceased to apply for employees covered by this Award from 1 July 2008, except that nurses in receipt of such an allowance immediately prior to 1 July 2008 whose salary is in advance of the applicable rate under the NSW Health Service Health Professionals (State) Award continue to receive that allowance while occupying their existing role.
- (xi) A registered nurse responsible for the leadership, guidance and line management of a multi-disciplinary team of health professionals in a community-based service whose annual salary is lower than the relevant salary set out in the NSW Health Service Health Professionals (State) Award for the Team Leader role shall for all purposes be paid the difference between their salary and the applicable salary set out in the NSW Health Service Health Professionals (State) Award for the relevant Team Leader classification as follows:
 - (a) A registered nurse responsible for the leadership, guidance and line management of a multi-disciplinary team of up to five other full time equivalent health professionals or other technical staff or support staff providing clinical input in a community-based service shall be paid the base salary applicable to Health Professional Level 3, Year 2.
 - (b) A registered nurse responsible for the leadership, guidance and line management of a multi-disciplinary team of more than five and less than 10 other full time equivalent health professionals or other technical staff or support staff providing clinical input in a community-based service shall be paid the base salary applicable to Health Professional Level 4, Year 2.
 - (c) A registered nurse responsible for the leadership, guidance and line management of a multi-disciplinary team of more than 10 and less than 20 other full time equivalent health professionals or other technical staff or support staff providing clinical input in a community-based service shall be paid the base salary applicable to Health Professional Level 5, Year 2.

18. Telephone Allowance

If an employee is required by his or her employer to have a telephone installed at his or her residence for the purposes of his or her employment, the employer shall be responsible for the payment of -

- (a) the cost of installation of the telephone
- (b) three quarters of the cost of the rental of that telephone
- (c) the cost of all official calls.

19. Trainee Enrolled Nurses

(i) Application

- (a) This clause only applies to Trainee Enrolled Nurses employed prior to 23 February 2011 and who are undertaking a Traineeship as defined.
- (b) Existing conditions of employment will continue to apply to employees employed as Trainee Enrolled Nurses prior to the introduction of this clause.
- (c) Existing employees undertaking a traineeship will have their conditions of employment preserved in accordance with Section 31 Preservation of Conditions of Employment of Existing Worker Trainees of the Apprenticeship and Traineeship Act 2001.

(ii) Definitions

"Appropriate State Legislation" means the Apprenticeship and Traineeship Act 2001, or any successor legislation.

"State Training Authority" is the New South Wales Department of Education and Training, or successor organisation.

"Structured Training" means that training which is specified in the Training Plan, which is part of the Training Contract registered with the State Training Authority. It includes training undertaken both on and off-the-job in a Traineeship and involves formal instruction, both theoretical and practical, and supervised practice and clinical support. The training reflects the requirements of a Traineeship approved by the State Training Authority.

"Traineeship" means a system of training which has been approved by the State Training Authority and defined by the provisions of the Appropriate State Legislation.

"Trainee" means an employee, who is classified as a Trainee Enrolled Nurse and is training to become an Enrolled Nurse in a facility approved by the Board for enrolled nurse education. The Trainee is signatory to the Training Contract registered with the State Training Authority and is involved in full time paid work and structured training which may be on or off the job.

"Training Contract" means a contract entered into for the purpose of establishing a Traineeship under the Appropriate State Legislation and is registered with the State Training Authority.

"Training Plan" means a program of structured training which forms part of a Training Contract and is registered with the State Training Authority.

(iii) Training Conditions

- (a) The Trainee shall attend an approved training course or training program prescribed in the Training Contract or as notified to the Trainee by the State Training Authority.

- (b) A Traineeship shall not commence until the relevant Training Contract has been signed by the employer and the Trainee and lodged for registration with the State Training Authority, provided that if the Training Contract is not in a standard format a Traineeship shall not commence until the Training Contract has been registered with the State Training Authority.
 - (c) The employer must ensure that the Trainee is permitted to attend the training course or program provided for in the Training Contract and must ensure that the Trainee receives appropriate on the job training.
 - (d) The employer will ensure that the Trainee has two rostered days off immediately prior to the commencement of block training.
 - (e) The employer must provide an appropriate level of supervision in accordance with the Training Contract during the Traineeship period.
 - (f) The employer agrees that officers of the State Training Authority will monitor the Training Contract and Training Plan and that training records or workbooks may be utilised as part of this monitoring process.
 - (g) A Trainee will not be required to perform the duties of Registered or Enrolled Nurses when they are absent from duty. Trainees perform duties commensurate with their classification and training.
- (iv) Employment Conditions
- (a) A Trainee is entitled to the weekly wages as provided in Table 1 - Salaries of Part B Monetary Rates of this Award.
 - (b) A Trainee shall be subject to a satisfactory probationary period of up to one month which may be reduced at the discretion of the employer.
 - (c) The general terms and conditions of this Award apply, except where inconsistent with this clause, in which case the specific provisions of this clause prevail to the extent of any inconsistency.
 - (d) By agreement in writing, and with the consent of the State Training Authority, the employer and the Trainee may vary the duration of the Traineeship and the extent of approved training. Any such agreement to vary shall be in accordance with the Traineeship.
 - (e) Where the Trainee completes the qualifications in the Training Contract, earlier than the time specified in the Training Contract then the Traineeship may be concluded by mutual agreement by application to the State Training Authority in accordance with the provisions of the Appropriate State Legislation.
 - (f) The Training Contract can only be terminated before its conclusion by application to the State Training Authority in accordance with the provisions of the Appropriate State Legislation.
 - (g) Trainees are permitted to be absent from work without loss of continuity of employment or wages to attend training in accordance with the Training Contract. All rostered time off duty occupied by a Trainee in attendance at lectures and demonstrations given in the course of instruction in the theory and practice of nursing or during the time necessarily occupied in attending and sitting for prescribed examinations shall be deemed to be time worked.
 - (h) A Trainee may work reasonable overtime and shift work provided that this does not adversely affect the completion of the training program.
 - (i) No Trainee shall work overtime or shift work on their own. Where a Trainee works overtime or shift work, the employer must provide the Trainee with appropriate supervision in accordance with the Training Contract.

- (j) Where a Trainee works shift work, there must be satisfactory provision for structured training to continue.
- (k) Department of Health Policy Directive No. 2005_444 dated 28 January 2005, as amended from time to time will apply to trainees:
 - i. who are required to travel to a TAFE campus to undertake approved and/or structured training;
 - ii. who are seconded on a full time basis to another public hospital or public health organisation for purposes of training.
- (l) A Trainee who fails to either complete the Traineeship or who cannot for any reason be placed in permanent employment with the employer on successful completion of the Traineeship shall not be entitled to any severance payments.
- (m) Service as a Trainee shall be counted as service for the purposes of this Award and for any other legislative entitlement, consistent with that legislation.
- (v) Monitoring
 - (a) The Department and Association agree that there will be ongoing monitoring of the operation of the provisions of this clause. The Department will advise the Association annually of the total number of Trainees employed in each Area Health Service.

20. Mobility, Excess Fares and Travelling

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

- (i) An employee shall be required to proceed to the accustomed place of work and return home once on each ordinary working day or shift in the employee's own time and at the employee's own expense.
- (ii)
 - (a) Where an employee is directed to report for duty to a place of work other than the employee's accustomed place of work the employee shall travel to and from the alternative place of work in the employer's time for those periods in excess of time normally taken to travel to and from the accustomed place of work.
 - (b) If the excess of travelling time on a particular day or shift is greater than the prescribed ordinary hours of duty for the particular category of staff for that day or shift, then the excess of hours, shall be paid at the ordinary rate of pay to the extent of the excess of travelling time.
 - (c) Fares incurred by such employee in excess of the fares normally incurred in travelling to the employee's accustomed place of work and returning home from the accustomed place of work, shall be reimbursed.
 - (d) Where the employee is required to report to an alternative place of work and has the prior approval of the employer to travel by his/her own mode of conveyance, the employee shall be paid a kilometre allowance for kilometres travelled in excess of the kilometres the employee normally travels between the accustomed place of work and home. The kilometre allowance will be as prescribed by Item 6 of Table 1 of the Department of Premier and Cabinet Circular C2010-28 Review of Meal, Travelling and Other Allowances (as amended or replaced).
- (iii)
 - (a) Where an employer has determined that an employee or employees should report to a new accustomed place of work on a permanent basis, the decision must be discussed with the affected

employee(s) and the local branch of the relevant union(s) prior to notice of changed accustomed place of work being given. An employer shall only make such a determination where it is reasonable in all the circumstances to do so.

- (b) The employer shall give the employee reasonable notice of the requirement to report to a new accustomed place of work. For the purpose of this sub-clause, "reasonable notice" shall be one calendar month prior to the date the employee is first required to report to the new accustomed place of work.
 - (c) Where the accustomed place of work is changed on a permanent basis by the employer, the employee shall report to the new accustomed place of work on the date specified by the employer.
 - (d) If there is disagreement about such decision after such discussion or if a significant number of employees are involved, the matter should be referred to the Department of Health, which will discuss the matter with the appropriate union(s) and will determine the date upon which notice will be given to employee(s).
- (iv)
- (a) The provision of this clause shall not apply to an employee appointed to regularly perform relief duties or to employees specifically employed to perform duties at more than one place of work except as provided in (b) hereunder.
 - (b) If a reliever incurs fares in excess of the amount as set in Item 12 of Table 2 - Other Rates and Allowances per day in travelling to and from the relief site, the excess shall be reimbursed.
 - (c) Where a reliever, with the prior approval of the employer, travels by his/her own mode of conveyance and incurs travelling costs in excess of the amount as set in Item 12 per day to and from the relief site, such excess shall be reimbursed. The rate applicable shall be the kilometre allowance prescribed by Item 6 of Table 1 of the Department of Premier and Cabinet Circular C2010-28 Review of Meal, Travelling and Other Allowances (as amended or replaced).
- (v) No payment shall be made under this clause unless the employer is satisfied that the employee has incurred additional expenditure in having to report to an alternative place of work, at the direction of the employer.
- (vi) Travel to an alternative place of work, either by public transport or own mode of conveyance, shall in all instances be by the most direct route.

21. Car Allowance

An employee who, with the approval of the Chief Executive Officer or his/her nominee, uses on official business a motor vehicle maintained primarily for other than official business, shall be paid an allowance based on the rates prescribed by Item 6 of Table 1 of the Department of Premier and Cabinet Circular C2010-28 Review of Meal, Travelling and Other Allowances (as amended or replaced).

22. Provision of Communication Device

An employee who is required to visit clients away from a secure working environment shall, during the performance of such duties, be provided with a suitable and effective communication device. The provision of this equipment is intended to improve service delivery, together with enhancing the safety and wellbeing of the employee.

23. Uniform and Laundry Allowances

- (i) Subject to subclause (ii) of this clause, sufficient, suitable and serviceable uniforms, including one pair of shoes per annum which shall be of a recognised acceptable standard for the performance of nursing duties, shall be supplied free of cost to each employee required to wear a uniform. An employee to

whom a new uniform or part of a uniform has been issued who, without good reason, fails to return the corresponding article last supplied shall not be entitled to have such article replaced without payment therefore at a reasonable price.

- (ii) An employee, on leaving the service of an employer, shall return any uniform or part thereof supplied by that employer which is still in use immediately prior to leaving.
- (iii)
 - (a) In lieu of supplying uniforms and shoes to an employee, an employer shall pay the said employee the sum as set out in Item 13 of Table 2 of Part B per week, which includes a sum as set in the said Item 13 per week for shoes. Provided, however, that if a uniform includes a cardigan or jacket an additional amount as set in the said Item 13 per week shall also be paid.
 - (b) In lieu of supplying stockings to a female employee an employer shall pay the said employee the sum as set out in Item 13 of Table 2 of Part B per week. This subclause shall cease to have effect from the first full pay period on or after 1 July 2011.
 - (c) In lieu of supplying socks to an employee, an employer shall pay the said employee the sum as set out in Item 13 of Table 2 of Part B per week. This subclause shall cease to have effect from the first full pay period on or after 1 July 2011.
 - (d) The allowances prescribed in this subclause continue to be payable during any period of paid leave.
- (iv)
 - (a) If, in any public hospital or public health organisation, the uniforms of an employee are not laundered at the expense of the employer, an allowance as set out in Item 14, of Table 2 of Part B per week shall be paid to the said employee. Provided that this allowance is not payable during any period of leave which exceeds one continuous week.
 - (b) This allowance is also payable to employees providing direct clinical care and who are not required to wear a uniform.
- (v) Where the employer requires any employee to wear headgear, the employer shall provide headgear free of charge to the employee.
- (vi) Each employee whose duties regularly require them to work out of doors shall be supplied with a suitable waterproof coat, hat and overboots. Sufficient waterproof clothing shall be made available for use by other employees who in the course of their duties are exposed to wet weather.
- (vi) The Ambulance Service shall provide for each employee sufficient suitable and serviceable uniforms, including the following articles of clothing:
 - (a) For female employees:
 - 1 Uniform Jacket
 - 3 Culotte Mid-weight Skirts
 - 2 Winter weight Culotte Skirts
 - 3 Slacks
 - 4 Blouses (2 long sleeve, 2 short sleeve)
 - 1 Pair of Shoes
 - 1 Handbag
 - 1 Cardigan
 - 1 Raincoat
 - 1 Parka

- (b) For male employees - The equivalent items of clothing of the NSW Ambulance Service officers' uniform shall be provided.

24. Higher Grade Duty

- (i) An employee who is called upon to relieve and does relieve an employee in a higher classification or is called upon to act and does act in a vacant position of a higher classification for a continuous period of at least five working days shall be entitled to receive for the period of such relief or acting, the minimum payment for such higher classification. The employer shall not rotate the performance of higher grade duty so as to avoid payment for performance of the higher grade duty in this manner.
- (ii) Where an employee acts in a vacant management position covered by this Award continuously for more than six months, the employee will be deemed to be appointed to that position until such time as another appointment is made by the employer, or the employer determines that the management position will no longer be occupied. The employer shall have appropriate regard to the sharing of acting arrangements for developmental purposes and equitable treatment of employees, but the employer shall not rotate duties in such a manner as to avoid the intentions of this subclause.

25. Overtime

- (i)
 - (a) Subject to paragraph (b) of this subclause an employer may require an employee to work reasonable overtime.
 - (b) An employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working hours which are unreasonable.
 - (c) For the purposes of paragraph (b), what is unreasonable or otherwise will be determined having regard to:
 - (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.
- (ii)
 - (a) Subject to paragraph (b) of this subclause all time worked by employees in excess of the rostered daily ordinary hours of work shall be overtime and shall be paid for at the rate of time and one half for the first two hours and double time thereafter in respect of each overtime shift worked or in respect of overtime worked prior to or at the conclusion of a normal shift. Provided that overtime worked on Sundays shall be paid for at the rate of double time and on public holidays at the rate of double time and one half.
 - (b) Employees employed pursuant to Part 1 of Clause 29, Part Time, Casual and Temporary Employees, (ie. Permanent Part-Time Employees) shall be entitled to payment for overtime in accordance with the arrangements set out in NSW Health Policy Directive No. PD2005_439 On Call Roster, as amended from time to time. Overtime shall be paid for at the rate of time and one half for the first two hours and double time thereafter except that on Sundays such overtime shall be paid for at the rate of double time and on public holidays at the rate of double time and one half.

- (iii) An employee recalled to work overtime after leaving the employer's premises shall be paid for a minimum of four hours work at the appropriate rate each time so recalled. If the work required is completed in less than four hours, the employee shall be released from duty.
- (iv) In lieu of the conditions specified in subclauses (ii) and (iii) of this clause, a nurse who works overtime may be compensated by way of time off in lieu of overtime, subject to the following requirements:
 - (a) Time off in lieu must be taken within three months of it being accrued at ordinary rates.
 - (b) Where it is not possible for a nurse to take the time off in lieu within the three month period, it is to be paid out at the appropriate overtime rate based on the rates of pay applying at the time payment is made.
 - (c) Nurses cannot be compelled to take time off in lieu of overtime.
 - (d) Time off in lieu of overtime should only be considered as an option in those circumstances where the employer is able to provide adequate replacement staff to ensure that the level of quality of service that would otherwise have been provided had overtime been worked, is in fact provided.
 - (e) Records of all time off in lieu owing to nurses and taken by nurses must be maintained.
- (v) An employee required to work overtime following on the completion of his or her normal shift for more than two hours shall be allowed twenty minutes for the partaking of a meal and a further twenty minutes after each subsequent four hours overtime; all such time shall be counted as time worked. Provided that the benefits of this subclause shall not apply to an employee employed pursuant to Part 1 of clause 29, Part-Time, Casual and Temporary Employees, until the expiration of the normal shift for a majority of the full-time employees employed on that shift in the ward or section concerned.
- (vi) An employee recalled to work overtime after leaving the employer's premises and who is required to work for more than four hours shall be allowed twenty minutes for the partaking of a meal and further twenty minutes after each subsequent four hours overtime; all such time shall be counted as time worked.
- (vii)
 - (a) The meals referred to in subclause (v) and (vi) of this clause shall be allowed to the employee free of charge. Where the employer is unable to provide such meals, an allowance per meal as calculated hereunder shall be paid to the employee concerned.
 - (b) The allowance per meal shall be the average of the allowances for breakfast, lunch and dinner as determined by Item 19 of Table 1 of the Department of Premier and Cabinet Circular C2010-28 Review of Meal, Travelling and Other Allowances (as amended or replaced).
- (viii) Where an employee is required to work an overtime shift on his or her rostered day off, the appropriate meal breaks for that shift, as prescribed by clause 4, Hours of Work and Free Time of Employees Other Than Directors of Nursing, shall apply.
- (ix) An employee who works so much overtime:
 - (a) between the termination of his or her ordinary work on any day or shift and the commencement of his or her ordinary work on the next day or shift that he or she has not had at least ten consecutive hours off duty between these times; or
 - (b) on a Saturday, a Sunday and a holiday, not being ordinary working days, or on a rostered day off without having had ten consecutive hours off duty in the twenty-four hours preceding his or her ordinary commencing time on his or her next day or shift; shall, subject to this subclause, be released after completion of such overtime until he or she has had ten consecutive hours off duty without loss of pay for ordinary working time occurring during such absence. If on the instruction of the employer such an employee resumes or continues to work without having had

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

- (c) The requirement for an employee to have at least ten consecutive hours off duty before or after overtime shall be reduced to eight hours in the following circumstances:
 - (i) Where the employee and local nursing management have agreed to an eight hour break between each rostered shift;
 - (ii) Where an employee has exchanged the shift rostered before or after the overtime period with another employee.
- (d) Periods rostered on-call or periods attracting the prescriptions of paragraph (c) of subclause (vii) of clause 12, Special Allowances regarding telephone counselling are to be regarded as forming part of the ten consecutive hours off duty pursuant to paragraphs (a) and (b) of this sub-clause.
- (x) Where an employee has been rostered to work overtime and is subsequently notified by the employer with less than 24 hours notice that the overtime has been cancelled, the employee shall be entitled to payment of four hours pay at ordinary time, ie. at the employee's base rate of pay.
- (xi) This clause shall not apply to Nurse/Midwife Managers classified at Grade 4 or above, except where all of the following criteria are met:
 - (a) the Nurse/Midwife Manager is employed in a small public hospital that does not employ Nurse/Midwife Managers to supervise the nursing/midwifery services on evenings, nights and/or weekends; and
 - (b) the Nurse/Midwife Manager is required to work overtime due to the public hospital having insufficient nursing/midwifery staff available to be rostered on duty at the relevant time; and
 - (c) the Nurse/Midwife Manager is required to work overtime in order to personally provide "hands on" clinical care of patients.

26. Escort Duty

- (i) Periods during which an employee, other than a Director of Nursing, is engaged in nursing duties, viz., in attendance on a patient, shall be paid as working time under this award. Where applicable, overtime shall be payable.
- (ii) All reasonable out of pocket expenses shall be reimbursed.
- (iii) Rostered time shall be paid as such even though an employee may be travelling, in hotel/motel accommodation or waiting for transport.
- (iv) In respect of non-rostered time not spent in nursing duties:
 - (a) Periods in hotel/motel accommodation or waiting time for transport shall not be counted as working time;
 - (b) Periods in travelling shall count as working time.

27. Payment and Particulars of Salaries

- (i) All salaries and other payments shall be paid fortnightly provided that payment for any overtime and/or shift penalties worked may be deferred to the pay day next following the completion of the working cycle within which such overtime and or shift penalties is worked, but for no longer. Provided further

that any proposal to alter the day on which wages are to be paid or the number of days pay kept in hand by the employer, must be the subject of consultation with the Head Office of the Association.

- (ii) Employees shall have their salary paid into one account with a bank or other financial institution in New South Wales as nominated by the employee. Salaries shall be deposited by the employer in sufficient time to ensure that wages are available for withdrawal by employees by no later than payday, provided that this requirement shall not apply where employees nominate accounts with non-bank financial institutions which lack the technological or other facilities to process salary deposits within 24 hours of the employer making 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 payday.
- (iii) Notwithstanding the provisions of subclause (ii) of this clause, an employee who has given or has been given the required notice of termination of employment, in accordance with clause 41, Termination of Employment, shall be paid all monies due to him/her prior to ceasing duty on the last day of employment. Where an employee is summarily dismissed or his/her services are terminated without due notice, any monies due to him/her shall be paid as soon as possible after such dismissal or termination but in any case not more than three days thereafter.
- (iv) On each payday an employee, in respect of the payment then due, shall be furnished with a written statement containing the following particulars; namely, name, the amount of ordinary salary, the total number of hours of overtime worked, if any, the amount of any overtime payment, the amount of any other monies paid and the purpose for which they are paid, and the amount of the deductions made from the total earnings and the nature thereof.
- (v) Underpayment and overpayment of salaries: The following process will apply once the issue of underpayment or overpayment is substantiated.
 - (a) Underpayment:
 - (i) If the amount paid is equal to or greater than one day's gross base pay the underpayment will be rectified within three working days;
 - (ii) If the amount is less than one day's gross base pay it will be rectified by no later than the next normal pay. However if the employee can demonstrate that rectification in this manner would result in undue hardship every effort will be made by the employer to rectify the underpayment within three working days.
 - (b) Overpayment
 - (i) In all cases where overpayments have occurred, the employer shall as soon as possible advise the employee concerned of both the circumstances surrounding the overpayment and the amount involved. The employer will also advise the employee of the pay period from which the recovery of the overpayment is to commence.
 - (ii) One off overpayments will be recovered in the next normal pay, except that where the employee can demonstrate that undue hardship would result, the recovery rate shall be at 10% of an employee's gross fortnightly base pay.
 - (iii) Unless the employee agrees otherwise, the maximum rate at which cumulative overpayments can be recovered is an amount, calculated on a per fortnight basis, equivalent to 10% of the employee's gross fortnightly base pay.
 - (iv) The recovery rate of 10% of an employee's gross fortnightly base pay referred to in subclause (b) (iii) above may be reduced by agreement, where the employee can demonstrate that undue hardship would result.
 - (v) Where an employee's remaining period of service does not permit the full recovery of any overpayment to be achieved on the fortnightly basis prescribed in subclause (b) (iii)

above, the Department shall have the right to deduct any balance of such overpayment from monies owing to the employee on the employee's date of termination, resignation or retirement, as the case may be.

- (vi) Subject to the provisions of paragraphs (ii) and (iii) above, where the circumstances make it appropriate the Chief Executive of the Public Health Organisation or delegate may exercise discretion in regard to recovery of overpayments.

28. Registration Pending

An employee who has met the requirements and applied for registration as a Registered Nurse or Enrolled Nurse shall, upon registration by the Board be paid as from the date of application for registration the salary to which she or he would have been entitled if registered as a Registered Nurse or Enrolled Nurse.

29. Part-Time, Casual and Temporary Employees

PART I

PERMANENT PART-TIME EMPLOYEES

- (i) A permanent part-time employee is one who is permanently appointed by a public hospital or public health organisation to work a specified number of hours which are less than those prescribed for a full-time employee. Provided that employers must not utilise this provision in a manner which has the effect of subverting the intentions of the 38-hour week arrangements whereby full-time employees work on no more than 19 days in each 28 day roster cycle.
- (ii) The number of persons employed under Part 1 of this clause shall be limited so that the proportion of a public hospital's permanent part-time nursing workforce, expressed in full-time equivalents, shall not exceed 33 1/3 per cent of the public hospital's total nursing workforce, expressed in full-time equivalents. Provided that where the consent of the Association is first obtained, the figure of 33 1/3 per cent permanent part-time employees may be exceeded. Should the Association not consent to a higher percentage of permanent part-time employees at a public hospital, resort may be had to the dispute settling procedures provided for in clause 48, Disputes. The parties agree that they will take account of the Government's flexible work practices policy.
- (iii) Subject to subclause (iv) of this clause employees engaged under Part 1 of this clause shall be paid an hourly rate calculated on the basis of one thirty-eighth of the appropriate rate prescribed by clause 8, Salaries, with a minimum payment of two hours for each start, and one thirty-eighth of the appropriate allowances prescribed by clause 19, Uniform and Laundry Allowances, but shall not be entitled to an additional day off or part thereof as prescribed by subclauses (iii) and (v) of Clause 4, Hours of Work and Free Time of Employees Other Than Directors of Nursing and Area Managers, Nurse Education.
- (iv) Four weeks annual leave on ordinary pay is to be granted on completion of each twelve months service, The provisions of subclauses (v) to (xi) of clause 30, Annual Leave, and clause 31, Annual Leave Loading, shall apply to employees engaged under Part 1 of this clause. The remaining provisions of clause 30 shall not apply.
- (v) A public holiday occurring on an ordinary working day shall be allowed to employees without loss of pay; provided that an employee who is required to and does work on a public holiday shall have one day or one half day, as appropriate, added to his/her period of annual leave and be paid at the rate of one half time extra for the time actually worked. Such payment is in lieu of any additional rate for shift work or weekend work which would otherwise be payable had the day not been a public holiday. In lieu of adding to annual leave under this paragraph an employee may elect to be paid for the time actually worked at the rate of time and one half in addition to his/her ordinary weekly rate. Where payment is made in lieu of leave in respect of time worked on a public holiday, payment shall be made for a minimum of four hours work, and any balance of the day or shift not worked shall be paid at ordinary rates. For employees who work less than five days per week, when a public holiday occurs on a day of the week on which an employee regularly works, that employee shall be entitled to observe the public

holiday without loss of pay, ie. the employee's roster must not be changed to avoid payment of the public holiday.

- (vi) To the leave prescribed by subclause (iv) of this Part there shall be added one working day for each public holiday or one-half working day for each half public holiday which occurs on what would have been an ordinary working day during a period of annual leave.
- (vii) For the purpose of this Part of this clause the following are to be public holidays, viz., New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, Labour Day, Christmas Day, Boxing Day and any other day duly proclaimed and observed as a public holiday within the area in which the employee's usual workplace is situated.
- (viii) In addition to those public holidays prescribed in subclause (vii) of this Part, there shall be an extra public holiday each year. Such public holiday will occur on the August Bank Holiday or a date which is determined by the public hospital or public health organisation following consultation with the Association. This subclause shall apply in substitution for any additional local public holiday or half public holiday proclaimed in a local government area.
- (ix) In this Part, ordinary pay, for the purposes of sick leave and annual leave, shall be calculated on the basis of the average weekly ordinary hours worked over the 12 months' qualifying period.
- (x) Employees engaged under this Part shall be entitled to all other benefits of this award not otherwise expressly provided for herein in the same proportion as their ordinary hours of work bear to full-time hours.
- (xi) Where a permanent part-time employee has been rostered to work any additional shift and is subsequently notified by the employer with less than 24 hours notice that the shift has been cancelled, the employee shall be entitled to payment of four hours pay at ordinary time, ie. at the employee's base rate of pay.
- (xii) A part time employee may elect to increase their contracted hours to reflect the average of the actual hours worked per fortnight in the preceding 12 month period (except in circumstances where the part time engagement has been specifically for the purpose of temporarily backfilling a position where the substantive occupant has been on extended leave). The employer will not unreasonably withhold agreement to this request.
- (xiii) A part time employee may elect to convert to full time status. The employer will not unreasonably withhold such agreement to this request.

PART II

CASUAL EMPLOYEES

A General Provisions

- (i) A casual employee is one engaged on an hourly basis otherwise than as a permanent part-time or full-time employee.
- (ii) A casual employee shall be paid an hourly rate calculated on the basis of one thirty-eighth of the appropriate rate, prescribed by clause 9, Salaries, plus 10 per centum thereof, with a minimum payment of two hours for each start, and one thirty-eighth of the appropriate allowances prescribed by clause 19, Uniform and Laundry Allowances.
- (iii) With respect to a casual employee the provisions of clause 41, Deputy Directors of Nursing, Assistant Directors of Nursing; clause 7, Hours of Work and Free time of Directors of Nursing and Area Managers, Nurse Education; clause 25, Overtime; clause 30, Annual Leave; clause 16, Fares and Expenses; clause 20, Mobility, Excess Fares and Travelling, Clause 55, Learning and Development Leave and sub-clause (vii) of clause 38, Accommodation and Board, shall not apply.

Further, casual employees shall not be entitled to an additional day off or part thereof as prescribed by subclauses (iii) and (v) of clause 4, Hours of Work and Free Time of Employees Other Than Directors of Nursing and Area Managers, Nurse Education.

- (iv) For the entitlement to payment in respect of annual leave, see Annual Holidays Act, 1944.
- (v) A casual employee who is required to and does work on a public holiday as defined in subclauses (iii) and (iv) of clause 30, Annual Leave, shall be paid for the time actually worked at the rate of double time and one-half such payment being in lieu of weekend or shift allowances which would otherwise be payable had the day not been a public holiday; provided that a casual employee shall not be entitled to be paid in addition the allowance of 10 per centum prescribed in subclause (ii) of Part II in respect of such work.
- (vi) Where a casual employee has been notified by an employer of a time to commence an engagement and that engagement is subsequently cancelled by the employer with less than two hours notice the casual employee must be paid a minimum payment of two hours calculated at the rate which would have applied had the cancellation not occurred.
- (vii) A casual employee must not be required to work more than 12 consecutive hours unless the casual employee consents to do so.

B. Casual Conversion

- (i) The objective of this subclause B, Casual Conversion, 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. These provisions arise from the Secure Employment Test Case 2006.
- (ii) 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.
- (iii) 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.
- (iv) Any casual employee who has a right to elect under paragraph (ii), upon receiving notice under paragraph (iii) 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.
- (v) 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.
- (vi) 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.

- (vii) 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 (iv), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (iv), 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 employer and the employee.
- (viii) Following an agreement being reached pursuant to paragraph (vii), 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.
- (ix) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.

PART III

TEMPORARY EMPLOYEES

- (i) A temporary employee is one engaged for a set period not exceeding 13 weeks, provided that fixed term contracts of employment, whether for periods greater or lesser than 13 weeks, must not be offered in preference to ongoing contracts unless they are necessary to meet the genuine operational requirements of the employer, which may include but not be limited to parental leave, limited term funding arrangements, long term leave relief, forthcoming service reductions, and anticipated peak demand times.
- (ii) A temporary employee shall be paid in addition to all rates and allowances to which the said employee is entitled under this award, an allowance equal to 10 per centum of the rates prescribed for his or her classification by clause 8, Salaries, of this award, provided that this subclause shall cease to apply upon:
- (a) the said period of engagement being extended after the said period of 13 weeks;
 - (b) the employer and the employee agreeing during the said period of 13 weeks, that the employee shall be employed on a permanent part-time or full-time basis.
- (iii) For entitlement to payment in respect of annual leave, see Annual Holidays Act, 1944.

PART IV

SAVINGS PROVISIONS

- (i) Employees engaged as part-time employees as at 30 June 1986 shall be entitled to exercise the option of receiving the benefits of employment specified in Part 1 of this clause or in lieu thereof the following:
- (ii) Such part-time employee shall be paid an hourly rate calculated on the basis of one thirty-eighth of the appropriate rate prescribed by clause 9, Salaries, plus 10 per centum thereof with a minimum payment

of two hours for each start, and one thirty-eighth of the appropriate allowance prescribed by clause 23, Uniform and Laundry Allowances.

- (iii) With respect to such part-time employees, the provisions of clause 41, Deputy Directors of Nursing, Assistant Directors of Nursing; clause 7, Hours of Work and Free Time of Directors of Nursing and Area Managers, Nurse Education; clause 25, Overtime; clause 30, Annual Leave; clause 16, Fares and Expenses; clause 20, Mobility, Excess Fares and Travelling and subclause (vii) of clause 38, Accommodation and Board, of this award shall not apply. Further, part-time employees shall not be entitled to an additional day off or part thereof as prescribed by subclauses (iii) and (v) of clause 4, Hours of Work and Free Time of Employees Other Than Director of Nursing and Area Managers, Nurse Education.
- (iv) For entitlement to payment in respect of annual leave, see *Annual Holidays Act, 1944*.
- (v) Such part-time employee who is required to and does work on a public holiday as defined in subclause (iii) and (iv) of clause 30, Annual Leave, shall be paid for the time actually worked at the rate of double time and one half such payment being in lieu of weekend or shift allowances which would otherwise be payable had the day not been a public holiday; Provided that a part-time employee shall not be entitled to be paid in addition the allowance of 10 per cent prescribed in subclause (ii) of this Part in respect of such work.
- (vi) The provisions of subclauses (i) and (ii) of clause 33, Long Service Leave of this award shall not apply to such part-time employees who shall be entitled to long service leave in accordance with the provisions of the *Long Service Leave Act, 1955*.

30. Annual Leave

- (i) Annual leave on full pay is to be granted on completion of each twelve months' service as follows:
 - (a) Employees required to work on a seven day basis - six weeks annual leave.
 - (b) All other employees - four weeks annual leave.
- (ii)
 - (a) An employee to whom paragraph (a) of subclause (i) applies and who is required to and does work on a public holiday shall be paid, in addition to the appropriate ordinary weekly rate of pay, at the rate of one half time extra for the time actually worked on such holiday. Such payment shall be in lieu of any additional rate for shift work or weekend work which would otherwise be payable had the day not been a public holiday.
 - (b) To leave prescribed by paragraph (a) of subclause (i) there shall be added one working day or one half working day for each special public holiday or half public holiday (not being one of the 10 specifically named public holidays prescribed by subclause (iii) of this clause, or a special day proclaimed in lieu of any of them) which may occur during the qualifying period for annual leave or during the period of annual leave.
 - (c) A public holiday occurring on an ordinary working day shall be allowed to employees covered by paragraph (b) of subclause (i) on full pay; provided that an employee who is required to and does work on a public holiday shall have one day or one half day, as appropriate, added to his/her period of annual leave and be paid at the rate of one half time extra for the time actually worked. Such payment is in lieu of any additional rate for shift work or weekend work which would otherwise be payable had the day not been a public holiday.

In lieu of adding to annual leave under this paragraph an employee may elect to be paid for the time actually worked at the rate of time and one half in addition to his/her ordinary weekly rate. Where payment is made in lieu of leave in respect of the time worked on a public holiday, payment shall be made for a minimum of four hours work, and any balance of the day or shift not worked shall be paid at ordinary rates.

- (d) Where a public holiday falls on a rostered day off of a shift worker as defined in clause 3, Definitions, and who receives four weeks annual leave in accordance with paragraph (b) of subclause (i) of this clause, such shift worker shall be paid one day's pay in addition to the weekly rate or if the employee so elects shall have one day added to the period of annual leave.
- (e) To the leave prescribed by paragraph (b) of subclause (i) there shall be added one working day for each public holiday or one half working day of each half public holiday which occurs on what would have been an ordinary working day during a period of annual leave; provided that in the case of a shift worker referred to in paragraph (d) of this subclause the provisions of this paragraph shall apply to any public holiday falling during the period of annual leave.
- (iii) For the purpose of this subclause the following are to be public holidays viz., New Years Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, Labour Day, Christmas Day, Boxing Day and any other day duly proclaimed and observed as a public holiday within the area in which the employee's usual workplace is situated.
- (iv) In addition to those public holidays prescribed in subclause (iii) of this clause, employees are entitled to an extra public holiday each year. Such public holiday will occur on a day in the Christmas-New Year period as determined by the employer following consultation with the Association, or other suitable day as agreed between the employer and the Association. Such public holiday shall be regarded for all purposes of this clause as any other public holiday. This subclause shall apply in substitution for any additional local public holiday or half public holiday proclaimed in a local government area.
- (v) An employee shall be eligible for annual leave when 12 months have elapsed since the date on which the first annual leave would have begun if taken immediately it had become due, or if the employee has not previously had annual leave, since the commencement of employment.
- (vi) Annual leave shall be given and taken either in one consecutive period or two periods, or if the employer and employee so agree, in either two, three, or four separate periods but not otherwise. Provided that up to five single days per year may be taken at times convenient to both the employer and the employee.
- (vii)
 - (a) Annual leave shall be given and shall be taken within a period of six months after the date when the right to annual leave accrued; provided that the giving and taking of such leave may be postponed, by mutual agreement between the parties for a further period not exceeding six months.
 - (b) Nothing in this subclause shall prevent an employer by agreement with the employee, from allowing annual leave to an employee before the right thereto has accrued but where leave is taken in such a case a further period of annual leave will not commence to accrue until the expiration of the 12 months in respect of which annual leave was taken before it accrued.
 - (c) The employer shall give each employee, where practicable, three months notice of the date upon which he or she shall enter upon leave and in any event, such notice shall not be less than 28 days.
- (viii)
 - (a) Each employee before going on leave shall be paid for the period of the leave at the ordinary rate of salary to which he or she is entitled under this award.
 - (b) For the purpose of this subclause "ordinary rate of salary" means the award salary without any deduction for accommodation and/or board, provided that the employer is entitled to make such deduction for accommodation as is authorised by clause 38, Accommodation and Board, of this award, if the employee, having been requested by the employer to leave his or her room completely vacant during the period of annual leave, fails to do so.

- (c) An employee to whom paragraph (a) of subclause (i) applies shall be paid during the first 28 consecutive days whilst on annual leave his or her ordinary rate of salary plus shift allowances and weekend penalties relating to ordinary time the employee would have worked if he or she had not been on annual leave. Additional annual leave accrued under subclause (xi) attracts shift allowances and weekend penalties relating to ordinary time the employee would have worked if he or she had not been on annual leave.

Provided that, the provisions of the preceding paragraphs of this subclause shall not apply to public holidays which occur during a period of annual leave or days which have been added to annual leave in accordance with paragraph (b) of subclause (ii) and subclause (iv) of this clause.

- (ix) Except as provided in subclause (x) and (xi) of this clause payment for annual leave shall not be made or accepted in lieu of annual leave.
- (x) Where the employment of an employee is terminated, the employee shall be entitled to receive, in addition to all other amounts due, in respect of service of less than one year an amount equal to one twelfth (6/46ths in respect of employees rostered to work on a seven day basis) of his or her ordinary pay for that period of employment together with payment for any days added to annual leave in accordance with subclause (ii) of this clause and in calculating such payment no deduction is to be made for accommodation or board. Provided that this subclause shall not apply to an employee who elects to transfer his or her leave entitlement in accordance with NSW Health Policy Directive No. PD2006_096 Staff Mobility, as amended from time to time.
- (xi)
- (a) In addition to the leave prescribed by subclause (i) employees who work their ordinary hours on Sundays and/or public holidays are entitled to receive additional annual leave as follows:

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

- (b) An employee entitled to additional annual leave under subclauses 30 (i) (a), 30 (xi) (a) or 17 (ii) can elect at any time to be paid an amount equivalent to the value of accrued additional annual leave in lieu of taking the additional leave, provided also that salary for the period of additional leave paid out will be calculated as if the period of leave paid was actually taken.
- (c) On termination of employment, employees are to be paid for untaken annual leave due under this subclause together with payment for any leave in respect of an uncompleted year of employment calculated in accordance with this subclause together with payment for any untaken leave due in accordance with subclause (x). Provided that this subclause shall not apply to an employee who elects to transfer his or her leave entitlement in accordance with NSW Health Policy Directive No. PD2006_096 Staff Mobility, as amended from time to time.

31. Annual Leave Loading

Employees shall be paid an annual leave loading in accordance with NSW Health Policy Directive PD2006_089 Annual Leave, as amended from time to time.

32. Family and Community Services Leave and Personal/Carers' Leave

- (i) Family and Community Services ('FACS') Leave and Personal/Carer's Leave are separate, stand alone entitlements.

- (ii) FACS Leave and Personal/Carer's Leave are available to all part time and full time employees covered by this Award in accordance with Parts A, B and D of this clause.
- (iii) FACS Leave and Personal/Carer's Leave are available to all casual employees covered by this Award in accordance with Part C of this clause.

A FACS Leave

(iv) FACS leave - general

- (a) For the purpose of this clause relating to FACS Leave:

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

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

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

- (b) The appropriate Chief Executive or authorised delegate may grant FACS Leave to an employee:

- (1) to provide care and/or support for sick members of the employee's relatives or household; or
- (2) for reasons related to the family responsibilities of the employee (e.g. to arrange and attend a funeral of a relative; to accompany a relative to a medical appointment where there is an element of emergency; parent/teacher meetings; education week activities; to meet elder-care requirements of a relative); or
- (3) for reasons related to the performance of community service by the employee (e.g. in matters relating to citizenship; to office holders in local government, other than as a mayor, for attendance at meetings, conferences or other associated duties; representing Australia or the State in major amateur sport other than in Olympic/Commonwealth Games); or
- (4) in a case of pressing necessity (e.g. where an employee is unable to attend work because of adverse weather conditions which either prevent attendance or threaten life or property; the illness of a relative; where a child carer is unable to look after their charge).

- (v) FACS Leave replaces Compassionate Leave.

- (vi) An employee is not to be granted FACS Leave for attendance at court to answer a criminal charge, unless the Chief Executive or authorised delegate approves the grant of leave in the particular case.

Applications for FACS Leave to attend court, for reasons other than criminal charges, will be assessed on an individual basis.

(vii) FACS leave - entitlement

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

3 working days during the first year of service, commencing on and from 1 January 1995, and thereafter 6 working days in any period of 2 years; or

1 working day, on a cumulative basis effective from 1 January 1995, for each year of service after 2 years' continuous service, minus any period of FACS Leave already taken by the employee since 1 January 1995,

whichever method provides the greater entitlement.

(b) For the purposes of calculating entitlement, a working day for employees working an average of 38 hours per week in each roster cycle shall be deemed to consist of 8 hours. The rate at which FACS Leave is paid out and utilised shall be on actual hours absent from the rostered shift.

(c) FACS Leave is available to part-time employees on a pro rata basis.

(viii) Additional FACS leave for bereavement purposes

Where FACS leave has been exhausted, additional FACS leave of up to 2 days for bereavement may be granted on a discrete, "per occasion" basis to an employee on the death of a relative or member of a household as defined in subclause (iv)(a) of this clause.

(ix) Use of other leave entitlements

The appropriate Chief Executive or authorised delegate may grant an employee other leave entitlements for reasons related to family responsibilities, or community service, by the employee.

An employee may elect, with the consent of the employer, to take annual leave; long service leave; or leave without pay.

B. Personal/Carer's Leave

(x) Use of sick leave to care for the person concerned - definitions

A person who needs the employee's care and support is referred to as the "person concerned" and is:

- (a) a spouse of the employee; or
- (b) a de facto spouse, who, in relation to a person, is a person of the opposite sex to the first mentioned person who lives with the first mentioned person as the husband or wife of that person on a bona fide domestic basis although not legally married to that person; or
- (c) a child or an adult child (including an adopted child, a step child, a foster child or an ex nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the employee or spouse or de facto spouse of the employee; or
- (d) a same sex partner who lives with the employee as the de facto partner of that employee on a bona fide domestic basis; or
- (e) a relative of the employee who is a member of the same household, where for the purpose of this clause relating to Personal/Carer's Leave:

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

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

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

(xi) Use of sick leave to care for the person concerned - entitlement

- (a) The entitlement to use sick leave in accordance with this subclause is subject to the employee being responsible for the care and support of the person concerned; and the person concerned being as defined in subclause (x) of this clause.

- (b) An employee covered by the provisions of this clause with responsibilities in relation to a person who needs their care and support shall be entitled to use the untaken sick leave, from that year's annual sick leave entitlement, to provide care and support for such persons when they are ill.
- (c) Sick leave accumulates from year to year. In addition to the current year's grant of sick leave available under (b) above, sick leave untaken from the previous three years may also be accessed by an employee with responsibilities in relation to a person who needs their care and support.
- (d) The Chief Executive or authorised delegate may, in special circumstances, make a grant of additional sick leave. This grant can only be taken from sick leave untaken prior to the period referred to in subclause (c) above.
- (e) The employee shall, if required, establish either by production of a medical certificate or statutory declaration, that the illness of the person concerned is such as to require care by another person.
- (f) The employee has the right to choose the method by which the ground for leave is established, that is, by production of either a medical certificate or statutory declaration.
- (g) The employee is not required to state the exact nature of the relevant illness on either a medical certificate or statutory declaration.
- (h) The employee shall, wherever practicable, give the employer notice prior to the absence of the intention to take leave, the name of the person requiring care and that person's relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the employee to give prior notice of absence, the employee shall notify the employer by telephone of such absence at the first opportunity on the day of absence.
- (i) In normal circumstances, the employee must not take leave under this subclause where another person has taken leave to care for the same person.

(xii) Use of other leave entitlements

An employee may elect, with the consent of the employer, to take:

- (a) annual leave, including annual leave not exceeding ten days in single-day periods, or part thereof, in any calendar year at a time or times agreed by the parties. An employee and employer may agree to defer payment of the annual leave loading in respect of single day absences until at least five consecutive annual leave days are taken.
- (b) an employee may elect with the employer's agreement to take annual leave at any time within a period of 24 months from the date at which it falls due;
- (c) long service leave; or
- (d) leave without pay for the purpose of providing care and support to the person concerned as defined in subclause (x) above.

C. Casual Employee Entitlements

(xiii) Bereavement entitlements for casual employees

- (a) Casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of a person prescribed in subclause (iv)(a) of this clause.
- (b) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.

- (c) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not engage a casual employee are otherwise not affected.
- (xiv) Personal carers entitlement for casual employees
- (a) Subject to the evidentiary and notice requirements in subclauses (xi)(e)-(h) casual employees are entitled to not be available to attend work, or to leave work if they need to care for a person prescribed in subclause (x) of this clause who is sick and requires care and support, or who require care due to an unexpected emergency or the birth of a child.
 - (b) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
 - (c) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.

D. Flexible Work Practice Alternatives to Using FACS or Personal/Carer's Leave

- (xv) Time off in lieu of payment of overtime to care for the person concerned
- (a) An employee may elect, with the consent of the employer, to take time off in lieu of payment of overtime at a time or times agreed with the employer within 12 months of the said election, to care for the person concerned, as defined in sub-clause (x) above.
 - (b) Overtime taken as time off during ordinary time shall be taken at the ordinary time rate, that is, one hour off for each hour of overtime worked.
 - (c) If, having elected to take time as leave in accordance with (xv)(a) above, the leave is not taken for whatever reason, payment for time accrued at overtime rates shall be made at the expiry of the twelve month period from the date the overtime was worked, or earlier by agreement, or on termination.
 - (d) Where no election is made in accordance with paragraph (xv)(a) above, the employee shall be paid overtime rates in accordance with the provisions of clause 25, Overtime.
- (xvi) Use of make-up time
- (a) An employee may elect, with the consent of the employer, to work "make-up time". "Make-up time" is worked when the employee takes time off during ordinary hours for family or community service responsibilities, and works those hours at another time, during the spread of ordinary hours provided for in clauses 4, 5 and 7 of this Award, at the ordinary rate of pay.
 - (b) An employee on shift work may elect, with the consent of the employer, to work "make-up time" (under which the employee takes time off during ordinary hours and works those hours at another time) at the applicable shift work rate under clause 15 of this Award to the hours taken off.

33. Long Service Leave

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

Employees with at least seven years service are entitled, proportionate to their length of service, to a period of long service leave on the basis of two months' long service leave for ten years' service on full pay.

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

Where the services of an employee with at least seven years service are terminated by the employer or by the employee, he or she shall be entitled to be paid a proportionate amount for long service leave on the basis of two months' long service leave for ten years service.

- (ii) For the purposes of subclause (i) of this clause-

- (a) "Service" shall mean service:

- (1) as a full time and/or permanent part time employee in one or more hospitals, public health organisations, Local Health Networks or former NSW Area Health Services; and
- (2) as a full time and/or permanent part time employee with any authority as prescribed in the *Transferred Officers Extended Leave Act 1961*, as amended. In this instance, such service must meet the provisions of transfer prescribed in that Act.

- (b) Service shall not include-

- (1) any period of leave without pay except in the case of employees who have completed at least ten years service (any period of absence without pay being excluded therefrom) in which case service shall include any period of leave without pay not exceeding six months taken after the 12 March 1975;
- (2) any period of part-time service arising from service under Part IV, Savings Provisions, of clause 29, Part-time Casual and Temporary Employees, except as provided for in subclause (x).

- (iii) An employee with an entitlement to long service leave, may elect to access their entitlement:

- (a) on full pay, or
- (b) on half pay, or
- (c) on double pay.

- (iv) When an employee elects to access their long service leave entitlement the following amounts of long service leave are to be deducted from the employee's long service leave entitlement:

- (a) for each period of long service leave taken on full pay - the number of days so taken,
- (b) for each period of long service leave taken on half pay - half the number of days so taken,
- (c) for each period of long service leave taken on double pay - twice the number of days so taken. This election is made on the basis that superannuation contributions for an employee who is a member of the State Authorities Superannuation Scheme or the State Superannuation Scheme will only be made for the period of the long service leave actually taken, i.e. contributions will be made at the single time rate.

It is emphasised that the accessing of long service leave on the basis of either (a), (b) or (c) above is made by the employee's voluntary election.

- (v) When an employee elects to access their long service leave entitlement, other leave entitlements will accrue as follows:
- (a) for each period of long service leave taken on full pay - all other leave entitlements accrue at the employee's ordinary rate.
 - (b) for each period of long service leave taken on double pay - all other leave entitlements accrue at the employee's ordinary rate.
 - (c) for each period of long service leave taken on half pay - annual leave entitlements accrue at half the employee's ordinary rate while all other leave entitlements accrue at the employee's ordinary rate.
 - (d) This subclause shall apply to new periods of Long Service Leave taken after 23 February 2011.
- (vi) If a public holiday occurs while an employee is taking long service leave, and but for the taking of the long service leave the employee would have worked, the amount of long service leave to be deducted is to be reduced by the public holiday.
- (vii) Long service leave shall be taken at a time mutually arranged between the employer and employee.
- (viii) When a licensed private hospital becomes a public hospital and an employee of the private hospital thereupon is employed by the public hospital such employee, for the purpose of calculating service for long service leave shall be deemed to have served in the industry of nursing for a period equal to 75 per cent of the actual continuous service with the employer in the private hospital immediately prior to the hospital becoming a public hospital.
- (ix) Full pay shall mean the award salary without any deduction for accommodation and/or board; provided that an employer shall be entitled to make such deduction for accommodation as is authorised by clause 38, Accommodation and Board, if the employee having been requested by the employer to leave his or her room completely vacant during the period of long service leave, fails to do so.
- (x)
- (a) On the termination of employment of an employee otherwise than by his or her death, an employer shall pay to the employee the monetary value of all long service leave accrued and not taken at the date of such termination, unless the employee elects to transfer his or her leave entitlement in accordance with NSW Health Policy Directive No. PD2006_096 Staff Mobility, as amended from time to time.
 - (b) Where an employee who has acquired a right to long service leave, or after having had five years of service and less than ten years service, dies, the partner of such employee or if there is no such partner the child/children of such employee (or guardian such as the case may be) or the legal personal representative of such employee, shall be entitled to receive the monetary value of the leave not taken or which would have accrued to such employee had his or her services been terminated as referred to in paragraph (b) of subclause (i) of this clause and such monetary value shall be determined according to the salary payable to the employee at the time of his or her death. For the purposes of this sub-clause, the term 'partner' means a spouse or a de facto partner (including a same sex de facto partner); and 'child/children' means a child or an adult child (including adopted child, step child, foster child or ex nuptial child)
- (xi) An employee shall be entitled to have previous part-time service which is the equivalent of at least two full days' duty per week taken into account for long service leave purposes in conjunction with full-time or permanent part-time service on the basis of the proportion that the actual number of hours worked each week bears to 38 hours, provided that the part-time service merges without break with the subsequent full-time or permanent part-time service.
- (xii) All employees employed under Part I - Permanent Part-Time Employees of Clause 29, Part-Time, Casual and Temporary Employees of this Award, will have such service counted for accrual of long

service leave entitlement after 30 June, 1986. Such service shall include the average of all hours worked (excluding overtime) in each year of service or part thereof and include paid leave taken; in any year or part thereof in which leave without pay is taken, the period of leave without pay shall not be included for the purposes of the averaging calculation.

This calculation shall be carried out for each year of service on the employee's anniversary date of employment, and an appropriate entry made into the employees records.

However, in recognition that data on the number of hours worked (excluding overtime) may not exist for all the periods of service after 30 June 1986, if there is a lack of data the employer is to calculate the long service leave entitlement as follows:

- (a) In the first instance, Health Services should utilise all existing records to determine the average of all hours worked (excluding overtime) and including paid leave taken for each year of service;
- (b) If the data to determine the number of hours worked (excluding overtime) is not available prior to the employee's 2000/2001 anniversary date, Health Services are to calculate the long service leave entitlement on the basis of the average of all hours worked (excluding overtime) in each year of service, and including paid leave taken since the employee's 2000/2001 anniversary date.

The resultant average of hours worked per week from application of (a) or (b) above will then be applied over the employee's total period of employment after 30 June, 1986 for which data does not exist to form the basis for calculating payment for the long service leave to be taken by the employee for this period. In this situation the employer shall consult with the employee regarding the lack of data prior to making a final decision that the data does not exist. In any event, for the purpose of this calculation the resultant average of all hours worked is to be no less than the employee's contracted hours for each year of service.

Entitlement and calculation for any period of employment prior to 30 June 1986 shall be determined according to subclause (x) of this clause.

- (xiii) Except as provided for in subclause (xiv) of this clause, rights to long service leave under this clause shall be in replacement of rights to long service leave, if any, which at 12 March 1975, may have accrued or may be accruing to an employee and shall apply only to persons in the employ of the employer on or after 12 March 1975. Where an employee has been granted long service leave or has been paid its monetary value prior to 12 March, 1975, the employer shall be entitled to debit such leave against any leave to which the employee may be entitled pursuant to this clause.
- (xiv) The following provisions apply only to employees employed in a hospital as at 12 March 1975:
 - (a) An employee who -
 - (i) has had service in a hospital, to which clause 14, Climatic and Isolation Allowances, applies, prior to 12 March 1975, or
 - (ii) is employed in a hospital, to which clause 14, Climatic and Isolation Allowances, applies as at 12 March 1975:

shall be granted long service leave in accordance with the long service leave provisions in force prior to 12 March, 1975, in lieu of the provisions provided by this award where such benefits are more favourable to the employee.
 - (b) An employee employed -
 - (i) on a part time basis as at 12 March 1975, may be allowed long service leave in accordance with the long service leave provisions in force prior to 12 March 1975, in lieu of the provisions of the *Long Service Leave Act, 1955*, as provided for in subclause (x) of this clause;

- (ii) on a full time basis as at 12 March 1975 but who has had prior part time service may be allowed to continue to be granted long service leave in accordance with the long service leave provisions in force prior to 12 March 1975, in lieu of the provisions provided by this award where such benefits are more favourable to the employee.
- (xv) Employees employed under Part II - Casual Employees, Part III - Temporary Employees and Part IV - Savings Provisions of Clause 29, Part Time, Casual, and temporary Employees are entitled to accrue long service leave under the provisions of the *Long Service Leave Act 1955*, as amended, subject to meeting the provisions of that Act.

34. Maternity, Adoption and Parental Leave

- (i) All eligible employees covered by this Award are entitled to the provisions of this clause other than part time employees who receive a part time loading as prescribed by Part IV - Savings Provisions of clause 29 of this Award (known as "old part time"), and casual employees.
- (ii) Part time employees who receive a part time loading as prescribed by Part IV - Savings Provisions of clause 29 of this Award (known as "old part time") and casual employees are entitled to parental leave in accordance with the provisions of Part 4, Parental Leave, of the *Industrial Relations Act NSW, 1996*. The following provisions shall also apply in addition to those set out in the *Industrial Relations Act 1996 (NSW)*.
 - (a) An employer must not fail to re-engage a regular casual employee (see section 53 (2) of the Act) because:
 - the employee or employee's spouse is pregnant; or
 - the employee is or has been immediately absent on parental leave.

The rights of an employer in relation to engagement and re-engagement of casual employees are not affected, other than in accordance with this clause.
 - (b) Part time employees who receive a part time loading as prescribed by Part IV - Savings Provisions of clause 29 of this Award are entitled to the provisions of Part D Right to Request and Part E Communication During Leave of this clause.

(iii) Liability for Superannuation Contributions

During a period of unpaid maternity, adoption or parental leave, the employee will not be required to meet the employer's superannuation liability.

A Maternity Leave

(i) Eligibility for Paid Maternity Leave -

To be eligible for paid maternity leave a full time or permanent part time employee must have completed at least 40 weeks continuous service prior to the expected date of birth.

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

- (a) there has been a break in service where the employee has been re-employed or re-appointed after a resignation, medical retirement, or after her services have been otherwise dispensed with; or
- (b) the employee has completed a period of leave without pay of more than 40 weeks. In this context, leave without pay does not include sick leave without pay, maternity leave without pay, or leave without pay associated with an illness or injury compensable under the *Workers' Compensation Act, 1987*.

(ii) Portability of Service for Paid Maternity Leave -

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

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

- (a) service was on a full-time or permanent part-time basis;
- (b) cessation of service with the former employer was not by reason of dismissal on any ground, except retrenchment or reduction of work;
- (c) the employee commences duty with the new employer on the next working day after ceasing employment with the former employer (there may be a break in service of up to two months before commencing duty with the new employer provided that the new position was secured before ceasing duty with the former employer. However, such a break in service will not be counted as service for the purpose of calculating any prior service prerequisite for paid maternity leave.

(iii) Entitlement to Paid Maternity Leave -

- (a) An eligible employee is entitled to fourteen weeks at the ordinary rate of pay from the date maternity leave commences. This leave may commence up to fourteen weeks prior to the expected date of birth.

It is not compulsory for an employee to take this period off work. However, if an employee decides to work during the nine weeks prior to the expected date of birth it is subject to the employee being able to perform satisfactorily the full range of normal duties.

Paid maternity leave may be paid:

on a normal fortnightly basis; or

in advance in a lump sum; or

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

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

(iv) Unpaid Maternity Leave

- (a) Full time and permanent part time employees who are entitled to paid maternity leave are entitled to a further period of unpaid maternity leave of not more than 12 months after the actual date of birth.
- (b) Full time and permanent part time employees who are not eligible for paid maternity leave are entitled to unpaid maternity leave of not more than 12 months.
- (c) Full time and permanent part time employees may also apply for additional unpaid maternity leave as provided for in subclause (i)(b) of Part D Right to Request of this clause.

(v) Applications -

An employee who intends to proceed on maternity leave should formally notify her employer of such intention as early as possible, so that arrangements associated with her absence can be made.

Written notice of not less than eight weeks prior to the commencement of the leave should accordingly be given. This notice must include a medical certificate stating the expected date of birth and should also indicate the period of leave desired.

(vi) Variation after Commencement of Leave -

After commencing maternity leave, an employee may vary the period of her maternity leave, once without the consent of her employer and otherwise with the consent of her employer. A minimum of fourteen days' notice must be given, although an employer may accept less notice if convenient.

The conditions relating to variation of maternity leave are derived from Section 64 of the *Industrial Relations Act 1996*.

(vii) Staffing Provisions -

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

(viii) Effect of Maternity Leave on Accrual of Leave, Increments etc.

When the employee has resumed duties, any period of full pay leave is counted in full for the accrual of annual leave, sick leave and long service leave and any period of maternity leave on half pay is taken into account to the extent of one half thereof when determining the accrual of annual leave, sick leave and long service leave.

Except in the case of employees who have completed ten years' service the period of maternity leave without pay does not count as service for long service leave purposes. Where the employee has completed ten years' service the period of maternity leave without pay shall count as service provided such leave does not exceed six months.

Maternity leave without pay does not count as service for incremental purposes. Periods of maternity leave at full pay and at half pay are to be regarded as service for incremental progression on a pro-rata basis.

Where public holidays occur during the period of paid maternity leave, payment is at the rate of maternity leave received i.e., public holidays occurring in a period of full pay maternity leave are paid at full rate and those occurring during a period of half pay leave are paid at half rate.

(ix) Illness Associated with Pregnancy -

If, because of an illness associated with her pregnancy an employee is unable to continue to work then she can elect to use any available paid leave (sick, annual and/or long service leave) or to take sick leave without pay.

Where an employee is entitled to paid maternity leave, but because of illness, is on sick, annual, long service leave, or sick leave without pay prior to the birth, such leave ceases nine weeks prior to the expected date of birth. The employee then commences maternity leave with the normal provisions applying.

(x) Transfer to a More Suitable Position -

Where, because of an illness or risk associated with her pregnancy, an employee cannot carry out the duties of her position, an employer is obliged, as far as practicable, to provide employment in some other position that she is able to satisfactorily perform. This obligation arises from section 70 of the *Industrial Relations Act 1996*. A position to which an employee is transferred under these circumstances must be as close as possible in status and salary to her substantive position.

(xi) Miscarriages -

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

(xii) Stillbirth -

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

(xiii) Effect of Premature Birth on Payment of Maternity Leave -

An employee who gives birth prematurely and prior to proceeding on maternity leave shall be treated as being on maternity leave from the date leave is commenced to have the child. Should an employee return to duty during the period of paid maternity leave, such paid leave ceases from the date duties are resumed.

(xiv) Right to Return to Previous Position -

In accordance with the obligations set out in section 66 of the *Industrial Relations Act, 1996* an employee returning from maternity leave has the right to resume her former position.

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

(xv) Further Pregnancy While on Maternity Leave -

Where an employee becomes pregnant whilst on maternity leave a further period of maternity leave shall be granted. If an employee enters on the second period of maternity leave during the currency of the initial period of maternity leave, then any residual maternity leave from the initial entitlement ceases.

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

An employee who commences a subsequent period of maternity leave during the first 12 months of a return to duty for less than full time hours as provided under subclause (i)(c) of Part D of this clause is entitled to be paid at their substantive full time rate for the subsequent period of maternity leave.

An employee who commences a subsequent period of maternity leave more than 12 months after returning to duty for less than full time hours under subclause (i)(c) of Part D of this clause, will be entitled to paid maternity leave for the subsequent period of maternity leave at their part time rate.

B. Adoption Leave

(i) Eligibility -

All full time and permanent part time employees who are adopting a child and are to be the primary care giver of the child are eligible for unpaid adoption leave.

To be eligible for paid adoption leave a full time or permanent part time employee must also have completed at least 40 weeks continuous service prior to the date of taking custody of the child.

An employee who has once met the conditions of paid adoption leave, will not be required to again work the 40 weeks continuous service in order to qualify for further periods of paid adoption leave, unless;

- (a) there has been a break in service where the employee has been re-employed or re-appointed after a resignation, medical retirement, or after their services have been otherwise dispensed with; or
- (b) the employee has completed a period of leave without pay of more than 40 weeks. In this context, leave without pay does not include sick leave without pay, maternity leave without pay, or leave without pay associated with an illness or injury compensable under the *Workers Compensation Act, 1987*.

(ii) Entitlement -

(a) Paid Adoption Leave -

Eligible employees are entitled to paid adoption leave of fourteen weeks at the ordinary rate of pay from and including the date of taking custody of the child.

Paid adoption leave may be paid:

on a normal fortnightly basis; or

in advance in a lump sum; or

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

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

(b) Unpaid Adoption Leave -

Eligible employees are entitled to unpaid adoption leave as follows:

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

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

(iii) Applications -

Due to the fact that an employee may be given little notice of the date of taking custody of a child, employees who believe that, in the reasonably near future, they will take custody of a child, should formally notify the employer as early as practicable of the intention to take adoption leave. This will allow arrangements associated with the adoption leave to be made.

(iv) Variation after Commencement of Leave -

After commencing adoption leave, an employee may vary the period of leave, once without the consent of the employer and otherwise with the consent of the employer. A minimum of fourteen days' notice must be given, although an employer may accept less notice if convenient.

(v) Portability of Service for Paid Adoption Leave -

As per maternity leave conditions.

(vi) Staffing Provisions -

As per maternity leave conditions.

(vii) Effect of Adoption Leave on Accrual of Leave, Increments, etc

As per maternity leave conditions.

(viii) Right to return to previous position -

As per maternity leave conditions.

C. Parental Leave -

(i) Eligibility

To be eligible for parental leave a full time or permanent part time employee must have completed at least 40 weeks continuous service prior to the expected date of birth or to the date of taking custody of the child.

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

- (a) there has been a break in service where the employee has been re-employed or re-appointed after a resignation, medical retirement, or after their services have been otherwise dispensed with; or
- (b) the employee has completed a period of leave without pay of more than 40 weeks. In this context, leave without pay does not include sick leave without pay, maternity leave without pay, or leave without pay associated with an illness or injury compensable under the *Workers' Compensation Act 1987*.

(ii) Portability of Service for Paid Parental Leave

As per maternity leave conditions.

(iii) Entitlements

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

- (a) an unbroken period of up to one week at the time of the birth of the child, taking custody of the child or other termination of the pregnancy (short parental leave); and
- (b) a further unbroken period in order to be the primary caregiver of the child (extended parental leave).
- (c) The entitlement of one weeks' paid leave may be taken at anytime within the 52 week period and shall be paid:

at the employee's ordinary rate of pay for a period not exceeding one week on full pay; or

two weeks at half pay or the period of parental leave taken, whichever is the lesser period.

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

- (d) Extended parental leave cannot be taken at the same time as the employee's spouse or partner is on maternity or adoption leave except as provided for in subclause (i)(a) of Part D Right to Request of this clause.

(iv) Applications

An employee who intends to proceed on parental leave should formally notify their employer of such intention as early as possible, so that arrangements associated with their absence can be made.

- (a) In the case of extended parental leave, the employee should give written notice of the intention to take the leave.
- (b) The employee must, at least four weeks before proceeding on leave, give written notice of the dates on which they propose to start and end the period of leave, although it is recognised in situations of taking custody of a child, little or no notice may be provided to the employee. In such an instance, the employee should notify the employer as early as practicable.
- (c) The employee must, before the start of leave, provide a certificate from a medical practitioner confirming that their spouse or partner is pregnant and the expected date of birth, or in the case of an adoption, an official form or notification on taking custody of the child.
- (d) In the case of extended parental leave, the employee must, before the start of leave, provide a statutory declaration by the employee stating:
 - (i) if applicable, the period of any maternity leave sought or taken by his spouse, and
 - (ii) that they are seeking the period of extended parental leave to become the primary care giver of the child.

(v) Variation after Commencement of Leave

After commencing parental leave, an employee may vary the period of her/his parental leave, once without the consent of the employer and otherwise with the consent of the employer. A minimum of fourteen days' notice must be given, although an employer may accept less notice if convenient.

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

As per maternity leave conditions.

(vii) Right to return to Previous Position

As per maternity leave conditions.

D. Right to Request

- (i) An employee entitled to maternity, adoption or parental leave may request the employer to allow the employee:
 - (a) to extend the period of simultaneous maternity, adoption or parental leave use up to a maximum of eight weeks;
 - (b) to extend the period of unpaid maternity, adoption or extended parental leave taken for a further continuous period of leave not exceeding 12 months;
 - (c) to return to duty for less than the full time hours they previously worked by taking weekly leave without pay.
- to assist the employee in reconciling work and parental responsibilities.

- (ii) The employer shall consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the employer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.
- (iii) The employee's request and the employer's decision made under (i)(b) and (c) must be recorded in writing.
- (iv) Where an employee wishes to make a request under subclause (i)(c):
 - (a) the employee is to make an application for leave without pay to reduce their full time weekly hours of work
 - (b) such application must be made as early as possible to enable the employer to make suitable staffing arrangements. At least four weeks notice must be given.
 - (c) all requests are to be considered having regard to the terms of NSW Health Policy Directive No. PD2005_154 Maternity Leave - Access to Reduced Hours for Staff Following Return, as amended from time to time.
 - (d) Salary and other conditions of employment are to be adjusted on a basis proportionate to the employee's full time hours of work ie. for long service leave the period of service is to be converted to the full time equivalent, and credited accordingly.
 - (e) It should be noted that employees who return from maternity, adoption or parental leave under this arrangement remain full time employees. Therefore the payment of any part time allowance to such employees does not arise.

E. Communication During Leave

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

F. Commonwealth Paid Parental Leave (CPPL)

- (i) From 1 January 2011 the CPPL scheme may be available to eligible employees.
- (ii) The CPPL is independent of other leave entitlements and is in addition to paid parental leave entitlements.

35. Military Leave

Employees shall be granted military leave in accordance with NSW Health Policy Directive No. PD2006_013 Leave to Undertake Defence Force Duties, as amended from time to time.

36. Repatriation Leave

Ex-servicemen/women shall be granted repatriation leave in accordance with NSW Health Policy Directive No. PD2006_095 Special Leave, as amended from time to time.

37. Sick Leave

- (i) Subject to the following limitation and conditions an employee shall be entitled to sick leave on full pay calculated by allowing 76 rostered ordinary hours of work for each year of continuous service less any sick leave on full pay already taken:
- (a) An employee shall not be entitled to sick leave until after three months continuous service.
 - (b) An employee shall not be entitled to sick leave on full pay for any period in respect of which such employee is entitled to accident pay, or workers' compensation; provided, however that where an employee is not in receipt of accident pay, an employer shall pay to an employee, who has sick leave entitlements under this clause, the difference between the amount received as workers compensation and full pay.

The employee's sick leave entitlement under this clause shall, for each week during which such difference is paid, be reduced by the proportion of hours which the difference bears to full pay. On the expiration of available sick leave, weekly compensation payments only shall be payable.
 - (c) All periods of sickness shall be certified to by the Medical Superintendent or Director of Nursing of the employer or by the employee's own legally qualified medical practitioner or dentist. The employer may dispense with the requirement of a medical certificate where the absence does not exceed 2 consecutive days or where, in the employer's opinion, the circumstances are such as not to warrant such requirement.
 - (d) Each employee shall, as soon as reasonably practicable and in any case within 24 hours of the commencement of such absence, inform the employer of his or her inability to attend for duty and as far as possible state the nature of the injury or illness and the estimated duration of the absence.
 - (e) Where an employee is absent on sick leave for a total of 10 working days in any one year of service and has no sick leave entitlement carried over from previous years, that employee will continue to be paid for an additional 4 hours even though no sick leave credit might exist. Such additional payment will not affect the subsequent year's sick leave entitlement, ie. it is "special sick leave", not "sick leave in advance" (see NSW Health Policy Directive No. PD2006_094, as amended from time to time).
- (ii) The employer shall not change the rostered hours of an employee fixed by the roster or rosters applicable to the fourteen days immediately following the commencement of sick leave merely by reason of the fact that she or he is on sick leave.
- (iii) For the purpose of this clause "Service" means service in the industry of nursing.
- (iv) For the purpose of this clause continuity of service in the industry of nursing shall not be broken by:
- (a) absences from such industry on account of illness;
 - (b) periods of absences from such industry immediately following termination of employment, in respect of which employment a pro rata payment has been made for annual leave or long service

- leave, but not exceeding the period the employee would have been required to work to earn as salary an amount equal to such pro rata payment;
- (c) absence from such industry for the purpose of pursuing a post-graduate course in nursing (ie a course which results in obtaining a certificate, diploma or qualification) whether in Australia or elsewhere; and where the course is pursued outside Australia an employee shall be deemed to be absent for the purpose of pursuing the course throughout the time reasonably occupied travelling to the place of study and return to Australia, the actual duration of the course, a period of three months after completion of the course and before returning to Australia and a period of one month after returning to Australia;
 - (d) any reasonable absence from the industry occasioned by an employee transferring from one employer to another in such industry but not exceeding 28 days on any one occasion;
 - (e) periods of employment nursing in hospitals in New South Wales other than the hospitals covered by this Award and in the Canberra Community Hospital and Woden Valley Hospital; provided that this period of absence shall not be counted as service for the purpose of calculating sick leave.
- (v) Part Time Employees : a part time employee shall be entitled to sick leave in the same proportion of the seventy six hours as the average weekly hours worked over the preceding twelve months or from the time of the commencement of employment, whichever is the lesser, bears to thirty-eight ordinary hours. Such entitlements shall be subject to all the above conditions applying to full time employees. Provided that only part time service on and from the beginning of the first pay period to commence on or after 1 January 1970, shall count for the purpose of this subclause.
 - (vi) Subject to the provision of a satisfactory medical certificate and sick leave being due, annual leave or long service leave (extended leave) shall be recredited where an illness of at least one week's duration occurs during the period of annual or long service leave: Provided that the period of leave does not occur prior to retirement, resignation or termination of services, and provided further that the employer is satisfied on the circumstances and the nature of the incapacity.
 - (vii) In addition to the sick leave prescribed in subclause (1) of this Clause, Flight Nurses shall be entitled to an additional 38 hours sick leave in any period of 12 months. Any unused additional sick leave shall not accumulate from year to year.

38. Accommodation and Board

- (i) The employer shall where practicable provide for the use of employees who live in:
 - (a) Directors of Nursing: In a public hospital of which the registered number of beds is 9 or more, private quarters which shall comprise a bedroom, sitting room, bathroom, and toilet with appropriate furniture and fittings including a washing machine, refrigerator and stove or stovette and facilities for preparing light refreshments; provided that where the normal nursing staff does not exceed 7, it shall not be necessary to provide for the Director of Nursing a separate bathroom and toilet facilities, a washing machine, refrigerator and a stove or stovette.
 - (b) Employees other than Directors of Nursing:
 - (1) Dining facilities suitable to the reasonable needs of the nursing staff.
 - (2) A lounge room suitable to the reasonable needs of the staff.
 - (3) A study for student nurses; provided that this provision shall apply only to public hospitals which are registered training schools.
 - (4) At least one plunge bath (with shower) for each 12 (or fraction thereof) employees and in addition at least one separate shower cubicle for each 12 (or fraction thereof) employees.

- (5) At least one lavatory (if in a bathroom adequately partitioned off from the bathing facilities) for each 8 (or fraction thereof) employees.
 - (6) A kitchen or kitchenette equipped with reasonable facilities for storing and preparing light refreshments and with normal kitchen utensils, stove or stovette, refrigerator, china, crockery and cutlery.
 - (7) Suitable facilities including a washing machine for the laundering and drying of personal clothing.
 - (8) A separate bedroom of such dimensions as to provide a floor area of not less than 100 square feet and which contains suitable floor coverings and a bedside lamp and fittings and shall be furnished with a bed, a dressing table, a wardrobe (built-in cupboard) of adequate size and a chair.
 - (9) Where it is necessary for 2 or more employees to sleep in a bedroom 750 cubic feet of space shall be provided for each employee. Such bedroom shall contain suitable floor coverings and for each employee the employer shall provide a bed, a dressing table, a wardrobe (built-in cupboard) of adequate size and a chair.
 - (10) In respect of subparagraphs (2), (4), (5), and (6) of this paragraph separate provision shall be made for trained and untrained staff; provided that as to subparagraphs (2), (4) and (5) of this paragraph this provision shall not apply in a public hospital in which the normal number of nursing staff is less than 12.
 - (11) Adequate heating suitable to the reasonable needs of the staff present shall be provided in the lounge room during the winter time.
- (ii) The employer shall provide such domestic staff as is necessary to maintain the accommodation in a proper condition at all times.
- (iii) The following deductions from salary shall be made by an employer for accommodation:
- (a) Directors of Nursing and employees occupying separate bedroom accommodation of a reasonable standard: an amount as set in Item 15 of Table 2 of Part B per week.
 - (b) Directors of Nursing provided with a self contained flat attached to the public hospital's nurses home; an amount as set in the said Item 15 per week.
- (iv) An employer shall provide for employees who live in, full board of 21 meals per week and the meals shall consist of an adequate quantity of wholesome well-cooked and well-prepared food-stuffs including green vegetables and fruit in season and in addition the employer shall provide tea, coffee, milk and sugar for morning and afternoon tea and supper and early morning tea for employees on night or early morning duty. An employer who complies with the foregoing provisions of this subclause may make a deduction as set out in Item 16 of table 2 of Part B per week.
- (v)
- (a) The employer shall provide for the use of employees who live out:
 - (1) a suitable change room and adequate washing and toilet facilities; provided that the washing and toilet facilities need not be distinct from those provided for employees who live in and this provision shall not apply to a public hospital the registered number of beds of which is less than 9;
 - (2) a full-length locker fitted with lock and key or other suitable place for the safe keeping of clothing and personal effects of such employee;

- (b) An employer shall provide for an employee who lives out, tea, coffee, milk and sugar for morning and afternoon tea, supper and early morning tea when the employee is on duty at times appropriate for the partaking thereof and shall provide also for such an employee who requires them, meals of the standard specified in subclause (iv) of this clause, which fall during the duty period and for such meals so provided may make a charge, provided that the charge for breakfast and other meals shall be as set in Item 17 of Table 2 of Part B.
- (vi) The charges referred to in subclauses (iii), (iv) and (v) to be adjusted in accordance with any general movement in wage rates in this award. The Director-General of Health may apply for additional adjustments from time to time based on the differences between such wage increases and the actual cost of providing these services. Provided that an employer may waive all or part of these charges at its discretion as an incentive to recruitment of nurses.
- (vii) Where an employee partakes of a meal from a cafeteria service provided by a public hospital or public health organisation, he or she shall be required to pay the charge fixed for such meal in lieu of the meal charges prescribed in subclauses (iv) or (v) of this clause.

39. Grading Committee

A Committee consisting of two representatives of the employer and two representatives of the Association shall be constituted to consider and make recommendations to the employer in relation to:

- (a) any request or proposal to establish or alter the grading of positions of Nursing Unit Manager;
- (b) the date of effect of any grading recommended.

Provided that:

- (i) an employee shall, whilst the grading or remuneration of his or her position is under consideration, be ineligible to be a member of the Committee;
- (i) the Committee shall not, without sufficient reason, recommend the retrospective operation of any grading or remuneration; and
- (iii) where a retrospective date of effect is recommended, such date shall not be earlier than a date six months prior to the date on which the matter was referred to the Committee.

40. Grading of Nurse/Midwife Manager Positions

- (i) All positions of Nurse/Midwife Manager, as defined in Clause 3, Definitions of this award shall be graded by the employer in accordance with the Work Level Statements set out in Schedule 1 to this award.
- (ii) The employer may determine a higher grading including a multi-grade, eg. Grade 4-5, Grade 6-7, etc., than provided for under the Work Level Statements where the requirements of the position involve a higher level of complexity and/or an extended role to that generally comprehended by the otherwise applicable Work Level Statement.
- (iii) Progression to the second salary point in each grade will occur after 12 months satisfactory service in that grade. Provided that accelerated progression within the 12 month period, or on commencement of employment, may occur where the employer is satisfied that such progression is warranted in an individual case.
- (iv) If dissatisfied with the grade as determined in any individual case, the Association may discuss the matter with the local Health Service management and, if still dissatisfied, may apply for a review of the grading by the Department of Health and the Association at a central level.
- (v) No employee is to suffer a reduction in salary as a result of the implementation of the new structure. Where an employee would ordinarily be classified at a grade which carries a salary less than his or her

current salary he or she shall retain his or her current salary, including all future increases thereto, on a strictly personal basis, while ever he or she remains in the current position.

- (v) Employees seeking appointment to positions of Nurse Manager are generally expected to possess the core knowledge and skills appropriate to the respective grades as set out in Schedule 1 to this award.

41. Deputy Directors of Nursing, Assistant Directors of Nursing

- (i) The following appointments shall be made in public hospitals with adjusted daily averages of occupied beds as specified hereunder:

Less than 150 beds - a Deputy Director of Nursing
150 beds and over - a Deputy Director of Nursing, Assistant Directors of Nursing.

- (ii) Appointments under subclause (i) of this clause shall be made within two calendar months of the date this award becomes operative and thereafter within two calendar months of the occurrence of a vacancy. In default of appointment within the said period of two calendar months, the registered nurse employed as such or in a higher classification who has customarily relieved in the vacant position, or if no one has so customarily relieved, the registered nurse employed in the same or the next senior classification below the vacant position with the longest service in such classification at the public hospital, shall be deemed to be appointed until such time as another appointment is made by the employer.
- (iii) This clause shall not apply to a hospital using members, novices or aspirants of religious orders where a member of an order carries out the duties under this clause of an Assistant Director of Nursing or Deputy Director of Nursing.

42. Proportion

Except in cases of emergency not more than four enrolled nurses and/or assistants in nursing to each registered nurse shall be employed in a public hospital and for this purpose a Director of Nursing shall count.

43. Medical Examination of Nurses

See NSW Health Policy Directive No. PD2005_186 Employment Health Assessment Policy and Guidelines, as amended from time to time.

44. Domestic Work

Except as hereinafter provided, nurses shall not be required to perform, as a matter of routine, the following duties: viz.; washing, sweeping, polishing and/or dusting of floors, walls or windows of wards, corridors, annexes, bathrooms or verandahs or any duties which are generally performed by classifications other than nursing staff, but this provision shall not preclude the employment of nurses on any such duties in an isolation block or where the performance of those duties involves disinfection.

45. Termination of Employment

- (i) Except for misconduct justifying summary dismissal, the services of an employee shall be terminated only by fourteen days notice or by payment of fourteen days salary in lieu thereof in the case of an employee other than a Director of Nursing, and by twenty-eight days notice or by the payment of twenty-eight days salary in lieu thereof in the case of a Director of Nursing.
- (ii) No employee shall, without the consent of the employer, resign without having given fourteen days notice (or in the case of a Director of Nursing, twenty eight days notice) of intention so to do or forfeiting salary earned during the pay period current at the time of resignation; provided that in no circumstances shall the employee forfeit more than fourteen days pay at the rate prescribed for his or her classification by clause 8, Salaries.

- (iii) Employees who have accrued additional days off duty pursuant to subclause (vii) of clause 4, Hours of Work and Free Time of Employees Other Than Directors of Nursing and Area Managers, Nurse Education, shall be paid for such accrued time at ordinary rate of pay upon termination.
- (iv) Upon the termination of the services of an employee, the employer shall furnish the employee with a written statement, duly signed by or on behalf of the employer, setting out the period of the employment and the capacity in which the employee was employed.

46. Labour Flexibility

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

47. Right of Entry

See Section 297 of the *Industrial Relations Act* 1996.

48. Disputes

- (i) All parties must use their best endeavours to cooperate in order to avoid any grievances and/or disputes.
- (ii) Where a dispute arises in any public hospital or public health organisation, regardless of whether it relates to an individual nurse or to a group of nurses, the matter must be discussed in the first instance by the nurse(s) (or the Association on behalf of the nurse(s) if the nurse(s) so request(s)) and the immediate supervisor of that nurse(s).
- (iii) If the matter is not resolved within a reasonable time it must be referred by the nurse(s)' immediate supervisor to the Chief Executive Officer of the employer (or his or her nominee) and may be referred by the nurse(s) to the Association's Head Office. Discussions at this level must take place and be concluded within 2 working days of referral or such extended period as may be agreed.
- (iv) If the matter remains unresolved, the Association must then confer with the appropriate level of management (ie. at Public Hospital/Local Health Network or Public Health organisation/Department level, depending on the nature and extent of the matter). Discussions at this level must take place and be concluded within two working days of referral or such extended period as may be agreed.
- (v) If these procedures are exhausted without the matter being resolved, or if any of the time limits set out in those procedures are not met, either the Association or the employer 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.
- (vi) During these procedures normal work must continue and there must be no stoppages of work, lockouts, or any other bans or limitations on the performance of work.
- (vii) 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:

- (a) immediately before the issue arose; or
- (b) immediately before any change to those procedures or practices, which caused the issue to arise, was made.

The Employer must ensure that all practices applied during the operation of these procedures are in accordance with safe working practices.

- (viii) Throughout all stages of these procedures, adequate records must be kept of all discussions.
- (ix) These procedures will 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.

49. Anti-Discrimination

- (i) It is the intention of the parties bound by this award to seek to achieve the object of section 3(f) of the *Industrial Relations Act 1996* to prevent and eliminate discrimination in the workplace. This includes discrimination on the grounds of race, sex, marital status, disability, homosexuality, transgender identity and age.
- (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 legislation referred to in this clause.

NOTES

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

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

50. Exemption

This award shall not apply to -

- (i) members, novices or aspirants of religious orders in public hospitals;
- (ii) the Sydney Dental Hospital provided that nurses employed thereat are paid not less than the appropriate salaries prescribed by this award.

51. Salary Packaging

- (i) By agreement with their employer, employees may elect to package a part or all of their salary in accordance with this clause, to obtain a range of benefits as set out in NSW Policy Directive PD2007_076 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 (iv) below.

- (ii) Where an employee elects to package an amount of salary:
 - (a) Subject to Australian taxation law, the packaged amount of salary will reduce the salary subject to appropriate PAYG taxation deductions by that packaged amount.
 - (b) Any allowance, penalty rate, overtime payment, payment for unused leave entitlements, weekly worker's compensation, or other payment other than any payment for leave taken in service, to which an employee is entitled under this award or statute which is expressed to be determined by reference to an employee's salary, shall be calculated by reference to the salary which would have applied to the employee under this award in the absence of any salary packaging or salary sacrificing made under this award.
 - (c) "Salary" for the purpose of this clause, for superannuation purposes, and for the calculation of award entitlements, shall mean the award salary as specified in Clause 9, Salaries, and which shall include "approved employment benefits" which refer to fringe benefit savings, administration costs, and the value of packaged benefits.
- (iii) Any pre-tax and post-tax payroll deductions must be taken into account prior to determining the amount of available salary to be packaged. Such payroll deductions may include but are not limited to superannuation payments, HECS payments, child support payments, judgement debtor/garnishee orders, union fees and private health fund membership fees.
- (iv) The salary packaging scheme utilises a fringe benefit taxation exemption status conferred on public hospitals and Local Health Networks, which provides for a fringe benefits 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 on this cost on to the employee. The employer's share of savings, the combined administration cost, and the value of the packaged benefits, are deducted from the pre-tax dollars.
- (v) The parties agree that the application of the fringe benefits tax exemption status conferred on public hospitals and Local Health Networks is subject to the prevailing Australian taxation laws.
- (vi) If an employee wishes to withdraw from the salary packaging scheme, the employee may only do so in accordance with the required period of notice as set out in the Salary Packaging Policy and Procedure Manual.
- (vii) Where an employee ceases to salary package, arrangements will be made to convert the agreed package amount to salary. Any costs associated with the conversion will be borne by the employee, and the employer shall not be liable to make up any salary lost as a consequence of the employee's decision to convert to salary.

- (viii) Employees accepting the offer to salary package do so voluntarily. Employees are advised to seek independent financial advice and counselling to apprise them of the implications of salary packaging on their individual personal financial situations.
- (ix) The employer and the employee shall comply with the procedures set out in the NSW Health Services Salary Packaging Policy and Procedure Manual as amended from time to time.

52. Deduction of Union Membership Fees

- (i) The union shall provide the employer with a schedule setting out union fortnightly membership fees payable by members of the union in accordance with the union's rules.
- (ii) The union shall advise the employer of any change to the amount of fortnightly membership fees made under its rules. Any variation to the schedule of union fortnightly membership fees payable shall be provided to the employer at least one month in advance of the variation taking effect.
- (iii) Subject to (i) and (ii) above, the employer shall deduct union fortnightly membership fees from the pay of any employee who is a member of the union in accordance with the union's rules, provided that the employee has authorised the employer to make such deductions.
- (iv) Monies so deducted from employees' pay shall be forwarded regularly to the union together with all the necessary information to enable the union to reconcile and credit subscriptions to employees' union membership accounts.

"Regularly" shall be defined as monthly except where the practice and protocol of an employer at the time of this variation (March 2002) was fortnightly.

- (v) Unless other arrangements are agreed to by the employer and the union, all union membership fees shall be deducted on a fortnightly basis.
- (vi) Where an employee has already authorised the deduction of union membership fees from his or her pay prior to this clause taking effect, nothing in this clause shall be read as requiring the employee to make fresh authorisation in order for such deductions to continue.

53. Staffing Arrangements

- (i) Reasonable workloads are required for nurses to assist in providing a sustainable health system for the people of NSW that not only meets present health needs but also plans for the health needs of the future.
- (ii) The employer has a responsibility to provide reasonable workloads for nurses.
- (iii) Principles

The following principles shall be applied in determining or allocating a reasonable workload for a nurse:

- (a) Reasonable workloads will be based on the application of the staffing arrangements detailed in this clause. The arrangements may be the reasonable workload principles alone or, in addition, the provisions set out in Sections II - IX, of subclause (iv) in relation to the services, wards and units to which they apply.
- (b) Workload assessment will take into account measured demand by way of clinical assessment, including acuity, skill mix, specialisation where relevant, and geographical and other local requirements/resources.
- (c) The work performed by the employee will be able to be satisfactorily completed within the ordinary hours of work assigned to the employee in their roster cycle.
- (d) The work will be consistent with the duties within the employee's classification description and at a professional standard so that the care provided or about to be provided to a patient or client

shall be adequate, appropriate and not adversely affect the rights, health or safety of the patient, client or nurse.

- (e) The workload expected of an employee will not be unfair or unreasonable having regard to the skills, experience and classification of the employee for the period in which the workload is allocated.
 - (f) An employee will not be allocated an unreasonable or excessive nursing workload or other responsibilities except in emergency or extraordinary circumstances of an urgent nature.
 - (g) An employee shall not be required to work an unreasonable amount of overtime.
 - (h) An employee's workload will not prevent reasonable and practicable access to Learning and Development Leave, together with 'in-house' courses or activities, and mandatory training and education.
 - (i) Existing minimum staffing levels to ensure safe systems of work and patient safety shall continue to apply.
 - (j) Nothing in this clause prevents a higher level of staffing from being provided when, and where, this is necessary for clinical or other reasons.
- (iv) Staffing and Specialties

The Association and the Department agree that the staffing arrangements in this clause and their application may be reviewed and amended from time to time by agreement and that the Award may be varied by consent to reflect any such agreement.

Section I: Replacement of Absences

- (a) When an unplanned absence occurs (e.g. due to unexpected sick leave) the NUM (or delegate) will immediately review the roster to determine the effect of the absence on workload.
- (b) Where the NUM (or delegate) determines to backfill the absence, the default position is to fill the absence with a nurse of the same classification as the absent nurse.
- (c) If all avenues to backfill the absence with a nurse at the same classification are exhausted and the only remaining option is to backfill the absence with a nurse of a lower classification, the NUM (or delegate) must consider how the functions performed in the ward/unit can be safely and appropriately performed by a nurse of another nursing classification.
- (d) In some circumstances it may be possible to backfill with a nurse of a lower classification. Where it is determined to backfill with a nurse of a lower classification, a record of this, together with the reasons, must be made.

Section II: Nursing Hours Wards and Units

- (a) Nursing hours wards and units comprise general inpatient wards, dedicated palliative care wards/units, dedicated rehabilitation wards/units and inpatient adult acute mental health wards/units.
- (b) General inpatient wards do not include:
 1. All Types of Critical Care Units:
 - Intensive Care Units
 - High Dependency Units
 - Coronary Care Units

- Burns Units
 - Neo-natal Intensive Care Units
 - 2. Day Only Wards
 - 3. Day of Surgery Wards
 - 4. Procedural Units (Haemodialysis, Endoscopy, Cardiac Catheter, etc)
 - 5. Paediatrics
 - 6. Drug & Alcohol
 - 7. All Midwifery Services:
 - Antenatal
 - Post Natal, Nurseries
 - Delivery & Birthing Suites
 - 8. 23 Hour Wards
 - 9. Fast track wards
 - 10. Transition Wards (slow stream)
 - 11. Medical Assessment Units
 - 12. Medical/Surgical Acute Care Units (MACU & SACU)
 - 13. Wards/Units attached to Emergency Departments:
 - Psychiatric Emergency Care Centres (PECC)
 - Observation wards
 - Emergency Medical Units (EMUs)
- (c) The Association and the Department have agreed that staffing will be determined by the Nursing Hours Per Patient Day ('NHPPD') specified below, provided over a week, to determine the number of nurses required to provide direct clinical care. The number of nursing hours per patient day may also be expressed as an equivalent ratio.
- (d) 6.0 NHPPD will apply to general inpatient wards in Peer Group A facilities, being Principal Referral Hospitals, accounted for over the period of a week
- (e) 5.5 NHPPD will apply to general inpatient wards in Peer Group B facilities, being Major Metropolitan and Major Non - Metropolitan Hospitals, accounted for over the period of a week
- (f) 5.0 NHPPD will apply to general inpatient wards in Peer Group C facilities, being District Group Hospitals, accounted for over the period of a week.
- (g) 6.0 NHPPD will apply to dedicated palliative care wards, accounted for over the period of a week.
- (h) 5.0 NHPPD will apply to dedicated general rehabilitation wards and units, and 6.0 NHPPD will apply to dedicated rehabilitation specialist brain and spinal injury units, accounted for over the period of a week.

For these wards and units only, NHPPD includes the hours usually worked by nursing and other categories of staff, however titled, agreed with the Association.

- (i) 6.0 NHPPD will apply to inpatient adult acute mental health wards in general hospitals which are not specialist mental health facilities, accounted for over the period of a week.
- (j) 5.5 NHPPD will apply to inpatient adult acute mental health wards in specialised mental health facilities, accounted for over the period of a week.
- (k) The specified staffing set out above shall be implemented progressively in accordance with a timetable agreed between the Department and the Association, with full effect from 1 July 2013.
- (l) At the time the new staffing levels referred to in Section II subclauses d) to j) above are introduced on a ward or unit for the first time, staffing levels in wards and units with higher than the specified staffing will either continue to apply or be reviewed. A reduction in staffing will not occur without a review taking place. If there is disagreement between the Employer and Association about the outcome of the review the provisions of subclause (vii) Grievances in relation to workload will apply.
- (m) The number of nursing hours per patient day may also be expressed as an equivalent ratio which provides the same nursing hours over a week. For example:
1. a NHPPD of 6.0 can provide sufficient nursing hours to provide am/pm/night equivalent ratios of 1:4/1:4/1:7 across seven days, as well as the option of some shifts with a nurse in charge who does not also have an allocated patient workload.
 2. a NHPPD of 5.5 can provide sufficient nursing hours to provide am/pm/night equivalent ratios of 1:4/1:5/1:7 across seven days, as well as the option of some shifts with a nurse in charge who does not also have an allocated patient workload.
 3. a NHPPD of 5.0 can provide sufficient nursing hours to provide am/pm/night equivalent ratios of 1:5/1:5/1:7 across seven days, as well as the option of some shifts with a nurse in charge who does not also have an allocated patient workload.

Example Table 1

NHPPD:	6	which delivers the following nursing hours:	Average Hours Per Day:	156
Number of Patients:	26		Hours Per Week:	1092

	MORNING			AFTERNOON			NIGHT		
	Number of Staff	#Equiv. Ratio	*In Charge with no allocated patients	Number of Staff	#Equiv. Ratio	*In Charge with no allocated patients	Number of Staff	#Equiv. Ratio	Total Hrs
Shift Length in hours	8		8	8		8	10		
Monday	7	1: 3.7	0	7	1: 3.7	1	4	1: 6.5	160
Tuesday	7	1: 3.7	0	7	1: 3.7	1	4	1: 6.5	160
Wednesday	6.5	1: 4	0	6	1: 4.3	1	4	1: 6.5	148
Thursday	7	1: 3.7	0	7	1: 3.7	1	4	1: 6.5	160
Friday	7	1: 3.7	0	7	1: 3.7	1	4	1: 6.5	160
Saturday	6	1: 4.3	1	6	1: 4.3	1	4	1: 6.5	152
Sunday	6	1: 4.3	1	6	1: 4.3	1	4	1: 6.5	152
							Hours Per Week:		1092

Notes: # Equivalent Ratio is indicative of the ratio that could be created by this roster pattern. * In this example the NUM has distributed the hours on some shifts to include a nurse in charge who does not have an allocated patient workload.

Example Table 2

NHPPD:	6	which delivers the following nursing hours:	Average Hours Per Day:	156
Number of Patients:	26		Hours Per Week:	1092

	MORNING			AFTERNOON			NIGHT		
	Number of Staff	#Equiv. Ratio	*In Charge with no allocated patients	Number of Staff	#Equiv. Ratio	*In Charge with no allocated patients	Number of Staff	#Equiv. Ratio	Total Hrs
Shift Length in hours	8		8	8		8	10		
Monday	7	1: 3.7	0	7	1: 3.7	0	4	1: 6.5	152
Tuesday	7	1: 3.7	0	7	1: 3.7	0	4	1: 6.5	152
Wednesday	7	1: 3.7	0	7	1: 3.7	0	4	1: 6.5	152
Thursday	7	1: 3.7	0	7	1: 3.7	0	4	1: 6.5	152
Friday	7	1: 3.7	0	7	1: 3.7	0	4	1: 6.5	152
Saturday	8	1: 3.3	0	8	1: 3.3	0	4	1: 6.5	168
Sunday	8	1: 3.3	0	7.5	1: 3.5	0	4	1: 6.5	164
							Hours Per Week:		1092

Notes: # Equivalent Ratio is indicative of the ratio that could be created by this roster pattern. * In this example the NUM has distributed the hours differently across the days and has decided to allocate a patient workload to the nurse in charge of shift.

- (n) Only nurses providing direct clinical care are included in the NHPPD. This does not include positions such as Nursing Unit Managers, Nurse Managers, Clinical Nurse Educators, Clinical Nurse Consultants, dedicated administrative support staff and wardspersons.
- (o) In implementing Nursing Hours in Nursing Hours Wards the daily bed census data averaged over a specified preceding period of up to 52 weeks (in whole weeks) will be used to determine the 'number of patients'. In determining the specified period due regard should be given to reduced activity periods, seasonality and other local factors. Where seasonality is a significant factor, the specified period can be the equivalent period in the preceding year.
- (p) The NUM will distribute the hours/shifts across the day and week in a rostering pattern with due regard to the workload pattern of their ward, provided the applicable NHPPD is achieved over the week.
- (q) The NUM may distribute the NHPPD to include a nurse in charge who does not also have an allocated patient workload, provided the applicable NHPPD are achieved over the week
- (r) When, on a shift, the NUM considers that patient care needs cannot be sufficiently met from the nurses immediately available and the NUM (or nurse delegated with responsibility for patient care within the ward/unit) considers additional nursing hours should be provided in order to meet clinical needs, the NUM will inform the appropriate Nurse Manager who, together with the NUM, will consider a solution including, but not limited to, the following options:
 1. deployment of nurses from other wards/units;
 2. additional hours for part time staff;
 3. engagement of casual/agency nursing staff;
 4. overtime;
 5. prioritisation of nursing activities on the ward/unit;

6. reallocation of patients.

When these options have been exhausted and only with approval from the Director of Nursing and Midwifery and the concurrence of the General Manager, the decision may be made to limit admissions when discharges occur from the ward/unit. This decision is to be made as soon as practicable after commencement of the shift.

(s) Spot Check

1. In wards and units where the agreed staffing method is NHPPD, information will be available to staff which identifies the NHPPD.
2. At any time a nurse working on the ward/unit or a member of the local Reasonable Workload Committee may make a written request to the NUM for a spot check to confirm that the NHPPD are being provided.
3. The relevant Reasonable Workload Committee must be informed of the commencement of the spot check.
4. Within 7 days of receipt of such a request the NUM will ensure that each week for a 4 week period the NHPPD provided are posted within 7 days of the conclusion of the relevant period.
5. If, at any time during the spot check or at its conclusion, it is established that the provided NHPPD falls short of the specified NHPPD then action must immediately commence to rectify the shortfall.
6. Where the four week spot check confirms that the specified NHPPD are being provided then the process is concluded.
7. The outcome of the spot check will be made available to the Reasonable Workload Committee.

(t) The calculation used to spot check the provision of NHPPD in Nursing Hours Wards

1. To determine the 'number of patients' add the number of patients as recorded for each day in the bed census in the week to be calculated, then divide that total by 7 (the number of days in the week). For example:

$$(24 + 25 + 25 + 25 + 23 + 22 + 24) \div 7 = 24 \text{ (Number of patients).}$$
2. Then take the applicable NHPPD figure (eg 6.0) and multiply it by 7 (for 7 days in the week), then multiply by the number of patients, as identified above eg 24.
3. In this example, $6 \times 7 \times 24 = 1,008$ nursing hours or 6 NHPPD. 1,008 is therefore the nursing hours that were required for the ward that week. The figure is then compared to the nursing hours that were actually provided.
4. Assume in this example that 974 nursing hours were actually provided. The required NHPPD falls short as 5.8 NHPPD has been provided instead of 6 NHPPD. In this example, the NUM would immediately commence action to rectify the shortfall in accordance with point 5 of (s) Spot Checks in this Section.
5. The spot check would require the completion of this calculation for four consecutive weeks.

(u) Annual Leave relief

1. The annual leave 'relief' factored into the calculation of the total required FTE reflects the annual leave entitlements under this Award for the employees, arising from their actual shift patterns. However, this figure may be adjusted at ward level for planned periods of low activity or annual ward closures that mean less leave relief is required.

2. If circumstances arise whereby the planned periods of low activity or annual ward closures do not take place, the required FTE should be calculated again in light of those altered circumstances and staff deployment.

(v) Relief for Sick Leave, FACS Leave & Mandatory Education

To account for sick leave, FACS leave and mandatory education, a figure of two weeks (equating to 76.0 hours based on a 38 hour week) per annum should be factored into the FTE required for the ward. This figure is subject to joint review by the Association and the Department, on request by either party.

Section III: Staffing Arrangements for Peer Group D & F3 MPS

- (a) The following provisions will apply to hospitals designated Peer Group D1 Community Acute Hospitals with community inpatient acute beds and a level 2 or above emergency department function; and to F3 Multi-Purposes Services facilities with community inpatient acute beds and a level 2 or above emergency department function:
- (1) During the hours that the Emergency Department is open there will be a minimum of two registered nurses on duty, to ensure that there is a registered nurse available on the acute ward when a registered nurse is required to attend the Emergency Department. One of these registered nurses may be a NUM/NM who also performs clinical functions on the shift who is on duty and on site.
- (b) The parties recognise that where implementation of the provisions at (a) (1) above requires a change in the classification mix this will be achieved progressively from the date of this Award and is determined by the rate of staff turnover experienced in those facilities where the provisions apply.

Section IV: Perioperative Services

- (a) ACORN 2008 standards will be implemented in Operating Rooms including that during each operating session, the minimum staffing for each operating room will be:
1. two nurses, one of whom must be a Registered Nurse and one of whom may be a suitably qualified and endorsed Enrolled Nurse, to carry out the roles of scrub/instrument nurse and scout nurse; and
 2. one Anaesthetic nurse or one other trained and qualified anaesthetic category of staff.

Section V: Maternity Services

- (a) The Association and the Department have agreed that the Birthrate Plus methodology, as adapted for use in New South Wales, will be used to calculate staffing in maternity services and will be progressively implemented according to a timetable agreed between the Department and the Association.

Section VI: Inpatient Mental Health Staffing Arrangements

- (a) The Association and the Department have agreed that the following provisions will apply in all inpatient mental health units (with the exception of inpatient adult acute mental health wards at Section II from the date of implementation of nursing hours in these wards/units) and be used by managers in the evaluation of nursing staff levels and for the Reasonable Workload Committees to assess and manage identified workloads issues.
- (b) For the purpose of this subclause inpatient mental health units include but are not limited to:
1. Forensic Units;
 2. Child & Adolescent Units;
 3. Older Adult;

4. Psychiatric Emergency Care Centres (PECC);
 5. Rehabilitation;
 6. Extended Care Units.
- (c) When determining the nursing productive FTE the following should be considered:
1. The previous 12 months activity should be used as a guide unless the unit has had a significant change in activity, presentation number or type, or where a new model of care has commenced which has impacted on the type of presentation or length of stay;
 2. Staff assessment will be based on comparisons to the FTE utilised in the individual unit in the previous year, using the monitoring reports, in conjunction with professional judgement and information on known workload issues;
 3. Categories:
 - The number of inpatients requiring 1 staff or more to 1 patient;
 - The number of inpatients requiring close observation;
 - The number of inpatients assessed requiring sighting at regular intervals;
 - The number of inpatients nearer to going home.
 4. Level & frequency of aggressive behaviour displayed by patients and based on clinical risk assessment;
 5. Level of suicidal behaviour displayed by patients (see Mental Health Outcomes and Assessment Tools (MH-OAT) risk level);
 6. Level of vulnerability / potential of exploitation from others (such as sexual safety, financial exploitation);
 7. Age of patient and co-morbidities;
 8. Patients with a dual diagnosis;
 9. Type of facility and unit (eg Closed / Open Units);
 10. Design of unit;
 11. Number of beds available;
 12. Local factors referred to at subclause 53 (iii) (b) may include but are not limited to:
 - (i) The available level of support staff (eg ward clerks, medical officers, patient support officers, allied health staff);
 - (ii) Teaching and research activities;
 - (iii) Provision of nurse escorts;
 - (iv) Ward geography; and
 - (v) Data entry/documentation including MH-OAT.

- (d) When determining the nursing non-productive FTE required:
1. No less than six weeks (30 days) annual leave relief per productive FTE for staff working shift work and no less than 4 weeks (20 days) for non-shift workers must be included.
 2. No less than two weeks (10 days) of sick/FACS leave and mandatory education relief per productive FTE must be included.
 3. Replacement for long service leave and paid maternity leave should not be considered part of the funded FTE unless additional FTE is set aside for this purpose. Traditionally funding for this replacement is managed at a central cost centre for a facility or service (this must be determined prior to finalising established FTE).
 4. Assess impact on staff for workers' compensation / return to work programs on the FTE required.
- (e) General
1. Nursing/Midwifery Unit Managers, Clinical Nurse/Midwife Educators, Clinical Nurse/Midwife Consultants and Nurse/Midwife Practitioners do not carry a direct clinical load.
 2. Consideration should be given to the evolution of future clinical roles in nursing.
 3. Consideration should be given to the additional responsibilities related to other activities such as the Magistrates Hearing and the Mental Health Review Tribunal and associated escorts.
 4. Consideration should be given to the impact of future legislative requirements on workloads where reasonably known.

Section VII: Community and Community Mental Health Staffing Arrangements

- (a) The Association and the Department agree that the following staffing arrangements are to apply in all Community Health Services (including services such as child and family health, community mental health and drug health) and be used by managers in the evaluation of nursing staff levels and for the Reasonable Workload Committees to assess and manage identified workloads issues in accordance with the principles specified in subclause (iii) Principles.
- (b) The current agreed average 'face-to-face' ratio in the Community Health Service (CHS) shall be used as the starting point for consideration of staffing levels where indications are that staffing numbers are insufficient to manage the workload.
- (c) Funded / budgeted FTE must include no less than four weeks (20 days) of annual leave relief per productive FTE. Where staff are required to work shift work or weekends then no less than six weeks (30 days) should be included. Managers are responsible for scheduling annual leave equitably throughout the year to manage leave liabilities and to prevent unreasonable increased workload for remaining employees arising from the taking of leave.
- (d) Funded / budgeted FTE must include no less than two weeks (10 days) of sick / FACS leave relief and mandatory education relief per productive FTE. Cost centres with child and family services must include an additional day to accommodate mandatory education leave for child protection.
- Funded FTE available for relief of sick / FACS / mandatory education is to be utilised as required when this leave is taken rather than used for permanent employment.
- (e) Replacement for long service leave and paid maternity leave should not be considered part of the funded FTE unless additional FTE is set aside for this purpose. Traditionally, funding for this replacement is managed at a central cost centre for a facility or service.
- (f) Assess impact on staff for workers' compensation / return to work programs on the FTE required.

- (g) Existing appointed positions, eg. CNCs and managers, must be maintained in their current role, and except in the case of emergencies, shall not be routinely used to cover nursing shortages in the general workload areas.

To ensure this occurs, each appointed position should have a position description that defines the scope and requirements of their primary role.

Leave relief for these positions is required in the funded FTE.

- (h) Induction programs including preceptorship should be in place to adequately supervise new staff. These programs would include a reasonable number of "supernumerary" hours followed by appropriate allocation of patients according to the complexity of need and the new staff's level of training. The ability to consult senior staff by phone should be ensured, particularly during induction.

Funded FTE should incorporate a reasonable number of additional hours for this purpose based on historical turnover rates.

- (i) Community Health Services must have the ability to maintain a "pool" of casual staff to manage unplanned leave and vacancies or a sudden and unanticipated increase in workload.
- (j) Reasonable deployment within individual Community Health Services to address uneven workload distribution should occur as a day-to-day management strategy. However this should not be seen as a method of covering unfilled vacancies or ongoing sick leave.

Long term demographic trends may result in adjustment of boundaries to enable existing staffing to better accommodate the needs of the community while still maintaining composition of their team.

- (k) Appropriate hours for case management should be included in the Funded FTE to maintain a safe and holistic level of care for patients. This principle is inherent in the needs for patients in the community.
- (l) Appropriate time for travel in the context of the local geography and traffic conditions must be factored into hours required for clinical workload.
- (m) In accordance with occupational health and safety principles, hazards must be eliminated or controlled, appropriate loading facilities must be provided, to enable restocking of clinical supplies and equipment.
- (n) Nursing hours utilised in carrying out non clinically related activities eg. servicing of vehicles should be monitored, quantified and incorporated into the FTE required for a given service.
- (o) This list indicates minimum requirements only.

Section VIII: Emergency Department Staffing Arrangements

- (a) The Association and the Department have agreed that the following staffing arrangements are to apply in Emergency Departments and be used by managers in the evaluation of nursing staff levels and for the Reasonable Workload Committees to assess and manage identified workloads issues in accordance with the Principles specified in subclause (iii).
- (b) When determining the nursing productive FTE required:
1. The previous 12 months activity should be used unless the ED has had a significant change in activity, presentation number or type, or where a new model of care has commenced which has impacted on the type of presentation or Length of Stay.
 2. Staff assessment will be based on comparisons to the FTE Utilised in the individual ED in the previous year in conjunction with professional judgement, incorporating anecdotal information on known workload issues.
 3. Consideration needs to be given to local factors affecting workload. This may have the potential to increase the required FTE over and above that indicated by activity.

- (c) When determining the nursing non-productive FTE required:
1. No less than six weeks (30 days) annual leave relief per productive FTE for staff working shift work and no less than 4 weeks (20 days) for non-shift workers must be included.
 2. No less than two weeks (10 days) of sick/FACS leave and mandatory education relief per productive FTE must be included.
 3. Replacement for long service leave and paid maternity leave should not be considered part of the required FTE. Traditionally funding for this replacement is managed at a central cost centre for a facility or service.
 4. Assess the impact on staff for workers' compensation / return to work programs on FTE required.
- (d) General
1. All Level 5 and 6 Emergency Departments to have a dedicated shift coordinator on all shifts in addition to the FTE required for clinical activity. The requirement for additional FTE for the Shift Coordinator in Levels 1 to 4 Emergency Departments is at the discretion of the facility after due consideration of the historical and anticipated activity for each shift of the week
 2. There is to be an identified triage nurse on every shift.
 3. Provision must be made for the coverage of community retrievals and participation in the facility Cardiac Arrest Team, if this an ED responsibility.
 4. Where an Emergency Department has a dedicated Psychiatric Emergency Care Centre (PECC), mental health specialist nurses must staff it. The FTE required for appropriate coverage of the PEC Unit is in addition to the requirement for the main sections of the Emergency Department.
 5. The facility must have a contingency plan to backfill nurses in the event that they are called out as part of a disaster team.
 6. This list indicates minimum requirements only.
- (e) Provision of designated nurses for the resuscitation area.

The provision of designated nurses for the resuscitation area in Emergency Departments will be as follows:

To provide the staffing levels set out in the table below the required additional nurses will be employed in accordance with a timetable agreed between the Department and the Association, with full effect from 1 July 2013.

Description	Provision
Adult/mixed Emergency Departments with a role delineation of Level 6 and Urgency Disposition Groups ('UDG') of 45,000 or more	Three designated resuscitation nurses on two shifts and two designated resuscitation nurses on the third shift
Adult/mixed Emergency Departments with a role delineation of Level 6 and UDG of less than 45,000	Two designated resuscitation nurses on two shifts and one designated resuscitation nurse on the third shift
Adult/mixed Emergency Departments with a role delineation of Level 3, 4 or 5 and UDG of more than 45,000	Two designated resuscitation nurses on two shifts and one designated resuscitation nurse on the third shift
Adult/mixed Emergency Departments with a role delineation of Level 4 or 5 and UDG of more than 25,000 and less than 45,000.	One designated resuscitation nurse on each of three shifts per day

'UDG' stands for urgency disposition groups which is a methodology applied by the NSW Department of Health that weights Emergency Department attendances for the triage category mix and patient disposition e.g. hospital admission.

Section IX: Transitional arrangements for GWCT wards

(a) This section will continue to apply until the implementation timetable set out at Section II (k) is completed in that ward or unit.

(b) The General Workload Calculation Tool possesses the following key characteristics:

1. Value of the nursing weight - In applying the general workload calculation tool, a nursing weight of 1 is equal to 4.8 nursing hours per patient day (NHPPD).
2. Average nursing intensity - For each ward or unit in which the tool is applied, the average nursing intensity for that ward or unit is obtained by applying AN-DRGs case mix data for all patients in the ward, viz, the data is to be comprehensive, validated, and for a uniform period. The AN-DRG Version 4.1 Nursing Service Weights are applied.

3. Occupancy rate - The application of average annual occupancy rates in the general workload calculation tool is:

for wards/units with occupancy rates 85% and over - a rate of 100% applies;

for wards/units with occupancy rates between 75% and 84.9% - a rate of 85% applies; and

for wards/units with an occupancy rate below 75% - the actual occupancy rate applies.

The occupancy rate is the percentage count of the number of inpatients accommodated at around midnight each day, as recorded in the 'Daily Record Book' (or its computerised equivalent), divided by available beds, on an annualised basis."

4. Available beds - The average number of available beds is calculated, to account for changes in this figure during the course of a year.
5. Length of shifts - The length of shifts reflects those rostered to be worked in the ward or unit.
6. Minimum staffing levels - Use of the general workload calculation tool does not displace present minimum staffing requirements to ensure safe systems of work and patient safety.
7. Coverage - The general workload calculation tool is applied to calculate staffing levels for those nursing staff providing direct clinical care. It is not applied to positions such as Nursing/Midwifery Unit Manager, Clinical Nurse Educator/Clinical Midwife Educator, Clinical Nurse Consultant/Clinical Midwife Consultant, dedicated administrative support staff and wards persons.
8. Application and monitoring - the general workload calculation tool will be applied to the ward or unit on an annual basis, and with the ability for the Nursing/Midwifery Unit Manager to monitor monthly.
9. Relief for Annual leave - The annual leave 'relief' factored into the tool reflects the annual leave entitlements under this Award for the employees arising from their actual shift patterns. However, this figure may be adjusted when applying the tool at ward level for planned periods of low activity or annual ward closures that mean less leave relief is required.

If circumstances arise whereby the planned periods of low activity or annual ward closures do not take place, the general workload calculation tool should be applied again in light of those altered circumstances and staff deployment.

10. Relief for Sick Leave, FACS Leave and Mandatory Education - To account for these factors, a figure of two weeks (equating to 76.0 hours based on a 38 hour week) per annum is factored into the general workload calculation tool. This figure is subject to joint review by the Association and the Department, on request by either party.
11. Other factors - In agreeing that the tool is a means of facilitating informed discussion and decision making about nursing workloads, there are a range of other factors to consider. These factors include but need not be limited to patient type (for example, high dependency patients, day only patients, patients requiring close observation, patients awaiting nursing home placement); the available level of support staff (ward clerks, lifting teams etc); teaching and research activities; provision of nurse escorts; emergency presentations in smaller facilities; and ward geography.

Staffing of wards/units will be planned using 1 = 4.8 NHPPD as the value of the nursing weight. It is recognised that application of this value will be subject to variation to account for these other factors or over shorter periods of time. If there is continued variation from this value in practice, the issue will be considered by the relevant Reasonable Workload Committee.

12. Exclusions - the general workload calculation tool is not to be applied to:

intensive care units;

high dependency units;

specialty designated coronary care units;

specialist burns units;

emergency departments;

operating theatres;

midwifery services;

intensive care mental health units;

mental health admitted patient units

community nursing;

community mental health nursing; and

Multi-Purpose Services.

- (c) The Association and the Department agree that the name and key characteristics of the general workload calculation tool may be amended by agreement from time to time, and the Award will be varied to reflect the amendment.

Section X: Hospital Listings

- (a) The Department will publish on its website the following lists, updated annually:
 1. As per clause 53, Section II (a), a list of Hospitals by Peer Group;
 2. As per clause 53, Section III (a), a list of Hospitals by Emergency Department role delineation;
 3. As per clause 53, Section VIII (d), a list of hospitals which outlines both the Emergency Department role delineation and Urgency Disposition Groups (UDG) attendances.

(vi) Role of Reasonable Workload Committees

- (a) Reasonable Workload Committees shall be established to facilitate consultation on reasonable workloads for nurses, together with the provision of advice and recommendations to management. Aspects of reasonable workload may include, but need not be limited to, nursing workloads generally, the provision of specialist advice, training, and planning for bed or ward closures or openings as they relate to nursing workloads. It is intended that the committees, by their operation, will make a positive contribution to the workload of nurses. Reasonable Workload Committees are a mechanism to provide for informed discussions at the local level and encourage the resolution where possible of any workload disputes at this level in the first instance.
- (b) The committees by their operation shall not alter the rights and obligations of management to decide nursing workload matters.
- (c) Public hospitals, mental health facilities and multi purpose sites shall monitor the implementation of reasonable workloads for nurses using the agreed Monitoring System in all inpatient wards/units.

Monthly and annual reports generated by the Monitoring System shall be provided to the Reasonable Workload Committee to ensure the committees have the information they need to assess workload issues.

In areas where the NSW Health Department and the Association have agreed that the Monitoring System cannot apply, relevant available data pertaining to workloads will be collected and collated for the use of Reasonable Workload Committees.

- (d) It is intended that the Reasonable Workload Committees provide a structured and transparent forum for all nurses to be genuinely consulted about workload matters through an appropriate mechanism; contribute to the decision making process; and have the ability to resolve disputes about workloads, should they arise, through the committee process and provisions in this Award.

(vi) Structure of Reasonable Workload Committees

- (a) Upon request by the Association, nurse(s) employed in a public hospital, or public health organisation or the employer, a Reasonable Workload Committee shall be established for the relevant public hospital or public health organisation. Such requests shall be made to the Chief Executive Officer of the public health organisation. Where circumstances warrant and are conducive to the efficient delivery of services, a Reasonable Workload Committee may be established by agreement between the Association and the employer that covers more than one public hospital or public health organisation.
- (b) Upon request by the Association or an employer a reasonable workload committee shall also be established for the relevant Local Health Network or Statutory Health Corporation.
- (c) Each Reasonable Workload Committee shall comprise equal representation of employees and the employer. Employee representation shall be determined by the Association. Employer representation shall be determined by the employer as appropriate. Committee size will be determined by agreement between the Association and the employer. Every endeavour shall be made to minimise the size of the committee, with provision to co-opt additional assistance that may be required on an 'as needs' basis.
- (d) The committees shall meet with a frequency determined by each committee, having regard to issues and information to hand.
- (e) The committee members and the parties they represent shall make every endeavour to reduce or eliminate any duplication of subject matter and coverage with pre-existing structures and consultative mechanisms. Every effort shall also be taken to ensure the most efficient meeting arrangements are instituted for operation of the committees and to minimise disruption to nurses'

rosters. The committee members and the parties they represent shall make every endeavour to ensure that any additional time and information imposts arising from the operations of the committee are minimised.

- (f) To enable members of reasonable workload committees to discharge the committee's role and carry out their responsibilities, attendance at committee meetings and reasonable preparation time shall be deemed to be time on duty and remunerated accordingly. Wherever possible, this time shall occur during the ordinary hours of work.
- (vii) Grievances in relation to workload
- (a) Notwithstanding the provisions specified in sub-clauses (ii) to (iii) of Clause 48 - Disputes in this Award, the following procedure will apply to resolve workload grievances or staffing grievances directly arising from nursing workload issues.
 - (b) A grievance in relation to such matter shall first be raised at the local ward/unit level with the Nursing/Midwifery Unit Manager responsible (or the appropriate manager).
 - (c) If the matter remains unresolved, it should be referred to the appropriate Nurse/Midwife Manager, Director of Nursing or Area Director of Nursing, depending on the nursing executive structure of the public hospital or public health organisation in which the grievance has arisen.
 - (d) If the matter remains unresolved, it should be referred to the appropriate public hospital/public health organisation reasonable workload committee for consideration and recommendation to management. If the matter cannot be resolved by this committee, the issue may be referred to a Local Health Network or Statutory Health Corporation committee under subclause (v) (b).
 - (e) If the matter remains unresolved, it should be dealt with in accordance with the provisions of sub-clauses (iv) to (ix) of Clause 48 - Disputes in this Award.

54. Trade Union Activities

A. Trade Union Activities regarded as On-Duty

An Association delegate will be released from the performance of normal duty when required to undertake any of the activities specified at (i) to (viii) below.

While undertaking such activities on a normal rostered day on duty, the Association delegate will be regarded as being on duty and will not be required to apply for leave. The delegate will not be entitled to overtime at the end of the roster cycle as a consequence of undertaking these activities.

In circumstances where an Association delegate is not rostered for duty or is on an allocated/additional day off and is not required by the employer to undertake these activities, such time will not be counted as time worked.

- (i) 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*;
- (ii) Attendance at meetings with workplace management or workplace management representatives;
- (iii) A reasonable period of preparation time, before:
 - (a) meetings with management;
 - (b) disciplinary or grievance meetings when an Association member requires the presence of an Association delegate; and

- (c) any other meeting with management,
by agreement with management, where operational requirements allow the taking of such time.
- (iv) Giving evidence in court on behalf of the employer;
- (v) Presenting information on the Association and Association activities at induction sessions for new staff. The Association shall have up to one half-hour made available for a presentation in such a program provided to employees. If such programs are provided to employees by electronic or remote means, the union's presentation and associated literature will also be included; and
- (vi) Distributing official Association publications or other authorised material at the workplace, provided that a minimum of 24 hours notice is given to workplace management, unless otherwise agreed between the parties. Distribution time is to be kept to a minimum and is to be undertaken at a time convenient to the workplace.

B. Trade Union Leave Activities

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

- (i) annual or biennial conferences of the Association;
- (ii) meetings of the Association's Executive, or Councils;
- (iii) annual conference of Unions NSW and the Congress of the Australian Council of Trade Unions;
- (iv) attendance at meetings called by the Unions NSW involving the Association which requires attendance of a delegate;
- (v) attendance at meetings called by the Director-General of Health/Health Service, as the employer for industrial purposes, as and when required;
- (vi) giving evidence before an Industrial Tribunal as a witness for the Association;
- (vii) reasonable travelling time to and from conferences or meetings to which the provisions of Parts A, B and C of this clause apply.

C. Trade Union Training Courses

The following training courses will attract the grant of paid trade union leave as specified below:

- (i) 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 paid trade union leave for such courses will be granted shall be negotiated between the Chief Executive and the Association.
- (ii) courses organised and conducted by the Trade Union Education Foundation or by the Association or a training provider nominated by the Association. A maximum of 12 working days in any period of 2 years applies to this training and is subject to:
 - (a) the operating requirements of the workplace permitting the grant of leave and the absence not requiring employment of relief staff;
 - (b) payment being at the base rate, ie. excluding extraneous payments such as shift allowances/penalty rates, overtime, etc;
 - (c) the employer not being responsible for any travelling and associated expenses incurred in attending such courses;

- (d) attendance being confirmed in writing to the employer by the Association or a nominated training provider."

D. On-Loan Arrangements

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

- (i) meetings interstate or in NSW of a Federal nature to which an Association member has been nominated or elected by the Association:
 - (a) as an Executive Member; or
 - (b) a member of a Federal Council; or
 - (c) as a member of a vocational or industry committee.
- (ii) briefing counsel on behalf of the Association;
- (iii) assisting Association officials with preparation of cases or any other activity outside their normal workplace at which the delegate is required to represent the interests of the Association;
- (iv) country tours undertaken by a member of the executive or Council of the Association;
- (v) taking up of full time duties with the Association (excluding Elected Office);
- (vi) the following financial arrangements apply to the occasions when a staff member is placed "on loan" to the Association:
 - (a) the employer will continue to pay the delegate or an authorised Association representative whose services are "on loan" to the Association;
 - (b) the employer will seek reimbursement from the Association at regular intervals of all salary and associated on costs, including superannuation;
 - (c) agreement with the Association on the financial arrangements, including agreement on leave matters, must be reached before the on loan arrangement commences and must be documented in a manner negotiated between the Chief Executive of the Health Service and the Association.
- (vii) "On loan" arrangements negotiated in terms of this clause are to be regarded as service for the accrual of all leave, for incremental progression and for continuity of employment purposes.
- (viii) On loan arrangements may apply to full-time or part-time staff and are to be kept to the minimum time required. Where the Association needs to extend an on loan arrangement, the Association shall approach the Chief Executive in writing for an extension of time well in advance of the expiration of the current period of on loan arrangement.
- (ix) Where the Chief Executive and the Association cannot agree on the on loan arrangement, the matter is to be referred to the Director-General of Health for determination after consultation with the Chief Executive and the Association."

E. Period of Notice for Trade Union Activities

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

F. Access to Facilities by Trade Union Delegates

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

- (i) telephone, facsimile and, where available, email facilities;
- (ii) a notice board for material authorised by the Association or access to staff notice boards for material authorised by the Association;
- (iii) workplace conference or meeting facilities, where available, for meetings with member(s), as negotiated between local management and the Association."

G. Responsibilities of the Trade Union Delegate

Responsibilities of the delegate are to:

- (i) establish accreditation as a delegate with the Association and provide proof of accreditation to the workplace;
- (ii) participate in the workplace consultative processes, as appropriate;
- (iii) follow the dispute settling procedure applicable in the workplace;
- (iv) provide sufficient notice to the immediate supervisor of any proposed absence on authorised Association business;
- (v) account for all time spent on authorised Association business;
- (vi) when trade union leave is required, to apply for that leave in advance;
- (vii) distribute Association literature/membership forms, under local arrangements negotiated between the Chief Executive and the Association; and
- (viii) use any facilities provided by the workplace properly and reasonably as negotiated at organisational level."

H. Responsibilities of the Trade Union

Responsibilities of the Association in respect of trade union activities are to:

- (i) provide written advice to the Chief Executive about an Association activity to be undertaken by an accredited delegate and, if requested, to provide written confirmation to the workplace management of the delegate's attendance/participation in the activity;
- (ii) meet travelling, accommodation and any other costs incurred by the accredited delegate, except as provided in subclause (iii) of Part I, Responsibilities of Workplace Management;
- (iii) pay promptly any monies owing to the workplace under a negotiated "on loan" arrangement;
- (iv) provide proof of identity when visiting a workplace in an official capacity, if requested to do so by management;
- (v) apply to the Chief Executive of the health service well in advance of any proposed extension to the "on loan" arrangement;
- (vi) assist the workplace management in ensuring that time taken by the Association delegate is accounted for and any facilities provided by the employer are used reasonably and properly; and

- (vii) advise employer of any leave taken by the Association delegate during the on loan arrangement.

I. Responsibilities of Workplace Management

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

- (i) release the accredited delegate from duty for the duration of the Association activity, as appropriate, and, where necessary, to allow for sufficient travelling time during the ordinary working hours;
- (ii) advise the workplace delegate of the date of the next induction session for new staff members in sufficient time to enable the Association to arrange representation at the session;
- (iii) meet the travel and/or accommodation costs properly and reasonably incurred in respect of meetings called by the workplace management;
- (iv) where possible, to provide relief in the position occupied by the delegate in the workplace, while the delegate is undertaking Association responsibilities to assist with the business of workplace management;
- (v) recredit any other leave applied for on the day to which trade union leave or release from duty subsequently applies. This does not apply where the delegate is rostered off duty on the day she/he is required to perform Association activities or on an allocated/additional day off duty;
- (vi) to continue to pay salary during an "on loan" arrangement negotiated with the Association and to obtain reimbursement of salary and on-costs from the Association at regular intervals, or as otherwise agreed between the parties if long term arrangements apply;
- (vii) to verify with the Association the time spent by an Association delegate or delegates on Association business, if required; and
- (viii) if the time and/or the facilities allowed for Association activities are thought to be used unreasonably and/or improperly, to consult with the Association before taking any remedial action.

J. Travelling and other Costs of Trade Union Delegates

- (i) Except as specified in subclause (iii) of Part I, Responsibilities of Workplace Management of this Award, travel and other costs incurred by accredited Association delegates in the course of Association activities will be paid by the Association.
- (ii) In respect of meetings called by the workplace management in terms of subclause (iii) of Part I, Responsibilities of Workplace Management of this Award, the payment of travel and/or accommodation costs, properly and reasonably incurred, is to be made, as appropriate, on the same conditions as apply under clause 20 of this Award and relevant Circulars.
- (iii) No overtime, leave in lieu, shift penalties or any other additional costs will be claimable by a staff member from the employer, in respect of Association activities covered by paid trade union leave or trade union "on duty" activities provided for in this Award.
- (iv) 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 employer by the Association or the staff member.

55. Learning and Development Leave

(i) Definitions

The following definitions apply in this clause:

"Learning and Development Leave" includes leave granted to undertake tertiary studies at an accredited education institution and includes leave for examinations, or leave granted to attend external activities, such as conferences, seminars and short courses. Employees may also attend lectures, tutorials, conferences or seminars on days they are not rostered for duty, for which no payment is made.

Leave is not required for the following types of employer-supported learning activities that are undertaken by employees on a routine basis, and at which employees are considered to be 'on duty':

in-house courses or activities

mandatory training and education.

"Educational institutions" are those accredited to provide undergraduate and/or postgraduate tertiary studies that culminate in a recognised academic and/or professional qualification including a degree, diploma or certificate.

(ii) General

- (a) Learning and development is a shared responsibility between the organisation and the individual. Employees should be prepared to pursue their own development and the organisation should promote an environment that supports individual initiative.
- (b) The Director-General of Health is responsible for setting policy direction to ensure that all employees receive appropriate learning opportunities.
- (c) Chief Executives of Health Services are responsible and accountable for ensuring that employees receive appropriate learning opportunities in line with the present and future needs of the Health Service. Chief Executives are also responsible for allocating an appropriate budget for learning activities, which may include replacement costs for rostered staff who are on leave to attend an approved workshop, conference or tertiary studies.
- (d) Managers and supervisors are responsible and accountable for promoting and supporting learning activities for staff in their area of responsibility. Managers and supervisors are also responsible for arranging replacement staff, when necessary, for employees who may be attending learning activities. Managers and supervisors must advise all employees of the protocol for review procedures relating to non-approval of Learning and Development Leave.
- (e) Nurses wishing to attend a part time postgraduate course of study who are working shiftwork are to be given priority in being released from rostered shifts to attend lectures/tutorials where there are no alternative and feasible attendance options. Replacement of staff should be provided where appropriate. This applies only to further studies that lead to a recognised clinical qualification.
- (f) Employees are responsible for meeting all fees/costs associated with tertiary studies and fees associated with other educational activities unless the Health Service offers scholarships or other forms of financial assistance.

(iii) Eligibility

- (a) Access to Learning and Development Leave is at the discretion of the Health Service. It should be made available to all eligible employees within the Health Service to promote the development of a highly trained, skilled and versatile workforce which is responsive to the requirements of government and Health Service delivery.
- (b) Permanent staff who are full time or part time, and full time temporary employees are eligible to apply for leave. Part time temporary employees and permanent part time employees are granted leave on a pro-rata basis. Casual staff are not eligible for this form of leave.

(iv) Types and amount of leave

(a) Seminars, conferences and short courses

- (1) The approval of leave and/or financial assistance for attendance at seminars, conferences or short courses should be considered in light of the Health Service strategic plan. Employees may be granted Learning and Development Leave, or may be considered on duty depending on the priority for this activity in the light of the Health Service Strategic Plan.
- (2) The amount of leave is at the discretion of the Health Service. Decisions in relation to financial assistance should be made in the context of the budget and the expected benefits to the Health Service.

(b) Tertiary Study

- (1) When developing local learning and Development Leave policy for tertiary study each Health Service will need to advise employees of local approval arrangements.
- (2) Leave is not to be approved for failed or repeated subjects.

(c) Face to face

- (1) The amount of leave granted is at the discretion of the Health Service. As a guide, in respect of attendance at an educational institution, employees may be granted 50% of compulsory attendance times up to four hours per week per semester or term.
- (2) The amount of leave to attend examinations should be based on the specific requirements of the individual course. An employee's request not to be rostered to work night shift on the day prior to a scheduled morning examination should, wherever practicable, be agreed to by the Health Service.

(d) Distance Education

An equivalent amount of Learning and Development Leave to that available for face to face study is to be granted to employees undertaking distance education.

(e) Accrual of leave

Learning and Development Leave associated with tertiary studies may be accrued up to a maximum of 5 days per semester or term, and may be accrued until the last examination of the semester, or the last attendance day of the semester if there is no final examination.

(f) Residentials

The amount of leave to attend a compulsory residential program should be based on the specific requirements of the course and should be negotiated at the time of application for Learning and Development Leave.

(g) Thesis/Research or combination Thesis/Research/Coursework

Periods of leave may also be granted to employees undertaking higher degrees by thesis, research, coursework, or a combination of same. The amount of leave will be based on four hours per week for each academic year of study. Rather than being taken on a week to week basis the leave is available over the course of study. For example, if the higher degree takes 1 academic year and an academic year is 30 weeks the entitlement for leave would be calculated as 30 weeks x four hours = 120 hours available over the year. If the higher degree takes two years the amount would be 240 hours. All hours are available over the length of the course and may be taken in amounts mutually agreeable between the employee and the Health Service.

(v) Payment for Leave

Leave approved pursuant to this clause will be paid at the employee's ordinary rate of salary and excluding penalty rates.

56. Career Break Scheme

- (i) The career break scheme allows employees to defer twenty percent of their salary for four years, and be paid this deferred salary in the fifth year.
- (ii) Employees who apply and are approved to participate in the career break scheme will receive 100% of their normal salary for the first four years with a deduction equivalent to 20% of net salary (gross less tax). The 20% of net salary is deposited into a trust account in the employee's name each pay period for payment in the fifth year (the deferred salary leave year) and subject to applicable taxation as required by law.
- (iii) All full time and permanent part time employees are eligible to participate in the career break scheme. Casual and temporary employees are excluded from participation in career break scheme. If a permanent employee is placed into another position by way of temporary engagement or secondment during the four years when salary is being deferred, this will not of itself affect their continued participation in the career break scheme.
- (iv) Each public health organisation will call for expressions of interest from employees seeking to participate in the career break scheme once each calendar year. The timing of the invitation of applications is to be determined by the public health organisation but in any event will not be later than 30th June 2007 for the initial commencement year.
- (v) Each public health organisation will determine the number of employees that may participate in the career break scheme having regard to service delivery and staffing levels and reserves the right to approve or not approve requests after considering workforce needs. This will be done in consultation with employees. The public health organisation will not unreasonably refuse any application by an employee to participate in the career break scheme.
- (vi) For members of the State Superannuation Scheme (SSS) the public health organisation will maintain the participant's employer contributions for the full five year period at the rate applicable to a person earning full salary for each of the five years. Any required personal superannuation contributions of participants are payable at the rate applicable to 100% of salary for each of the five years.
- (vii) For members of the State Authorities Superannuation Scheme (SASS) the public health organisation will maintain the participant's employer contributions for the full five year period at the rate applicable to a person earning full salary for each of the five years. Any required personal superannuation contributions of participants are payable at the rate applicable to their full salary for each of the five years.
- (viii) For members of other complying funds (eg First State Superannuation, HESTA, HIP) the public health organisation will cease making employer contributions during the deferred salary leave year. The superable salary is deemed to be 100% of the participant's normal salary (both deferred and the remaining 80% paid) for each of the first four years, and superannuation employer contributions are calculated on this basis. In the deferred salary leave year no employer contributions to superannuation are payable for members of these funds.
- (ix) Employees will continue to pay all personal employee superannuation contributions whilst participating in the career break scheme. The amount of such employee contributions is determined by the superannuation scheme/fund to which the employee is contributing and personal contributions during the deferred salary leave year are payable at the rate applicable to the employee's full salary.
- (x) In the deferred salary leave year, salary packaging and payroll deductions will not be available.

- (xi) The five years of the career break scheme will count as service for the accrual of long service leave, sick leave, annual leave, salary increments and other statutory entitlements. Any leave without pay taken by an employee whilst participating in the career break scheme will not count for the purpose of accrual of any leave. For the purpose of determining the leave accrued in the fifth year of the career break scheme (i.e. the deferred salary leave year) for permanent part-time employees, the average of all hours worked (excluding overtime) in the first four years of the career break scheme and including paid leave taken will be used for the basis of making this calculation.
- (xii) If any leave without pay is taken by an employee during the first four years of the career break scheme, the commencement of the deferred salary leave year will be postponed by the time the employee was absent from duty i.e. by the number of days leave without pay taken by the employee.
- (xiii) Employees are entitled to take paid leave during the first four years of the career break scheme, subject to normal approval processes at the public health organisation. Whilst on any paid leave the employee will be paid in accordance with subclause (ii) of this clause.
- (xiv) Employees are not entitled to take any form of leave during the deferred salary leave year, with the exception of Maternity and Adoption leave.

In respect to Maternity or Adoption leave, if the deferred salary year has not yet commenced, the employee may elect to postpone the deferred salary leave year until after the completion of such leave (up to 52 weeks). If the employee elects not to postpone the deferred salary leave year, they are entitled to a lump sum payment of their normal salary for the period of paid maternity/adoption leave. The paid maternity/adoption leave does not extend the deferred salary leave year.

- (xv) There will be no access to the deferred salary until the fifth year unless the employee chooses to withdraw from the career break scheme.
- (xvi) An employee may elect to withdraw from the career break scheme at any time by giving reasonable notice to the employer, and will be paid all monies in the trust account.
- (xvii) It is the responsibility of the employee participating in the career break scheme to declare the interest earned on the deferred salary to the Taxation Office. Normal government statutory charges attributed to an individual's deferred salary account will be paid by the employee.
- (xviii) Subject to approval by the public health organisation an employee may undertake outside employment in the deferred salary leave year. During the deferred salary leave year, employees are not permitted to undertake work in the NSW Health Service in positions covered by the Award. However, this does not prevent work in the NSW Health Service in another position not covered by the Award.
- (xix) Upon return to work after the deferred salary leave year an employee will resume employment in their substantive public health system entity position at the conclusion of their participation in the career break scheme, being the anniversary date of commencing the deferred salary leave year.
- (xx) Employees are advised to seek independent financial advice about participating in the career break scheme and the effect on superannuation. Comprehensive details regarding the operation of the career break will be recorded in a written agreement between the employee and the employer, to be signed prior to the commencement of the five year period.
- (xxi) A review of the operation of this clause will occur by a date agreed between the parties. That review will be undertaken by the Department of Health and the Nurses' Association and will consider any recommendations to vary the Scheme.

57. Occupational Health and Safety for Employees of Contractors and Labour Hire Businesses

- (i) This clause arises from the Secure Employment Test Case 2006. For the purposes of this subclause, the following definitions shall apply:

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

58. Commitments During Term of This Award

- (i) The Association commits to continuing co-operation with and, where requested, participation in, NSW Health efficiency and productivity improvement initiatives, including those set out below:
- (a) better demand management through Medical Assessment Units, Community Service Packages, and Community Acute/Post Acute Care;
 - (b) improved Severe Chronic Disease Management (SCDM);
 - (c) implementation of Electronic Medical Records, Electronic Medication Management, and Computerised Physician Order Entry;
 - (d) enhanced Healthcare Associated Infections (HAI) control;
 - (e) improved clinical hand-over procedures;

- (f) reduction in medication errors;
 - (g) increased utilisation of Telehealth, enabling rural and remote hospitals to access advice and specialised skills to minimise treatment delays and reduce patient transfers;
 - (h) improved Nursing/Midwifery Unit Manager capabilities;
 - (i) improved Drug & Alcohol Consultation liaison;
 - (j) improved Management of Patient Deterioration;
 - (k) management of ambulatory care sensitive conditions;
 - (l) implementing the new rostering system, in particular co-operating in learning and applying the new system; and
 - (m) continuation of changes to ensure consistency in approach to skill mix and classifications, including use of nurse practitioners, senior clinical nurses, enrolled nurses and assistants in nursing. One of the clinical areas to be reviewed to ensure appropriate skill mix is in operating theatres.
- (ii) The Association commits to continuing co-operation with and, where requested by the Department, participation in, the following safety and quality initiatives:
- (a) better discharge management planning to facilitate earlier discharges and other improved patient flow strategies;
 - (b) trialling and/or implementation of new models of care, such as Urgent Care Centres and the Surgery Futures project, which includes establishment of high volume short stay surgery centres and improved separation of emergency from planned surgery;
 - (c) operating theatre redesign to move procedures not needing a full operating theatre environment to procedure rooms and ambulatory care centres;
 - (d) implementation of programs to facilitate rapid assessment of patients from residential aged care facilities;
 - (e) the Pharmacy Reform program, in particular the review of nursing roles in medication management (including transition to home and general business processes) and implementation of any recommended changes; and
 - (f) operationalising Supervision for Safety principles within existing staffing.
- (iii) This commitment to co-operation is without prejudice to any claims the Association may make subsequent to 30 June 2013 covering the period from 1 July 2009 with respect to increased productivity, work value or special case factors arising from the provisions described above, or any response by the Department to such claims.
- (iv) In accordance with the 18 September 2009 Decision of the Industrial Relations Commission of New South Wales in Public Health System Nurses' and Midwives' (State) Award [2009] NSWIRComm 129 ("the Nurses' Night Shift Case") and specifically paragraphs 99 and 100 of that Decision, the parties may continue to progress and finalise matters as permitted and provided for by that Decision.
- (v) This clause gives effect to the agreement reached in the Memorandum of Understanding between the NSW Department of Health and the New South Wales Nurses' Association for the period 1 July 2008 to 30 June 2010, that employees covered by this Award do not have access to the appeal processes or remedies available under the Industrial Relations Amendment (Public Sector Appeals) Act 2010.

- (vi) The parties agree that negotiations for a successor agreement between the parties will commence four months prior to the expiry of the Memorandum of Understanding between the parties dated 22 February 2011.

59. Area, Incidence and Duration

- (i) This Award rescinds and replaces the Public Health System Nurses' and Midwives' (State) Award 2008 published 31 October 2008 (366 I.G. 1000) and all variations thereof.
- (ii) This Award shall apply to persons engaged in the industry of nursing.
- (iii) Industry of nursing means the industry of persons engaged in New South Wales in the profession or occupation of nursing including midwifery and employed in or in connection with the New South Wales Health Service as defined in section 115 of the *Health Services Act 1997* or its successors, assignees or transmittes.
- (iv) This Award shall take effect from 23 February 2011 and shall remain in force thereafter until 30 June 2013.

PART B

MONETARY RATES

Table 1 Salaries

Classification	FFPP 1/07/2010 3.9%	FFPP 1/07/2011 3%	FFPP 1/07/2012 2.5%
Assistant in Nursing/Midwifery			
1st year	707.60	728.80	747.00
2nd year	730.00	751.90	770.70
3rd year	753.00	775.60	795.00
4th year and Thereafter	776.30	799.60	819.60
Trainee Enrolled Nurse			
1st year	707.60	728.80	747.00
2nd year	730.00	751.90	770.70
3rd year	753.00	775.60	795.00
4th year and Thereafter	776.30	799.60	819.60
Enrolled Nurse without medication qualification			
1st year	868.20	894.20	916.60
2nd year	887.40	914.00	936.90
3rd year	906.40	933.60	956.90
4th year	925.50	953.30	977.10
5th year and Thereafter	945.00	973.40	997.70
Special Grade	974.40	1003.60	1028.70
Enrolled Nurse			
1st year	887.40	914.00	936.90
2nd year	906.40	933.60	956.90
3rd year	925.50	953.30	977.10
4th year	945.00	973.40	997.70
5th year and Thereafter	964.30	993.20	1018.00
Special Grade	993.90	1023.70	1049.30

Nurse undergoing pre-registration training otherwise than as a student nurse	848.90	874.40	896.30
Registered Nurse/Midwife			
1st year	984.50	1014.00	1039.40
2nd year	1038.10	1069.20	1095.90
3rd year	1091.60	1124.30	1152.40
4th year	1149.10	1183.60	1213.20
5th year	1206.10	1242.30	1273.40
6th year	1262.90	1300.80	1333.30
7th year	1327.90	1367.70	1401.90
8th year and Thereafter	1382.50	1424.00	1459.60
Clinical Nurse/Midwifery Specialist			
Grade 1, Year 1 and Thereafter	1438.70	1481.90	1518.90
Grade 2, Year 1	1545.50	1591.90	1631.70
Grade 2, Year 2 and Thereafter	1596.10	1644.00	1685.10
Clinical Nurse/Midwife Educator			
Year 1	1496.90	1541.80	1580.30
Year 2 and Thereafter	1545.50	1591.90	1631.70
Nurse/Midwife Educator			
Grade 1, Year 1	1681.40	1731.80	1775.10
Grade 1, Year 2 and Thereafter	1729.40	1781.30	1825.80
4th year as at 1/7/08	1769.10	1822.20	1867.80
Grade 2, Year 1	1799.80	1853.80	1900.10
Grade 2, Year 2 and Thereafter	1835.40	1890.50	1937.80
Grade 3, Year 1	1905.90	1963.10	2012.20
Grade 3, Year 2 and Thereafter	1941.40	1999.60	2049.60
Nursing/Midwifery Unit Manager			
Level I	1734.30	1786.30	1831.00
Level II	1816.60	1871.10	1917.90
Level III	1865.50	1921.50	1969.50
Clinical Nurse/Midwife Consultant (appointed prior to 31/12/99)	1769.10	1822.20	1867.80
Clinical Nurse/Midwife Consultant			
Grade 1			
1st year	1729.40	1781.30	1825.80
2nd year and Thereafter	1764.80	1817.70	1863.10
Clinical Nurse/Midwife Consultant			
Grade 2			
1st year	1799.80	1853.80	1900.10
2nd year and Thereafter	1835.40	1890.50	1937.80
Clinical Nurse/Midwife Consultant			
Grade 3			
1st year	1905.90	1963.10	2012.20
2nd year and Thereafter	1941.40	1999.60	2049.60
Mothercraft Nurse			
1st year	933.50	961.50	985.50
2nd year	963.30	992.20	1017.00
3rd year	998.00	1027.90	1053.60
4th year	1031.60	1062.50	1089.10

5th year	1065.60	1097.60	1125.00
6th year	1101.00	1134.00	1162.40
7th year	1124.40	1158.10	1187.10
8th year	1149.30	1183.80	1213.40
9th year and Thereafter	1173.20	1208.40	1238.60
Mothercraft Nurses employed after 31st December, 1988 will be classified and paid as Enrolled Nurses.			
Residential Care Nurses			
1st year	847.10	872.50	894.30
2nd year	864.00	889.90	912.10
3rd year	881.10	907.50	930.20
4th year	901.20	928.20	951.40
5th and Thereafter	917.90	945.40	969.00
Nurse/Midwife Practitioners			
1st year	1905.90	1963.10	2012.20
2nd year	1941.40	1999.60	2049.60
3rd year	1990.90	2050.60	2101.90
4th year and Thereafter	2040.80	2102.00	2154.60
Nurse/Midwife Managers			
Grade 1 - 1st year	1729.40	1781.30	1825.80
Grade 1 - 2nd year and Thereafter	1764.80	1817.70	1863.10
Grade 2 - 1st year	1799.80	1853.80	1900.10
Grade 2 - 2nd year and Thereafter	1835.40	1890.50	1937.80
Grade 3 - 1st year	1905.90	1963.10	2012.20
Grade 3 - 2nd year and Thereafter	1941.40	1999.60	2049.60
Grade 4 - 1st year	2011.90	2072.30	2124.10
Grade 4 - 2nd year and Thereafter	2047.10	2108.50	2161.20
Grade 5 - 1st year	2117.40	2180.90	2235.40
Grade 5 - 2nd year and Thereafter	2153.20	2217.80	2273.20
Grade 6 - 1st year	2223.70	2290.40	2347.70
Grade 6 - 2nd year and Thereafter	2259.20	2327.00	2385.20
Grade 7 - 1st year	2399.90	2471.90	2533.70
Grade 7 - 2nd year and Thereafter	2435.60	2508.70	2571.40
Grade 8 - 1st year	2576.70	2654.00	2720.40
Grade 8 - 2nd year and Thereafter	2611.80	2690.20	2757.50
Grade 9 - 1st year	2752.90	2835.50	2906.40
Grade 9 - 2nd year and Thereafter	2788.40	2872.10	2943.90

Table 2 - Other Rates and Allowances

Item No.	Award Clause	Allowance	FFPP 1/07/2010 \$	FFPP 1/07/2011 \$	FFPP 1/07/2012 \$
1	12(i)(a)	Registered Nurse in charge of hospital (per shift)	28.10	28.99	29.72
2	12(ii)(a)	On Call Allowance (per hour)	3.08	3.17	3.25
2	12(ii)(a)	On Call Allowance minimum payment	24.60	25.34	25.98
3	12(ii)(b)	On Call Allowance on rostered day off (per hour)	6.15	6.34	6.49
3	12(ii)(b)	On Call Allowance on RDO minimum payment	49.21	50.68	51.95

4	12(ii)(c)	On Call Allowance during meal break (per break)	12.11	12.48	12.79
5	12(iii)(a)	Radiographic Allowance Director of Nursing (per week)	34.33	35.36	36.24
6	12(iii)(c)	Employee in absence of Director of Nursing (per day)	6.87	7.07	7.25
6	12(iii)(c)	Maximum payment of (per week)	34.33	35.36	36.24
7	12(iv)	Employee wearing lead apron (per hour)	1.70	1.76	1.80
8	12(v)(a)&(b)	Registered Nurse in charge of ward (per shift)	28.15	28.99	29.72
9	12(vi)	Registered Nurse in charge of ward and also in charge of hospital of less 100 beds (per shift)	42.22	43.49	44.58
9 (b)	12 (ix)	Registered Nurse in charge of hospital over 100 beds (per shift)	53.98	55.60	56.99
10	14(i)	Climatic Allowance (per week)	3.60	3.60	3.60
10	14(ii)	Isolation Allowance (per week)	7.09	7.09	7.09
11	17(i)	Special Rates Tibooburra/Ivanhoe Hospitals Registered Nurse (per week)	31.81	31.81	31.81
11	17(i)	Special Rates Tibooburra/Ivanhoe Hospitals Enrolled Nurse/Assistant in Nursing (per week)	13.86	13.86	13.86
11a.	17(iii)	Justice Health Service Environment Allowance (per annum)	2,439	2,543	Awaiting SWC 2011
11b.	17(iv)	Justice Health Service Productivity Allowance (per week)	60.86	62.69	64.26
12	20(iv)(b)	Excess Fares (per day)	5.20	5.20	5.20
		Uniform and Laundry Allowance			
13	23(iii)(a)	Uniform (per week)	6.46	To be adjusted by CPI	
13	23(iii)(a)	Shoes (per week)	2.00		
13	23(iii)(a)	Uniform (including shoes allowance) (per week)	8.46		
13	23(iii)(a)	Cardigan or Jacket (per week)	1.94		
13	23(iii)(b)	Stockings (per week)	3.35	NA	NA
13	23(iii)(c)	Socks (per week)	0.67	NA	NA
14	23(iv)	Laundry (per week)	5.38	To be adjusted by CPI	
15	38(iii)(a)	Accommodation and Board Deductions Separate bedroom (per week)	58.94	60.71	62.23
15	38(iii)(b)	Self contained flat (per week)	71.82	73.97	75.82
16	38(iv)	Deduction for meals (full board) (per week)	127.24	131.05	134.33
17	38(v)(b)	Breakfast (per meal)	4.30	4.43	4.54
17	38(v)(b)	Other Meals (per meal)	7.83	8.07	8.27
18	12(viii)	Enrolled Nurse employed in the CSSD of a hospital and in possession of a Sterilising Technology Certificate issued by the Sterilising Research and Advisory Council of Australia (pw)	13.34	13.74	14.08
19	17(v)	Industry Allowance, Flight Nurses, Ambulance Service (per week)	13.62	14.03	14.38

20	13(ii)	Continuing Education Allowance Hospital Post Registration Certificate (per week)	32.00	33.00	34.00
21	13(iii)	Post Graduate Certificate (per week)	32.00	33.00	34.00
22	13(iv)&(x)	Post Graduate Diploma or Degree (per week)	49.00	50.50	52.00
23	13(v)&(x)	Masters Degree or Doctorate (per week)	59.00	61.00	62.50
24	13(vii)	Enrolled Nurse Certificate 4 (per week)	24.50	25.00	26.00
25	13(viii)	Enrolled Nurse Advanced Diploma of Nursing (per week)	29.00	30.00	31.00

SCHEDULE 1

NURSE/MIDWIFE MANAGERS

A registered nurse/midwife who:

Grade 1

- (a) participates in the management of the nursing service as the Deputy Nurse Manager in a small health facility or hospital and is responsible to an on-site Nurse Manager;
- (b) supervises the nursing services in a small health facility or hospital on evenings, nights and/or weekends (where such a position exists as a separate and substantive position).

Grade 2

- (a) supervises the nursing services in a health facility or hospital greater than 100 ADA on evenings, nights and/or weekends;
- (b) participates in the management of the nursing service of a small health facility or hospital as the Deputy Nurse Manager, and is responsible to a nurse manager who has responsibility for the management of two or more hospitals;
- (c) co-ordinates and manages a function, service or section (including a ward and/or unit or community nursing service) within a health facility or hospital.

Grade 3

- (a) co-ordinates and manages a nurse education service of a hospital or group of hospitals or health facility, supervising at least one other nurse educator (provided that the requirement to be responsible for one or more nurse educators shall not apply in the case of an employee who is regarded by his or her employer as a resource person for other nurse educators or who is a sole educator for that nurse education service);
- (b) participates in the management of nursing services as the Deputy Nurse Manager in a medium-sized health facility or hospital (other than a tertiary referral teaching hospital);
- (c) is responsible for the management of nursing services in a small health facility or hospital;
- (d) is the on-site executive officer in addition to responsibility for the management of nursing services in a facility or hospital generally not exceeding 10 ADA.
- (e) co-ordinates and manages a complex function, service or section (including a large and/or complex ward and/or unit or community nursing service) within a health facility or hospital.

Grade 4

- (a) participates in the management of nursing services as the Deputy Nurse Manager in a complex hospital (other than a tertiary referral teaching hospital);

- (b) is responsible for the overall management of nursing services across a group of small hospitals or facilities or health services;
- (c) co-ordinates and manages a hospital wide function or service in a tertiary referral teaching hospital.

Grade 5

- (a) is responsible for nursing operations in a major clinical division (for example, surgery or medicine) of a teaching hospital (other than a tertiary referral teaching hospital);
- (b) co-ordinates and manages a complex nurse education function;
- (c) is the on-site executive officer in addition to responsibility for the management of nursing services in a facility or hospital (or group) generally greater than 10 ADA and generally not exceeding 30 ADA.
- (d) is responsible for management of nursing services in a medium sized health facility or hospital.

Grade 6

- (a) is the on-site executive officer in addition to responsibility for the management of nursing services in a facility or hospital (or group) generally greater than 30 ADA and generally not exceeding 75 ADA.
- (b) is responsible for the management of nurse education in a Local Health Network where the largest hospital in the area is less than 250 ADA;.
- (c) participates in the management of the nursing services as the Deputy Nurse Manager in a tertiary referral teaching hospital;
- (d) is responsible for nursing operations in a major clinical division of a tertiary referral teaching hospital;
- (e) is responsible for management of nursing services in a medium sized health facility or hospital.

Grade 7

- (a) is responsible for the management of nursing services in a complex hospital;
- (b) is responsible for the management of nursing services across a group of medium-sized hospitals or facilities or health services;
- (c) is responsible for the management of nurse education in a Local Health Network where the largest hospital in the area has an ADA greater than 250.

Grade 8

- (a) is responsible for the overall management of nursing services across a group of complex hospitals or facilities or health services;

Grade 9

- (a) is the Area Director of Nursing Services in a rural Local Health Network ;
- (b) is responsible for the nursing services in a major teaching hospital providing tertiary referral services.

CORE KNOWLEDGE AND SKILLS

GROUP	Leadership	Communication	Knowledge	Performance Management	Planning	Resource Management
Grade 1	Ability to provide leadership as a resource person and role model in the clinical setting and in professional relationships and act as a mentor for less experienced staff.	Ability to represent nurses and consult with staff and other health professionals appropriately. Ability to identify to and mediate potential and actual conflict between individuals.	Ability to utilise and share knowledge and skills relating to nursing practice. Ability to contribute to and utilise research.	Ability to assess the competence of staff, and identify strengths and limitations. Ability to facilitate professional development of staff. Ability to facilitate activities which enhance the practice of staff.	Ability to set goals, formulate and implement plans to achieve identified outcomes. Ability to contribute to the implementation of organisational change.	Ability to effectively allocate and manage nursing resources and set nursing priorities.
Grade 2	Ability to lead the development of policy relating to nursing practice and provide leadership through direction and support to staff.		Ability to acquire and utilise a sound and contemporary knowledge of nursing professional and management issues.		Ability to contribute to an operational plan for the nursing service and coordinate the process of organisational	Ability to develop, monitor and evaluate nursing resource allocation.
Grade 3	Ability to develop leadership and management potential in staff. Ability to identify the need for and initiate the development of policy relating to the nursing service.	Ability to utilise a broad range of communication skills selectively in a variety of settings.	Ability to facilitate the acquisition of knowledge by individuals and groups.	Ability to undertake planning for and monitor performance in areas of responsibility for both individuals and teams. Ability to undertake a range of performance management activities appropriately.	Ability to develop an operational plan for the nursing service.	Ability to develop a staffing profile appropriate to service needs. Ability to develop nursing service budget within prescribed parameters.

Grade 4	Ability to evaluate and adjust policy.	Ability to represent the nursing service inside and outside the organisation at a local level. Ability to identify and mediate potential and actual conflict between groups.	Ability to acquire and utilise a sound and contemporary knowledge of health management and organisational issues. Ability to foster quality research activities.	Ability to develop performance assessment indicators and skill development tools.	Ability to coordinate planning across a range of services. Ability to manage the process of organisational change, evaluate the outcome and adjust direction.	Ability to identify nursing and/or health service budget requirements and negotiate for funding allocation.
Grade 5	Ability to develop an environment which promotes continuous improvement in practice.	Ability to manage media relations related to local issues within a policy framework. Ability to represent the organisation at a local level.	Ability to identify, evaluate and incorporate where appropriate emerging trends within the profession of nursing.	Ability to coordinate performance management activities within a range of services.	Ability to contribute to a strategic plan for the nursing service.	
Grade 6	Ability to develop a culture within the organisation which is open to critical reflection and change.			Ability to monitor and evaluate performance management across the organisation and identify opportunities to realise enhanced performance.	Ability to develop a strategic plan for the nursing service and contribute to the development of a strategic plan for the organisation.	Ability to assess nursing and/or health service resource utilisation and make recommendations.
Grade 7		Ability to represent the nursing service in a range of forums including State and National.	Ability to identify, evaluate and incorporate where appropriate emerging trends within health care.	Ability to enhance organisational performance through collaboration with other health facilities.		

Grade 8	Ability to vision and articulate the potential for the organisation.	Ability to represent the organisation at a State and National level.	Ability to identify, evaluate and incorporate where appropriate emerging trends within the broader service and business industry which have the potential to enhance nursing and/or health services.		Ability to generate and develop a strategic plan for the organisation.	
Grade 9	Ability to contribute to and influence emerging trends within nursing and health.	Ability to negotiate on behalf of the organisation.		Ability to enhance organisational performance through collaboration with other organisations both within and outside the area of health.	Ability to analyse the strategic plan of the organisation for continuing relevance and adjust direction. Ability to contribute to a strategic plan for health care in a range of forums including at a State and National level.	Ability to identify additional funding sources and negotiate funding as required.

Represents core knowledge and skills. Each grade represents a higher level of function than those beneath. An assumption is made that those at Grade 8 (for example) will already have the knowledge and skills outlined in Grades 1-7.

SCHEDULE 2

1. The following qualifications shall attract the allowance set out in subclause (ii) of clause 13, Continuing Education Allowance. In addition to the qualifications listed below, a qualification deemed to be equivalent by agreement between the Department and the Association shall attract the allowance set out in subclause (ii) of clause 13, Continuing Education Allowance.

Clinical Speciality	Course	Institution
		Randwick Chest Hospital
	Cardio-Thoracic Diseases Nursing Certificate	Royal North Shore Hospital Royal Prince Alfred Hospital St Vincent's Hospital, Darlinghurst
	Cardiology Nursing Certificate	Parramatta Hospitals, Westmead
	Cardio-Vascular and Respiratory Course	Royal Newcastle Hospital
Cardiology / Coronary Care	Cardiology Nursing Certificate	Parramatta Hospitals, Westmead
	Cardio-Vascular and Respiratory Course	Royal Newcastle Hospital
	Cardiac Nursing Course	Royal North Shore Hospital Royal Prince Alfred Hospital St Vincent's Hospital, Darlinghurst Royal Melbourne Hospital National Heart and Chest Hospital, London
	Coronary Care Unit Certificate	Prince Henry's Hospital Melbourne
	Cardio-Thoracic Vascular Nursing Course	Green Lane Hospital, New Zealand
	Cardiothoracic Nursing Course	Freeman Hospital, Newcastle-Upon-Tyne, U.K. Groby Road Hospital, Leicester, U.K.
Community Health	Public Health Nursing Diploma	College of Nursing, Australia
	Health Visitors Certificate	The Royal Sanitary Institute, U.K.
Critical Care	Critical Care Nursing Certificate	Prince Henry, Prince of Wales Hospitals
	Emergency Nursing Course	Liverpool Hospital
	Critical Care Nursing Course	Geelong Hospital Waikato Hospital, New Zealand
Developmental Disability	Mental Retardation Certificate	NSW Nurses Registration Board
	Developmental Disability Certificate	
	Any Developmental disability certificate accepted for registration as a developmental disability nurse prior to 1985 by the NSW Nurses Registration Board in addition to the qualification entitling registration by the Nurses and Midwives Board.	
Geriatrics	Geriatric Certificate	NSW Nurses Registration Board
Intensive Care		Royal Newcastle Hospital Liverpool District Hospital Royal Prince Alfred Hospital St George Hospital St Vincent's Hospital, Darlinghurst Northern Met Region, Health Dept.
	Intensive Care Nursing Certificate	Southern Met Region, Health Dept Sydney Hospital RGH, Concord Central Coast Area Health Service Royal Hobart Hospital Royal Perth Hospital St Vincent's, Melbourne

		Canberra Hospital
	Intensive Care Nursing and Ward Management Diploma	College of Nursing, Australia
		The Parramatta Hospitals, Westmead
		NSW College of Nursing
	Intensive Care Unit Certificate	Prince Henry's Hospital, Melbourne
	Psychiatric Certificate	NSW Nurses Registration Board
Mental Health	Any mental health certificate accepted for registration as a mental health nurse prior to 1985 by the NSW Nurses Registration Board additional to the qualification entitling registration by the Nurses and Midwives Board.	
	Psychiatric Nursing Certificate	Metropolitan and Eastern School of Psychiatric Nursing, Victoria
		Western Area College of Nursing, Ireland
	Advanced Diploma in Nursing (Mental Health)	Christchurch Polytechnic, New Zealand
	Mentally Ill Qualification	Prestwick Hospital, Manchester, U.K.
		Southern Area Group School of Nursing, U.K.
	Mental Illness Nursing certificate	Bromley Health Authority, U.K.
Midwifery	Midwifery Certificate	NSW Nurses and Midwives Board
	Any midwifery certificate accepted for registration as a midwife by the Nurses and Midwives Board additional to the qualification entitling registration as a registered nurse.	
Neurology	Neurology and Neurosurgical Nursing Certificate	Royal Prince Alfred Hospital
		Melbourne Hospital
	Neuromedical / Neurosurgical Nursing Course	Royal North Shore Hospital
		Prince Henry/Prince of Wales Hospitals
		Westmead Hospital
	Neuro-Surgical Nursing Certificate	Royal Perth Hospital
	Certificate in Neuro-Surgical and Neurological Nursing	Alkinson-Morley Hospital, London
Occupational Health	Public Health Nursing (Occupational Health) Diploma	College of Nursing, Australia
Oncology	Oncology Certificate	Peter MacCallum Clinic, Melbourne
	Operating Suite Nurse Course	Westmead Hospital
		Prince Henry, Prince of Wales Hospitals
Operating Theatres	Operating Theatre Nursing Certificate	Royal North Shore Hospital
		Royal Prince Alfred Hospital
		St Vincent's Hospital D.hurst
		Hunter Region, Health Dept
		Royal Hobart Hospital
		Kent and Canterbury Hospitals, U.K.
	Operating Theatre Nursing and Management Diploma	College of Nursing Australia
		NSW College of Nursing
	Post basic Course in Operating Room Nursing	RGH, Concord
	Graduate Certificate in Perioperative Nursing	Liverpool Hospital
	Graduate Certificate in Anaesthetic and Recovery Nursing	Liverpool Hospital
	Operating Room Nursing Certificate	Royal Adelaide Hospital
	Operating Room Post Basic Course	Western General Hospital, Melbourne

	Operating Room Technique and Management	Repatriation and General Hospital, Heidelberg, Victoria
	Operating Theatre Techniques and Management Certificate	St Vincent's Hospital, Melbourne
	Operating Theatre Techniques Certificate	Royal Melbourne Hospital
		South African Nursing Council
		Middlesex Hospital, U.K.
	Operating Theatre Nursing Course	Epsom District Hospital, London
		Nottingham School of Nursing, U.K.
	Operating Department Nursing Certificate	East Berkshire School of Nursing, U.K. Wexham Park Hospital, Slough, Berkshire, U.K.
		Lewisham School of Nursing, London
		Queen Elizabeth School of Nursing, Birmingham, U.K.
	Operating Department Nursing Course	English National Board for Continuing Education and Training, Hillington Health Authority, U.K.
Ophthalmology	Ophthalmic Nursing Certificate	Sydney Hospital
		Moorefields Hospital, London
Orthopaedics	Certificate in Orthopaedic Nursing	Royal National Orthopaedic Hospital, London and Stanmore, Middlesex
		Heathwood Hospital, Ascot, U.K.
	Orthopaedic Nursing Certificate	Gartnavel General Hospital, Glasgow, U.K.
		Nuffield Orthopaedic Centre, Oxford, U.K.
		Princess Elizabeth Orthopaedic Hospital, U.K.
		Basingstoke North Hampshire Health Authority, U.K.
	Orthopaedic Nursing Course	Robert Jones and Agnes Hunt Orthopaedic Hospital, U.K.
Paediatrics	Infants Certificate	NSW Nurses Registration Board
	Mothercraft Certificate	
Renal	Renal Diseases and Transplantation Certificate	Prince Henry, Prince of Wales Hospitals
		Royal Newcastle Hospital
		Royal Prince Alfred Hospital
		Sydney Hospital
	Nephrology, Dialysis and Transplant Nursing Certificate	Royal North Shore Hospital
	Graduate Certificate in Renal Nursing	Liverpool Hospital
	Renal Nursing Certificate	Guys Hospital, London
		St Mary's Hospital, London
	Renal Nursing Course	The London Hospital
Thoracic	Thoracic Nursing Certificate	The British Thoracic Association

SCHEDULE 3

1. The following qualifications shall attract the allowance set out in subclause (vii) of clause 13, Continuing Education Allowance. In addition to the qualifications listed below, a qualification deemed to be equivalent by agreement between the Department and the Association shall attract the allowance set out in subclause (vii) of clause 13, Continuing Education Allowance.

Clinical Speciality	Course	Institution
Paediatrics	Mothercraft Certificate	NSW Nurses and Midwives Board. (In addition to the qualification entitling enrolment by the Nurses and Midwives Board.)

M. J. WALTON, *Acting President*

Printed by the authority of the Industrial Registrar.

TRANSPORT INDUSTRY - CAR CARRIERS (NSW) CONTRACT DETERMINATION

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Correction to Serial C7331 published 26 February 2010

(369 I.G. 1685)

(Nos. IRC 945, 1698 and 1784 of 2009)

CORRECTION

Delete instructions 1,2,3,4, 5 and 6 and substitute the following:

1. Delete paragraph (a) of subclause (i) of clause 7, Other Conditions, of the award published 11 July 2008 (366 I.G. 274) and insert in lieu thereof the following:
 - (a) The Principal Contractor may (subject to notice of two weeks) deduct the sum of \$258.31 for each incident involving a car or cars under the care or control of the Contract Carrier being damaged and the sum of \$258.31 for each car from which an item becomes missing while the car is under the care or control of the Contract Carrier and the sum of \$258.31 for each car which has damage or from which an item is missing (being damage of the kind referred to in Clause 5(i)(i) which is not noted on the initial survey). In the event that repair and/or replacement costs are less than \$258.31, the lesser amount shall be paid to the Contract Carrier. The amount in this clause (\$258.31) shall be varied at the same percentage as the rate adjustment applicable within this determination.
2. Delete subclause (vii) of clause 8 Conditions, and insert in lieu thereof the following:
 - (vii) The Principal Contractor may adjust the remuneration of the Contract Carrier by way of deducting any amount properly payable by the Contract Carrier which has been incurred by the Contract Carrier in the name of the Principal Contractor; and the Principal Contractor may withhold payment from the Contract Carrier's remuneration of the amount of \$309.96 for a maximum of three months on the Contract Carrier ceasing to undertake work for the Principal Contractor, to enable the final adjustment to be made under this sub-clause. The Principal Contractor shall pay the balance of the remuneration due to the Contract Carrier not later than on the expiry of the period of three months. The \$309.96 amount referred to in this clause shall be varied by an amount equal to the overall percentage variation to rates of remuneration as provided by this determination.
3. Delete Schedule 1 - Rates of Remuneration and insert in lieu thereof the following:

SCHEDULE 1 - RATES OF REMUNERATION

- (i) This schedule contains the following tables:

Table A - Rates of remuneration for local and interstate work where the contract carrier supplies the prime mover only.

Table B - Rates of remuneration for local and intrastate work where the contract carrier supplies both the prime mover and the trailer.

Table C - Rates of remuneration for local and intrastate work where the contract carrier supplies the prime mover and the tyres for the principal contractor's trailer.

Table D - Rates of remuneration for Port Kembla Work (including the base rate of remuneration for Port Kembla Work - also referred to as the "Connor Rate") where the contract carrier supplies the prime mover only.

Table E - Rates of remuneration for Port Kembla Work where the contract carrier supplies both the prime mover and trailer.

Table F - Rates of remuneration for Port Kembla Work where the contract carrier supplies both the prime mover and the tyres for the principal contractor's trailer.

Table G - Deemed distances to apply for common trips from the Sydney Metropolitan Area to towns within the State of New South Wales, for the purpose of calculating intrastate remuneration.

Table H - Deemed distances to apply for common trips originating and terminating in the Sydney Metropolitan Area and passing through towns within the State of New South Wales, for the purposes of calculating intrastate remuneration.

(ii) Where:

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

the principal contractor may reduce the cartage rates payable in Tables "A", "B", "C", "D", "E" and "F" of Schedule I of this determination up to a maximum reduction of 2.03% of the rate otherwise payable to the carrier for the performance of that contract of carriage.

- (iii) Should a carrier become ineligible to claim a rebate pursuant to the scheme or the scheme is abolished then the principal contractor shall not be permitted to reduce the cartage rates pursuant to sub-clause (ii).
- (iv) Should the scheme be abolished or altered or modified leave is reserved to the parties to make application in relation to sub-clauses (ii) and (iii).
- (v) To ensure clarity, the method for calculation of the diesel fuel rebate reduction percentage is contained in the following example:

The reduction is calculated by comparing the Caltex Metro Card Price, excluding GST for Diesel Low-Sulfur, Sydney Metropolitan with the rebate.¹ If the carrier is eligible for the 16.443 cents per litre rebate this equates to an effective 11.53% rebate in total fuel costs.² When the current weighting for fuel is adjusted in respect of the percentage change in the fuel benchmark, the new weighting becomes 15.44%.³ The actual fuel weighting for a carrier able to claim the rebate is calculated by determining what 11.53% of the new weighting is, which equates to 13.41.⁴ The difference between the reset weighting 15.44 and the actual weighting 13.41 allows the principal contractor to make a net reduction of 2.03%.⁵

- (vi) The rates contained within this schedule shall take effect on and from the first full pay period to commence on or after 25 February 2009.

¹ 125.2 cents per litre, less 1/11th GST = 113.82 cents per litre.

² $(113.82 - 16.443) / 113.82 = 85.55\%$ of fuel bill or 11.53% reduction

³ $15.84 \times 114.45\% = 15.67$

⁴ $15.67 \times (85.55/100) = 13.41$

⁵ $15.44 - 13.41 = 2.03\%$

Car Carriers Contract Determination Rate Adjustment April 09 to September 09						
Percentage variation = 1.52%						
Category	Old Value	New Value	% Change	Current Weighting	New Weighting	Reset Weighting
	\$	\$	%			
Wages	656.70	656.70	0.00%	42.63	42.63	41.99
Capital	95.40	97.9	2.62%	16.99	17.43	17.17
Insurances	295.30	316	7.01%	10.19	10.90	10.74
Registration	233.90	246.5	5.39%	4.41	4.64	4.57
R&M	161.40	166	2.85%	6.38	6.56	6.46
Tyres	135.90	143.2	5.37%	1.25	1.32	1.30
Fuel	215.50	213.3	-1.02%	15.84	15.67	15.44
Admin	165.50	168.1	1.57%	2.32	2.36	2.33
				100.00	101.52	100.00

4. Delete Tables "A", "B", "C", "D", "E" and "F" of Schedule 1 and insert in lieu thereof the following:

Table A - (Including 2% Trailer Hire)

Local Work						
Zone Rates per Car Carriage - Prime Mover						
Zone	1 Car Capacity \$	3 Car Capacity \$	4 Car Capacity \$	5 Car Capacity \$	6 Car Capacity \$	1 Car Tilt \$
1	31.00	49.11	64.92	80.51	88.92	36.23
2	46.82	73.01	92.01	111.46	121.98	54.75
3	60.01	92.19	113.70	138.21	151.03	70.14
4	70.54	108.45	135.24	165.02	179.95	82.50
5	78.46	130.49	156.84	191.77	209.02	91.72

Rates Per Car Delivered						
Zone	1 Car Capacity \$	3 Car Capacity \$	4 Car Capacity \$	5 Car Capacity \$	6 Car Capacity \$	1 Car Tilt \$
1	31.00	16.38	16.23	16.18	14.82	36.23
2	46.82	24.34	22.99	22.29	20.32	54.75
3	60.01	30.73	28.43	27.63	24.17	70.14
4	70.54	36.15	33.82	33.00	30.00	82.50
5	78.46	43.50	39.21	38.35	34.84	91.72

Vehicle	Standing and Running Rate per Hour \$	Standing Rate per Hour \$
1 car	39.56	30.67
3 car	47.88	38.04
4 car	54.11	43.28
5 car	57.40	45.33
6 car	62.06	49.53
1 car tilt	46.24	35.42

Intrastate Work	
Vehicle	Standing and Running Rate cents per Km
1 Car	76.23
3 Car	109.18
4 Car	120.89
5 Car	134.12
6 car	144.18
1 car tilt	89.41

Table B

Local Work						
Zone Rates per Car Carriage - Prime Mover & Trailer						
Zone	1 Car Capacity \$	3 Car Capacity \$	4 Car Capacity \$	5 Car Capacity \$	6 Car Capacity \$	1 Car Tilt \$
1	32.25	55.01	73.51	93.03	101.94	39.26
2	48.73	81.85	104.02	128.40	141.64	59.33
3	62.46	103.35	128.50	159.12	175.40	76.03
4	73.41	124.75	152.98	190.04	209.02	89.44
5	81.67	146.26	177.43	220.82	242.71	99.43

Rates Per Car Delivered						
Zone	1 Car Capacity \$	3 Car Capacity \$	4 Car Capacity \$	5 Car Capacity \$	6 Car Capacity \$	1 Car Tilt \$
1	32.25	18.34	18.39	18.61	16.98	39.26
2	48.73	27.28	26.01	25.68	23.60	59.33
3	62.46	34.45	32.12	31.83	29.23	76.03
4	73.41	41.59	38.24	38.00	34.84	89.44
5	81.67	48.75	44.35	44.16	40.46	99.43

Vehicle	Standing and Running Rate per Hour \$	Standing Rate per Hour \$
1 car	41.18	32.20
3 car	53.68	38.50
4 car	61.21	44.30
5 car	66.08	47.13
6 car	72.05	60.86
1 car tilt	50.12	38.80

Intrastate Work	
Vehicle	Standing and Running Rate cents per Km
1 Car	74.94
3 Car	116.33
4 Car	129.17
5 Car	143.46
6 car	149.75
1 car tilt	92.28

Table C (Including 2% Trailer Hire)

Local Work						
Zone Rates per Car Carriage - Prime Mover						
Zone	1 Car Capacity \$	3 Car Capacity \$	4 Car Capacity \$	5 Car Capacity \$	6 Car Capacity \$	1 Car Tilt \$
1	31.35	49.70	66.37	82.18	90.44	36.21
2	47.38	73.93	94.04	113.33	124.07	54.69
3	60.75	93.34	116.16	139.90	153.49	70.11
4	71.42	112.72	138.28	167.74	182.92	82.43
5	79.42	132.13	160.40	195.03	212.35	91.69

Rates Per Car Delivered						
Zone	1 Car Capacity \$	3 Car Capacity \$	4 Car Capacity \$	5 Car Capacity \$	6 Car Capacity \$	1 Car Tilt \$
1	31.35	16.56	16.59	16.44	15.08	36.21
2	47.38	24.64	23.50	22.67	20.67	54.69
3	60.75	31.11	29.04	27.98	25.58	70.11
4	71.42	37.57	34.58	33.55	30.50	82.43
5	79.42	44.05	40.10	39.00	35.39	91.69

Vehicle	Standing and Running Rate per Hour \$	Standing Rate per Hour \$
1 car	40.05	30.64
3 car	48.49	38.03
4 car	55.79	43.27
5 car	58.36	45.31
6 car	63.08	49.48
1 car tilt	46.23	35.39

Intrastate Work	
Vehicle	Standing and Running Rate cents per Km
1 Car	78.06
3 Car	112.26
4 Car	126.98
5 Car	139.31
6 car	149.89
1 car tilt	89.36

Table D - (Including 2% Trailer Hire)**Port Kembla**

Local Work						
Zone Rates per Car Carriage - Prime Mover						
Zone	1 Car Capacity \$	3 Car Capacity \$	4 Car Capacity \$	5 Car Capacity \$	6 Car Capacity \$	1 Car Tilt \$
Base rate	181.70	251.38	280.10	306.71	330.91	212.29
1	201.49	275.33	307.16	338.47	361.95	235.40
2	221.26	299.27	334.20	364.12	392.98	258.54
3	241.04	323.21	361.27	392.82	424.02	281.66
4	260.83	347.17	388.31	421.53	455.04	304.79
5	305.33	401.02	449.20	486.12	524.88	356.81

Rates Per Car Delivered						
Zone	1 Car Capacity \$	3 Car Capacity \$	4 Car Capacity \$	5 Car Capacity \$	6 Car Capacity \$	1 Car Tilt \$
Base rate	181.70	83.79	70.02	61.35	55.16	212.29
1	201.49	91.77	76.79	67.08	60.33	235.40
2	221.26	99.76	83.56	72.82	65.49	258.54
3	241.04	107.73	90.31	78.56	69.67	281.66
4	260.83	115.72	97.08	84.31	75.84	304.79
5	305.33	133.67	112.30	97.23	87.48	356.81

Vehicle	Standing and Running Rate per Hour \$	Standing Rate per Hour \$
1 car	39.56	30.67
3 car	47.88	38.04
4 car	54.11	43.28
5 car	57.40	45.33
6 car	62.06	49.53
1 car tilt	46.24	35.42

Intrastate Work	
Vehicle	Standing and Running Rate \$ per Km
1 Car	76.23
3 Car	109.18
4 Car	120.89
5 Car	134.12
6 car	144.18
1 car tilt	89.42

Table E**Port Kembla (Including 2% Trailer Hire)**

Local Work						
Zone Rates per Car Carriage - Prime Mover						
Zone	1 Car Capacity \$	3 Car Capacity \$	4 Car Capacity \$	5 Car Capacity \$	6 Car Capacity \$	1 Car Tilt \$
Base rate	181.70	264.80	295.98	326.07	348.70	222.50
1	202.29	291.65	327.00	359.11	384.72	247.56
2	222.88	318.50	357.59	392.14	420.76	288.58
3	243.46	345.33	388.20	425.18	456.79	297.69
4	264.03	372.17	418.80	458.22	492.81	322.74
5	310.36	432.58	487.67	532.56	573.88	379.14

Rates Per Car Delivered						
Zone	1 Car Capacity \$	3 Car Capacity \$	4 Car Capacity \$	5 Car Capacity \$	6 Car Capacity \$	1 Car Tilt \$
Base rate	181.70	88.26	74.10	65.22	58.12	222.50
1	202.29	97.22	81.74	71.83	64.12	247.56
2	222.88	106.17	89.40	78.43	70.12	288.58
3	243.46	115.11	97.05	85.03	76.12	297.69
4	264.03	124.06	104.71	91.65	82.14	322.74
5	310.36	144.20	121.93	106.51	95.65	379.14

Vehicle	Standing and Running Rate per Hour \$	Standing Rate per Hour \$
1 car	41.18	32.20
3 car	53.68	38.50
4 car	61.21	44.30
5 car	66.08	47.13
6 car	72.05	54.77
1 car tilt	50.12	38.80

Intrastate Work	
Vehicle	Standing and Running Rate cents per Km
1 Car	74.94
3 Car	116.33
4 Car	129.17
5 Car	143.46
6 car	149.75
1 car tilt	92.28

Table F (Including 2% Trailer Hire)**Port Kembla**

Local Work						
Zone Rates per Car Carriage - Prime Mover						
Zone	1 Car Capacity \$	3 Car Capacity \$	4 Car Capacity \$	5 Car Capacity \$	6 Car Capacity \$	1 Car Tilt \$
Base rate	184.90	256.86	290.94	315.93	341.05	212.14
1	204.92	281.09	318.59	345.12	372.59	239.99
2	224.95	305.34	346.25	374.29	404.13	270.87
3	244.97	329.59	373.91	403.48	435.67	281.50
4	264.99	353.83	401.57	432.67	467.46	304.62
5	310.03	408.38	463.81	498.32	538.20	356.64

Rates Per Car Delivered						
Zone	1 Car Capacity \$	3 Car Capacity \$	4 Car Capacity \$	5 Car Capacity \$	6 Car Capacity \$	1 Car Tilt \$
Base rate	184.90	85.62	72.73	63.19	56.83	212.14
1	204.92	93.69	79.64	69.01	62.10	239.99
2	224.95	101.78	86.57	74.86	67.36	270.87
3	244.97	109.86	93.48	80.69	72.61	281.50
4	264.99	117.95	100.39	86.54	77.88	304.62
5	310.03	136.13	115.95	99.66	89.69	356.64

Vehicle	Standing and Running Rate per Hour \$	Standing Rate per Hour \$
1 car	40.05	30.63
3 car	48.49	38.03
4 car	55.32	43.27
5 car	58.36	45.32
6 car	63.08	49.48
1 car tilt	46.23	35.39

Intrastate Work	
Vehicle	Standing and Running Rate cents per Km
1 Car	78.06
3 Car	112.26
4 Car	126.98
5 Car	139.31
6 car	149.89
1 car tilt	89.36

5. Delete Schedule 2 - Procedure and Time for Adjustment of Rates and Amounts - Rates of Remuneration of the said determination and insert in lieu thereof the following:

Schedule 2 - Procedure and Time for Adjustment of Rates and Amounts

1. The rates prescribed in Schedule 1 may be adjusted each year upon application to the Industrial Relations Commission of New South Wales.
2. Applications for adjustment shall be made by reference to the calculated weighted movements in the following benchmarks for each cost component, calculated as at the end of the September Quarter each year.

Component	Benchmark	Current Index	Current Weighting
Wages	Transport Industry (State) Award, Grade Three Transport Worker	\$656.70	41.99
Capital	ABS Consumer Price Index (CPI), Transportation Group, Motor Vehicles	97.9	17.17
Insurances	ABS CPI Financial and insurance services, Insurance Services	316	10.74
Registration	ABS CPI, Transportation Group, Other Motoring Charges.	246.5	4.57
Repairs & Maintenance	ABS CPI, Transportation Group, Motor Vehicle Repair and Servicing	166	6.46
Tyres	ABS CPI, Transportation Group, Motor Vehicle Parts and Accessories	143.2	1.30
Fuel	AIP NSW State Average for the Retail Price of diesel (excluding GST), calculated by determining the average of the weekly figures between the end of the quarter relating to the last variation and the end of the quarter prior to any new variation. Such calculations must only take into consideration figures for each relevant full quarter of the year. The end of quarters are as follows: December 31, March 31, June 30 and September 30.	112.33	15.44
Administration	ABS CPI, All Groups, Sydney	168.1	2.33
Total			100

3. Each cost component shall be re-weighted after each adjustment.
4. The Union, the Industry Principal Contractors, and their nominated representatives shall confer with a view to reaching agreement on any application for adjustment.
5. If the combined benchmarks for the cost components of fuel, insurances, tyres, and repairs and maintenance move between adjustments to the extent that a variation to the total rates of more than either a positive or negative 2 per cent, then an interim adjustment to the rates may be applied for.
6. Any variation to rates payable within this determination shall take effect not earlier than the first full pay period to commence three (3) months after the date which such variation is approved by the Industrial Relations Commission of New South Wales. This shall not apply to any interim adjustment.

6. This variation shall take effect from 25 February 2010.

G. M. GRIMSON *Industrial Registrar.*

Printed by the authority of the Industrial Registrar.

TRANSPORT INDUSTRY - CAR CARRIERS (NSW) CONTRACT DETERMINATION

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

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

(No. IRC 1475 of 2010)

Before Commissioner Macdonald

15 February 2011

VARIATION

1. Delete paragraph (a) of subclause (i) of clause 7, Other Conditions, of the award published 11 July 2008 (366 I.G. 274) and insert in lieu thereof the following:
 - (i) The remuneration of a Contract Carrier shall be subject to adjustment under this subclause.
 - (a) The Principal Contractor may (subject to notice of two weeks) deduct the sum of \$264.92 for each incident involving a car or cars under the care or control of the Contract Carrier being damaged and the sum of \$264.92 for each car from which an item becomes missing while the car is under the care or control of the Contract Carrier and the sum of \$264.92 for each car which has damage or from which an item is missing (being damage of the kind referred to in Clause 5(i)(i) which is not noted on the initial survey). In the event that repair and/or replacement costs are less than \$264.92, the lesser amount shall be paid by the Contract Carrier. The amount in this clause (\$264.92) shall be varied at the same percentage as the rate adjustment applicable within this determination.
2. Delete subclause (vii) of clause 8 Conditions, and insert in lieu thereof the following:
 - (vii) The Principal Contractor may adjust the remuneration of the Contract Carrier by way of deducting any amount properly payable by the Contract Carrier which has been incurred by the Contract Carrier in the name of the Principal Contractor; and the Principal Contractor may withhold payment from the Contract Carrier's remuneration of the amount of \$317.89 for a maximum of three months on the Contract Carrier ceasing to undertake work for the Principal Contractor, to enable the final adjustment to be made under this sub-clause. The Principal Contractor shall pay the balance of the remuneration due to the Contract Carrier not later than on the expiry of the period of three months. The \$317.89 amount referred to in this clause shall be varied by an amount equal to the overall percentage variation to rates of remuneration as provided by this determination.
3. Delete Schedule 1 - Rates of Remuneration and insert in lieu thereof the following:

SCHEDULE 1 - RATES OF REMUNERATION

- (i) This schedule contains the following tables:

Table A: Rates of remuneration for local and interstate work where the contract carrier supplies the prime mover only.

Table B: Rates of remuneration for local and intrastate work where the contract carrier supplies both the prime mover and the trailer.

Table C: Rates of remuneration for local and intrastate work where the contract carrier supplies the prime mover and the tyres for the principal contractor's trailer.

Table D: Rates of remuneration for Port Kembla Work (including the base rate of remuneration for Port Kembla Work - also referred to as the "Connor Rate") where the contract carrier supplies the prime mover only.

Table E: Rates of remuneration for Port Kembla Work where the contract carrier supplies both the prime mover and trailer.

Table F: Rates of remuneration for Port Kembla Work where the contract carrier supplies both the prime mover and the tyres for the principal contractor's trailer.

Table G: Deemed distances to apply for common trips from the Sydney Metropolitan Area to towns within the State of New South Wales, for the purpose of calculating intrastate remuneration.

Table H: Deemed distances to apply for common trips originating and terminating in the Sydney Metropolitan Area and passing through towns within the State of New South Wales, for the purposes of calculating intrastate remuneration.

- (ii) Where:
- (a) a carrier performs a contract of carriage within the area, incidence and duration of this determination; and
 - (b) the carrier is eligible to claim a rebate pursuant to the Commonwealth Government's Tax Fuel Credit Subsidy ['the subsidy'] for that contract of carriage; and
 - (c) the carrier has been requested to apply for the subsidy pursuant to the scheme by the principal contractor;
- the principal contractor may reduce the cartage rates payable in Tables "A", "B", "C", "D", "E" and "F" of Schedule I of this determination up to a maximum reduction of 1.74% of the rate otherwise payable to the carrier for the performance of that contract of carriage.
- (iii) Should a carrier become ineligible to claim a rebate pursuant to the subsidy or should the subsidy be abolished then the principal contractor shall not be permitted to reduce the cartage rates pursuant to subclause (ii).
- (iv) Should the subsidy be abolished or altered or modified leave is reserved to the parties to make application in relation to subclauses (ii) and (iii).
- (v) Whenever a rates contained in schedule 1 to this determination are altered the maximum reduction referred to in subclause (ii) of this schedule shall be calculated according to the following formula:
- (a) $(\text{fuel per litre, less GST} - \text{fuel tax credit per litre}) / \text{fuel per litre, less GST} \times 100 = (a)$
 - (b) $\text{new weighting for fuel} \times (a) = (b)$
 - (c) $\text{reset weighting for fuel} - (b) = \text{maximum reduction}$
- For the purpose of this formula the cost of fuel per litre shall be based on that benchmark adopted under schedule 2 of the Determination.
- (vi) Currently, the maximum reduction contained in subclause (ii) is calculated according to the following formula:
- (d) $(116.77 - 15.543) / 16.77 \times 100 = (86.67)$
 - (e) $16.05 \times (86.67\%) = (13.91)$

(f) $15.65 - (13.91) = 1.74\%$

(vii) The rates contained within this schedule shall take effect on and from the first full pay period to commence on or after 23 March 2011.

Car Carriers Contract Determination Rate Adjustment March 2011						
Percentage variation = 2.56%						
Category	Old Value	New Value	% Change	Current Weighting	New Weighting	Reset Weighting
Wages	\$656.70	\$675.10	2.80%	4199	43.17	42.09
Capital	97.9	97.1	-0.82%	17.17	17.03	16.60
Insurances	316	329.5	4.27%	10.74	11.20	10.92
Registration	246.5	260.7	5.76%	4.57	4.83	4.71
R&M	166	169.4	2.05%	6.46	6.59	6.43
Tyres	143.2	142.5	-0.49%	1.30	1.29	1.26
Fuel	112.33	116.773	3.96%	15.44	16.05	15.65
Admin	168.1	172.5	2.62%	2.33	2.39	2.33
				100.00	102.56	100.00

4. Delete Tables "A", "B", "C", "D", "E" and "F" of Schedule 1 and insert in lieu thereof the following:

Table A - (Including 2% Trailer Hire)

Local Work						
Zone Rates per Car Carriage - Prime Mover						
Zone	1 Car Capacity \$	3 Car Capacity \$	4 Car Capacity \$	5 Car Capacity \$	6 Car Capacity \$	1 Car Tilt \$
1	31.79	50.37	66.58	82.57	91.20	37.16
2	48.02	74.88	94.37	114.31	125.10	56.15
3	61.55	94.55	116.61	141.75	154.90	71.94
4	72.35	111.23	138.70	169.24	184.56	84.61
5	80.47	133.83	160.86	196.68	214.37	94.07
Rates Per Car Delivered						
Zone	1 Car Capacity \$	3 Car Capacity \$	4 Car Capacity \$	5 Car Capacity \$	6 Car Capacity \$	1 Car Tilt \$
1	31.79	16.80	16.65	16.59	15.20	37.16
2	48.02	24.96	23.58	22.86	20.84	56.15
3	61.55	31.52	29.16	28.34	24.79	71.94
4	72.35	37.08	34.69	33.84	30.77	84.61
5	80.47	44.61	40.21	39.33	35.73	94.07

Vehicle	Standing and Running Rate per Hour			Standing Rate per Hour	
	\$			\$	
1 car	40.57	0.00	0.00	31.46	0.00
3 car	49.11	0.00	0.00	39.01	0.00
4 car	55.50	0.00	0.00	44.39	0.00
5 car	58.87	0.00	0.00	46.49	0.00
6 car	63.65	0.00	0.00	50.80	0.00
1 car tilt	47.42	0.00	0.00	36.33	0.00

Intrastate Work	
Vehicle	Standing and Running Rate cents per Km
1 Car	78.18
3 Car	111.98
4 Car	123.98
5 Car	137.55
6 car	147.87
1 car tilt	91.70

Table B - Local Work

Local Work						
Zone Rates per Car Carriage - Prime Mover & Trailer						
Zone	1 Car Capacity \$	3 Car Capacity \$	4 Car Capacity \$	5 Car Capacity \$	6 Car Capacity \$	1 Car Tilt \$
1	33.08	56.42	75.39	95.41	104.55	40.27
2	49.98	83.95	106.68	131.69	145.27	60.85
3	64.06	106.00	131.79	163.19	179.89	77.98
4	75.29	127.94	156.90	194.91	214.37	91.73
5	83.76	150.00	181.97	226.47	248.92	101.98
Rates Per Car Delivered						
Zone	1 Car Capacity \$	3 Car Capacity \$	4 Car Capacity \$	5 Car Capacity \$	6 Car Capacity \$	1 Car Tilt \$
1	33.08	18.81	18.86	19.09	17.41	40.27
2	49.98	27.98	26.68	26.34	24.20	60.85
3	64.06	35.33	32.94	32.64	29.98	77.98
4	75.29	42.65	39.22	38.97	35.73	91.73
5	83.76	50.00	45.49	45.29	41.50	101.98

Vehicle	Standing and Running Rate per Hour \$	Standing Rate per Hour \$
1 car	42.23	33.02
3 car	55.05	39.49
4 car	62.78	45.43
5 car	67.77	48.34
6 car	73.89	62.42
1 car tilt	51.40	39.79

Intrastate Work	
Vehicle	Standing and Running Rate cents per Km
1 Car	76.86
3 Car	119.31
4 Car	132.48
5 Car	147.13
6 car	153.58
1 car tilt	94.64

Table C - (Including 2% Trailer Hire)

Local Work						
Zone Rates per Car Carriage - Prime Mover						
Zone	1 Car Capacity \$	3 Car Capacity \$	4 Car Capacity \$	5 Car Capacity \$	6 Car Capacity \$	1 Car Tilt \$
1	32.15	50.97	68.07	84.28	92.76	37.14
2	48.59	75.82	96.45	116.23	127.25	56.09
3	62.31	95.73	119.13	143.48	157.42	71.90
4	73.25	115.61	141.82	172.03	187.60	84.54
5	81.45	135.51	164.51	200.02	217.79	94.04

Rates Per Car Delivered						
Zone	1 Car Capacity \$	3 Car Capacity \$	4 Car Capacity \$	5 Car Capacity \$	6 Car Capacity \$	1 Car Tilt \$
1	32.15	16.98	17.01	16.86	15.47	37.14
2	48.59	25.27	24.10	23.25	21.20	56.09
3	62.31	31.91	29.78	28.70	26.23	71.90
4	73.25	38.53	35.47	34.41	31.28	84.54
5	81.45	45.18	41.13	40.00	36.30	94.04

Vehicle	Standing and Running Rate per Hour \$	Standing Rate per Hour \$
1 car	41.08	31.42
3 car	49.73	39.00
4 car	57.22	44.38
5 car	59.85	46.47
6 car	64.69	50.75
1 car tilt	47.41	36.30

Intrastate Work	
Vehicle	Standing and Running Rate cents per Km
1 Car	80.06
3 Car	115.13
4 Car	130.23
5 Car	142.88
6 car	153.73
1 car tilt	91.65

Table D - (Including 2% Trailer Hire)

Port Kembla

Local Work						
Zone Rates per Car Carriage - Prime Mover						
Zone	1 Car Capacity \$	3 Car Capacity \$	4 Car Capacity \$	5 Car Capacity \$	6 Car Capacity \$	1 Car Tilt \$
Base rate	186.35	257.82	287.27	314.56	339.38	217.72
1	206.65	282.38	315.02	347.13	371.22	241.43
2	226.92	306.93	342.76	373.44	403.04	265.16

3	247.21	331.48	370.52	402.88	434.87	288.87
4	267.51	356.06	398.25	432.32	466.69	312.59
5	313.15	411.29	460.70	498.56	538.32	365.94

Rates Per Car Delivered						
Zone	1 Car Capacity \$	3 Car Capacity \$	4 Car Capacity \$	5 Car Capacity \$	6 Car Capacity \$	1 Car Tilt \$
Base rate	186.35	85.94	71.81	62.92	56.57	217.72
1	206.65	94.12	78.76	68.80	61.87	241.43
2	226.92	102.31	85.70	74.68	67.17	265.16
3	247.21	110.49	92.62	80.57	71.45	288.87
4	267.51	118.68	99.57	86.47	77.78	312.59
5	313.15	137.09	115.17	99.72	89.72	365.94

Vehicle	Standing and Running Rate per Hour \$	Standing Rate per Hour \$
1 car	40.57	31.46
3 car	49.11	39.01
4 car	55.50	44.39
5 car	58.87	46.49
6 car	63.65	50.80
1 car tilt	47.42	36.33

Intrastate Work	
Vehicle	Standing and Running Rate per Km \$
1 Car	78.18
3 Car	111.98
4 Car	123.98
5 Car	137.55
6 car	147.87
1 car tilt	91.71

Table E

Port Kembla (Including 2% Trailer Hire)

Local Work						
Zone Rates per Car Carriage - Prime Mover						
Zone	1 Car Capacity \$	3 Car Capacity \$	4 Car Capacity \$	5 Car Capacity \$	6 Car Capacity \$	1 Car Tilt \$
Base rate	186.35	271.58	303.56	334.42	357.63	228.20
1	207.47	299.12	335.37	368.30	394.57	253.90
2	228.59	326.65	366.74	402.18	431.53	295.97
3	249.69	354.17	398.14	436.06	468.48	305.31
4	270.79	381.70	429.52	469.95	505.43	331.00
5	318.31	443.65	500.15	546.19	588.57	388.85

Rates Per Car Delivered						
Zone	1 Car Capacity \$	3 Car Capacity \$	4 Car Capacity \$	5 Car Capacity \$	6 Car Capacity \$	1 Car Tilt \$
Base rate	186.35	90.52	76.00	66.89	59.61	228.20
1	207.47	99.71	83.83	73.67	65.76	253.90
2	228.59	108.89	91.69	80.44	71.92	295.97
3	249.69	118.06	99.53	87.21	78.07	305.31
4	270.79	127.24	107.39	94.00	84.24	331.00
5	318.31	147.89	125.05	109.24	98.10	388.85

Vehicle	Standing and Running Rate per Hour \$	Standing Rate per Hour \$
1 car	42.23	33.02
3 car	55.05	39.49
4 car	62.78	45.43
5 car	67.77	48.34
6 car	73.89	56.17
1 car tilt	51.40	39.79

Intrastate Work	
Vehicle	Standing and Running Rate cents per Km
1 Car	76.86
3 Car	119.31
4 Car	132.48
5 Car	147.13
6 car	153.58
1 car tilt	94.64

Table F - (Including 2% Trailer Hire)

Port Kembla

Local Work						
Zone Rates per Car Carriage - Prime Mover						
Zone	1 Car Capacity \$	3 Car Capacity \$	4 Car Capacity \$	5 Car Capacity \$	6 Car Capacity \$	1 Car Tilt \$
Base rate	189.63	263.44	298.39	324.02	349.78	217.57
1	210.17	288.29	326.75	353.96	382.13	246.13
2	230.71	313.16	355.11	383.87	414.48	277.80
3	251.24	338.03	383.48	413.81	446.82	288.71
4	271.77	362.89	411.85	443.75	479.43	312.42
5	317.97	418.83	475.68	511.08	551.98	365.77

Rates Per Car Delivered						
Zone	1 Car Capacity \$	3 Car Capacity \$	4 Car Capacity \$	5 Car Capacity \$	6 Car Capacity \$	1 Car Tilt \$
Base rate	189.63	87.81	74.59	64.81	58.28	217.57
1	210.17	96.09	81.68	70.78	63.69	246.13
2	230.71	104.39	88.79	76.78	69.08	277.80

3	251.24	112.67	95.87	82.76	74.47	288.71
4	271.77	120.97	102.96	88.76	79.87	312.42
5	317.97	139.61	118.92	102.21	91.99	365.77

Vehicle	Standing and Running Rate per Hour \$	Standing Rate per Hour \$
1 car	41.08	31.41
3 car	49.73	39.00
4 car	56.74	44.38
5 car	59.85	46.48
6 car	64.69	50.75
1 car tilt	47.41	36.30

Intrastate Work	
Vehicle	Standing and Running Rate cents per Km
1 Car	80.06
3 Car	115.13
4 Car	130.23
5 Car	142.88
6 car	153.73
1 car tilt	91.65

5. Delete Schedule 2 - Procedure and Time for Adjustment of Rates and Amounts - Rates of Remuneration and insert in lieu thereof the following:

SCHEDULE 2

Procedure and Time for Adjustment of Rates and Amounts

- The rates prescribed in Schedule 1 may be adjusted each year upon application to the Industrial Relations Commission of New South Wales.
- Applications for adjustment shall be made by reference to the calculated weighted movements in the following benchmarks for each cost component, calculated as at the end of the September Quarter each year.

Component	Benchmark	Index	Index Weighting
Wages	Transport Industry (State) Award, Grade Three Transport Worker	\$675.10	42.09
Capital	ABS Consumer Price Index (CPI), Transportation Group, Motor Vehicles	97.1	16.60
Insurances	ABS CPI Financial and insurance services, Insurance Services	329.5	10.92
Registration	ABS CPI, Transportation Group, Other Motoring Charges.	260.7	4.71
Repairs & Maintenance	ABS CPI, Transportation Group, Motor Vehicle Repair and Servicing	169.4	6.43
Tyres	ABS CPI, Transportation Group, Motor Vehicle Parts and Accessories	142.5	1.26

Fuel	AIP NSW State Average for the Retail Price of diesel (excluding GST), calculated by determining the average of the weekly figures between the end of the quarter relating to the last variation and the end of the quarter prior to any new variation. Such calculations must only take into consideration figures for each relevant full quarter of the year. The end of quarters are as follows: December 31, March 31, June 30 and September 30.	116.773	15.65
Administration	ABS CPI, All Groups, Sydney	172.5	2.33
Total			100

3. Each cost component shall be re-weighted after each adjustment.
4. The Union, the Industry Principal Contractors, and their nominated representatives shall confer with a view to reaching agreement on any application for adjustment.
5. If the combined benchmarks for the cost components of fuel, insurances, tyres, and repairs and maintenance move between adjustments to the extent that a variation to the total rates of more than either a positive or negative 2 per cent, then an interim adjustment to the rates may be applied for.
6. Any variation to rates payable within this determination shall take effect not earlier than the first full pay period to commence three (3) months after the date which such variation is approved by the Industrial Relations Commission of New South Wales. This shall not apply to any interim adjustment.
6. This variation shall operate from the first full pay period to commence on or after 23 March 2011.

A. MACDONALD, Commissioner

Printed by the authority of the Industrial Registrar.

SERIAL C7533

**ENTERPRISE AGREEMENTS APPROVED
BY THE INDUSTRIAL RELATIONS COMMISSION**(Published pursuant to s.45(2) of the *Industrial Relations Act 1996*)**EA11/3 - Lake Macquarie City Council Enterprise Agreement 2011**

Made Between: Lake Macquarie City Council -&- the New South Wales Local Government, Clerical, Administrative, Energy, Airlines & Utilities Union.

New/Variation: Replaces EA06/43.

Approval and Commencement Date: Approved and commenced 4 March 2011.

Description of Employees: The agreement applies to all employees employed by Lake Macquarie City Council, located at 126-138 Main Road, Speers Point NSW 2284, who fall within the coverage of the Local Government (State) Award 2010.

Nominal Term: 36 Months.

EA11/4 - Ballina Shire Council Managers' Enterprise Agreement 2010 - 2013

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

New/Variation: New.

Approval and Commencement Date: Approved and commenced 25 January 2011.

Description of Employees: The agreement applies to all employees employed by Ballina Shire Council located at Corner of Cherry and Tamar Streets, Ballina NSW 2478, who hold a substantive position within Council's salary structure in the following grades: Grade 19 (Manager 1), Grade 20 (Manager 2), Grade 21 (Manager 3), who fall within the coverage of the Local Government (State) Award 2010.

Nominal Term: 36 Months.

EA11/5 - Maritime Authority of NSW (trading as NSW Maritime) Enterprise Agreement 2010-2013

Made Between: NSW Maritime -&- the Australian Institute of Marine and Power Engineers New South Wales District, Australian Maritime Officers' Union of New South Wales, Australian Services Union of N.S.W., The Seamens' Union of Australia, New South Wales Branch.

New/Variation: Replaces EA09/7.

Approval and Commencement Date: Approved and commenced 10 March 2011.

Description of Employees: The agreement applies to employees employed by NSW Maritime) who are engaged under the State in the service of the Crown. The terms of this Agreement shall apply to all staff employed pursuant to Chapter 1A of the Public Sector Employment and Management Act 2002 in the Maritime Authority Division of the Government Service of NSW, within the exception of the Chief Executive Officer and the members of the Senior Executive Service.

Nominal Term: 27 Months.

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